

KINA ASSET MANAGEMENT LIMITED

CONSTITUTION

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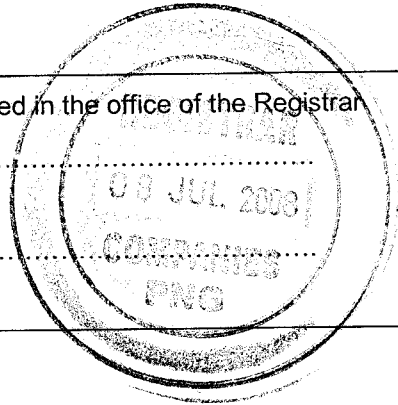


Table of Contents

Division I - General	6
1. Constitution	6
2. Definitions and Interpretation	6
3. Commencement	8
Division II – Shares	8
4. Power of board to issue securities	8
5. Issue of shares not to affect class rights	9
6. Additional share registers	9
7. Surrender of shares	9
8. Joint holders	9
9. Non-recognition of equitable or other interests	10
Division III – Share Certificates	10
10. When certificates not required	10
11. Entitlement to and issue of certificates	10
12. Renewal and replacement of certificates	10
Division IV - Calls	11
13. Power to make calls	11
14. Differentiation between holders	11
15. When a call is made	11
16. Interest on the late payment of calls	11
17. Instalments	11
18. Payment in advance of calls	12
19. Non-receipt of notice of call	12
Division V – Forfeiture and Lien	12
20. Notice requiring payment of sums payable	12
21. Time and place for payment	12
22. Forfeiture on non-compliance with notice	12
23. Notice of forfeiture	12
24. Disposal of forfeited shares	13
25. Annulment of forfeiture	13
26. Liability despite forfeiture	13

27. Company's lien or charge	13
28. Retention of dividends	13
29. Sale of shares to enforce lien	14
30. Title to shares forfeited or sold to enforce lien	14
Division VI – Payments by the Company	14
31. Payments by the Company	14
Division VII – Transfer and Transmission of Securities	16
32. Transfers	16
33. Board may refuse or delay registration	16
34. When transfer effective	17
35. Closing registers and suspension of transfers	17
36. Instrument of transfer and certificate etc to be left at Office	17
37. Transfer of part only of securities specified in a certificate	17
38. Transmission on death	18
39. Transmission by operation of law	18
40. Retention of dividends	18
Division VIII – Alteration of Capital	18
41. Power to alter share capital	18
42. Board may give effect to alteration of share capital	18
43. Company's authority to acquire its own shares	19
Division IX – Meetings of Shareholders	19
44. Modification of Schedule 2 of the Act	19
45. Special meetings	19
46. Notice of meeting	19
47. Quorum and adjournment in absence of quorum	19
48. Meetings by telephone and other means of communication	20
49. Chairman	20
50. Voting	20
51. Additional provisions	21
52. General conduct of meeting	21
53. Adjournment	22
54. Taking a poll	22
55. Objections to qualification to vote	22

56. Special meetings and interest group meetings	23
Division X – Votes of Shareholders	23
57. Voting rights	23
58. Voting rights of personal representatives, etc	23
59. Appointment of proxies	24
60. Validity of vote and where proxy is incomplete	24
61. Form and execution of instrument of proxy	25
62. Board may issue forms of proxy	25
63. Attorneys of shareholders	25
64. Rights of shareholder indebted to Company in respect of other shares	26
65. Entitlement of officers and advisors to attend meeting of shareholders	26
66. Resolutions in lieu of meetings under section 103 of the Act	26
67. Unanimous agreement by shareholders	26
Division XI - Directors	27
68. Number of Directors	27
69. Appointment, removal and retirement of Directors	27
70. No share qualification	28
71. Remuneration of Directors	28
72. Retirement benefits for Directors	29
73. Disclosure of interests	29
74. Directors may contract with Company	30
75. Director may hold other office	30
76. Appointment of executives	30
Division XII - Alternate Directors	31
77. Director may appoint alternate Director	31
Division XIII – Vacation of Office of Director	32
78. Vacation of office by Director	32
Division XIV – Managing Director	33
79. Power to appoint Managing Director	33
80. Remuneration	33
81. Delegation of powers to Managing Director	33
Division XV – Proceedings of Directors	33
82. Non-application of Act	33

83. Procedures relating to Board meetings	33
84. Meetings by telephone or other means of communication	34
85. Votes at meetings	34
86. Convening of meetings	34
87. Chairman	34
88. Powers of meetings	34
89. Delegation of powers to Committees	34
90. Proceedings of Committees	35
91. Validity of acts	35
92. Resolution in writing	35
Division XVI – Powers and Duties of the Board	35
93. General powers of the board	35
94. Appointment of attorneys	36
95. Negotiable instruments	36
96. Minutes	36
Division XVII – The Seal	36
97. Affixing the Seal	36
98. Certificate Seal and Official Seals	37
Division XVIII – Inspection of Records	37
99. Inspection of records	37
Division XIX - Dividends	37
100. Power to authorise distribution of dividends	37
101. Crediting of dividends	38
102. Deduction of unpaid amounts	38
103. Distributions in kind	39
104. How distributions are payable	39
105. Unclaimed dividends	39
Division XX - Notices	40
106. Notices generally	40
107. Shareholders to provide postal address	40
108. Service on joint holders	40
109. Signature to notice	40
110. Service on deceased shareholders	40

Division XXI - Secretary	40
111. Secretary	40
Division XXII - Liquidation	41
112. Liquidation	41
Division XXIII – Indemnity and Insurance	41
113. Indemnity and insurance	41
114. Personal liability of Director or officer	42
Division XXIX – Removal from the Register of Companies	43
115. Board may apply for removal	43
Division XXX – Share Plans	43
116. Dividend reinvestment plans	43
117. Bonus share plan	44
118. Employee share plans	45
Division XXXI – Prevalence of Listing Rules	45
119. Listing Rules Prevail	45
Division XXXII – Restricted Securities	46
120. Restricted Securities	46
Appendix 1 - Schedule 1 of the <i>Companies Act 1997</i>	47
Schedule 1.	47
Appendix 2 - Schedule 2 of the <i>Companies Act 1997</i>	48
Schedule 2.	48
Appendix 3 - Schedule 3 of the <i>Companies Act 1997</i>	53
Schedule 3.	53

Division I - General

1. Constitution

This is the Constitution of Kina Asset Management Limited, as its name may be changed from time to time.

2. Definitions and Interpretation

2.1 In this Constitution, unless the context requires otherwise:

Act means the *Companies Act 1997* of the Independent State of Papua New Guinea, and includes the *Companies Regulation 1998*.

board in relation to the Company has the meaning given to it by section 108 of the Act.

business day:

- (a) if the Company is Listed, has the meaning given in the Listing Rules; and
- (b) otherwise, means a day on which banks are open for normal banking business in Port Moresby.

Business Rules means the Business Rules of the Exchange and any other business rules that, if the Company is Listed, are applicable to or in relation to the Company.

call includes any instalment of a call and any amount due on issue or allotment of any share.

Committee means a Committee to which powers have been delegated by the board under Article 89.

Company means Kina Asset Management Limited, as its name may be changed from time to time.

Constitution means this Constitution.

Director means a person appointed to, or holding, the office of director of the Company in accordance with the Act or this Constitution and where appropriate includes an alternate Director.

distribution has the meaning given to it in section 2(1) of the Act.

dividend has the meaning given to it in section 51(1) of the Act.

Exchange means Port Moresby Stock Exchange Limited and includes any successor body.

Listed means admitted to the official list of the Exchange for the time being.

Listing Rules means the Listing Rules of the Exchange and any other rules of the Exchange that, if the Company is Listed, are applicable to the Company after taking into account any waiver or exemption that is in force either generally or in relation to the Company.

interest group has the meaning given to it by section 97(1) of the Act.

Office means the registered office of the Company.

person and words importing persons include partnerships, associations and corporations, unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals.

Register means the share register of the Company required to be kept under section 67 of the Act, and if the Company is Listed, includes any additional share register permitted to be kept under section 68 of the Act.

registered address means the address of a shareholder specified on a transfer or any other address of which the shareholder notifies the Company as a place at which the shareholder is willing to accept service of notices.

Seal means the common seal of the Company.

Secretary means a person appointed as, or to perform the duties of, Secretary of the Company, if any person is so appointed.

securities includes shares, stock, rights to shares or stock, options to acquire shares or stock and other securities with rights of conversion to equity and debentures, debenture stock, notes and other obligations of the Company.

share means a share in the capital of the Company.

shareholder means a person whose name is entered on the Register as the holder for the time being of one or more shares in the Company.

shareholder present means a shareholder present at a meeting of shareholders in person or by duly appointed representative, proxy or attorney.

special resolution has the meaning given to it by section 2(1) of the Act.

Uncertificated Transfer System means any system operated under the Listing Rules and/or the Business Rules for the transfer of or the settlement of transactions affecting securities in uncertificated form and includes CHESSE as defined in the Listing Rules.

2.2 The following rules of interpretation apply unless the context requires otherwise:

- (c) Headings are for convenience only and do not affect interpretation.
- (d) A gender includes all genders.
- (e) The singular includes the plural and conversely.
- (f) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (g) A reference to an **Article** or **Division** is a reference to an article or division of this Constitution.
- (h) A reference to any legislation (including the Act) or to any provision of any legislation includes any modification, replacement or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

- (i) A reference to an agreement or document (including a reference to this Constitution, the Listing Rules or the Business Rules) is to the agreement or document as validly amended, varied, supplemented, novated or replaced from time to time.
- (j) A reference to **writing** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (k) Words, phrases and expressions used in a provision of this Constitution which relates to a particular provision of the Act, have the same meaning as in that provision of the Act.
- (l) A reference to a **paragraph** is to a paragraph of the Article in which the paragraph appears.
- (m) A mention of anything after **include, includes** or **including** does not limit what else might be included.

3. Commencement

- (1) This Constitution is adopted with effect on and from the time of the passing of a special resolution adopting this Constitution under section 33 of the Act, and supersedes any constitution of the Company in force immediately before that time.
- (2) Everything done under any previous constitution of the Company continues to have the same operation and effect after the adoption of this Constitution as if properly done under this Constitution.

