



**Endless Solar Corporation Limited**  
**ACN 122 708 061**  
**Level 9, 406 Collins Street**  
**Melbourne VIC 3000**

21 December 2022

## **STOCK EXCHANGE ANNOUNCEMENT**

**National Stock Exchange of Australia**  
**Level 2, 117 Scott Street**  
**Newcastle NSW 2300**

### **Adoption of Constitution**

Endless Solar Corporation Limited (ESC) is pleased to advise that shareholders of the Company approved the amendments to its Constitution at the Annual General Meeting held on 29 November 2022.

By order the Board of Directors of Endless Solar Corporation Limited.

David Craig  
Director

# **Corporations Act**

**Company Limited by Shares**

## **Constitution of**

## **Endless Solar Corporation Limited**

**ACN 122 708 061**

This Annexure A of 45 pages is referred to in form 205 – Notification of Resolution.

GADENS LAWYERS  
Level 25, Bourke Place  
600 Bourke Street  
MELBOURNE 3000

T 61392522555  
F 6139252 2500

Ref: DLG:MPK: 2644268

Mark Licciardo

Company Secretary

Dated – 30.11.2022

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# Corporations Act

## Company Limited by Shares

### Constitution of Endless Solar Corporation Limited ACN 122 708 061

#### 1. Preliminary

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##### 1.1 Replaceable Rules Displaced

The replaceable rules contained in the Corporations Act which would otherwise apply to the Company are displaced entirely by the Regulations set out in this document, which is the Constitution of the Company.

#### 2. Interpretation

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##### 2.1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise.

**Alternate Director** means any person appointed in accordance with these Regulations to act as an alternate of a Director.

**Auditor** means any person appointed to perform the duties of an auditor of the Company.

**ASTC** means ASX Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532).

**ASTC Settlement Rules** means the operating rules of ASTC or any relevant organisation which is an alternative or successor to, or replacement of, ASTC or any applicable CS Facility Licensee.

**Board** means the whole or any number of the Directors constituting a quorum at a meeting; and reference to "the Directors" shall be construed as references to the Board unless the context otherwise requires.

**Business Days** means those days other than a Saturday, Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day and any other day which NSX declares is not a business day.

**Certificate** means a certificate of securities issued in accordance with the Corporations Act or, in the case of an uncertificated holding, means the statement of holding issued by the Company.

**Chairman** means the Chairman of the Board of Directors.

**CHESS** means the Clearing House Electronic Sub-register established and operated by ASTC and includes any modification or substitution of that system and any other computerised or electronic share transfer systems introduced by or acceptable to NSX.

**Child Entity** has the meaning given in the Listing Rules

**Company** means Endless Solar Corporation Limited, ACN 122 708 061.

**Constitution** means the Constitution of the Company in force from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth) and the Corporations Regulations.

**CS Facility Licensee** means a person who holds a licence under the *Corporations Act* which authorises the person to operate a clearing and settlement facility.

**Director** means any Director of the Company for the time being and includes an Alternate Director.

**Dividend** includes an interim dividend.

**Executive Director** means a Director in employment with the Company or any subsidiary or related corporation and includes the Managing Director.

**General Meeting** means a meeting of Members duly called and properly constituted in accordance with these Regulations.

**Holder** means a holder of a Security.

**Limited Voting Ordinary Share** means a Share issued with the rights and restrictions specified in Regulation 5.

**Listing Rules** means the Listing Rules of NSX and any other rules of NSX which are applicable while the Company is admitted to the Official List of NSX, each as amended or replaced from time to time, except to the extent of any express written waiver by NSX.

**Managing Director** means any person appointed to perform the duties of Managing Director of the Company.

**Meeting** and **General Meeting** means a meeting of Members or Directors, as the case may be, duly called and properly constituted in accordance with these Regulations and the Corporations Act and any adjournment of any such meeting.

**Member** means a Holder of a Share.

**Member present** means, in connection with a meeting, the Member being present in person or by proxy, by attorney and, where the Member is a body corporate, by representative, and includes being present at a different venue from the venue at which other Members are participating in the same meeting or participating via an electronic facility or facilities, providing the pre-requisites for a valid meeting at different venues or by using electronic facilities are observed;

**Month** means calendar month.

**NETS** has the meaning given in the Listing Rules.

**NSX** means National Stock Exchange of Australia Limited, and includes any body corporate succeeding to all (or most of) the powers, functions and duties of NSX.

**Office** means the registered office for the time being of the Company.

**Official Quotation** in respect of securities in the Company means quotation on the Official List of the NSX.

**Propel·ASTC transfer** has the meaning given to that term in the Corporations Regulations.

**Register** means a Register of Holders to be kept pursuant to the Corporations Act and the Listing Rules.

**Regulations** means the provisions set out in this Constitution.



**Related Party** has the meaning given to that term in the Corporations Act.

**Resolution** means a resolution other than a Special Resolution.

**Restricted Securities** means those shares or other securities classified as Restricted Securities under the Listing Rules or otherwise deemed by NSX to be Restricted Securities.

**Secretary** means any person appointed to perform the duties of secretary of the Company or any person appointed to act temporarily as such.

**Securities** includes Shares, rights to Shares, options to acquire Shares and other securities with rights of conversion to equity.

**Share** means a share in the capital of the Company.

**Special Resolution** means a Special Resolution within the meaning of Section 9 of the Corporations Act.

**Uncertificated Securities Holding** means Securities of the Company which under the *Corporations Act*, the Listing Rules or any Uncertificated Transfer System may be held in uncertificated form.

**Uncertificated Transfer System** means any system operated under the *Corporations Act*, the Listing Rules or the ASTC Settlement Rules which regulates the transfer or registration of, or the settlement of transactions affecting, Securities of the Company in uncertificated form and includes CHESS as it applies to Securities in certificated and uncertificated form.

## 2.2 Construction

Unless the contrary intention appears:

- (a) a reference to any Part or Division of the Corporations Act is deemed to include references to any corresponding section or any modification, amendment or re-enactment of the Corporations Act;
- (b) an expression used in a particular Part or Division of the Corporations Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, in any of these Regulations that deals with a matter dealt with by that Part or Division, unless the contrary intention appears, the same meaning as in that Part or Division;
- (c) words and expressions defined in the Listing Rules and the Corporations Act shall have the same meaning where used in these Regulations unless the context or subject matter otherwise requires;
- (d) a reference to control of the voting power in the Company is a reference to control that is direct or indirect, including control that is exercisable as a result or by means of arrangements or practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights;
- (e) where in this document a period of time dating from a given day, act or event is specified or allowed for any purpose, the time is reckoned exclusive of that day or of the day on which the act or event occurred but inclusive of the day on which that period expires;
- (f) words importing the singular or plural include the plural and singular respectively;
- (g) words importing any gender include every gender;
- (h) words denoting persons include bodies and corporations;

- (i) where a word or phrase is given a particular meaning in this document, other parts of speech and grammatical forms of that word or phrase have a corresponding meaning; and
- (j) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes facsimile transmission.

## 2.3 NSX Listing Rules

If the Company is admitted to the Official List of NSX, the following Regulations apply:

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

## 2.4 Headings

Headings do not affect the interpretation of this document.

# 3. Issue of Securities

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Subject to the provisions of these Regulations, the Listing Rules, the Corporations Act and to any rights previously conferred on the holders of any existing Securities;

- (a) Securities are under the control of the Directors; and
- (b) the Directors may allot, grant options over or otherwise dispose of Securities to such persons on such terms and conditions, and at such times, as the Directors think fit.

# 4. Variation of rights attaching to Securities

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- 4.1 The rights and privileges attached to any class of Share (unless otherwise provided by the terms of issue of the Shares of that class) may be varied in accordance with the Corporations Act.
- 4.2 The right of a Member to vote, or the right of a Holder to receive dividends, must not be removed or changed except as permitted by the Listing Rules.
- 4.3 Unless otherwise provided by the terms of issue, the issue of any new Securities ranking equally with existing Securities is not a variation of the rights conferred on the holders of the existing Securities.

## 5. Limited Voting Ordinary Shares

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- 5.1 Subject to the Corporations Act and the Listing Rules, the Company may issue Limited Voting Ordinary Shares.
- 5.2 Limited Voting Ordinary Shares confer on their registered holders the following rights, powers and privileges:
- (a) Voting: the right to exercise one vote at general meetings of the Company (on both a show of hands and on a poll), irrespective of the number of fully paid Limited Voting Ordinary Shares held;
  - (b) Attendance and reporting: the same rights as holders of ordinary Shares to receive notices, reports and accounts and to attend general meetings of the Company;
  - (c) Dividends: on any declaration of dividends in respect of Shares, the right to receive a premium of \$A0.01 over any dividend apportioned and paid in respect of any ordinary Share; and
  - (d) Other: in all other respects (including participation in any assets of the Company on a winding up or return of capital), Limited Voting Ordinary Shares shall rank pari passu with ordinary Shares.

## 6. Preference Shares

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- 6.1 Subject to the Corporations Act, the Company may issue any form of preference shares including preference shares that are, or at the option of either or both the Company and the Holder are liable, to be redeemed out of profits or out of the proceeds of a fresh issue of shares.
- 6.2 Preference share holders shall have the same rights as ordinary shareholders to receive notices, reports and audited accounts, and attend General Meetings.
- 6.3 Without limiting clause Regulation 6.1, the Directors may issue:
- (a) redeemable or non-redeemable preference shares;
  - (b) redeemable convertible preference shares; or
  - (c) non-redeemable convertible preference shares,
- which are expressed to be issued on and subject to the terms and conditions of this clause 2.6 ("Preference Shares").
- 6.4 The Preference Shares will confer upon the Preference Shareholders such rights and will otherwise be issued upon such terms and conditions as are set out in these Regulations or, in the case of:
- (a) the rate of dividend; and
  - (b) the date of redemption and/or conversion (as the case may be),
- as determined by resolution of the Directors and specified in or determined in accordance with the Certificate issued pursuant to Regulation 6.7, provided that no Preference Shares shall either in respect of dividends or in respect of capital carry any right to participate in a distribution beyond the amount specified in such Certificate.

6.5 The Preference Shares shall confer on their holders:

- (a) the right on redemption (if appropriate) to payment in cash in priority to any other class of shares of:
  - (i) the redemption price of the Preference Shares; and
  - (ii) the amount (if any) equal to the aggregate of any dividend accrued at the date thereof (whether declared or not) but unpaid and of any arrears of dividends:
- (b) the right in a winding up to payment in cash in priority to any other class of shares of:
  - (i) the issue price of the Preference Shares; and
  - (ii) the amount (if any) equal to the aggregate of any dividend accrued at the date thereof (whether declared or not) but unpaid and of any arrears of dividends; and
  - (iii) the right in priority to any payment of dividend on any other class of Shares (subject to the rights attaching to any other class of Shares on issue as at the date of first issue of any Preference Shares) to a fixed or a cumulative preferential dividend at the rate of dividend determined by the Directors and specified in the Certificate or statement issued pursuant to Regulation 6.7 payable in respect of each Preference Share, on the applicable dividend dates.

The Preference Shares shall not confer on their holder any further right to participate in surplus assets or profits of the Company.

6.6 The Company must, subject to the provisions of all relevant legislation, redeem (if appropriate) each of the Preference Shares on issue on the date specified in or determined in accordance with the relevant Certificate issued pursuant to clause Regulation 6.7 in respect of the Preference Share.