Division II – Shares

4. Power of board to issue securities

- (1) Without prejudice to any special rights conferred on the holders of any shares, options or other securities, subject to the Act, the Listing Rules and this Constitution:
 - (a) the board may authorise the issue of shares, or options over shares, and other securities, at any time, to any person, and in any number that it thinks fit; and
 - (b) any such shares, options or other securities may be issued with such preferred, deferred or other special rights, obligations or restrictions, whether in regard to dividends, voting, return of share capital, payment of calls or otherwise, as the board may determine and on any terms that the board considers appropriate.
- (2) Without limitation, the board may authorise the issue of shares that are redeemable by the Company at the option of the Company, at the option of the holder of the shares or on a specified date.
- (3) The requirements of section 45 of the Act do not apply to the issue or proposed issue of any shares authorised by the board.

-
- (4) The board must decide the consideration for which shares, options or other securities are to be issued, in accordance with the Act.
 - (5) The Company may pay brokerage or commission on the issue of shares or other securities.

5. Issue of shares not to affect class rights

- (1) Subject to this Constitution and the terms of issue of existing shares already issued, the board may, and is expressly permitted to, issue shares which rank equally with, or in priority to, existing shares already issued, whether as to voting rights or distributions or otherwise, generally and for the purposes of section 98(3) of the Act.
- (2) The rights conferred on the holders of shares of any class, whether issued as ordinary shares or with preferred or other special rights, will not, unless otherwise expressly provided in this Constitution or the terms of issue of the shares of that class, be taken to be varied, abrogated or otherwise affected by the issue of further shares ranking equally with or in priority to those shares.

6. Additional share registers

If the Company is Listed, the Register may be divided into two or more registers kept in different places.

7. Surrender of shares

In its discretion, the board may accept a surrender of shares by way of compromise of any question as to whether or not those shares have been validly issued or in any other case where the surrender is within the powers of the Company. Any shares surrendered may be sold or re-issued in the same manner as forfeited shares.

8. Joint holders

Where two or more persons are registered as the holders of any shares, they will be taken to hold the shares as joint tenants with benefits of survivorship subject to the following provisions:

- (a) **(number of holders)** the Company is not bound to register more than three persons as the holders of the shares (except in the case of trustees, executors or administrators of a deceased shareholder);
- (b) **(liability for payments)** the joint holders of the shares are liable severally as well as jointly in respect of all payments which ought to be made in respect of the shares;
- (c) **(death of joint holder)** on the death of any one of the joint holders, the survivor is the only person recognised by the Company as having any title to the shares but the board may require evidence of death;

- (d) **(power to give receipt)** any one of the joint holders may give a receipt for any dividend or distribution payable to the joint holders.

9. Non-recognition of equitable or other interests

Except as otherwise provided in this Constitution, as ordered by a Court or required by statute or the Listing Rules, the Company is entitled to treat the person registered in the Register as the holder of any share as the absolute owner of the share and is not bound to recognise (even when having notice) any equitable or other claim to or interest in the share on the part of any other person.

Division III – Share Certificates

10. When certificates not required

If the Company is Listed, it need not issue any certificate for any share to the extent that it is not required to do so under:

- (a) the Listing Rules; and
- (b) an exemption that is in force under section 77 of the Act,

and the Company may cancel any certificate that has previously been issued without issuing a substitute or new certificate.

11. Entitlement to and issue of certificates

- (1) Subject to Article 10, every shareholder in the Register is entitled without payment to receive a certificate for the shareholder's shares. The Company may issue a single certificate, or several certificates each for a part of the shareholder's shares, at the discretion of the board.
- (2) The Company is not bound to issue more than one certificate in respect of a share or shares held jointly by several persons.
- (3) Delivery of a certificate for a share to one of several joint holders is sufficient delivery to all of the joint holders.
- (4) Subject to Division XVII and the Act, share certificates are to be issued under the Seal in any form prescribed by or acceptable to the board and are to be signed in any manner determined by the board.

12. Renewal and replacement of certificates

- (1) Where a certificate is worn out or defaced, then, on production of the certificate to the Company, the board may order it to be cancelled and may issue a new certificate.
- (2) Where a certificate is lost, stolen or destroyed, then, on an application under and in accordance with the Act together with payment of a fee determined by the board in

accordance with the Act, a new certificate may be issued instead of the lost, stolen or destroyed certificate. A certificate issued to replace a certificate which has been lost, stolen or destroyed may be endorsed as having been issued instead of a lost, stolen or destroyed certificate.

Division IV - Calls

13. Power to make calls

Subject to the terms on which any shares may have been issued, the board may make calls on the shareholders in respect of all money unpaid on their shares. Each shareholder is liable to pay the amount of each call in the manner, at the time and at the place specified by the board. Calls may be made payable by instalments.

14. Differentiation between holders

The board may differentiate on the issue of shares between the holders of those shares in the amount of calls to be paid and the time of payment of the calls.

15. When a call is made

A call will be taken to have been made at the time when the resolution of the board authorising the call was passed or as specified in that resolution. The call may be revoked or postponed at the discretion of the board at any time before the date on which payment in respect of the call is due.

16. Interest on the late payment of calls

If any sum payable in respect of a call is not paid on or before the date for payment, the shareholder from whom the sum is due is to pay interest on the unpaid amount from the due date to the date of payment at the rate the board determines. The board may waive the whole or part of any interest paid or payable under this Article.

17. Instalments

If, by the terms of an issue of shares, any amount is payable in respect of any shares by instalments, every instalment is payable as if it is a call duly made by the board of which due notice had been given, and all provisions of this Constitution with respect to the payment of calls and of interest or to the forfeiture of shares for non-payment of calls or with respect to liens or charges apply to the instalment and to the shares in respect of which it is payable.

18. Payment in advance of calls

If the board thinks fit it may receive from any shareholder all or any part of the money unpaid on all or any of the shares held by that shareholder beyond the sums actually called up and then due and payable either as a loan repayable or as a payment in advance of calls. The Company may pay interest on the money advanced at the rate and on the terms agreed by the board and the shareholder paying the sum in advance.

19. Non-receipt of notice of call

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

Division V – Forfeiture and Lien

20. Notice requiring payment of sums payable

If any shareholder fails to pay any sum payable in respect of any shares, either for the consideration for the issue, calls or instalments, on or before the day for payment, the board may, at any time after the day specified for payment whilst any part of the sum remains unpaid, serve a notice on the shareholder requiring that shareholder to pay the sum together with interest accrued and all expenses incurred by the Company by reason of the non-payment.

21. Time and place for payment

The notice referred to in Article 20 is to name a day on or before which the sum, interest and expenses (if any) are to be paid and the place where payment is to be made. The notice is also to state that, if there is non-payment at or before the time and at the place specified, the shares in respect of which the sum is payable are liable to be forfeited.

22. Forfeiture on non-compliance with notice

If there is non-compliance with the requirements of any notice given under Article 20, any shares in respect of which notice has been given may, at any time after the day specified in the notice for payment whilst any part of the consideration for the issue, calls, instalments, interest and expenses (if any) remains unpaid, be forfeited by a resolution of the board to that effect. The forfeiture is to include all dividends, distributions, interest and other money payable by the Company in respect of the forfeited shares and not actually paid before the forfeiture.

23. Notice of forfeiture

When any share is forfeited, notice of the resolution of the board must be given to the shareholder in whose name it stood immediately before the forfeiture, and an entry of the

forfeiture and the date of forfeiture must be made in the Register. Failure to give notice or make the entry as required by this Article does not invalidate the forfeiture.

24. Disposal of forfeited shares

Any forfeited share will be taken to be the property of the Company and the board may sell or otherwise dispose of or deal with the share in any manner it thinks fit and with or without any money paid on the share by any former holder being credited as paid up.

25. Annulment of forfeiture

The board may, at any time before any forfeited share is sold or otherwise disposed of, annul the forfeiture of the share on any condition it thinks fit.

26. Liability despite forfeiture

Any shareholder whose shares have been forfeited is, despite the forfeiture, liable to pay and is obliged forthwith to pay to the Company all sums of money, interest and expenses owing on or in respect of the forfeited shares at the time of forfeiture, together with expenses and interest from that time until payment at the rate the board determines. The board may enforce the payment or waive the whole or part of any sum paid or payable under this Article as it thinks fit.

27. Company's lien or charge

The Company has a first and paramount lien or charge for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is called on by law to pay in respect of the shares of a shareholder on shares registered in the name of the shareholder in respect of which the calls, instalments and interest are due and unpaid (whether then payable or not) or in respect of which the amounts are paid and on the proceeds of sale of the shares. The lien or charge extends to all dividends and distributions authorised by the board in respect of the shares but, if the Company registers a transfer of any shares on which it has a lien or charge without giving the transferee notice of any claim it may have at that time, the shares are freed and discharged from the lien or charge of the Company in respect of that claim.

28. Retention of dividends

The board may retain any dividends in respect of which (or in respect of the shares on which the dividend is payable) the Company has a lien or charge under Article 27 and may apply any retained dividends towards satisfaction of the calls, instalments or sums owing in respect of which the lien or charge exists.

29. Sale of shares to enforce lien

For the purpose of enforcing a lien or charge, the board may sell the shares which are subject to the lien or charge in any manner it thinks fit and with or without giving any notice to the shareholder in whose name the shares are registered.

30. Title to shares forfeited or sold to enforce lien

- (1) In a sale or a re-issue of forfeited shares or in the sale of shares to enforce a lien or charge, an entry in the board's minute book that the shares have been forfeited, sold or re-issued in accordance with this Constitution is sufficient evidence of that fact as against all persons entitled to the shares immediately before the forfeiture, sale or re-issue of the shares. The Company may receive the purchase money or consideration (if any) given for the shares on any sale or re-issue.
- (2) In a re-issue, a certificate signed by a Director or the Secretary to the effect that the shares have been forfeited and the receipt of the Company for the price of the shares constitutes a good title to them.
- (3) In a sale, the Company may appoint a person to execute a transfer in favour of the person to whom the shares are sold.
- (4) On the issue of the receipt or the execution of the transfer the person to whom the shares have been re-issued or sold is to be registered as the holder of the shares, discharged from all calls or other money due in respect of the shares before the re-issue or purchase and the person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration. The person's title to the shares is not affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-issue.
- (5) The net proceeds of any sale or re-issue are to be applied first in payment of all costs of or in relation to the enforcement of the lien or charge or the forfeiture (as the case may be) and of the sale or re-issue, next in satisfaction of the amount in respect of which the lien or charge exists as is then payable to the Company (including interest) or the amount in respect of the forfeited shares then payable to the Company (including interest) (as the case may be) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the shares immediately before the sale or re-issue or to the person's executors, administrators or assigns on the production of any evidence as to title required by the board.
- (6) If a certificate for the shares is not produced to the Company, the board may issue a new certificate distinguishing it from the certificate which was not produced.