6.7 The Certificate issued by the Company for each of the Preference Shares or an attachment thereto shall specify, or provide for the determination of, in respect of that Preference Share:

- (a) the issue price payable on issue of the Preference Share;
- (b) the redemption price (if any) payable on redemption of the Preference Share;
- (c) the redemption date (if appropriate);
- (d) the time, method and place of such redemption (if appropriate);
- (e) the rate of dividend or manner of calculation;
- (f) the date of conversion (if appropriate); and
- (g) such other matters as the Directors may require.

6.8 On the date and at the time and place for redemption specified in the relevant Certificate the Company must pay to the holder of such Preference Share or at the holder's direction the amount payable on redemption, and that Preference Shareholder shall be bound to surrender any Certificate (other than a Certificate which is a statement of holding) issued in relation to the Preference Share to the Company

6.9 The holder of a Preference Share shall be entitled to vote in each of the following circumstances and in no others:

- (a) during any period during which a dividend (or part of a dividend) in respect of the Preference Share is in arrears;

- (b) on a proposal to reduce the capital of the Company;
  - (c) on a proposal to approve the terms of a buy-back agreement;
  - (d) on a proposal that affects rights attached to the Preference Share;
  - (e) on a proposal to wind up the Company;
  - (f) on a proposal for the disposal of the whole of the Company's property, business and undertaking; and
  - (g) during the winding up of the Company.
- 6.10 Notwithstanding any redemption date specified in the Certificate for a Preference Shares, the Company may redeem all Preference Shares on issue upon the occurrence of any of the following events:
- (a) the Company by any act or omission is a party to a material breach of any of the provisions of relevant legislation or of these Regulations which might or would adversely affect or materially endanger the rights or entitlements of the holders of the Preference Shares; or
  - (b) the appointment of a liquidator, receiver or official manager to the Company.
- 6.11 The rights attaching to the Preference Shares may not be varied or abrogated without:
- (a) the previous consent in writing of not less than three-quarters of the holders of the Preference Shares holding not less than three-quarters of the Preference Shares for the time being in issue; or
  - (b) the sanction of a resolution passed by not less than three-quarters of the holders of the Preference Shares holding not less than three-quarters of the Preference Shares for the time being in issue passed at a meeting of the holders of the Preference Shares.
- 6.12 The issue of any shares which rank in priority to the Preference Shares in any respect shall be deemed to be a variation or abrogation of the rights of the Preference Shares but the issue of any shares ("Additional Shares") ranking *pari passu* with the Preference Shares shall be deemed not to be a variation or abrogation of any of the rights of the Preference Shares if the Additional Shares may not be redeemed until all the Preference Shares have been redeemed or converted.
- 6.13 The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall unless otherwise expressly provided by the terms of issue of the Shares of that class be deemed not to be varied or abrogated by the creation or issue of further shares ranking equally with them.

## **7. Registered Holder**

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- 7.1 Subject to the provisions of the Corporations Act and these Regulations:
- (a) the Company shall be entitled to treat the registered holder of any Security as the absolute owner;
  - (b) no person shall be recognised by the Company as holding any Security upon trust; and
  - (c) the Company shall not be bound by, nor be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Security or any interest in any fractional part of a Security or any other rights in respect of a Security except an absolute right to the entirety of the Security in the registered holder.

- 7.2 If more than 3 persons are entered in the Register as holders of any Securities of the Company (or a request is made to register more than 3 persons) only the first 3 persons so registered will be regarded as the holders of those Securities, and all other names will be disregarded by the Company for all purposes.

## **8. Certificates for Securities**

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- 8.1 If and for so long as dealings in Securities of the Company take place through an Uncertificated Transfer System:
- (a) the Company need not issue any certificate in respect of Securities held as an Uncertificated Securities Holding; and
  - (b) the Register may distinguish between Shares or other Securities held in certificated form and Securities held as an Uncertificated Securities Holding.
- 8.2 Where Securities are not held as an Uncertificated Securities Holding, the Directors may issue, cancel and replace certificates of title to the Securities in accordance with the provisions of the Corporations Act, these Regulations and the Listing Rules.

## **9. Divestment and Lien**

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- 9.1 The Company must not divest any Holder of a Security except as permitted by Australian legislation, the Listing Rules, NSX or under a court order.
- 9.2 The Company must not have a lien over particular Securities, or over dividends it pays on them, except in any of the following cases.
- (a) where the Company has issued partly paid Securities and a call is due but unpaid on those Securities, or where the issue price of Securities is payable by instalment and an instalment is due but unpaid on those Securities.
  - (b) if the Securities were acquired under an employee incentive scheme, and an amount is owed to the Company for acquiring them.
  - (c) for an amount that the Company is required by law to pay (and has paid) in respect of the Securities of a holder or deceased former holder.

In each case, the lien extends to reasonable interest and expenses incurred because the amount is not paid.

- 9.3 The Company may do all such things as may be necessary or appropriate for it to do under the ASTC Settlement Rules to protect any lien, charge or other right to which it may be entitled under the law or these Regulations.
- 9.4 Nothing in this Regulation prejudices or affects any right or remedy which any law may confer or purport to confer on the Company and as between the Company and every Holder, the Holder's executors, administrators and estate any such right or remedy shall be enforceable by the Company.

## **10. Sale of Securities the Subject of Lien**

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- 10.1 The Company may sell in such manner as the Directors think fit any Securities on which the Company has a lien, but no sale may be made unless a sum in respect of which the lien exists is presently payable nor until the expiration of 14 days after a notice in writing stating and demanding payment of

such part of the amount in respect of which the lien exists as is presently payable has been given to the registered Holder for the time being of the Security or the person entitled to the Security by reason of the Holder's death or bankruptcy.

- 10.2 To give effect to any sale of Securities pursuant to the Company's lien, the Directors may authorise a person to effect the transfer of the Securities to the purchaser. The purchaser shall be registered as the Holder of the Securities effected by any such transfer and is not bound to see to the application of the purchase money nor is his title to the Securities affected by any irregularity or invalidity in the proceedings relating to the sale.
- 10.3 The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue (if any) less any costs of the sale shall (subject to a like lien for sums not presently payable as existed upon the Securities before the sale) be paid to the person entitled to the Securities at the date of the sale.

## **11. Calls on Shares**

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- 11.1 The Directors may, subject to the terms upon which any Shares may have been issued from time to time, make such calls as the Directors think fit upon the Members in respect of moneys unpaid on their respective Shares.
- 11.2 Calls may be made payable by instalments.
- 11.3 Not less than 10 Business Days' (or such lesser period as permitted by the Listing Rules) notice of a call, specifying the amount of the call, the time and place for payment and any other matters required to be specified in the notice by the Listing Rules, shall be given to Members liable to pay the call.
- 11.4 A call may be revoked, postponed or extended by the Directors.

## **12. When call made on Shares**

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A call is deemed to have been made at the time when the Resolution of the Directors authorising the call was passed.

## **13. Non-Receipt of notice of call on Shares**

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The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any of the Members does not invalidate the call.

## **14. Payment of calls by instalments**

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If by the terms of issue of any Share or otherwise any amount is made payable at any fixed time or by instalments at fixed times every such amount or instalment is payable as if it were a call duly made by the Directors and of which due notice had been given. In case of non-payment the provisions of these Regulations as to payment of interest and expenses forfeiture or otherwise apply as if such sum had become payable by virtue of a call duly made and notified.

## **15. Joint Holders Liability for Calls**

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- 15.1 The joint Holders of Shares are severally as well as jointly liable for the payment of all amounts of instalments and calls in respect of their Shares.

- 15.2 On the issue of Shares the Directors may differentiate between the Holders as to the-amount of calls to be paid and the times of payment.

## **16. Interest on unpaid calls**

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If a sum called is not paid on or before the date for payment the person from whom the sum is due shall pay interest on the sum (or on so much as remains unpaid from time to time) at such rate as the Directors may determine calculated from the date appointed for the payment thereof until the time of actual payment. The Directors may waive such interest in whole or in part.

## **17. Recovery of unpaid calls**

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- 17.1 In the event of non-payment of any call the Company may proceed to recover the amount of the call with interest and expenses (if any) by action, suit or otherwise but such right of action, suit or otherwise is without prejudice to the right to forfeit the Share of any Member in arrears and either or both of such rights may be exercised by the Directors in their discretion.
- 17.2 On the trial of any action for the recovery of any call or of any interest or expenses upon or in respect of any call it is sufficient to prove that the name of the Member sued is entered in the Register as the Holder or one of the Holders of the Shares in respect of which the debt accrued, that the Resolution making the call is duly recorded in the minute book, that notice of such call was duly given to the registered Holder of the Shares in accordance with these Regulations or in the case of calls or instalments payable at fixed times by the terms of issue of any Share or otherwise to prove such terms and that such sum or call has not been paid. It is not necessary to prove the appointment of the Directors who made the allotment or call nor the passing of the Resolution nor any other matters whatsoever but proof of the matters specified in this Regulation is conclusive evidence of the debt.

## **18. Payment of Calls in Advance**

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The Directors may if they think fit receive from any Member all or any part of the amount unpaid on a Share although no part of that amount has been called up and may pay interest upon the whole or any part of the moneys so paid in advance until the amount becomes payable at such rate as the Member paying such sum and the Directors agree upon. Any amount being paid in advance of calls is to be treated as an unsecured loan until a call is due and until that time not included or taken into account in ascertaining the amount of Dividend payable upon the Shares in respect of which such advance has been made. The Directors may at any time repay the amount so advanced upon giving to such Member one month's notice in writing.

## **19. Extinguishment of Liability on Calls**

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The Directors may at any time enter into on behalf of the Company contracts with any or all of the Members holding partly paid Shares to extinguish the liability of those Members to pay to the Company any amount unpaid on the Shares held by them provided that the extinguishment of liability is done in accordance with the Listing Rules and the Corporations Act.

## **20. Transfer of Securities**

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- 20.1 A transfer of Securities may be effected by:
- (a) a proper ASTC transfer in the form required or permitted by the Corporations Act or the ASTC Settlement Rules; or



- (b) NETS, or any other electronic system established or recognised by the Listing Rules in which the Company participates in accordance with the rules of that system; or
  - (c) a written transfer in the usual or common form or in any other form which the Directors approve or accept being delivered to the Company.
- 20.2 Except in the case of a proper ASTC transfer, the transferor remains the holder of the Securities transferred until the name of the transferee is entered in the Register in respect of those Securities.
- 20.3 A proper ASTC transfer is considered recorded in the Register and the transferee registered as the holder of the Securities in a proper ASTC transfer as provided in the ASTC Settlement Rules.
- 20.4 Every instrument of transfer and, except in the case of an uncertificated holding, the Certificate for the Securities to be transferred and such other evidence (if any) as the Directors may require to prove the title of the transferor or its right to transfer the Securities shall be left for registration at the Office or such other place as the Directors may determine from time to time. The Directors may waive the production of any certificate upon evidence satisfactory to the Directors of its loss or destruction.

## **21. Right to Refuse Registration of Transfer of Securities**

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- 21.1 The Directors must not in any way prevent, delay or interfere with the registration of a transfer document relating to quoted Securities other than the registration of a paper-based transfer document which is not a proper instrument of transfer.
- 21.2 Notwithstanding Regulation 21.1 the Company may apply, or may ask ASTC to apply, a holding lock to prevent a proper ASTC transfer, or refuse to register a paper-based transfer document, in any of the following circumstances:
- (a) the Company has a lien on the Securities;
  - (b) the Company is served with a court order that restricts the Holder's capacity to transfer the Securities;
  - (c) registration of the transfer may break an Australian law, and NSX has agreed in writing to the application of a holding lock or that the Company may refuse to register a transfer. The application of the holding lock must not breach an ASTC Settlement Rule;
  - (d) if the transfer is paper-based, the Company is allowed to refuse to register it under the Listing Rules;
  - (e) if the transfer is paper-based, a law related to stamp duty prohibits the Company from registering it;
  - (f) if the transfer is paper-based, registration of the transfer will create a new holding which at the time the transfer is lodged is less than a marketable parcel as defined in the Listing Rules; or
  - (g) the Company is otherwise permitted to do so by the Listing Rules.
- 21.3 If the Company refuses to register a paper-based transfer under Regulation 21.2, it must tell the lodging party in writing of the refusal and the reason for it within 5 business days after the date on which the transfer was lodged.
- 21.4 If the Company applies, or asks ASTC to apply, a holding lock under this Regulation, the Company must tell the holder of the Securities in writing of the holding lock and the reason for it within 5 business days after the date on which the Company asked for the holding lock.

- 21.5 All instruments of transfer which are registered shall be retained by the Company but any instrument of transfer which the Directors may decline to register shall, except in the case of fraud, or alleged fraud, be returned to the party presenting it upon demand in writing.
- 21.6 No fee shall be charged for the registration of a transfer. However, the Directors may charge a fee where the issue of certificates is to replace those lost or destroyed.

## **22. Restricted Securities**

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- 22.1 Subject to the ASTC Settlement Rules, the Company shall refuse to acknowledge, deal with, accept or register any sale, assignment or transfer of Restricted Securities which is or might be in breach of the Listing Rules or any restriction agreement entered into by the Company under the Listing Rules in relation to the Restricted Securities.
- 22.2 Restricted Securities cannot be disposed of, sold, assigned or transferred except where permitted by the Listing Rules.
- 22.3 The Company may do all such things as may be necessary or appropriate for it to do under the ASTC Settlement Rules to give effect to any restriction agreement entered into by the Company under the Listing Rules in relation to Restricted Securities.
- 22.4 In the event of a breach of the Listing Rules relating to Restricted Securities or of any restriction agreement entered into by the Company under the Listing Rules in relation to Restricted Securities the Holder of the Securities in question shall cease to be entitled to any Dividends or distributions and to any voting rights in respect of those Securities for so long as the breach subsists.

## **23. Cancellation of Certificates on Transfer**

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Except in the case of uncertificated holdings, on every application to register the transfer of any Securities or to register any person as a Holder in respect of any Securities which may have been transmitted to such person by operation of law or otherwise, the Certificate specifying the Securities in respect of which such registration is required shall be delivered to the Company for cancellation, and upon registration a new Certificate in similar form specifying the Securities transferred or transmitted shall be delivered to the transferee or transmittee, and, if the registration of any transfer is required in respect of some only of the Securities specified in the Certificate delivered to the Company, a new Certificate specifying the Securities remaining untransferred shall be delivered to the transferor.

## **24. Registers**

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The Company must establish and maintain Registers as required by the Corporations Act and the Listing Rules.

## **25. Title of Securities on Death of Holder**

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On the death of a Holder, the survivor or survivors, where the deceased was a joint Holder, and the legal personal representative of the deceased where the deceased was a sole Holder, shall be the only persons recognised by the Company as having any title to the Securities registered in the deceased's name. Nothing contained in these Regulations releases the estate of a deceased joint Holder from any liability in respect of any Security which has been jointly held with any other person.

## **26. Transmission of Securities**

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- 26.1 Any person becoming entitled to a Security in consequence of the death or bankruptcy of a Holder or to a Security of a Holder of unsound mind may, upon producing such evidence as the Directors may require that he sustains the character in respect of which he proposes to act, or of his title, and in accordance with Regulation 26.2, elect either to be registered as the Holder of the Security or to have some person nominated as the transferee.
- 26.2 If the person entitled to a Security pursuant to Regulation 26.1 elects to be registered as the holder of the Security, the person may deliver or send to the Company a signed notice in writing stating his election to hold the Security. If the person entitled to the Security elects to have another person registered, the person entitled to the Security shall execute a transfer of the Security to that other person. Subject to the Corporations Law, all the provisions of these Regulations relating to the right to transfer and the registration of transfers of Securities apply to any such notice or transfer as if the death or bankruptcy of the Holder had not occurred and the notice or transfer were a transfer executed by that Holder.
- 26.3 A person entitled to be registered as a Holder in respect of a Security by transmission is, upon the production of such evidence as may be required by the Directors, entitled to the same Dividends and other advantages, and to the same rights (whether in relation to Meetings, or to voting, or otherwise), as the registered Holder would have been. Where 2 or more persons are jointly entitled to any Security in consequence of the death of the registered Holder they are, for the purposes of these Regulations, deemed to be joint Holders of the Security.
- 26.4 The provisions of this Regulation 26 are subject to any provisions of the ASTC Settlement Rules which deal with notification of transmission on death or by operation of law.

## **27. Compliance with ASTC Settlement Rules**

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The Company shall, notwithstanding anything to the contrary in these Regulations, comply with the ASTC Settlement Rules in relation to any of its Securities which are an Uncertificated Securities Holding.

## **28. Alteration of Capital**

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The Company may alter its share capital in any manner permitted by law. The Directors may do anything which is required to give effect to any resolution authorising a reduction or alteration of the share capital of the Company and, without limitation, may make provision for the issue of fractional Shares or the sale of fractions of Shares and the distribution of net proceeds as they think fit.

## **29. Registered Office**

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The registered office of the Company shall be at such place in Australia as the Board may from time to time determine.

## **30. Forfeiture**

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- 30.1 If any Member fails to pay any call or instalment or any money payable under the terms of allotment of a Share on or before the day appointed for payment of the call or instalment, the Directors may at any time, during the period the call or instalment remains unpaid, serve a notice on the Member requiring him to pay the call or instalment, together with any interest that may have accrued, and all expenses that may have been incurred by the Company by reason of such non-payment.

- 30.2 The notice must specify a day (not being less than 7 days from the date of the notice) and a place or places, on and at which such call or instalment and such interest and expenses as may have been incurred by the Company by reason of such non-payment, are to be paid. The notice must also state that in the event of non-payment at or before the time and the place appointed, the Shares in respect of which the call was made or the instalment is payable, will be liable to be forfeited. The forfeiture of a Share will include all Dividends declared in respect of the forfeited Share and not actually paid prior to the forfeiture.
- 30.3 If the requirements of any notice given under Regulation 30.2 are not complied with, any Shares in respect of which such notice has been given may at any time thereafter, before payment of all calls or instalments, interest and expenses due in respect of those Shares, be forfeited by a resolution of the Directors to that effect. Such forfeiture will include all Dividends and bonuses declared in respect of the forfeited Shares, and not actually paid prior to the forfeiture.
- 30.4 When any Share has been forfeited, notice of the resolution must be given to the former Holder, and an entry of the forfeiture and the date of such forfeiture made in the Register.
- 30.5 Any Shares forfeited will be deemed to be the property of the Company, and the Directors may hold, sell, re-allot or otherwise dispose of such Shares in such manner as they may think fit.
- 30.6 In the event of any Shares being forfeited and sold, any residue after the satisfaction of the monies due and unpaid in respect of such Shares and accrued interest and expenses, will be paid to the former Holder or his representatives or as the former Holder or his representatives may direct.
- 30.7 The Company may receive the consideration, if any, on any sale or disposition of a forfeited Share, and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of who will then be registered as the Holder of the Share, and will not be bound to see to the application of the purchase money, if any, nor will the new Holder's title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the Share.
- 30.8 The Directors may, at any time before any forfeited Share has been sold, re-allotted, or otherwise disposed of, cancel the forfeiture upon such conditions as they may think fit.
- 30.9 Any Member or the representative of a deceased Member whose Shares have been forfeited will, notwithstanding the forfeiture, be liable to pay, and must forthwith pay, to the Company all calls, instalments, interest and expenses, owing on or in respect of such Shares at the time of the forfeiture, together with interest thereon, from the time of forfeiture until payment, at the rate per annum not exceeding the penalty rate prescribed from time to time and the Directors may enforce the payment of such monies or any part thereof as they think fit, but will not be under any obligation so to do.
- 30.10 The provisions of these Regulations as to forfeiture will apply in the case of non-payment of any amount which, by the terms of issue of a Share, becomes payable at a fixed time, as if the amount had been payable by virtue of a call duly made and notified.

## 31. Sale of Non-Marketable Parcels

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- 31.1 In this Regulation 31 the following expressions have the following meanings:

**Marketable Parcel** means the number of Securities which in aggregate constitutes a marketable parcel of those Securities in the Company within the meaning of the Listing Rules.

**Small Holder** means any Holder who from time to time holds less than a Marketable Parcel of a particular class of Security.

**Notice** means the notice given to Small Holders in accordance with Regulation 31.4.

**Notice Date** means the date of the Notice sent by the Company to a Small Holder advising that the Company intends selling the Small Holder's Securities in that class under this Regulation 31.

- 31.2 The Company may dispose of the Holdings of Small Holders in accordance with this Regulation. Subject to Regulation 31.3, this Regulation 31 may be invoked only once in any twelve (12) month period.
- 31.3 Regulation 31.2 shall cease to have effect following the announcement of a takeover bid but, notwithstanding Regulation 31.2, the procedure may be started again after the close of the offers made under the takeover bid.
- 31.4 The Company shall not sell the Securities of a Small Holder unless it has, not less than 42 days prior to the sale, given a Notice in writing to the Small Holder of its intention to dispose of the Small Holder's Securities.
- 31.5 For the purposes of the sale of Securities under this Regulation, each Small Holder:
- (a) appoints the Company as the Small Holder's agent, to sell as soon as practicable after the period ending 42 days after the Notice Date, all of the Small Holder's Securities in the ordinary course of trading on the stock market conducted by NSX acting in good faith and to receive the sale consideration on behalf of the Small Holder; and
  - (b) appoints the Company and each of its Directors from time to time as the Small Holder's attorney in the Small Holder's name and on the Small Holder's behalf to effect all transfers and execute all deeds or other documents or instruments necessary to transfer the Securities from the Small Holder to the transferee.
- 31.6 The transferee of Securities sold in accordance with this Regulation shall not be bound to see to the regularity of proceedings or to the application of the purchase money in respect of the sale of a Small Holder's Securities and after the transferee's name has been entered in the Register in respect of such Securities, the validity of the sale or other disposal shall not be impeached by any person and the remedy of any person aggrieved by the sale or other disposal shall be in damages only and against the Company exclusively. The Company may issue to the transferee such certificates as may be required in order to vest title in the transferee. The title of the transferee to Securities sold pursuant to this Regulation shall not be affected by any irregularity or invalidity in connection with the sale or disposal of the Securities to the transferee.
- 31.7 The Company shall cancel the share certificates of all Small Holders whose Securities are sold under this Regulation.
- 31.8 If all the shares of two or more Small Holders to whom this Regulation applies are sold to one purchaser the transfer may be effected by one transfer document.
- 31.9 Payment by the Company of any consideration under Regulation 31.11 shall be at the risk of the Small Holder to whom it is sent.
- 31.10 Every Small Holder on whom a Notice has been served may by notice in writing addressed to the Secretary and delivered to the registered office of the Company within 42 days after the Notice Date request the Company to exempt their Securities from this Regulation, in which event the provisions of this Regulation shall not apply to the Small Holder.
- 31.11
- (a) The Company shall receive the consideration (if any) in respect of the sale or disposal of Securities pursuant to this Regulation (the "Sale Consideration"), which shall be paid to the Small Holder or as the Small Holder may direct. The Company shall bear all costs as a result of the sale or disposal of Securities pursuant to this Regulation;