Division VI – Payments by the Company

31. Payments by the Company

If any law of any place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment or empowers any government or taxing

authority or government official to require the Company to make any payment in respect of any securities held either jointly or solely by any holder or in respect of any transfer of those securities or in respect of any interest, dividends, distributions or other money due or payable or accruing due or which may become due or payable to the holder by the Company on or in respect of any securities or for or on account or in respect of any holder of securities, whether because of:

- (a) the death of the holder;
- (b) the non-payment of any income tax or other tax by the holder;
- (c) the non-payment of any estate, probate, succession, death, stamp or other duty by the holder or the trustee, executor or administrator of that holder or by or out of the holder's estate;
- (d) any assessment of income tax against the Company in respect of interest or dividends paid or payable to the holder; or

any other act or thing, the Company in each case:

- (i) is to be fully indemnified from all liability by the holder or the holder's trustee, executor or administrator and by any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate;
- (ii) has a lien or charge on the securities for all money paid by the Company in respect of the securities because of any law;
- (iii) has a lien on all dividends, distributions and other money payable in respect of the securities registered in the Register as held either jointly or solely by the holder for all money paid or payable by the Company in respect of the securities because of any law, together with interest at a rate the board may determine from the date of payment to the date of repayment, and may deduct or set off against any dividend, distribution or other money payable any money paid or payable by the Company together with interest;
- (iv) may recover as a debt due from the holder or the holder's trustee, executor or administrator, or any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate, any money paid by the Company because of any law which exceeds any dividend, distribution or other money then due or payable by the Company to the holder together with interest at a rate the board may determine from the date of payment to the date of repayment; and
- (v) may, if any money is paid or payable by the Company under any law, refuse to register a transfer of any securities by the holder or the holder's trustee, executor or administrator until the money and interest is set off or deducted or, in case the money and interest exceeds the amount of any dividend, distribution or other money then due or payable by the Company to the holder, until the excess is paid to the Company.

Nothing in this Article prejudices or affects any right or remedy which any law confers on the Company, and, as between the Company and each holder, each holder's trustee, executor, administrator and estate, any right or remedy which the law confers on the Company is enforceable by the Company.

Division VII – Transfer and Transmission of Securities

32. Transfers

- (1) A transfer of any securities may be effected:
- (a) if the Company is Listed, by a transfer under and in accordance with any system (whether electronic or paper based or a combination of both) recognised or prescribed by the Listing Rules and/or the Business Rules to the extent permitted by an exemption that is in force under section 77 of the Act; and
 - (b) otherwise, by a proper instrument of transfer in writing in the usual or common form or in any form that the board may prescribe or in a particular case accept, signed by both the transferee and transferor and duly stamped (if necessary) being delivered to the Company.
- (2) If the Company is Listed:
- (a) the board may take such action as it thinks fit to comply with the Listing Rules and/or the Business Rules and may, in its discretion, ask the Exchange to apply a holding lock to prevent a transfer of securities in any circumstances in which a holding lock is permitted by the Listing Rules and/or the Business Rules; and
 - (b) the Company and the board may do anything necessary or desirable to facilitate participation by the Company in any Uncertificated Transfer System.

33. Board may refuse or delay registration

- (1) The board in its discretion may, and is expressly permitted to, to refuse or delay the registration of any transfer of securities:
- (a) if required by law;
 - (b) if the registration of the transfer would result in a contravention of or failure to observe the provisions of any applicable law (including the Act), the Listing Rules or the Business Rules;
 - (c) on which the Company has a lien or that are subject to forfeiture; or
 - (d) if permitted to do so under the Act, the Listing Rules and/or the Business Rules.
- None of the subparagraphs in this paragraph will be taken to limit any other subparagraph.
- (2) Where the board resolves to refuse or delay registration of any transfer of securities, the Company must notify the transferor and the transferee of the resolution in accordance with the Act and, if the Company is Listed, the Listing Rules and the Business Rules.

34. When transfer effective

The transferor will be taken to remain the holder of the securities transferred until:

- (a) the name of the transferee is entered in the Register (in the case of shares) or the relevant register of the holders of such securities kept by the Company (in the case of other securities); or
- (b) to the extent provided otherwise by the Listing Rules and/or the Business Rules in relation to a transfer effected as contemplated by Article 32(a), as so provided.

35. Closing registers and suspension of transfers

- (1) To the extent permitted by law (and particularly the Act), the Listing Rules and the Business Rules, the Register, and any other register in respect of securities kept by the Company, may be closed at any time the board determines.
- (2) Subject to paragraph (3), the Listing Rules and the Business Rules, the registration of transfers of securities may be suspended at any time and for any period as the board from time to time determines.
- (3) The total period of suspensions under paragraph (2) may not exceed in aggregate 30 days in any calendar year.

36. Instrument of transfer and certificate etc to be left at Office

- (1) This Article applies only in respect of a transfer that is to be effected as contemplated by Article 32(b).
- (2) Every instrument of transfer must be left for registration at the Office or any other place the board determines.
- (3) The instrument of transfer is to be accompanied by the certificate for the securities to be transferred, or if the transfer is not accompanied by the certificate, the transfer must be accompanied by evidence as to its loss or destruction together with, unless the board otherwise determines either generally or in a particular case, an indemnity in such form as is determined by the board.
- (4) In addition, the instrument of transfer is to be accompanied by any other evidence that the board may require to prove the title of the transferor, the transferor's right to transfer the securities, proper execution of the transfer or compliance with the provisions of any law relating to stamp duty.

37. Transfer of part only of securities specified in a certificate

If the registration of any transfer is required in respect of some only of the securities specified:

- (a) in the certificate (if any) that; or
- (b) in a lost or destroyed certificate of which evidence,

accompanies the instrument of transfer left for registration under Article 36, and the transfer is registered, a new certificate specifying the remaining securities is to be issued and sent to the transferor in addition to any certificate required to be issued to the transferee.

38. Transmission on death

The trustee, executor or administrator of a deceased holder of any securities (who is not one of several joint holders) is the only person recognised by the Company as having any title to securities registered in the name of the deceased holder but the board may, subject to compliance by the transferee with this Constitution, register any transfer signed by a holder of securities before the holder's death despite the Company having notice of the holder's death.

39. Transmission by operation of law

A person (a *transmittee*) who establishes to the satisfaction of the board that the right to any securities has devolved on the transmittee by will or by operation of law may be registered as a holder in respect of the securities or may (subject to the provisions in this Constitution relating to transfers) transfer the securities. However, the board has the same right to refuse to register the transmittee as if the transmittee was the transferee named in an ordinary transfer presented for registration.

40. Retention of dividends

The board may retain any dividends payable on securities referred to in Articles 38 and 39 until the trustee, executor or administrator or the transmittee (as the case requires) becomes registered as the holder of the securities or transfers them.

Division VIII – Alteration of Capital

41. Power to alter share capital

Subject to the Listing Rules, the Company in general meeting may alter its share capital in any manner provided for or permitted by the Act.

42. Board may give effect to alteration of share capital

Subject to the Listing Rules, the board may do anything that is required to give effect to any resolution authorising an alteration of the share capital of the Company and, without limitation, may make provision for the issue of fractional certificates or sale of fractions of shares and distribution of net proceeds as it thinks fit.

43. Company's authority to acquire its own shares

Subject to the Listing Rules, the Company is authorised to purchase or otherwise acquire its own shares for the purposes of section 57(1) of the Act.

Division IX – Meetings of Shareholders

44. Modification of Schedule 2 of the Act

Schedule 2 of the Act is negated and modified as provided in this Division of this Constitution, but otherwise governs proceedings at meetings of shareholders in accordance with section 105 of the Act.

45. Special meetings

Any Director is authorised under section 102(a)(ii) of the Act to call a special meeting of shareholders whenever the Director thinks fit, in addition to any other person entitled or required under the Act to call a special meeting of shareholders.

46. Notice of meeting

Clause 2 of Schedule 2 of the Act applies.

47. Quorum and adjournment in absence of quorum

- (1) Clause 4(1) of Schedule 2 of the Act applies.
- (2) Clause 4(2) of Schedule 2 of the Act does not apply. If the Company has, or an interest group comprises, only one shareholder, one shareholder present constitutes a quorum for a meeting. If the Company has, or an interest group comprises, more than one shareholder:
 - (a) and the Company is Listed:
 - (i) in the case of an interest group that comprises only two shareholders, two shareholders present; and
 - (ii) otherwise, three shareholders present,constitute a quorum for a meeting; and
 - (b) otherwise, two shareholders present constitute a quorum for a meeting.
- (3) Clause 4(3) of Schedule 2 of the Act applies, except that where at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

48. Meetings by telephone and other means of communication

Without limitation to Clause 3(b) of Schedule 2 of the Act, a meeting of shareholders may be held by telephone or by other means of communication by which all persons participating in the meeting and constituting a quorum are able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication (including under Clause 3(b) of Schedule 2 of the Act) will be taken to be held at the place agreed on by the shareholders attending the meeting if at least one of the shareholders present at the meeting was at that place for the duration of the meeting.

49. Chairman

- (1) Clauses 1(1) and (2) of Schedule 2 of the Act do not apply.
- (2) If the board has elected a Chairman of the board that person is entitled to preside as chairman at every general meeting.
- (3) If at any general meeting:
 - (a) there is no Chairman of the board;
 - (b) the Chairman of the board is not present at the specified time for holding the meeting; or
 - (c) the Chairman of the board is present but is unwilling to act as chairman of the meeting,

a Director or Directors present may choose another Director as chairman of the meeting and if no Director is present or if each of the Directors present is unwilling to act as chairman of the meeting, a shareholder chosen by the shareholders present may take the chair at the meeting.

- (4) If during any general meeting the chairman acting under this Article 49 is unwilling or unable to be the chairman of the meeting for any part of the proceedings, the chairman of the meeting may withdraw during the relevant part of the proceedings and may nominate any person present at the meeting who immediately before the meeting was a Director or who has been nominated for election as a Director at the meeting to be the acting chairman of the meeting during the relevant part of the proceedings, and at the conclusion of the relevant part of the proceedings the acting chairman of the meeting is to withdraw and the chairman of the meeting is to resume being chairman of the meeting.
- (5) Where an instrument of proxy appoints the chairman of the general meeting as proxy for the part of the proceedings for which an acting chairman of the meeting has been nominated, the instrument of proxy is taken to be in favour of the acting chairman of the meeting for the relevant part of the proceedings.

50. Voting

- (1) Subject to paragraph (2), Clause 5 of Schedule 2 of the Act applies.

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- (2) Clause 5(7) of Schedule 2 of the Act does not apply. In the case of an equality of votes, the chairman of the meeting has, whether by voice, on a show of hands or at a poll, a casting vote in addition to the vote or votes to which the chairman may be entitled as a shareholder or as a proxy, attorney or duly appointed representative of a shareholder, unless the chairman is excluded from voting under the Listing Rules or for some other reason in which case the chairman does not have a casting vote.