- (b) The Sale Consideration received by the Company shall be paid into a bank account opened and maintained by the Company for that purpose only;
  - (c) The Company shall hold the Sale Consideration in trust for a Small Holder whose Securities are sold in accordance with this Regulation pending distribution of the Sale Consideration. The Company shall as soon as practicable after the sale of the Securities of a Small Holder, and to the extent that it may reasonably do so, distribute the Sale Consideration and any interest earned on the Sale Consideration to the Small Holder entitled to it provided that the Company has received any share certificates issued to the Small Holder or in the case of loss or destruction of any certificate, the statement and undertaking prescribed by Section 1070D(S) of the Corporations Act; and
  - (d) Where the Sale Consideration held in trust by the Company for a Small Holder has been held for not less than two years, the Company shall, before the expiration of ten years after the Sale Consideration was received by the Company, pay the money to the Treasurer or other Minister administering the Unclaimed Moneys Act 1962 (Victoria).
- 31.12 A certificate in writing under the hand of any two Directors or of any one Director and Secretary of the Company that:
- (a) any notice required to be served by or on the Company was or was not served, as the case may be;
  - (b) any advertisement required to be published was published; and
  - (c) any resolution of Directors required to be made was made,
- shall be sufficient evidence of the facts stated in the certificate as against all persons claiming to be entitled to any Securities and to the right and title of the Company to dispose of those Securities under this Regulation.
- 31.13 The provisions of this Regulation 31 referring to the issue, cancellation or receipt of certificates shall not apply to Uncertificated Securities Holdings.

## **32. General Meetings**

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- 32.1 An Annual General Meeting of the Company shall (unless otherwise permitted by the Corporations Act) be held:
- (a) at least once in every calendar year, and
  - (b) within the period of 5 months after the end of its financial year.
- 32.2 Any meeting of the Company other than an Annual General Meeting shall be called a General Meeting.
- 32.3 The Directors may whenever they think fit convene a General Meeting.
- 32.4 Subject to and in accordance with section 249D of the Corporations Act, the Directors must convene a General Meeting on the request of:
- (a) Members with at least 5% of the votes that may be cast at the General Meeting; or
  - (b) at least 100 Members who are entitled to vote at the General Meeting.

- 32.5 Subject to and in accordance with section 249F of the Corporations Act, Members with at least 5% of the votes that may be cast at a General Meeting may, at their own expense, convene and arrange to hold a General Meeting.
- 32.6 The Company may hold a general meeting using any technology that gives Members a reasonable opportunity to participate.
- 32.7 In relation to general meetings of Members, a **meeting** includes:
- (a) all adjournments of a **meeting**;
  - (b) any meeting convened to be held by those entitled to be present, meeting simultaneously in different locations as determined by the Directors; and
  - (c) a meeting using virtual meeting technology.
- 32.8 Notwithstanding any other clause of this Constitution:
- (a) subject to the Corporations Act and the Listing Rules:
    - (i) the Company may hold a meeting using any virtual meeting technology approved by the Directors that gives the Members (as a whole) a reasonable opportunity to participate and enables them to vote on a show of hands, on a poll or otherwise, as the case may require; and
    - (ii) a meeting conducted using such virtual meeting technology may be:
      - (A) held concurrently at one or more physical venues and using virtual meeting technology; or
      - (B) not held at any specified physical venue and held as a wholly virtual meeting,
      - (C) and participation in such meeting will constitute presence as if in person at such a **meeting**;
  - (b) if the Directors elect to use virtual meeting technology for a general meeting of the Company, the Directors will determine the type of virtual meeting technology to be used, and pursuant to clause 33, the notice of meeting must set out the details of the virtual meeting technology used for the general **meeting**;
  - (c) the Members present in person, by proxy, or by means of an electronic facility or facilities at a general meeting, will be counted in the quorum for, and entitled to participate, in that general **meeting**;
  - (d) if before or during a meeting any technical difficulty occurs such that the Members do not have a reasonable opportunity to participate, the Chairperson may:
    - (i) adjourn the meeting for a reasonable period until the technical difficulty is remedied; or
    - (ii) where a quorum remains present (either at the place at which the Chairperson is present or by virtual meeting technology as contemplated by this clause 32.8), continue the meeting (subject to the Corporations Act);
  - (e) in no circumstance will the inability of one or more Members to access, or to continue to access, virtual meeting technology affect the validity of a **meeting** or any business conducted at a meeting, provided that sufficient Members are able to participate in the meeting as are required to constitute a quorum;

- (f) nothing in this clause 32.8 is to be taken to limit the powers conferred on the Chairman under the Corporations Act or this Constitution; and
- (g) for the avoidance of doubt, the Directors are under no obligation to offer to provide any electronic facilities for a general meeting.

### 33. Notice of General Meetings

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- 33.1 33.1 Subject to the provisions of the Corporations Act, not less than 28 days (or such lesser period as is from time to time permitted by the Corporations Act) notice (exclusive of the day on which the notice is given or deemed to be given and exclusive of the day for which the meeting is convened) of any General Meeting shall be given in writing to all the Members entitled to receive notices of Meetings, to each Director, to the Auditor and to NSX in accordance with these Regulations.
- 33.2 Every notice of a General Meeting shall specify:
- (a) the place, day and hour 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);
  - (b) if the meeting is to be held using virtual meeting technology, the details of such electronic facility or facilities, including related access, identification and security arrangements, or must state where those details will be made available by the Company prior to the **meeting**;
  - (c) the general nature of the General Meeting's business;
  - (d) the intention to propose any Special Resolution and the Special Resolution;
  - (e) if a Member is entitled to appoint a proxy, a statement setting out the following information:
    - (i) that the Member has a right to appoint a proxy;
    - (ii) that a proxy need not be a Member of the Company; and
    - (iii) that a Member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise; and
  - (f) in the case of an election of Directors the names of the candidates for election.
- 33.3 Subject to clause 33.6 if, after sending a notice of general meeting which was intended to be held using virtual meeting technology, but prior to the meeting, the Directors decide that it is impracticable or unreasonable to hold the meeting at the time specified in the notice or by the electronic facility specified in accordance with clause 33.2(b), the Directors may change:
- (a) the meeting to remove the ability for the persons entitled to attend and participate in the meeting to do so by an electronic facility;
  - (b) the electronic facility or facilities to be used for the general meeting; or
  - (c) postpone the time at which the meeting is to be held.
- 33.4 If a decision is made by the Directors under clause 33.3, the Directors may then change again the electronic facility (or facilities) or postpone the time if they decide that it is reasonable to do so before that meeting is held.
- 33.5 In relation to any decision made in accordance with clauses 32.8(d), 33.3 or 33.4:



- (a) no new notice of meeting is required to be sent, but the Directors must take reasonable steps to publicise a change to the date and time of the meeting or the means of attendance and participation (including any change to the place or electronic facility) for the meeting;
  - (b) the Directors must take reasonable steps to ensure that notice of the change or removal of the electronic facility (or facilities) for participation in the meeting (if any) or the postponement (if any), must appear at the original place (or places) or on the original electronic facility (or facilities) of the meeting, in each case at the original time specified for the meeting; and
  - (c) if the general meeting is postponed, the appointment of a proxy will be valid if it is received as required by this Constitution not less than 48 hours before the postponed time appointed for the holding of the meeting, provided that the Directors may at their discretion determine that, in calculating the period of 48 hours, no account will be taken of any part of a day that is not a Business Day.
- 33.6 Clauses 33.3 and 33.4 do not apply to a meeting convened in accordance with a member's requisition under the Corporations Act or any other meeting that is not called by resolution of the Board.
- 33.7 The accidental omission to give notice of any General Meeting to or the non-receipt of any such notice by any of the Members or the Auditors or the Secretary or the NSX or the accidental omission to advertise (if necessary) any meeting shall not invalidate the proceedings at, or any Resolution passed at, the meeting.
- 33.8 Subject to the Corporations Act the Company may give notices to Members electronically by notifying the Member:
- (a) that the notice is available; and
  - (b) how the Member may use electronic means to access the notice,
- by an electronic means permitted by the Corporations Act and to an electronic address nominated by the relevant Member for the purpose of receiving notices.

## **34. Cancellation and Postponement of A General Meeting**

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- 34.1 Subject to this Regulation the Directors may, by advertisement published in a newspaper circulating in each capital city of every Australian State or Territory, on or before the day of a proposed General Meeting, cancel a proposed General Meeting convened by them.
- 34.2 A General Meeting requisitioned by Shareholders pursuant to the Corporations Act, may only be cancelled by the Directors if a written notice of withdrawal of the requisition signed by the requisitioning Members has been deposited at the Office.
- 34.3 The Directors shall, in addition to publication of advertisements in accordance with this Regulation endeavour to notify each Member of the cancellation of a proposed General Meeting by posting a notice to the address of each Member as shown in the Register.
- Failure to post the notice to any Member or the non-receipt of such notice by any Member does not affect the validity of the cancellation of the proposed General Meeting.
- 34.4 The Directors may, by advertisement published in a newspaper circulating in each capital city of every Australian State or Territory, on or before the day of a proposed General Meeting, postpone the proposed General Meeting for a period not exceeding 28 days or change the venue of the proposed General Meeting, but no business may be transacted at any postponed Meeting other than the business stated in the notice to Members of the postponed General Meeting.
- 34.5

- (a) The Directors shall, in addition to publication of advertisements in accordance with this Regulation, endeavour to notify each Member of postponement or change of venue of a proposed General Meeting by posting a notice to the address of each Member as shown in the Register.
- (b) Such notice shall include details of the day, time and place on and at which the postponed General Meeting will be held or in the case of change of venue, details of the new venue.
- (c) Failure to post the notice to any Member or the non-receipt of such notice by any Member does not affect the validity of the postponement or change of venue of the proposed General Meeting.

34.6 A proposed General Meeting may not be postponed on more than 2 occasions.

## **35. Quorum at General Meetings**

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35.1 Except as otherwise provided in this Constitution, a quorum constitutes:

- (a) Three (3) Members Present; or
- (b) where the total number Members is less than 3, all those Members being the Members Present.

No business shall be transacted at any Meeting unless the requisite quorum is present at the commencement of the Meeting.

## **36. Lack of Quorum at General Meetings**

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36.1 If within 30 minutes after the time appointed for the holding of a General Meeting a quorum is not present, the General Meeting, if convened upon the requisition of Members or for the purpose of winding up the Company voluntarily, is dissolved but in any other case it stands adjourned to the same day in the next week (if that day is not a Business Day, then the first Business Day thereafter) at the same time and place or to such other day time and place as the Directors may by notice to the Shareholders specify.