51. Additional provisions

The following Articles of this Division, and Division X, apply to the extent they are not inconsistent with Schedule 2 of the Act as negated or modified by the previous Articles of this Division.

52. General conduct of meeting

- (1) The general conduct of each general meeting of shareholders and the procedures to be adopted at the meeting are as determined at, during or before the meeting by the chairman of the meeting.
- (2) The chairman may make rulings without putting the question (or any question) to the vote if the chairman considers action is required to ensure the orderly conduct of the meeting.
- (3) The chairman may require the adoption of any procedures that are in the chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of shareholders, whether on a show of hands or on a poll.
- (4) The chairman or a person acting with the chairman's authority may require any person who wishes to attend the meeting to comply with searches, restrictions or other security arrangements the chairman or a person acting with the chairman's authority considers appropriate. The chairman or a person acting with the chairman's authority may refuse entry to any person who does not comply with the arrangements, any person who possesses a recording or broadcasting device without the consent of the chairman or a person acting with the chairman's authority, or any person who possesses an article that the chairman or person acting with the chairman's authority considers to be dangerous, offensive or liable to cause disruption.
- (5) The chairman may at any time the chairman considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the shareholders present
- (6) Any determination by the chairman in relation to matters of procedure (including any procedural motions moved at, or put to, any meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, any meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard the vote may only be made at the meeting and may be determined by the chairman whose decision is final.

- (7) If a person purports to cast a vote in contravention of the Act or the Listing Rules, the chairman may determine that the vote be disregarded and treated as not having been cast.
- (8) Nothing contained in this rule limits the powers conferred on a chairman by law.

53. Adjournment

- (1) The chairman may at any time during the course of the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- (2) If the chairman exercises a right of adjournment of a meeting under this Article, the chairman has the sole discretion to decide whether to seek the approval of the shareholders present to the adjournment and, unless the chairman exercises that discretion, no vote may be taken by the shareholders present in respect of the adjournment.
- (3) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

54. Taking a poll

- (1) If a poll is demanded as provided in Clause 5(4) of Schedule 2 of the Act, it is to be taken in the manner and at the time and place as the chairman of the meeting directs.
- (2) The result of the poll will be taken to be the resolution of the meeting at which the poll was demanded.
- (3) The demand for a poll may be withdrawn.
- (4) In the case of any dispute as to the admission or rejection of a vote, the chairman's determination in respect of the dispute made in good faith is final.
- (5) A demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which the poll has been demanded.
- (6) A poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.

55. Objections to qualification to vote

- (1) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.
- (2) Any objection must be referred to the chairman of the meeting, whose decision is final.
- (3) A vote allowed after an objection is valid for all purposes.

56. Special meetings and interest group meetings

Unless the context requires otherwise, all the provisions of this Constitution as to general meetings apply (with any necessary changes) to any special meeting of shareholders, and to any meeting of an interest group, which may be held under this Constitution or the Act.

Division X – Votes of Shareholders**57. Voting rights**

- (1) Subject to restrictions on voting affecting any class of shares and subject to paragraph (2) and Articles 60 and 64:
- (a) in voting by voice or on a show of hands:
 - (i) subject to paragraphs (ii) and (iii), each shareholder present has one vote;
 - (ii) where a shareholder has appointed more than one person as representative, proxy or attorney for the shareholder, none of the representatives, proxies or attorneys is entitled to vote;
 - (iii) where a person is entitled to vote because of paragraph (i) in more than one capacity, that person is entitled only to one vote; and
 - (b) on a poll, each shareholder present:
 - (i) has one vote for each fully paid share held; and
 - (ii) for each other share held, has a vote in respect of the share which carries the same proportionate value as the proportion of the amount paid up on the total issue price of that share at the time the poll is taken bears to the total issue price of the share.
- (2) In the case of joint holders of shares, any one of the joint holders may vote at any meeting of shareholders either personally or by duly authorised representative, proxy or attorney, or sign a shareholders' resolution in lieu of meeting authorised by section 103 of the Act, in respect of the shares as if that joint holder was solely entitled to the shares. If more than one of the joint holders are present at any meeting personally or by duly authorised representative, proxy or attorney, or signs a shareholders' resolution, the joint holder who is present or who signs whose name stands first in the Register in respect of the shares is entitled alone to vote or sign the resolution in respect of the shares.

58. Voting rights of personal representatives, etc

Where a person satisfies the board at least 48 hours (or a lesser period as the board may determine and stipulate in the notice of meeting) before the holding of a general meeting (unless the person has previously satisfied the board as to the person's right to vote) that the person is a trustee, executor or administrator as referred to in Article 38 or a transmittee as referred to in Article 39, the person may vote at the general meeting in the same manner

as if the person were the registered holder of the securities referred to in Article 38 or 39, as the case requires.

59. Appointment of proxies

- (1) A shareholder may appoint not more than two proxies to vote at a meeting of shareholders on that shareholder's behalf and may direct the proxy or proxies to vote either for or against each or any resolution.
- (2) A proxy need not be a shareholder.
- (3) Where a shareholder appoints two proxies, the appointment is of no effect unless each proxy is appointed to represent a specified proportion of the shareholder's voting rights.
- (4) The instrument appointing a proxy (and the power of attorney, if any, under which it is signed or proof of the power of attorney to the satisfaction of the board) must be deposited duly stamped (if necessary) at the Office, or any other place the board may determine, at least 48 hours (or a lesser period as the board may determine and stipulate in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument proposes to vote. The receipt of a legible facsimile of an instrument will be taken to constitute the deposit of the instrument.
- (5) No instrument appointing a proxy is, except as provided in this Article, valid after the expiration of 12 months after the date of its execution.
- (6) A shareholder who is or who intends to be absent or resident abroad may deposit at the Office an instrument duly stamped (if necessary) appointing a proxy and the appointment is valid for all meetings during the shareholder's absence or residence abroad and until revocation. The receipt of a legible facsimile of an instrument will be taken to constitute the deposit of the instrument.

60. Validity of vote and where proxy is incomplete

- (1) A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid despite:
 - (a) the previous death or unsoundness of mind of the principal;
 - (b) the revocation of the instrument; or
 - (c) the transfer of the shares in respect of which the instrument is given,
 - (d) if no notice in writing of the death, unsoundness of mind, revocation or transfer has been received at the Office at least 24 hours (or any shorter period as the board may permit) before the commencement of the relevant meeting or adjourned meeting.
- (2) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy or power of attorney is proposed to be used.
- (3) No instrument of proxy or power of attorney is to be treated as invalid merely because:

- (a) it does not contain the address of the principal;
 - (b) it is not dated; or
 - (c) it does not contain in relation to any or all resolutions, an indication of the manner in which the proxy or attorney is to vote.
- (4) Where an instrument of proxy does not specify the name of a proxy, the instrument is to be taken to be given in favour of the chairman of the meeting.

61. Form and execution of instrument of proxy

- (1) An instrument appointing a proxy must be in writing signed by the appointor or the attorney of the appointor or, if the appointor is a corporation, under its common seal or signed by a duly authorised officer and in the form which the board may prescribe or accept.
- (2) The instrument of proxy must state whether the appointment is for a particular meeting or a specified term not exceeding one year.
- (3) The instrument of proxy may specify the manner in which the proxy is to vote in respect of a particular resolution. Where it does so, the proxy may not vote on the resolution except as specified in the instrument. Otherwise, a proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated. The instrument of proxy will be taken to include the right to demand or join in demanding a poll.
- (4) An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting as well as for the meeting to which it relates.
- (5) Any duly signed proxy which is incomplete may be completed by the Secretary or a Director on authority from the board and the board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.

62. Board may issue forms of proxy

The board may issue with any notice of general meeting of shareholders or any class of shareholders forms of proxy for use by the shareholders. Each form may include the names of any of the Directors or of any other persons as suggested proxies, and may be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

63. Attorneys of shareholders

Any shareholder may, by duly executed power of attorney, appoint an attorney to act on the shareholder's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the board must be produced for inspection at the Office or any other place the board may determine together, in each case, with evidence of the due execution of the power of attorney as required by the board. The attorney may be authorised to appoint a proxy for the shareholder granting the power of attorney.

64. Rights of shareholder indebted to Company in respect of other shares

Subject to any restrictions affecting the right of any shareholder or class of shareholders to attend any meeting, a shareholder holding a share in respect of which for the time being no money is due and payable to the Company is entitled to be present at any general meeting and to vote and be reckoned in a quorum even if money is then due and payable to the Company by the shareholder in respect of any other share held by the shareholder.

However, on a poll, a shareholder is only entitled to vote in respect of shares held by the shareholder on which, at the time when the poll is taken, no money is due and payable to the Company.

65. Entitlement of officers and advisors to attend meeting of shareholders

- (1) A Director who is not a shareholder is entitled to be present and to speak at any meeting of shareholders.
- (2) A Secretary who is not a shareholder is entitled to be present and, at the request of the chairman, to speak at any meeting of shareholders.
- (3) Any other person (whether a shareholder or not) requested by the board to attend any meeting of shareholders is entitled to be present and, at the request of the chairman, to speak at that meeting of shareholders.

66. Resolutions in lieu of meetings under section 103 of the Act

A shareholders' resolution in lieu of meeting authorised by section 103 of the Act may consist of several documents in like form, each signed by one or more shareholders. A facsimile of any such signed resolution is as valid and effectual as the original signed document.

67. Unanimous agreement by shareholders

- (1) Without limitation to section 89 of the Act, but subject to section 89(3) of the Act, where all of the shareholders agree to, or concur in, any action which has been taken or is to be taken by the Company:
 - (a) the taking of that action will be taken to be validly authorised by the Company, notwithstanding any provision in this Constitution; and
 - (b) the provisions of the Act referred to in Schedule 1 of the Act do not apply in relation to that action.
- (2) Without limitation to paragraph (1), that paragraph applies where all of the shareholders agree to or concur in:
 - (a) the issue of shares by the Company;
 - (b) the making of a distribution by the Company;
 - (c) the repurchase or redemption of shares;

- (d) the giving of financial assistance by the Company for the purpose of, or in connection with, the purchase of shares;
 - (e) the payment of remuneration to a Director, or the making of a loan to a Director, or the conferral of any other benefit on a Director; or
 - (f) the making of a contract between an interested Director and the Company.
- (3) This Article is intended to reproduce section 89 of the Act. Where section 89 of the Act is amended, this Article 67 will be taken to be amended accordingly and with any necessary changes.

Division XI - Directors

68. Number of Directors

The number of Directors (not including alternate Directors) must be not less than three nor more than ten unless otherwise determined by the Company in general meeting.

69. Appointment, removal and retirement of Directors

- (1) The Directors as at the date of adoption of this Constitution are the directors of the Company holding office immediately before the date of adoption of this Constitution
- (2) Sections 131(2) and 134(1) of the Act are modified as provided in this Article 69.
- (3) If the Company is Listed, unless the board determines otherwise no person other than a retiring Director or a Director vacating office under paragraph (5) is eligible to be appointed as a Director at any general meeting of shareholders unless a notice of the Director's candidature together with a consent to act signed by the Director in the form required under the Act is given to the Company at the Office at least 30 Business Days before the meeting.
- (4) Subject to Article 68, the Company may at any time by ordinary resolution passed at a meeting of shareholders appoint any person who is not disqualified under the Act to be a Director or remove any Director from office.
- (5) Subject to Article 68, the board may appoint any person who is not disqualified under the Act to be a Director to fill a vacancy or as an addition to the existing Directors. Any Director (other than the Managing Director) so appointed is to hold office (subject to removal under this Article 69) only until the next annual meeting of shareholders under the Act at which the Director will be eligible for re-election.
- (6) A Director (other than the Managing Director) may not hold office for a continuous period in excess of three years or past the third annual meeting of shareholders following the Director's appointment, whichever is the longer, without submitting for election or re-election. If no Director would otherwise be required to submit for election or re-election but the Listing Rules require that an election of Directors be held, the Director to retire at the annual meeting of shareholders is the Director who has been longest in office since their last election, but, as between persons who were last elected on the same day, the one to retire is (unless they otherwise agree among themselves) determined by ballot.

- (7) A retiring Director under paragraph (6) is eligible for re-election without needing to give any prior notice of an intention to submit for re-election and holds office as a Director until the end of the meeting at which the Director retires.

70. No share qualification

No share qualification is required of a Director.

71. Remuneration of Directors

- (1) The Directors are to be paid for their services as Directors.
- (2) Each non-executive Director is to be paid or provided remuneration for services, determined by the board, at the time and in the manner determined by the board, the total amount or value of which in any year may not exceed an amount fixed by the board before the Company is Listed and as disclosed in a prospectus. Any increase in the total amount payable by the Company to the non-executive Directors as remuneration for services must be approved by the company in general meeting. The expression **remuneration** in this rule does not include any amount which may be paid by the Company under any of paragraphs (5) or (6), Article 72 or Article 113.
- (3) The remuneration to be paid or provided under paragraph (2) is to be divided among the Directors in the proportions as they may agree or, if they cannot agree, equally among them.
- (4) The remuneration to which a Director is entitled may be provided to a Director in cash or in any other form as is agreed between the Company and the Director. A Director may elect to forgo some or all of the Director's entitlement to cash remuneration in favour of another agreed form of remuneration and vice versa, provided the total cost to the Company of that Director's remuneration is not increased above the maximum for that Director under paragraph (3).
- (5) The Directors are also entitled to be paid or reimbursed for all travelling and other expenses properly incurred by them in attending and returning from any meeting of the Directors, committee of the Directors, general meeting of shareholders or otherwise in connection with the business or affairs of the Company.
- (6) If any Director, with the approval of the board, performs extra services or makes any special exertions for the benefit of the Company, the board may approve the payment to that Director of special and additional remuneration as the board determines having regard to the value to the Company of the extra services or special exertions. Any special or additional remuneration must not include a commission on or percentage of profits or operating revenue or turnover.
- (7) An executive Director may be appointed on terms as to remuneration, tenure of office and otherwise as may be determined by the board.
- (8) Subject to the Act, a Director may be engaged by the Company in any other capacity (other than auditor) and may be appointed on terms as to remuneration, tenure of office and otherwise as may be determined by the board.

72. Retirement benefits for Directors

- (1) Subject to section 139 of the Act, any person (including a Director) may be paid a benefit in connection with the retirement or resignation from or loss of office or death while in office of any Director, in accordance with the Act. The board may make arrangements with any Director with respect to, providing for, or effecting payment of, benefits under this Article, in accordance with this Act.
- (2) Subject to paragraph (1) the Company may:
- (a) make contracts or arrangements with a Director or a proposed Director under which the Director or proposed Director or any person nominated by the Director or proposed Director is paid or provided with a lump sum payment, pension, retiring allowance or other benefit on or after the Director or proposed Director ceases to hold office for any reason;
 - (b) make any payment under any contract or arrangement referred to in paragraph (a); and
 - (c) establish any fund or scheme to provide lump sum payments, pensions, retiring allowances or other benefits for:
 - (i) Directors, on them ceasing to hold office; or
 - (ii) any person including a person nominated by a Director, on the Director's death while in office,and from time to time pay to the fund or scheme any sum as the Company considers necessary to provide those benefits.
- (3) The Company may impose any conditions and restrictions under any contract, arrangement, fund or scheme referred to in paragraph (2) as it thinks proper.

73. Disclosure of interests

- (1) A Director who becomes aware of the fact that he is interested in a transaction or proposed transaction with the Company must comply with the requirements of section 118 of the Act in relation to that interest.
- (2) A Director who is interested in a transaction entered into, or to be entered into, by the Company may:
- (a) vote on a matter relating to the transaction;
 - (b) attend a meeting of Directors at which a matter relating to the transaction arises and be included among the Directors present at the meeting for the purposes of a quorum;
 - (c) sign a document relating to the transaction on behalf of the Company; and
 - (d) do any other thing in his capacity as a Director in relation to the transaction, as if the Director were not interested in the transaction, but only if:
 - (i) the Director has complied with the requirements of section 118 of the Act;

- (ii) the Listing Rules permit; and
- (iii) the board does not, and to the extent that it does not, determine otherwise.

The Director may be present and counted for the purposes of determining whether there is a quorum, but may not vote on, the question of a determination by the board contemplated by paragraph (2)(iii).

74. Directors may contract with Company

Except as provided in the Act:

- (a) a Director is not disqualified by the Director's office from contracting with the Company in any capacity;
- (b) a contract or arrangement made by the Company with a Director or in which a Director is in any way interested may not be avoided merely because the Director is interested in it; and
- (c) a Director is not liable to account to the Company for any profit derived in respect of a matter in which the Director has an interest, merely because of the Director's office or the fiduciary relationship it entails if the Director has:
 - (i) declared the Director's interest in the matter as soon as practicable after the relevant facts have come to the Director's knowledge; and
 - (ii) not contravened this Constitution or the Act in relation to the matter.

A general notice that the Director is an officer or member of a specified body corporate or firm stating the nature and extent of the Director's interest in the body corporate or firm is, in relation to a matter involving the Company and that body corporate or firm, a sufficient declaration of the Director's interest, provided the extent of that interest is no greater at the time of first consideration of the relevant matter by the board than was stated in the notice.

75. Director may hold other office

- (1) Subject to the Act, a Director may hold any other office or position under the Company (except that of auditor) in conjunction with the office of Director, on terms and at a remuneration in addition to remuneration (if any) as a Director, as the board approves.
- (2) A Director may be or become a director of or hold any other office or position under any corporation promoted by the Company, or in which it may be interested, whether as a vendor or shareholder or otherwise, or with any other corporation or organisation, and the Director is not accountable for any benefits received as a director or shareholder of or holder of any other office or position under any such corporation or organisation.

76. Appointment of executives

- (1) This Article 76 does not apply in relation to the appoint of a Managing Director.

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- (2) The board may appoint one or more:
- (a) executives of the Company to be Directors (subject to the provisions of this Constitution dealing with the appointment of persons as Directors); or
 - (b) Directors as executives of the Company and determine the terms of such executive appointments; or
 - (c) persons to be both executives and Directors (subject to the provisions of this Constitution dealing with the appointment of Directors) and determine the terms of such executive appointments.
- (3) Subject to the terms of any agreement entered into in a particular case, the board may at any time revoke any appointment made pursuant to this Article 76, with or without cause.
- (4) The board may determine the title of anyone so appointed.
- (5) If a person appointed as an executive or a Director under this Article 76 ceases to be a Director, then the executive appointment automatically terminates, subject to any contrary determination by the board (and without prejudice to any rights of any party under any relevant service agreement).
- (6) If a person appointed as an executive or a Director under this Article 76 ceases to be an executive, then the person automatically ceases to be a Director unless the other Directors resolve that the person should remain a Director until the next annual meeting of shareholders, in which case that Director is treated as a retiring Director at that annual meeting.

Division XII - Alternate Directors

77. Director may appoint alternate Director

Subject to this Constitution, each Director may appoint any person who is approved by a majority of the other Directors to act as an alternate Director in the Director's place, whether for a stated period or periods or until the happening of a specified event, whenever by absence or illness or otherwise the Director is unable to attend to duties as a director. The appointment must be in writing and signed by the Director and a copy of the appointment must be given by the appointing Director to the Company by forwarding or delivering it to the Office or by forwarding or delivering it to a meeting of the board. The appointment takes effect immediately on receipt of the appointment at the Office or at a meeting of the board and approval by a majority of other Directors or on such later date or at a later time specified in the appointment. The following provisions apply to any alternate Director:

- (a) the alternate Director may be removed or suspended from office on receipt at the Office of written notice, letter, facsimile transmission or other form of visible communication from the Director by whom the alternate Director was appointed, at any time even if the period of the appointment of the alternate Director has not expired;

- (b) the alternate Director is entitled to receive notice of meetings of the board and to attend and vote at the meetings if the Director by whom the alternate Director was appointed is not present;
- (c) the alternate Director is entitled to exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director, to the extent the Director by whom the alternate Director was appointed has not exercised or performed them or they have not been limited by the instrument appointing the alternate Director;
- (d) the alternate Director is not, unless the board otherwise determines, (without prejudice to the right to reimbursement for expenses under Article 71(2)) entitled to receive any remuneration as a Director from the Company, and any remuneration (not including remuneration authorised by the board or reimbursement for expenses) paid to the alternate Director by the Company is to be deducted from the remuneration of the Director by whom the alternate Director was appointed;
- (e) the office of the alternate Director is vacated on the death of, or vacation of office by, the Director by whom the alternate Director was appointed;
- (f) the alternate Director is not to be taken into account in determining the number of Directors; and
- (g) the alternate Director is, while acting as a Director, responsible to the Company for the alternate Director's own acts and defaults and will not be taken to be the agent of the Director by whom the alternate Director was appointed.