36.2 For the purpose of clause 36.1, a quorum will not be present in circumstances where the number of Members Present is less than the requirements specified in clause 35.1 as a result of an electronic facility provided by, or on behalf, of the Company being or becoming inadequate to enable the Members attending by way of the electronic facility to:

- (a) participate in the business for which the meeting has been convened; and
- (b) vote on matters being considered at the general meeting.

For the avoidance of doubt, in no circumstances will the ability of one or more Members to access, or to continue to access, the electronic facility or facilities for participation in the meeting affect the validity of the meeting or any business conducted at any meeting, provided that sufficient Members are able to participate in the meeting as required by clause 35.1.

## **37. Business of Annual and General Meetings**

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37.1 The ordinary business of an Annual General Meeting is to receive and consider the financial report, the Directors' report and the Auditor's report, to elect Directors and to transact any other business

which under the Corporations Act or these Regulations is required to be transacted at an Annual General Meeting.

- 37.2 All business that is transacted at an Annual General Meeting other than the ordinary business of an Annual General Meeting as specified in Regulation 37. I, and all business transacted at a General Meeting, shall be deemed "Special Business".
- 37.3 Except in accordance with the Corporations Act, no Member is, as regards any Special Business, at liberty to move at any Meeting any Resolution not previously approved by the Directors.

## **38. Chairman of General Meeting**

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The Chairman, or in his or her absence, the deputy Chairman (if any) shall be entitled to take the chair at every General Meeting. If there is no Chairman or deputy Chairman, or if at any General Meeting, the Chairman or deputy Chairman is not present within 15 minutes after the time appointed for holding such meeting, or is unwilling to act, the Directors present may choose one of their number as a Chairman and in default of their doing so, the Members present and entitled to vote may choose one of the Directors to be Chairman, and if no Director present is willing to take the chair, the Members shall choose one of their number to be Chairman.

## **39. Adjournment**

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- 39.1 The Chairman of the Meeting may, with the consent of the Meeting, adjourn the Meeting from time to time and from place to place and with such additional means of attendance and participation (including electronic facilities) including where it appears to him or her that an electronic facility provided on behalf of the Company for the meeting has become inadequate to enable Members to attend or have a reasonable opportunity to participate in the meeting.
- 39.2 No business may be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment took place. If any Meeting is adjourned for more than 30 days, then notice of such adjournment shall be given to all the Members entitled to receive notices of General Meetings but otherwise it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned Meeting. If notice of adjournment is required to be given, the notice shall be of the same duration and it shall be given in the same manner as notice of the original Meeting was required to be given.

## **40. Disruption and Termination of Meeting**

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- 40.1 If any General Meeting becomes so unruly or disorderly, whether or not accompanied by any violence or threats of violence, that in the opinion of the Chairman the business of the Meeting cannot be conducted in a proper and orderly manner, the Chairman may in his or her sole and absolute discretion, and without giving any reason, either adjourn or terminate the Meeting or if any General Meeting is, in the opinion of the Chairman, unduly protracted, the Chairman may in his or her sole and absolute discretion, and without giving any reason, adjourn the meeting.
- 40.2 If any General Meeting is terminated by the Chairman pursuant to Regulation 40.1, the Chairman shall put any items of business uncompleted at the Meeting of which notice was given in the notice convening the Meeting and which required a vote to be taken, to the vote by poll either without discussion then and there or at such other time and in such manner as the Chairman directs. The results of any such poll on each such item of business as notified to the Chairman by the scrutineers is deemed for all purposes to be Resolutions of the Meeting and shall be recorded in the minutes of the Meeting accordingly.

## 41. Entitlement to Vote at General Meetings

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- 41.1 Votes may be given either personally or by proxy or by attorney under power or in the case of a corporation by its duly authorised representative. No person is entitled to vote unless he is a Member and present in person or by proxy or attorney or is the duly authorised representative of a corporation which is a Member.
- 41.2 On a show of hands every Member present and entitled to vote has one vote.
- (a) Where a person present at a General Meeting represents personally or by proxy, attorney or representative more than one Member entitled to vote, on a show of hands the person is entitled to one vote only despite the number of Members the person represents.
- (b) Where a Member entitled to vote appoints two proxies or attorneys to vote in respect of Shares held by the Member and both are in attendance:
- (i) on a show of hands, only the first person named in the instrument appointing the proxies or attorneys or, if they are named in separate instruments, the person whose name is earlier in alphabetical sequence, may vote; and
- (ii) on a poll, each proxy or attorney may only exercise votes in respect of those Shares for which the proxy or attorney has been validly appointed proxy or attorney as the case may be, or if the instrument appointing the proxies or attorneys does not specify the proportion or number of the Member's votes each proxy or attorney may exercise, each proxy or attorney may exercise half the Member's votes. Any fractions of votes resulting from the application of this Regulation are to be disregarded.
- 41.3 Subject to Regulation 41.4, on
- (a) a poll every holder of an ordinary Share present and entitled to vote, has one vote for every fully paid ordinary Share held and a fraction of a vote for every partly paid ordinary Share held equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited), on the Share. Amounts paid in advance of a call must be ignored when calculating the proportion; and
- (b) every holder of a Limited Voting Ordinary Share has one vote, irrespective of the number of Limited Voting Ordinary Shares held.
- 41.4 Notwithstanding anything express or implied in these Regulations a Member is not entitled to vote the Member's Shares at a General Meeting unless all calls payable in respect of those Shares have been paid.
- 41.5
- (a) If two or more persons are registered as joint Holders of any Share, one only of those Holders shall be entitled to vote at a meeting in respect of the Share.
- (b) If more than one joint Holders of a Share is present at any meeting personally or by proxy, attorney or by duly authorised representative and seeks to vote, then that joint Holder whose name stands first on the Register and no other shall be entitled to vote in respect of the Share.
- (c) Several executors or administrators of a deceased Member in whose name any Share is registered, shall for the purpose of this Regulation be deemed joint Holders of the Share.
- 41.6 Any person entitled under Regulation 26.1 to take a transfer of any Shares may vote at any Meeting in respect of those Shares in the same manner as if the person was the registered Holder of such Shares provided that at least 48 hours before the time of the Meeting or adjourned Meeting as the case may be

at which the person proposes to vote the person shall satisfy the Directors of the person's right to take a transfer of such Shares unless the Directors have admitted his right to vote at such Meeting.

## **42. Decision on Questions at a General Meeting**

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- 42.1 Every question submitted to a General Meeting shall be decided by a show of hands unless a poll is required by the Corporations Act or Listing Rules, or if a poll (before or on the declaration of the result of the show of hands) is demanded by:
- (a) the Chairman;
  - (b) at least 5 Members present having the right to vote at the Meeting; or
  - (c) any Member or Members present in person or otherwise representing not less than 5% of the total voting rights of all the Members having the right to vote at the Meeting.
- 42.2 A resolution put to the vote at a general meeting held partly by means of an electronic facility or facilities must be decided on a poll.
- 42.3
- (a) The Directors may determine that, at any general meeting or class meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to vote by direct vote in respect of that resolution. A direct vote includes a vote delivered to the Company by post, fax or other electronic means approved by the Directors.
  - (b) Where clause 42.3(a) applies, the notice of meeting must indicate that direct voting is available at the relevant meeting or on particular resolutions.
  - (c) The Directors may prescribe regulations, rules and procedures in relation to direct voting, including (without limitation):
    - (i) specifying the form, method and timing of casting a direct vote at a meeting for the vote to be valid; and
    - (ii) the circumstances in which a direct vote may be withdrawn by the Member or deemed withdrawn.
- 42.4 At any General Meeting (unless a poll is demanded as aforesaid) a declaration by the Chairman that a Resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry in the minutes of Company meetings signed by the Chairman of that or the next succeeding Meeting is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such Resolution.

## **43. Taking a Poll**

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- 43.1 If a poll is demanded it shall be taken in such manner and either by ballot or otherwise and at such time and at such place as the Chairman of the Meeting directs and either at once or after an interval or adjournment or otherwise and the result of the poll is the Resolution of the Meeting at which the poll was demanded.
- 43.2 If a poll is held after an adjournment, the Chairman of the Meeting may direct that the time allowed for the lodgement of proxies and powers of attorney be extended until such time as he or she directs for the purpose of allowing votes to be cast on the poll.

- 43.3 No poll may be demanded on the election of a Chairman of a Meeting and a poll demanded on any question of adjournment shall be taken at the Meeting and without an adjournment.
- 43.4 The demand for a poll does not prevent the continuance of a Meeting for the transaction of any business other than the question on which a poll has been demanded.
- 43.5 The demand for a poll may be withdrawn.

#### **44. Casting Vote of Chairman**

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In the case of an equality of votes the Chairman of the Meeting may on a show of hands and on a poll have a casting vote in addition to his or her deliberative votes (if any).

#### **45. Validity of Votes**

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- 45.1 No objection may be made to the validity of any vote except at a Meeting or adjourned Meeting or poll at which such vote is tendered and every vote not disallowed at any such Meeting or poll is valid for all purposes.
- 45.2 The Chairman of any Meeting is the sole judge of the validity of every vote tendered and the Chairman's determination is final and conclusive.

#### **46. Votes by Proxy**

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- 46.1
- (a) Any Member holding ordinary Shares having the right to vote at a Meeting may appoint not more than 2 proxies to vote on the Member's behalf.
  - (b) Any Member holding Limited Voting Ordinary Shares having the right to vote at a Meeting may appoint one proxy to vote on the Member's behalf.
  - (c) A proxy need not be a Member of the Company.
  - (d) Where a Member appoints 2 proxies, each proxy may be appointed to represent a specified proportion or number of the Member's voting rights. If the appointment does not specify the proportion or number of Member's voting rights each proxy may exercise half of the Member's voting rights. Any fractions of votes resulting from the application of this Regulation are to be disregarded.
- 46.2 A vote given or act done in accordance with the terms of an instrument of proxy or power of attorney is valid notwithstanding the previous death of the principal or revocation of the proxy or power of attorney in respect to which the vote is given or act done provided no duly authenticated intimation in writing of the death or revocation has been received at the Office before the vote is given or act done.
- 46.3 A proxy may be revoked at any time by notice in writing to the Company.

#### **47. Instrument Appointing a Proxy**

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- 47.1 The instrument appointing a proxy (and the power of attorney (if any) under which it is signed or proof thereof to the satisfaction of the Directors) must be received at the Office or any other place

notified in the notice of meeting not less than 48 hours before the Meeting or adjourned Meeting as the case may be at which the person named in such instrument proposes to vote.

- 47.2 An instrument appointing a proxy shall be in writing under the hand of the appointor or the appointor's attorney duly authorised in writing or if such appointor is a corporation executed in accordance with the corporation's constitution or as authorised by the Corporations Act. The instrument appointing a proxy is deemed to confer authority to vote on a show of hands, to demand or join in demanding a poll and to vote on an adjournment of a Meeting.
- 47.3 A proxy may be for only a single Meeting and any postponement or adjournment thereof and each proxy shall specify the day upon which the Meeting at which it is intended to be used is to be held and be valid only for the Meeting so specified.
- 47.4 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular Resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the Resolution except as specified in the instrument. If a 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.
- 47.5 Every instrument of proxy shall be in the form (if any) required by the Listing Rules from time to time and otherwise as determined by the Board and may make provision for the Chairman of the Meeting to act as proxy in the absence of any other appointment or if the person or persons nominated fails or all fail to attend.