Division XIII – Vacation of Office of Director

78. Vacation of office by Director

Without limitation to section 135 of the Act, the office of a Director is vacated:

- (a) on the Director becoming an insolvent under administration, suspending payment generally to creditors or compounding with or assigning the Director's estate for the benefit of creditors;
- (b) on the Director becoming a person who is a patient under laws relating to mental health or whose estate is administered under laws relating to mental health; or
- (c) on the Director being absent from meetings of the board during a period of six consecutive calendar months without leave of absence from the board where the board has not, within 14 days of having been served by the Secretary or the absent Director with a notice giving particulars of the absence, resolved that leave of absence be granted.

Division XIV – Managing Director

79. Power to appoint Managing Director

- (1) The board may appoint one Director to the office of Managing Director for the period and on the terms as the board determines.
- (2) The Managing Director will be the chief executive officer of the Company. Subject to the terms of any agreement entered into in a particular case, the board may at any time revoke the appointment of a Managing Director.

80. Remuneration

Subject to the terms of any agreement between the Managing Director and the Company, the remuneration of the Managing Director will be as determined by the board, and may be by way of salary, commission or participation in profits, or by any or all of these methods.

81. Delegation of powers to Managing Director

- (1) The board may, on the terms and conditions and with any restrictions as it thinks fit, confer on a Managing Director any of the powers exercisable by the board other than the powers set out in Schedule 3 of the Act.
- (2) Any powers so conferred are concurrent with the powers of the board.
- (3) The board may at any time withdraw, suspend or vary any of the powers conferred on the Managing Director.

Division XV – Proceedings of Directors

82. Non-application of Act

Schedule 4 of the Act does not apply.

83. Procedures relating to Board meetings

- (1) The board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (2) Until otherwise determined by the board, a quorum is constituted by two Directors.
- (3) Notice will be taken to have been given to a Director if sent by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of residence of the Director or at any other address given to the Secretary by the Director.
- (4) An interested Director is to be counted in a quorum despite the interest.

84. Meetings by telephone or other means of communication

- (1) The board may meet either in person or by telephone or by other means of communication by which all persons participating in the meeting are able to hear and be heard by all other participants.
- (2) A meeting conducted by telephone or other means of communication will be taken to be held at the place agreed on by the Directors attending the meeting if at least one of the Directors present at the meeting was at that place for the duration of the meeting.

85. Votes at meetings

- (1) Questions arising at any meeting of the board are decided by a majority of votes.
- (2) In the case of an equality of votes, the Chairman has (except when only two Directors are present or except when only two Directors are competent to vote on the question then at issue) a second or casting vote.

86. Convening of meetings

The board may at any time, and the Secretary, on the request of any Director, must, convene a meeting of the board.

87. Chairman

- (1) The board may elect a Chairman and a Deputy Chairman of its meetings and determine the period for which each is to hold office.
- (2) If no Chairman or Deputy Chairman is elected or if at any meeting the Chairman and the Deputy Chairman are not present at the time specified for holding the meeting, the Directors present may choose one of their number to be Chairman of the meeting.

88. Powers of meetings

A meeting of the board at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the board.

89. Delegation of powers to Committees

- (1) The board may, on the terms and conditions and with any restrictions as it thinks fit, delegate any of its powers (other than those set out in Schedule 3 of the Act) to Committees consisting of any one or more Directors or any other person or persons as the board thinks fit.
- (2) Any powers so delegated are concurrent with the powers of the board
- (3) In the exercise of delegated powers, any Committee formed or person or persons appointed to the Committee must conform to any regulations that may be imposed by the

board. A delegate of the board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

- (4) The board may at any time withdraw or vary any of the powers delegated under this Article.

90. Proceedings of Committees

The meetings and proceedings of any Committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the board so far as they are applicable and are not superseded by any regulations made by the board under Article 89.

91. Validity of acts

- (1) All acts done at any meeting of the board or by a Committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director or a member of the Committee (as the case may be).
- (2) If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a meeting of shareholders but for no other purpose.

92. Resolution in writing

- (1) A resolution in writing signed by all Directors or a resolution in writing of which notice has been given to all Directors and which is signed by a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the board) is as valid as if it had been passed at a meeting of the board duly called and constituted and may consist of several documents in the same form each signed by one or more of the Directors.
- (2) For the purposes of this Article the references to *Directors* include any alternate Director for the time being present in Papua New Guinea who is appointed by a Director not for the time being present in Papua New Guinea but do not include any other alternate Director.
- (3) A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority will be taken to be a document in writing signed by the Director.

Division XVI – Powers and Duties of the Board

93. General powers of the board

The management and control of the business and affairs of the Company are vested in the board, which (in addition to the powers and authorities conferred on it by this Constitution

and the Act) may exercise all powers and do all things as are within the power of the Company and are not by this Constitution or by law or the Listing Rules directed or required to be exercised or done by the Company in general meeting.

94. Appointment of attorneys

- (1) The board may resolve that the Company, by power of attorney, appoint any person to be the attorney of the Company:
- (a) for such purposes;
 - (b) with such powers, authorities and discretions (not exceeding those vested in or exercisable by the board);
 - (c) for such period; and
 - (d) subject to such conditions,
as the board thinks fit.
- (2) Any appointment under paragraph (1) may be made on terms for the protection and convenience of persons dealing with the attorney as the board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

95. Negotiable instruments

Subject to the Act, all negotiable instruments of the Company are to be executed by the persons and in the manner that the board decides from time to time.

96. Minutes

The board is to ensure that minutes are recorded in any manner it thinks fit:

- (a) of the names of each Director present at each meeting of the board and of any Committee; and
- (b) of all resolutions and proceedings of general meetings of the Company and of meetings of the board and any Committee.

The minutes of any meeting of the board or of any Committee or of the Company, if purporting to be signed by the chairman of the meeting or by the chairman of the next succeeding meeting, are prima facie evidence of the matters stated in the minutes.

Division XVII – The Seal

97. Affixing the Seal

- (1) The board is to provide for the safe custody of the Seal, which may only be used by the authority of the board.

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- (2) Every instrument to which the Seal is affixed is to be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the board to countersign that document or a class of documents in which that document is included.
 - (3) The board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

98. Certificate Seal and Official Seals

- (1) The Company may have one or more duplicates of the Seal which are to be facsimiles of the Seal with the addition on their faces of the words **Certificate Seal** and which are to be known as Certificate Seals. Certificate Seals may be used in place of the Seal to seal certificates in respect of securities of the Company, but not otherwise. Any certificate for shares or other securities issued under a Certificate Seal will be taken to be sealed with the Seal.
- (2) Without limitation to paragraph (1), the Company is authorised to have for use in any place outside Papua New Guinea one or more official seals which are to be facsimiles of the Seal with the addition on their faces of the name of every place where they are to be used and which are to be known as Official Seals. Official Seals may be used outside Papua New Guinea in the same way as the Seal.
- (3) Every certificate to which a Certificate Seal is affixed, and every instrument to which an Official Seal is affixed, is to be signed in the same way as an instrument to which the Seal is affixed must be signed under Article 97.
- (4) Any person who affixes an Official Seal to an instrument is to certify on the instrument the date on which and the place at which the Official Seal is affixed.

Division XVIII – Inspection of Records

99. Inspection of records

Except as provided by law or as authorised by the board, a shareholder does not have any right to inspect any document or record (including accounting records) of the Company.

Division XIX - Dividends

100. Power to authorise distribution of dividends

- (1) Subject to the Act (particularly sections 50(1) and (2) and section 51(2)) and to any special rights or restrictions attaching to any shares, the board may from time to time authorise the distribution of a dividend, determine whether the dividend is to take the form of money or other property, and fix a time for its distribution.
- (2) No dividend (whether in money or otherwise) may bear interest against the Company.

- (3) To the extent permitted by law (particularly section 51(2) of the Act), and subject to any special rights or restrictions attaching to any shares, the board may issue shares wholly or partly in lieu of a proposed dividend or proposed future dividends, in such manner, on such terms and conditions, and to such shareholders as the board determines.

101. Crediting of dividends

- (1) Subject to the Act and any special rights or restrictions attached to any shares, every dividend is to:
- (a) be distributed according to the amounts paid on the shares in respect of which it is to be distributed; and
 - (b) be apportioned and distributed proportionately to the amounts paid on the particular shares during any part or parts of the period in respect of which the dividend is distributed.
- (2) An amount paid or credited as paid on a share in advance of a call is not to be taken for the purposes of paragraph (1) to be paid or credited as paid on the share.
- (3) Subject to the Act and any special rights or restrictions attached to any shares, the board may from time to time resolve that a dividend is to be distributed out of a particular source or particular sources. Where the board so resolves, it may, in its absolute discretion, allow each or any shareholder to elect from which specified source that particular shareholder's dividend may be distributed by the Company. Where such elections are permitted and any shareholder does not make the election either at all or within any applicable time limit, the board or its delegate may make the election on the shareholders behalf.
- (4) To the extent permitted by law, the board may from time to time resolve that monetary dividends be paid:
- (a) in the case of any shareholder who is a resident of Papua New Guinea, in Kina; or
 - (b) in the case of any other shareholder, in any other currency at the exchange rate at which the Company in accordance with its normal practice would be able to purchase the relevant currency with Kina as at a date selected by the board after the date the dividend is authorised and before the date for payment of the dividend, after deducting any premiums and costs payable in connection with the currency purchase.

102. Deduction of unpaid amounts

The board may:

- (a) deduct from any monetary dividend payable to a shareholder all sums of money presently payable by the shareholder to the Company on account of calls or otherwise in relation to shares; and
- (b) retain any non-monetary dividend in respect of which the Company has a lien, and sell or otherwise realise the property comprising the dividend and apply the

proceeds in or towards satisfaction of the liability or obligation in respect of which the lien exists.

103. Distributions in kind

When authorising the distribution of a dividend, the board may direct that payment of the Dividend be made wholly or in part by the distribution of specific assets or documents of title and in particular of shares or other securities of any other corporation and, where any difficulty arises in regard to the distribution, the board may settle the difficulty as it thinks fit and in particular may issue fractional certificates and may fix the value for distribution of the specific assets and may determine that cash payments are to be made to any shareholders on the basis of the value fixed in order to adjust the rights of all parties and may vest the specific assets in trustees on trusts for the persons entitled to the dividend as the board thinks fit.

104. How distributions are payable

Any dividend distributed as money and any interest or other money payable in cash in respect of shares may be paid in any manner and by any means determined by the board, including:

- (a) by cheque or warrant made payable to; or
- (b) by electronic funds transfer to an account with a bank or other financial institution acceptable to the Company nominated by,

the shareholder entitled to the dividend, or in the case of joint holders, the shareholder whose name stands first in the Register in respect of the joint holding. Where the dividend is to be paid by cheque or warrant, the cheque or warrant may be sent through the post directed to:

- (c) the address of the shareholder or first named joint holder as shown in the Register; or
- (d) to any other address as the shareholder or joint holders in writing directs or direct, and on posting the dividend is at the risk of the shareholder.