## **48. Number of Directors**

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- 48.1 The number of Directors (excluding Alternate Directors) shall be not less than three (3) nor more than eight (8), or such other number as the Directors may determine, but the Directors may not reduce the number below the number of Directors in office at the time of the reduction.
- 48.2 The Company in General Meeting may increase or reduce the number of persons who may be appointed Directors but the minimum shall not be reduced below three (3).
- 48.3 If at any time the number of Directors falls below three (3), the continuing or surviving Directors may act in cases of emergencies or for the purpose of increasing the number of Directors to that minimum number or of calling a General Meeting of the Company but for no other purpose.
- 48.4 If at any time there is no Director of the Company or no Director capable of performing the functions of a Director, the Secretary or any Member may convene a General Meeting for the purpose of electing a Board of Directors. Any Directors so elected will hold office until the next Annual General Meeting.

## **49. Directors Share Qualification**

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There is no share qualification for a Director.

## **50. Casual Vacancies of Directors**

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- 50.1 The Directors may at any time appoint any person as a Director either to fill a casual vacancy or as an additional Director.
- 50.2 Any Director, other than the Managing Director, appointed under Regulation SO.I holds office only until the conclusion of the next Annual General Meeting of the Company but is eligible for re-election at that meeting

## **51. Appointment of directors and filling of Vacated Offices**

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- 51.1 A Director appointed to fill a casual vacancy or as an addition to the Board must not hold office (without re-election) past the next Annual General Meeting.
- 51.2 The Company at any Annual General Meeting at which any Director retires may fill the vacated office by re-electing the Director or electing some other person to fill the vacancy.
- 51.3 If at any Annual General Meeting a vacated office is not filled, the retiring Director is, if willing and not disqualified, deemed to have been re-elected unless the Directors decide to reduce the number of Directors in office or a Resolution for the re-election of that Director is put and lost.
- 51.4 No person except a Director appointed under Regulation 50 or a person recommended by the Directors for election is eligible for election to the office of Director at any General Meeting unless the nominee or some Member intending to propose him or her has at least 35 Business Days (or in the case of a Meeting that Members have requested Directors to call, at least 30 Business Days) before the Meeting left at the Office a notice in writing duly signed by the nominee giving his or her consent to nomination and signifying his or her candidature for the office or the intention of such Member to propose him or her. Notice of each and every candidature shall be forwarded to all Members not less than 28 days (or such lesser period as is of from time to time permitted by the Corporations Act) prior to the Meeting at which an election is to take place.
- 51.5 Any Director may retire from office upon giving notice in writing to the Company of his or her intention to do so and such resignation takes effect upon the expiration of the notice or its earlier acceptance.
- 51.6 No Auditor or partner or employee or employer of an Auditor shall be capable of being appointed a Director.

## **52. Removal of directors**

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Subject to the provisions of the Corporations Act, the Company may by Resolution passed at any General Meeting remove any Director before the expiration of his or her period of office and appoint another person in his or her stead. The person so appointed holds office during such time only as the Director in whose place he or she is appointed would have held office.

## **53. Vacation of Office of Directors**

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- 53.1 In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act the office of Director is ipso facto vacated if the Director:
- (a) becomes bankrupt or suspends payment or compounds with or assigns his or her estate for the benefit of his or her creditors;
  - (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (c) is removed from office pursuant to these Regulations;
  - (d) absents himself or herself from the meetings of Directors for a continuous period of 6 months without special leave of absence from the Directors unless represented by an Alternate Director and the Directors thereupon declare his or her seat to be vacant;



- (e) fails to pay any call due on any Shares held by him or her for the space of one month or such further time as the Directors may allow after the time when the call shall have been made;
- (f) resigns his or her office by notice in writing to the Company addressed to it at the Office;
- (g) refuses to act;
- (h) is convicted of any felony; or
- (i) ceases to be, or becomes prohibited from being, a Director by virtue of the Corporations Act or any order made under the Corporations Act.

53.2 No proceedings of the Board will be invalidated by reason of any Director taking part or concurring therein being then disqualified until an entry is made in the minutes of the Board of the Director's office having been so vacated.

## **54. Alternate Directors**

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54.1 Each Director has power to appoint any person, other than an Auditor or a partner, employer or employee of an Auditor, approved for that purpose by a majority of his or her co-Directors to act as an Alternate Director in his or her place.

54.2 Upon the appointment of an Alternate Director taking effect, such appointment shall constitute the person so appointed an Alternate Director for each Director appointing him or her and he or she shall be as competent to exercise to the extent herein provided the directorial functions of each Director by whom he or she was appointed (in addition to his or her own functions if he or she is a Director) as if each such Director had appointed different persons to act as their Alternate Directors. The presence of an Alternate Director at any meeting shall for all purposes be counted as the presence of each of the Directors appointing him or her (in addition to his own presence if he or she is a Director).

54.3 The following provisions shall apply to each Alternate Director:

- (a) notice of meetings of the Board convened while he or she continues in office shall be deemed due notice to both the Alternate Director and the Director appointing him or her if given to either of them;
- (b) so far as is consistent with the duration and nature of his or her appointment and subject to contrary provisions of these Regulations he or she shall be entitled to attend and vote at any meeting of the Board in the place of the Director by whom he or she was appointed if such Director is not present thereat;
- (c) he or she may, whether at meetings of the Board or otherwise, exercise all the powers (except the power to appoint an Alternate) of the Director by whom he or she was appointed insofar as such Director has not exercised them;
- (d) he or she shall, whether at such meetings or otherwise, perform, observe and discharge all the directorial functions of the Director by whom he or she was appointed insofar as such Director has not performed them;
- (e) where the subject or context does not otherwise require, the word "Director" where appearing in these Regulations shall be deemed to include an Alternate Director;
- (f) he or she shall not be entitled to receive any remuneration from the Company as a Director but the Director by whom he or she was appointed shall be entitled to such remuneration as he or she would have received if he or she had personally performed the functions performed by such Alternate Director;

- (g) he or she shall while acting as an Alternate Director be responsible to the Company for his or she own acts and defaults and shall not be deemed to be the agent of the Director by whom he or she was appointed;
- (h) he or she may be removed or suspended from office by notice to the Company in writing duly executed by the Director by whom he or she was appointed;
- (i) he or she shall ipso facto vacate office if disqualified under the provisions of these Regulations or if the Director by whom he or she was appointed dies or otherwise vacates office;
- (j) he or she may at any time be suspended or removed as an Alternate Director by Resolution of the Directors provided the Directors give the Director by whom he or she was appointed reasonable notice of their intention so to do;
- (k) he or she shall not be entitled to automatically act as Chairman of the Board or of a committee in place of the Director by whom he or she is appointed, but may be chosen as the chairman of a meeting of the Board or of a committee or of a General Meeting of the Company pursuant to the provisions of these Regulations.

54.4 A Director or any other person may act as Alternate Director to represent more than one Director.

## **55. Managing Director**

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55.1 The Directors may from time to time appoint one of their body to be Managing Director of the Company and define, limit and restrict his or her powers and fix his or her remuneration (subject to compliance with the Corporations Act) and duties and may (subject to the provisions of any contract between him and the Company) remove him or her from office and appoint another in his or her place.

55.2 A Managing Director is, subject to the provisions of any contract between him and her and the Company and to these Regulations, subject to the same provisions as to resignation, disqualification and removal as the other Directors and if he or she ceases to hold the office of Director from any cause he or she immediately ceases to be a Managing Director.

55.3 If the Managing Director becomes at any time in any way incapable of acting as such the Directors may appoint any other Director to act as temporary Managing Director.

## **56. Remuneration of Directors**

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56.1 The Directors may be paid out of the funds of the Company, as remuneration for their ordinary services as Directors, such sum as may be determined by the Company in General Meeting (subject to compliance with the Corporations Act). Such remuneration, in the case of non- Executive Directors, shall be by a fixed sum and not by a commission on, or percentage of, the operating revenue of the Company or its profits. The sum so fixed may be divided amongst the Directors in such proportion and manner as they may from time to time agree, or in default of agreement, equally.

56.2 Subject to the provisions of any contract between the Company and a Managing Director the remuneration of an Executive Director may from time to time be fixed by the Directors and may be by way of fixed salary but not be by way of commission on, or percentage of, operating revenue of the Company and unless otherwise determined by the Company in General Meeting may be in addition to any remuneration which he or she may receive as a Director of the Company.

56.3 The Directors may also be paid their travelling and other expenses incurred in connection with their attendance at Board meetings and otherwise in the execution of their duties as Directors.

- 56.4 Any Director who being willing is called upon to perform extra services or to make any special exertions or to undertake any executive or other work for the Company beyond his or her ordinary duties or to go or reside abroad or otherwise for any of the purposes of the Company may be remunerated either by a fixed sum or a salary as may be determined by the Directors and such remuneration may be either in addition to, or in substitution for, his or her share in the remuneration provided above.
- 56.5 In the event of a proposal to increase the remuneration of the Directors for their ordinary services the notice calling the General Meeting at which such increase is to be proposed shall state the amount of the proposed increase and the maximum sum that may be paid.
- 56.6 The remuneration of each Director for his or her ordinary services accrues from day to day and is apportionable accordingly. A Resolution of Directors cancelling suspending reducing or postponing payment of such remuneration or any part thereof binds all the Directors for the time being.
- 56.7 The Company, and any subsidiary of the Company, must not grant a contract of services for 5 years or longer to any Director or proposed director, or to any director or proposed director of a Child Entity, without the prior approval of the Company in general meeting. The director or proposed director who is to be a party to any such contract must not vote on the resolution to approve the contract.

## **57. Directors' Remuneration on Retirement or Death**

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- 57.1 Upon a Director ceasing or at any time after his or her ceasing whether by retirement or otherwise to hold that office, the Directors may pay to the former Director, or in the case of his or her death to the former Director's spouse (including a person who although not legally married to the former Director lived with this Director on a genuine domestic basis as the Director's husband or wife), legal personal representatives, or to his or her dependants or any of them a gratuity or pension or allowance or lump sum payment in respect of past services of such Director, including any superannuation, retiring allowance, superannuation gratuity or similar payment, of an amount not exceeding the amount permitted by the Corporations Act. The Company may contract with any Director to secure payment of any such sum to him or her, to his or her legal personal representatives or to his or her dependants or any of them.
- 57.2 A determination made by the Directors in good faith that a person is or was at the time of the death of such Director a dependant of such Director is conclusive for all purposes of Regulation 57.1.
- 57.3 In relation to termination benefits, the Company:
- (a) must ensure that no officer of the Company or any of its Child Entities will be entitled to benefits if a change occurs in the shareholding or control of the Company or the relevant Child Entity; and
  - (b) must obtain the approval of Members if an officer of the Company or any of its Child Entities may be entitled to benefits if the aggregate value of those benefits of all officers exceeds 5% of the sum of paid up capital reserves and accumulated profits or losses of the Company, disregarding redeemable preference share capital.

## **58. Regulation of Proceedings of Directors**

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The Directors may meet together for the despatch of business and adjourn and otherwise regulate their Meetings as they see fit.

## **59. Quorum of Directors**

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- 59.1 A quorum of Directors is two (2) or such other number as determined by the Directors from time to time.
- 59.2 The Chairman at a meeting at which only two (2) Directors are competent to vote on the question at issue shall not have a casting vote.

## **60. Convening and Notice of Meetings**

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- 60.1 A Director may at any time and the Secretary upon the request of a Director shall convene a Meeting of the Directors.
- 60.2 Unless the Directors otherwise unanimously agree, at least 48 hours notice must be given of every Directors' Meeting. Notice may be given by pre-paid post, telephone, telex, telegram, facsimile, electronic mail or other similar means of communication to each Director at his notified address for receipt of notices. Non-receipt of any notice of a Meeting of Directors by a Director does not affect the validity of the convening of the Meeting.

## **61. Meetings of Directors by Technology**

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- 61.1 A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw his or her consent to the use of a particular technology within a reasonable period before the meeting to be held using that technology.
- 61.2 Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors;
- (a) the participating Directors are, for the purpose of every provision of this Constitution in relation to meetings of Directors, taken to be together at a meeting; and
  - (b) all proceedings of those Directors conducted using technology are as valid and effective as if conducted at a meeting at which all of them were physically present.
- 61.3 A Director shall not cease his or her participation in a meeting conducted using technology without having first notified the Chairman of the meeting. A Director is conclusively presumed to have been present and to have formed part of the quorum at all times during a meeting unless and until the Director has notified the Chairman of the Director's intention to cease his or her participation in the meeting.

## **62. Written Resolutions of Directors**

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A Resolution in writing signed by all the Directors or their respective alternate Directors, except those Directors and their alternates who expressly indicate their abstention in writing to the Company and those who would not be permitted, by virtue of section 195 of the Corporations Act, together with their respective alternates, to vote were the resolution to be put to a meeting of the Directors, shall be as valid and effective as if it had been passed at a meeting of the Directors duly convened and held. Any such Resolution may consist of several documents in like form each signed by one or more Directors. Any Resolution shall be effective from the date the last of the relevant Directors have signed the Resolution. Every Resolution so signed shall be as soon as -practicable entered into the books provided for the purpose of recording, inter alia, Resolutions of Directors. A telex, telegram, facsimile or such similar means of communication addressed to or received by the Company and

purporting to be signed by a Director is for the purpose of this Regulation deemed to be writing signed by such Director.

### **63. Voting at Directors Meeting**

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- 63.1 Questions and resolutions arising at any meeting of the Directors shall be decided by a majority of votes and each Director has one vote. A person who is an Alternate Director is entitled (in addition to his or her own vote if he or she is a Director) to one vote on behalf of each Director whom he or she represents as an Alternate Director at the meeting and who is not personally present. If there is an equality of votes on any question or resolution, the Chairman, if he or she is entitled to vote on the question or resolution, may exercise a casting vote in addition to any other vote he or she may have, except where two (2) Directors constitute a quorum and there are only two (2) Directors present at the Meeting or only two (2) Directors are eligible to vote on that question or resolution.
- 63.2 No Director is entitled to be present in person or by an Alternate Director or to vote at a meeting of Directors or to be reckoned in a quorum if and as often as he or she has failed to pay any call to the Company on Shares held by him or her after the date upon which the call should have been made.

### **64. Powers of Meeting of Directors**

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A Meeting of the Directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions for the time being vested in or exercised by the Directors generally or by or under these Regulations.

### **65. Chairman of Directors**

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The Directors shall from time to time elect a Chairman of their Meetings. If no Chairman is elected or if at any Meeting the Chairman is not present within half an hour of the time appointed for holding the Meeting the Directors present may choose one of their number to be Chairman of such Meeting. The Directors may from time to time appoint a deputy Chairman who in the absence of the Chairman at a Meeting of the Directors may exercise all the power and authorities of the Chairman.

### **66. Validation of Acts of Directors where defect in Appointment**

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All acts done at any Meeting of Directors or of a committee of Directors or by any person acting as a Director or by any person purporting to act as an attorney under power of the Company, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of such Director or person or attorney acting as aforesaid or that they or any of them were disqualified or were not entitled to vote, are as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director or attorney and was entitled to vote.

### **67. Directors' Contracts with the Company**

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- 67.1 No Director is disqualified by his or her office from holding any other office or place of profit under the Company or any of its subsidiary companies or under any company in which the Company is or becomes a shareholder or is otherwise interested, or from contracting or arranging with the Company or any other such company as aforesaid either as vendor, purchaser or otherwise howsoever, nor is any such contract or any contact or arrangement entered into or to be entered into by or from or on behalf of the Company in which the Director is or may be in any way interested be avoided, nor is the Director so contacting or being so interested liable to account to the Company for any profit arising

from any such office or place of profit or realised by any such contact or arrangement by reason only of the Director holding that office or of the fiduciary relationship between the Director and the Company.

- 67.2 Subject to Regulation 67.3 and the Corporations Act, a Director shall not vote in respect of any contact or arrangement in which he or she is so interested as aforesaid nor in respect of any other contract or arrangement in which he or she has directly or indirectly a material interest and he or she must not be present whilst the matter is being considered at the meeting.
- 67.3 Regulation 67.2 does not apply to an interest that the Director has as a Member and in common with the other Members.
- 67.4 The nature of the Director's interest shall be disclosed by him or her before or at the Meeting of Directors at which the question of entering into the contract or arrangement is first taken into consideration if his or her interest then exists, or in any other case at the first Meeting of the Directors after he or she becomes so interested. A general notice given to the Directors by any Director to the effect that he or she is an officer or a member of or interested in any specified firm or corporation and is to be regarded as interested in all transactions with such firm or corporation is sufficient disclosure as required by the Corporations Act as regards such Director and the said transactions, and after such general notice it is not necessary for such Director to give any special notice relating to any particular transaction with such firm or corporation.
- 67.5 A Director of the Company may be or become a director or other officer of, or otherwise interested in, any corporation promoted by the Company or in which the Company may be interested as shareholder or otherwise, or which holds any shares in the Company, and no such Director is accountable to the Company for any remuneration or other benefits received by him or her as a director or officer, or from his or her interest in, such corporation. The Directors may exercise the voting power conferred by the shares or other interest in any such other corporation held or owned by the Company, or exercisable by them as Directors of such other corporation, in such manner in all respects as they think fit (including the exercise in favour of any Resolution appointing themselves or any of them directors or other officers of such corporation) and any Director may vote in favour of the exercise of such voting rights in manner aforesaid, notwithstanding that he or she may be, or be about to be, appointed a director or other officer of such corporation and, as such is, or may become, interested in the exercise of such voting rights in manner aforesaid.
- 67.6 The Company must (in accordance with the Listing Rules) forthwith advise the NSX of any interest the Director may have in any material contact to which the Company is a party or in which the Company also has an interest.

## **68. General Powers of Directors**

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Subject to the Corporations Act and to any other provisions of these Regulations, the management and control of the business of the Company is vested in the Directors who may exercise all such powers of the Company as are not by these Regulations or by the Corporations Act required to be exercised by the Company in General Meeting. No Regulation made or Resolution passed by the Company in General Meeting invalidates any prior act of the Directors which would have been valid if that Regulation or Resolution had not been made or passed.

## **69. Borrowing Powers of Directors**

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- 69.1 The Directors have power to:
- (a) raise or borrow or secure the payment or repayment of any sum of money;

- (b) charge, mortgage or otherwise encumber any or all of the undertaking, property and assets of the Company (both present and future) including its goodwill and uncalled capital for the time being; and
  - (c) issue notes, bonds, debentures or any other securities whatsoever or give any other security or guarantee for any debt, liability or obligation of the Company or any other person in such manner and on such terms and condition as the Directors determine.
- 69.2 Without limiting the generality of Regulation 69.1 the Directors have express power to make such loans to and to provide such guarantees and security for obligations undertaken by Directors as permitted by the Corporations Act or by Resolution of the Company in accordance with the Corporations Act but not otherwise.
- 69.3 All cheques, promissory notes, drafts bills of exchange and other negotiable instruments and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors determine.

## **70. Delegation of Directors' Powers**

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- 70.1 The Directors may from time to time by power of attorney appoint any person or persons to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Regulations) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him.
- 70.2 The Directors may from time to time confer upon any Director for the time being or such other person as they may select such of the powers exercisable under the Regulations by the Directors as they may think fit for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they think expedient; and they may confer such powers either collaterally with, or to the exclusion of, and in substitution for, all or any of the powers of the Directors in that behalf; and may from time to time revoke, withdraw, alter or vary all or any of such powers.

## **71. Delegation of Powers to Committees**

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- 71.1 The Board may by Resolution or by power of attorney, delegate any of its powers to committees consisting of such Directors or Members or persons as the Directors think fit to act either in Australia or elsewhere. Any committee so formed or person or persons so appointed shall, in the exercise of the power so delegated, conform to any regulations that may from time to time be imposed by the Directors.
- 71.2 The meetings and proceedings of any committee shall be governed by the provisions in these Regulations regulating the meetings and proceedings of the Directors so far as the same are applicable.

## **72. Validation of Irregular Acts**

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Notwithstanding anything contained in these Regulations, if some formality required by these Regulations to be done ( other than a matter required to be done to comply with the Listing Rules) has been inadvertently omitted or has not been carried out, such omission does not invalidate any Resolution, act, matter or thing which but for such omission would have been valid unless it is proved to the satisfaction of the Directors or a majority of them that such omission has directly prejudiced any Member financially. The decision of the Directors is conclusive, final and binding on all Members.

## **73. Secretary**

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- 73.1 One or more Secretaries of the Company shall, in accordance with the Corporations Act, be appointed by the Directors on such terms and conditions, as to remuneration and otherwise as the Directors think fit.
- 73.2 The Directors may, at any time, appoint a person as an acting Secretary or as a temporary substitute for the Secretary. The person so appointed shall, for the purpose of these Regulations, be deemed to be the Secretary.
- 73.3 A Secretary's appointment may be terminated at any time by the Directors.
- 73.4 Anything required or authorised to be done by, or in relation to, the Secretary, may, if the office is vacant or for any other reason the Secretary is not capable of acting, be done by or in relation to any assistant or deputy Secretary or, if there is no assistant or deputy Secretary capable of acting, by or in relation to any officer of the Company authorised generally or specially in that behalf by the Directors.
- 73.5 A provision requiring or authorising a thing to be done by or in relation to a Director and the Secretary shall not be satisfied by its being done by or in relation to the same person acting both as a Director and as, or in place of, the Secretary.
- 73.6 The Secretary shall unless otherwise determined by the Directors be the Public Officer of the Company and shall in that capacity and on behalf of the Company supply all returns and do all acts and things which by any taxation statute or regulation for the time being in force may be required by the Company or the Public Officer thereof.

## **74. Minutes**

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- 74.1 The Directors shall cause minutes to be duly entered in books provided for the purpose of recording:
- (a) all appointments of Directors and Secretaries;
  - (b) the names of the Directors present at each Meeting of the Directors and committees;
  - (c) all Resolutions and proceedings of General Meetings and of Meetings of the Directors and committees; and
  - (d) such other matters as are required by the Corporations Act.
- 74.2 Any such minutes, if purporting to be signed by any person purporting to be the Chairman of the Meeting or to be the Chairman of the next succeeding Meeting, may be received in evidence without any further proof as sufficient evidence that the matters and things recorded by or appearing in such minutes actually took place or happened as recorded or appearing and of the regularity of the Meeting in all respects, and that the same took place at a Meeting duly convened and held.