105. Unclaimed dividends

To the extent permitted by law, all unclaimed dividends may be invested or otherwise made use of by the board for the benefit of the Company until claimed or otherwise disposed of according to law.

Division XX - Notices

106. Notices generally

Sections 432, 435 (incorporating section 434) and 436 of the Act apply in relation to service of documents on the Company and on shareholders. The following Articles in this Division apply to the extent they are not inconsistent with the Act.

107. Shareholders to provide postal address

Each shareholder must notify the Company of its postal address from time to time for registration in the Register. A shareholder is not entitled to receive any notice from the Company unless the shareholder has so notified the Company.

108. Service on joint holders

The giving to one of several joint holders of any notice required to be given by the Company, is sufficient giving of notice to all of the joint holders.

109. Signature to notice

The signature to any notice to be given by the Company may be written or printed.

110. Service on deceased shareholders

A notice served in accordance with the Act and this Constitution will be taken (despite the fact that the shareholder is then dead and whether or not the Company has notice of the shareholder's death) to have been duly served in respect of any registered shares, whether held solely or jointly with other persons by the shareholder, until some other person is registered in the shareholder's place as the holder or joint holder and the service will be taken for all purposes to be sufficient service of the notice or document on the shareholder's heirs, executors or administrators and all persons (if any) jointly interested with the shareholder in the shares.

Division XXI - Secretary

111. Secretary

- (1) The Company may, but is not required to, have a Secretary, or more than one Secretary.
- (2) The board may appoint any person who is not disqualified under the Act to be a Secretary on such terms and conditions as the board determines, and may remove any Secretary from office.
- (3) A Secretary has such rights, powers and duties in relation to the Company as are given to him or her by the Act, this Constitution or the board.

Division XXII - Liquidation

112. Liquidation

- (1) If the Company is liquidated and there are surplus assets after the payment of the claims and preferential claims under sections 360 and 361 of the Act, the surplus assets are to be distributed among the shareholders.
- (2) If, in a liquidation, there are any surplus assets to be distributed among the shareholders, and those assets are insufficient to repay the whole of the capital paid up at the commencement of the liquidation, the surplus assets must be distributed so as to give effect to any special or preferential rights attached to any particular class of shares in a liquidation, and otherwise so that, as nearly as may be, the deficiency is borne by the shareholders in proportion to the capital paid up, or which ought to have been paid up, at the commencement of the liquidation, on the shares held by them respectively.
- (3) If, in a liquidation, there are any surplus assets to be distributed among the shareholders, and those assets are more than sufficient to repay the whole of the capital paid up at the commencement of the liquidation, the excess is to be distributed so as to give effect to any special or preferential rights attached to any particular class of shares in a liquidation, and otherwise among the shareholders in proportion to the capital at the commencement of the liquidation paid up, or which ought to have been paid up, on the shares held by them respectively.
- (4) If the Company is liquidated, the liquidator may:
 - (a) with the sanction of a special resolution, divide among the shareholders in kind the whole or any part of the property of the Company;
 - (b) for that purpose set a value the liquidator considers fair on any property to be so divided; and
 - (c) decide how the division is to be carried out as between the shareholders or different classes of shareholders.
- (5) The liquidator may, with the sanction of a special resolution, vest the whole or any part of any property in trustees on any trusts for the benefit of the contributories as the liquidator thinks fit, but so that no shareholder is compelled to accept any shares or other securities in respect of which there is any liability.

Division XXIII – Indemnity and Insurance

113. Indemnity and insurance

- (1) The Company is expressly authorised, and is, to indemnify each person who is, or has been, a director or employee of the Company or a related company in respect of:
 - (a) liability to any person other than the Company or a related company for any act or omission in the person's capacity as a director or employee; or

- (b) costs incurred by that person in defending or settling any claim or proceeding relating to any such liability,
- not being criminal liability or liability in respect of a breach, in the case of a director, of the duty specified in section 112 of the Act, or in the case of an employee, of any fiduciary duty owed to the Company or related company.
- (2) The Company is expressly authorised, and is, to indemnify each person who is, or has been, a director or employee of the Company or a related company for any costs incurred by the person in any proceeding:
- (a) that relates to liability for any act or omission in the person's capacity as a director or employee; and
- (b) in which judgement is given in the person's favour, or in which the person is acquitted, or which is discontinued.
- (3) The Company need not indemnify a person as provided for in paragraph (1) or (2) in respect of a liability to the extent that the person is entitled to an indemnity in respect of that liability, and is actually indemnified, by another person (including a related company or an insurer under a policy of insurance).
- (4) The Company is expressly authorised, with the prior approval of the board, to effect insurance for any person who is, or has been, a director or employee of the Company or a related company in respect of:
- (a) liability, not being a criminal liability, for any act or omission in the person's capacity as a director or employee;
- (b) costs incurred by that person in defending or settling any claim or proceeding relating to any such liability; or
- (c) costs incurred by that person in defending any criminal proceedings in which he is acquitted.
- (5) Without limitation to the indemnities in paragraphs (1) and (2), in any case where the board considers it appropriate to do so the Company, being expressly authorised and required to give the indemnities in paragraphs (1) and (2), may execute a documentary indemnity in any form in favour of any person who is, or has been, a director or employee of the Company or a related company, provided that the indemnity is given to an extent not greater than the extent of the indemnities in paragraphs (1) and (2).
- (6) The benefit of each indemnity given in paragraphs (1) and (2) continues, even after its terms or the terms of this Article are modified or deleted, in respect of a liability arising out of acts or omissions occurring before the modification or deletion.

114. Personal liability of Director or officer

To the extent permitted by law, and without limitation to Article 113, if any Director or any officer of the Company is or may become personally liable for the payment of any amount which is or may become primarily due from the Company, the board may charge the whole

or any part of the assets of the Company by way of indemnity to secure the Director or officer from any loss in respect of the liability.

Division XXIX – Removal from the Register of Companies

115. Board may apply for removal

If:

- (a) the Company has ceased to carry on business, has discharged in full its liabilities to all its known creditors, and has distributed its surplus assets in accordance with this Constitution and the Act; or
- (b) the Company has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court under section 291 of the Act for an order putting the Company into liquidation,

the board may authorise a Director, and the Company by special resolution may authorise a shareholder, to make a request under the Act to the Registrar of Companies to remove the Company from the Papua New Guinea register of companies.

Division XXX – Share Plans

116. Dividend reinvestment plans

- (1) To the extent that the Act and the Listing Rules permit, the board may:
 - (a) establish one or more plans under which some or all shareholders may elect:
 - (i) that dividends to be paid in respect of some or all of the shares from time to time held by the shareholder are to be satisfied by the issue of fully paid shares;
 - (ii) that dividends from the Company not be determined or paid and that instead a payment or distribution other than a dividend (including an issue of bonus shares, with no amount credited to the share capital account in connection with the issue of those shares) be made by the Company;
 - (iii) that cash dividends from the Company not be paid and that instead a cash dividend or payment or other distribution (including an issue or transfer of securities) be received from the Company, a related corporation of the Company or any other entity determined by the board; and
 - (iv) to participate in a dividend selection plan;
 - (b) on or after establishment of any plan, extend participation in it, in whole or in part, to some or all of the holders of debt obligations of the Company in respect of interest on those obligations as if that interest were dividends; and
 - (c) vary, suspend or terminate the plan.

- (2) Any plan takes effect in accordance with its terms and the board may do all things necessary and convenient for the purpose of implementing the plan, including, the making of each necessary allotment of shares and of each necessary appropriation, capitalisation, application, payment and distribution of funds which may lawfully be appropriated, capitalised, applied, paid or distributed for the purpose of the allotment.
- (3) For the purpose of giving effect to a plan, appropriations, capitalisations, applications, payments and distributions as referred to in this Article may be made and the powers of the board under this Article apply and may be exercised (with any adjustments as may be required) even if only some of the shareholders or holders of shares of any class participate in the appropriations, capitalisation, application, payment or distribution.
- (4) In offering opportunities to shareholders to participate in a plan, the board may give information that in their opinion may be useful to assist shareholders in assessing the opportunity and making requests to their best advantage. The board, the Company and its officers are not responsible for, nor are they obliged to provide, any legal, taxation or financial advice in respect of the choices available to shareholders.
- (5) The board is are under no obligation:
 - (a) to admit any shareholder as a participant in any plan; nor
 - (b) to comply with any request made by a shareholder who is not admitted as a participant in a plan.
- (6) In establishing and maintaining a plan, the board may exercise the powers conferred on them by the terms of the plan, by this Constitution or by the Act.

117. Bonus share plan

- (1) To the extent that the Act and the Listing Rules permit, the board may:
 - (a) establish and maintain a bonus share plan; and
 - (b) vary, suspend or terminate the plan.
- (2) For the purposes of the plan, the board may in its absolute discretion offer to shareholders:
 - (a) an opportunity to participate in the plan in respect of all or some of their shares; and
 - (b) an opportunity to request that, instead of participating in any dividends in respect of the shares, they have allotted and issued to them shares under the plan credited as fully paid.
- (3) The board may under the plan credit shares as fully paid by capitalising any sum standing to the credit of the Company's profit and loss account or otherwise available for distribution and may apply that sum in crediting shares as fully paid up.
- (4) If a participant in the plan requests that in respect of certain shares the shareholder not be entitled to participate in any dividend, the dividend must be taken to relate only to the balance of the shares held by that participant at the time of the record date for the payment of that dividend.

- (5) Where the board has received a request from a participant in the plan in respect of certain shares that shares be allotted and issued to the participant in accordance with the plan and the board decides in its absolute discretion to comply with that request, the rights attaching to the shares the subject of the request may not be taken to have been varied even though the dividend is not paid on all of the shares in the class and even though all of the shares in the class do not rank in calculating the number of fully paid shares to be allotted and issued to the participant in accordance with the plan.
- (6) In offering opportunities to shareholders to participate in the plan, the board may give information which in its opinion may be useful to assist shareholders in assessing the opportunity and making requests to their best advantage. The board, the Company and its officers are not responsible for, nor are they obliged to provide, any legal or taxation advice in respect of the choices available to shareholders.
- (7) The board is under no obligation:
- (a) to admit any shareholder as a participant in the plan;
 - (b) to comply with any request made by a shareholder who is not admitted as a participant in the plan.
- (8) In establishing and maintaining the plan, the board must act in accordance with the provisions of this Constitution and may exercise all or any of the powers conferred on it by this Constitution or by the Act.

118. Employee share plans

To the extent that the Act and the Listing Rules permit, the board may:

- (a) implement an employee share plan (on the terms it determines) under which securities of the Company or of a related corporation may be issued or otherwise provided to or for the benefit of any officer (including any Director) or employee of the Company or of a related corporation or affiliate of the Company or to a relative of that officer or employee or to a company, trust or other entity or arrangement in which that officer or employee or a relative of that officer or employee has an interest;
- (b) amend, suspend or terminate any such employee share plan; and
- (c) give financial assistance in connection with the acquisition of securities of the Company or of a related corporation under any employee share plan in any manner permitted by the Act and the Listing Rules.

Paragraph (a) does not limit the board's powers to establish an employee share plan or limit the scope or structure of a plan.

Division XXXI – Prevalence of Listing Rules

119. Listing Rules Prevail

For so long as the Company is Listed, this Article 119 applies.

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

Division XXXII – Restricted Securities

120. Restricted Securities

- (a) Restricted Securities cannot be disposed of during the Escrow Period, except as permitted by the Listing Rules or the Exchange.
- (b) The Company must refuse to acknowledge a disposal (including registering a transfer) of any Restricted Securities during the Escrow Period, except as permitted by the Listing Rules or the Exchange.

In this Article:

dispose has the meaning given in the Listing Rules.

Escrow Period means the period set out in a Restriction Agreement.

Restricted Securities has the meaning given in the Listing Rules and includes shares defined as such in any Restriction Agreement.

Restriction Agreement means a restriction agreement in a form set out in the Listing Rules or otherwise approved by the Exchange and includes any agreement that the Company and any shareholder agrees is a Restriction Agreement.]

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Appendix 1 - Schedule 1 of the *Companies Act 1997*

Note: This Appendix extracts Schedule 1 of the *Companies Act 1997* as at the date of adoption of this Constitution. It is included in this Constitution for ease of reference only, and does not otherwise form part of this Constitution. Where Schedule 1 of the Act is amended, this Appendix 1 will be taken to be amended accordingly and with any necessary changes.

Schedule 1.

Sec. 89.

PROVISIONS OF ACT THAT DO NOT APPLY WHERE THERE IS UNANIMOUS AGREEMENT BY SHAREHOLDERS.

The following provisions of the Act do not apply where there is unanimous shareholder agreement in accordance with Section 89: -

- (a) in relation to issues of shares, Sections 43 and 45;
- (b) in relation to making a distribution, Division VI.3;
- (c) in relation to a company acquiring its own shares, Section 57;
- (d) in relation to the redemption of shares, Section 60;
- (e) in relation to the giving of financial assistance for the purpose of or in connection with the purchase of shares, Division VI.6;
- (f) in relation to the company entering into a contract in which a director is interested, Sections 118 and 119;
- (g) in relation to the payment of remuneration or provision of other benefits to directors, Section 139.

Appendix 2 - Schedule 2 of the *Companies Act 1997*

Note: This Appendix extracts Schedule 2 of the *Companies Act 1997* as at the date of adoption of this Constitution. It is included in this Constitution for ease of reference only, and does not otherwise form part of this Constitution. The application of Schedule 2 of the Act to the Company is negated and modified as provided in Division IX - Meetings of Shareholders. Where Schedule 2 of the Act is amended, this Appendix 2 will be taken to be amended accordingly and with any necessary changes.

Schedule 2.

Sec. 105.

PROCEEDINGS AT MEETINGS OF SHAREHOLDERS.

1. Chairman.
2. Notice of meetings.
3. Methods of holding meetings.
4. Quorum.
5. Voting.
6. Proxies.
7. Minutes.
8. Shareholder proposals.
9. Corporations may act by representatives.
10. Votes of joint holders.
11. Loss of voting right where calls unpaid.
12. Other proceedings.

1. CHAIRMAN.

(1) Where the directors have elected a Chairman of the board, and the Chairman of the board is present at a meeting of shareholders, he shall chair the meeting. **[Note - This Clause is negated by Article 49(1) of the Constitution.]**

(2) Where no Chairman of the board has been elected or where, at any meeting of shareholders, the Chairman of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the shareholders present may choose

one of their number to be Chairman of the meeting. **[Note - This Clause is negated by Article 49(1) of the Constitution.]**

(3) Subsections (1) and (2) are subject to the constitution of the company.

2. NOTICE OF MEETINGS.

(1) Written notice of the time and place of a meeting of shareholders shall be sent to every shareholder entitled to receive notice of the meeting and to every director and an auditor of the company not less than 14 days before the meeting.

(2) The notice shall state -

(a) the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it; and

(b) the text of any special resolution to be submitted to the meeting.

(3) An irregularity in a notice of a meeting is waived where all the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or where all such shareholders agree to the waiver.

(4) Subject to the constitution of a company, the accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a shareholder does not invalidate the proceedings at that meeting.

(5) Subject to the constitution of the company, where a meeting of shareholders is adjourned for less than one month, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned.

3. METHODS OF HOLDING MEETINGS.

A meeting of shareholders may be held either -

(a) by a number of shareholders, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(b) subject to the constitution of the company, by means of audio, or audio and visual communication by which all shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting. **[Note - Also see Article 48 of the Constitution.]**

4. QUORUM.

(1) Subject to Subsection (3), no business may be transacted at a meeting of shareholders if a quorum is not present.

(2) Subject to the constitution of the company, a quorum for a meeting of shareholders is present if shareholders or their proxies are present who are between them able to exercise a majority of the votes to be cast on the business to be transacted by the meeting. **[Note - This Clause is negated by Article 47(2) of the Constitution.]**

(3) Where a quorum is not present within 30 minutes after the time appointed for the meeting -

- (a) in the case of a meeting called under Section 102 (b), the meeting is dissolved;
- (b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the directors may appoint, and, subject to the constitution of the company, where, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders or their proxies present are a quorum. **[Note - This Clause is modified by Article 47(3) of the Constitution.]**

5. VOTING.

(1) In the case of a meeting of shareholders held under Section 3 (a) of Schedule 2, unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the Chairman of the meeting: -

- (a) voting by voice; or
- (b) voting by show of hands.

(2) In the case of a meeting of shareholders held under Section 3 (b) of Schedule 2, unless a poll is demanded, voting at the meeting shall be by the shareholders signifying individually their assent or dissent by voice.

(3) A declaration by the Chairman of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with Subsection (4).

(4) At a meeting of shareholders a poll may be demanded by -

- (a) not less than five shareholders having the right to vote at the meeting; or
- (b) a shareholder or shareholders representing not less than 10% of the total voting rights of all shareholders having the right to vote at the meeting; or
- (c) by a shareholder or shareholders holding shares in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all shares that confer that right.

[Note - This Clause is added to by Article 54 of the Constitution.]

(5) A poll may be demanded either before or after the vote is taken on a resolution.

(6) Where a poll is taken, votes shall be counted according to the votes attached to the shares of each shareholder present in person or by proxy and voting.

(7) Subject to the constitution of the company, the Chairman of a shareholders' meeting is not entitled to a casting vote. **[Note - This Clause is negated by Article 50(2) of the Constitution.]**

(8) For the purposes of this Act, the instrument appointing a proxy to vote at a meeting of a company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a shareholder has the same effect as a demand by the shareholder.

6. PROXIES.

- (1) A shareholder may exercise the right to vote either by being present in person or by proxy.
- (2) A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were the shareholder.
- (3) A proxy shall be appointed by notice in writing signed by the shareholder and the notice shall state whether the appointment is for a particular meeting or a specified term not exceeding one year.
- (4) No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting.
- (5) The constitution of a company may provide that a proxy is not effective unless it is produced by a specified time before the start of a meeting if the time specified is not earlier than 48 hours before the start of the meeting.

7. MINUTES.

- (1) The board shall ensure that minutes are kept of all proceedings at meetings of shareholders.
- (2) Minutes which have been signed correct by the Chairman of the meeting are *prima facie* evidence of the proceedings.

8. SHAREHOLDER PROPOSALS.

- (1) A shareholder may give written notice to the board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote.
- (2) Where the notice is received by the board not less than one month before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board shall, at the expense of the company, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- (3) Where the notice is received by the board not less than seven days and not more than one month before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board shall, at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- (4) Where the notice is received by the board less than seven days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board may, if practicable, and at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- (5) Where the directors intend that shareholders may vote on the proposal by proxy, they shall give the proposing shareholder the right to include in or with the notice given by the board a statement of not more than 1,000 words prepared by the proposing shareholder

in support of the proposal, together with the name and address of the proposing shareholder.

(6) The board is not required to include in or with the notice given by the board a statement prepared by a shareholder which the directors consider to be defamatory, frivolous, or vexatious.

(7) Where the costs of giving notice of the shareholder proposal and the text of any proposed resolution are required to be met by the proposing shareholder, the proposing shareholder shall, on giving notice to the board, deposit with the company or tender to the company a sum sufficient to meet those costs.

9. CORPORATIONS MAY ACT BY REPRESENTATIVES.

A body corporate which is a shareholder may appoint a representative to attend a meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy.

10. VOTES OF JOINT HOLDERS.

Where two or more persons are registered as the holder of a share, the vote of the person named first in the share register and voting on a matter shall be accepted to the exclusion of the votes of the other joint holders.

11. LOSS OF VOTING RIGHT WHERE CALLS UNPAID.

Subject to the constitution of a company, where a sum due to a company in respect of a share has not been paid, that share may not be voted at a shareholders' meeting other than a meeting of an interest group.

12. OTHER PROCEEDINGS.

Except as provided in this Schedule, and subject to the constitution of the company, a meeting of shareholders may regulate its own procedure.

Appendix 3 - Schedule 3 of the *Companies Act 1997*

Note: This Appendix extracts Schedule 3 of the *Companies Act 1997* as at the date of adoption of this Constitution. It is included in this Constitution for ease of reference only, and does not otherwise form part of this Constitution. Where Schedule 3 of the Act is amended, this Appendix 3 will be taken to be amended accordingly and with any necessary changes.

Schedule 3.

Sec. 111.

SECTIONS THAT CONFER POWERS ON DIRECTORS THAT CANNOT BE DELEGATED.

- (a) Section 43;
- (b) Section 47;
- (c) Section 50;
- (d) Section 52;
- (e) Section 53;
- (f) Section 57;
- (g) Section 63;
- (h) Section 65(4);
- (i) Section 162;
- (j) Section 168;
- (k) Section 234;
- (l) Section 235.