## **75. Declaration of Dividends**

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- 75.1 The Directors may from time to time declare a Dividend to be paid to the Members entitled thereto and may fix the time for payment of any Dividend.
- 75.2 The Directors may from time to time declare such interim Dividends to be paid to the Members entitled thereto as appear to the Directors to be justified by the profits of the Company.
- 75.3 Dividends may only be paid in accordance with the Corporations Act.



## **76. Entitlement to Dividends**

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- 76.1 All Dividends and interest belongs and shall be paid (subject to any lien of the Company) to those Members whose names are on the Register at the date at which such Dividend is declared or at the date on which such interest is payable respectively, or at such other date as the Directors may determine, notwithstanding any subsequent transfer or transmission of Shares.
- 76.2 All Dividends shall be declared and paid to Members according to the amounts paid (not credited) on the Shares as a proportion of the total amount paid and payable (excluding amounts credited) on the Shares. However, no amount paid or credited as paid on a Share in advance of calls is treated for the purpose of this Regulation as paid on the Share. All Dividends shall be apportioned and paid proportionately to the amounts paid (not credited) on the Shares during any portion or portions of the period in respect of which the Dividend is paid but if any Share is issued on terms providing that it ranks for Dividend as from a particular date that Share ranks for Dividend accordingly.
- 76.3 Notwithstanding Regulation 76.1 the Directors may retain the Dividends payable on Shares:
- (a) in respect of which any person is under Regulation 26 entitled to become a Member or which any person is under that Regulation entitled to transfer until such person becomes a Member in respect of such Shares or duly transfers such Shares; or
  - (b) in respect of which there are any unpaid calls.

## **77. Payment of Dividends**

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- 77.1 Any Dividend, interest or other money payable in cash in respect of Shares may be paid by such method as determined by the Directors from time to time including by cheque sent through the post directed to the registered address of the Holder or in the case of joint Holders to the registered address of that one of the joint Holders who is first named on the Register or to such person and to such address as the Holder or Joint Holders may in writing direct. Every such cheque shall be made payable to the person to whom it is sent and may be made payable to bearer. Any one of 2 or more joint Holders may give effectual receipts for any Dividends or other money payable in respect of the Shares held by them as joint Holders.
- 77.2 The Directors, when declaring a Dividend, may make a call on the Members of such amount as they may fix but so that the call on each Member does not exceed the Dividend payable to the Member and so that the call be made payable at the same time as the Dividend and the Dividend may if so arranged between the Company and the Member be set off against the call.
- 77.3 The Directors may deduct from any Dividend payable to any Member all sums of money (if any) presently payable by the Member to the Company on account of calls or otherwise in relation to the Shares of the Company.

## **78. Distribution of Dividend in Kind**

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The Directors when declaring a Dividend may direct payment of such Dividend wholly or partly by the distribution of specific assets and in particular of paid up Shares, debentures or debenture stock of the Company or any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution the Directors may settle the same as they think expedient and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments be made to any Members upon the basis of the value so fixed in order to adjust the rights of all parties and may vest any such specific assets in trustees as may seem expedient to the Directors.

## **79. Security Holders Option to receive Shares rather than Dividend**

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The Directors may from time to time grant to Members or any class of Members or to the Holders of any Securities other than Shares the right upon such terms and conditions as the Directors may determine to elect to receive bonus shares in lieu of Dividends or to re-invest all or part of the Dividends, interest or any other moneys (as the case may be) payable by the Company in respect of any such holdings in subscribing for Securities of the same class or of any other class and for any such purposes may implement and maintain on such terms and conditions as they may determine from time to time any scheme or plan for the issue of bonus Securities or reinvestment.

## **80. Unclaimed Dividends**

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Subject to the provisions of the Unclaimed Moneys Act 1962 (Victoria), the Corporations Act and any other relevant legislation, all Dividends unclaimed for one year after having been declared may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.

## **81. Reserves**

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The Directors may before declaring any Dividend set aside out of the profits of the Company such sums as they think proper as reserves which shall at the discretion of the Directors be applicable for any purpose to which the profits of the Company may be properly applied and pending any such application may at the like discretion either be employed in the business of the Company or be invested in such investments (other than Shares in the Company) as the Directors may from time to time think fit. The Directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.

## **82. Capitalisation of Profits**

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- 82.1 The Directors may resolve that it is desirable to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members, and that that sum be applied, for the benefit of Members subject to the rights of persons (if any) entitled to Shares with special rights as to dividends, the proportions to which those Members would have been entitled in a distribution of that sum by way of Dividend and such distribution or payment shall be accepted by such Members in full satisfaction of their interests in the capitalised sum.
- 82.2 The Directors shall do all things necessary to give effect to the Resolution to capitalise any sum and in particular to the extent necessary to adjust the rights of the Members among themselves, may:
- (a) make cash payments in cases where Shares or debentures become issuable in fractions;
  - (b) fix the value for distribution of any specific assets or any part in fractions;
  - (c) fix the value for distribution of any specific assets or any part thereof;
  - (d) determine that cash payments may be made to any Members upon the basis of the value so fixed or that fractions of less value than 50 cents may be disregarded in order to adjust rights of all parties;
  - (e) vest any such cash or specific assets in trustees upon trusts for the persons entitled to the Dividend or capitalised fund; and

- (f) authorise any person to make, on behalf of the Members entitled to any further Shares or debentures upon the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further Shares or debentures or for the payment by the Company on their behalf of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised, and any agreement made under such an authority is effective and binding on all the Members concerned.

## **83. Inspection of Records**

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- 83.1 The Directors may determine whether and to what extent and at what times and places and under what conditions the accounting records and other documents and records of the Company or any of them are open to the inspection of the Members not being Directors, and no Member other than a Director has any right of inspecting any account or book or document of the Company except as provided by law or authorised by the Directors or by the Company in General Meeting.
- 83.2 No Member is entitled to require or receive any information concerning the Company's business, trading or customers, or any trade secret or secret process of or used by the Company, beyond such information as to the accounts and business of the Company as is by the Corporations Act directed to be laid before the Company in General Meeting. No Member is entitled to inspect any books, papers, correspondence, or documents of the Company, except so far as such inspection is expressly authorised by the Corporations Act.

## **84. Notices**

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- 84.1 Subject to these Regulations a notice may be served by the Company upon any Holder either personally or by sending it by post, facsimile or electronic means addressed to such Holder at the address entered in the Register or the address, facsimile number or electronic address (as the case may be) supplied by him for the giving of notices to him or in any other way allowed under the Corporations Act.
- 84.2 It shall not be necessary to give notice of Meetings to any person entitled to a Share by transmission unless such person shall have been duly registered as a Member of the Company.
- 84.3 A notice may be given by the Company to the joint Holders of a Security by giving the notice to the joint Holder first named in the Register in respect of the Security.
- 84.4 Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected on the day after the date of its posting. A certificate in writing signed by any manager, Secretary- or other officer of the Company that the letter containing the notice was so addressed, prepaid and posted shall be conclusive evidence of its posting. Notices and other documents for overseas Shareholders shall be forwarded by air mail or facsimile.
- 84.5 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any Security is bound by every notice in respect of such Security which previously to the person's name and address being entered on the Register has been duly given to the person from whom the former acquired the entitlement to the Security.
- 84.6 Subject to the Corporations Act, and to Regulation 33.1 where a specified number of days notice or notice extending over any period is required to be given, the day of service is not included but the day upon which such notice will expire is included in such number of days or other period. The accidental omission to give any notice of a Meeting to any Member or the non-receipt by any Member of any notice does not invalidate the proceedings at any Meeting.

- 84.7 All summonses, notices, processes, orders and judgments in relation to any legal proceedings by the Company or its liquidators against any Holder not in Victoria may be served by registered post and the foregoing provisions as to notices shall apply and such service is considered for all purposes to be personal service.
- 84.8 Every summons, notice, order or other document required to be served upon the Company or upon any officer of the Company may be served by leaving the same at the Office.
- 84.9 The signature to any notice to be given by the Company may be written or printed or stamped.
- 84.10 Any notice of meeting and other communications relating to a meeting or Members which Members are entitled to receive must also be given to the Auditor.
- 84.11 All documents sent to Holders must be given to NSX.

## **85. Indemnity of Officers**

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- 85.1 The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in, or arising out of, the conduct of the business of the Company or in, or arising out of, the discharge of the duties of the officer unless the liability was incurred by the officer through his or her own dishonesty, negligence, lack of good faith or breach of duty.
- 85.2 In addition to Regulation 85.1, an officer of the Company and an officer of a subsidiary of the Company may be indemnified to the relevant extent out of the assets of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or of the subsidiary or in arising out of the discharge of the duties of the officer where the Board considers it appropriate to do so.
- 85.3 Subject to the Corporations Act, where the Board considers it appropriate to do so, the Company may pay amounts by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company or a subsidiary against liability incurred by the officer in, or arising out, of the conduct of the business of the Company or of the subsidiary or in, or arising out, of the discharge of the duties of the officer.
- 85.4 In this Regulation:
- (a) "officer" means:
    - (i) a Director, Secretary, executive officer or employee; or
    - (ii) a person appointed as a trustee by, or acting as a trustee at the request of, the Company or, where applicable, a subsidiary of the Company,and includes a former officer.
  - (b) "duties of the officer" includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, the subsidiary of the Company to any other corporation.
  - (c) "to the relevant extent" means:
    - (i) to the extent the Company is not precluded by law from doing so;

- (ii) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and
  - (iii) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
- (d) "liability" means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or otherwise.

## **86. Winding Up**

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86.1 If the Company is wound up, the liquidator may with the sanction of a Special Resolution of the Company divide amongst the Members in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not), and may for that purpose set such value as the liquidator deems fair upon any property to be divided as aforesaid and may determine how the division shall be carried out as between the Members or different classes of Members.

The liquidator may also with the sanction of a Special Resolution vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, subject to the Special Resolution, thinks fit but so that no Member is compelled to accept any Shares or other securities on which there is any liability.

86.2 The Company in General Meeting shall not fix the remuneration to be paid to a liquidator pursuant to the Corporations Act unless at least 14 days' notice of the meeting has been given to the Members and such notice has specified the amount of the proposed remuneration of the liquidator.

## **87. Arbitration**

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The Company may from time to time by writing agree to refer, and may refer, to arbitration any existing or future difference, question or other matter whatsoever in dispute between itself and any other Company or person, and the parties to the arbitration may delegate to the person or persons to whom the reference is made power to settle any term, order anything to be done, or determine any matter capable of being lawfully determined by the parties to the reference themselves or the Directors or other managing body of any company, or party to the reference.

## **88. Accounts and Audit**

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88.1 The Company must comply with the Corporations Act and the Listing Rules with respect to accounts.

88.2 Auditors will be appointed or elected and may be removed and their duties will be regulated in accordance with the Corporations Act.

## **89. Employee Share Plans**

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The Directors, subject to the Listing Rules, may establish one or more employee or executive Share or Option plans on such terms as the Directors may determine.

## **90. Compliance with Listing Rules**

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- 90.1 A reference in this constitution to the Listing Rules will only come into effect on the date that the Company is admitted to the Official List of NSX.
- 90.2 If the Company is not admitted to the Official List of NSX then any reference to, or requirement to comply with, the Listing Rules in this constitution shall have no effect.