

Constitution of Sandhurst
Trustees Limited
ABN 16 004 030 737

The Corporations Act
An unlisted public company limited by shares
Registered in Victoria

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Constitution of Sandhurst Trustees Limited, ABN 16 004 030 737, a public company limited by shares

General

1. Definitions

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

Chair means the person occupying the position of Chair or acting Chair of the Directors under rule 28.

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

Director means a person appointed or elected to the office of director of the company in accordance with this Constitution and includes any alternate director acting as a Director.

Dividend includes an interim dividend.

Majority Shareholders means the holder or holders of a majority of the issued shares in the capital of the company conferring the right to vote at all general meetings of the company.

person and words importing persons means any person including partnerships, associations and bodies corporate, unincorporated bodies and all other entities or associations recognised by law as well as individuals.

Secretary means a person appointed as, or to perform the duties of, secretary of the company.

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

2. Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (d) A word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution.



3. Replaceable Rules

The replaceable rules contained in the Corporations Act do not apply to the company.

4. Transitional

- (a) This Constitution supersedes the constitution in force immediately before the adoption of this Constitution.
- (b) 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. in particular (without limitation) every Director, alternate Director and Secretary in office immediately before the adoption of this Constitution is taken to have been appointed and continues in force under this Constitution.

Capital

5. Issue of Securities

Without affecting any special rights conferred on the holders of any Securities, any Securities may be issued with 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 Directors may determine and on any terms the Directors consider appropriate.

6. Directors' Power to Issue Shares

Except as provided by contract or this Constitution to the contrary, all unissued shares are under the control of the Directors who may grant options on the shares, issue or otherwise dispose of the shares on the terms and conditions and for the consideration they think fit. Any issue of shares other than to the Majority Shareholder, requires Majority Shareholder approval. An issue of shares of the same class as an existing class of shares is not to be considered to constitute a variation of the rights of the holders of shares in the existing class. Any Director or any person who is an associate of a Director may participate in any issue by the company of Securities.

7. Recognition of Third Party Interests

- (a) Except as required by law, the company is not bound to recognise a person as holding a Security on any trust.
- (b) Whether or not it has notice of the rights or interests concerned, the company is not bound to recognise:
 - (i) any equitable, contingent, future or partial claim to, or interest in, any Security or unit of a Security; or



- (ii) any other right in respect of a Security,
except an absolute right of ownership of the Security holder or as otherwise provided by this Constitution or by law.

8. Surrender of Securities

In their discretion, the Directors may accept a surrender of Securities by way of compromise of any question as to whether or not those Securities have been validly issued or in any other case where the surrender is within the powers of the company. Any Securities surrendered may be sold or re-issued.

Certificates for Securities

9. Certificates

Directors may determine to issue certificates for Securities of the company and to cancel any certificates on issue and to replace lost destroyed or defaced certificates on issue on the basis and in the form they determine from time to time.

Transfer of Securities

10. Transfers

- (a) No transfer of any Securities may be registered unless a proper instrument of transfer, in writing in the usual or common form or in any form the Directors may prescribe or in a particular case accept, signed by the transferor and the transferee and properly stamped (if necessary) is delivered to the company (but the Directors may dispense with the execution of the instrument by the transferee if the Directors think fit).
- (b) The transferor is considered to remain the holder of the Securities transferred until the name of the transferee is entered on the Securities register.

11. Directors may Refuse to Register

- (a) The Directors may in their discretion refuse to register any transfer of Securities and may decline to give their reasons and grounds for doing so.
- (b) Where the Directors resolve to refuse to register a transfer of Securities, the Directors must notify the transferee within two months of the date of lodgement of the transfer with the company.

12. Transfer and Certificate (if any)

- (a) Every transfer must be left for registration at the registered office of the company or any other place the Directors determine. Unless the Directors otherwise determine either generally or in a particular case, the transfer is to be accompanied by the



certificate for the Securities to be transferred. In addition, the transfer is to be accompanied by any other evidence which the Directors may require to prove the title of the transferor, the transferor's right to transfer the Securities, execution of the transfer or compliance with the provisions of any law relating to stamp duty.

- (b) Subject to rule 12(a), on each application to register the transfer of any Securities or to register any person as the holder in respect of any Securities transmitted to that person by operation of law or otherwise, the certificate specifying the Securities in respect of which registration is required must be delivered to the company for cancellation and on registration the certificate is considered to have been cancelled.
- (c) Each transfer which is registered may be retained by the company for any period determined by the Directors after which the company may destroy it.

Alteration of Capital

13. Power to Alter Share Capital

The company may reduce or alter its share capital in any manner provided for by the Corporations Act. The Directors may do anything which is required to give effect to any resolution authorising reduction or alteration of the share capital of the company and, without limitation, may make provision for the issue of fractional certificates or the sale of fractions of shares and the distribution of net proceeds as they think fit.

General Meetings

14. General Meetings

- (a) A Director may convene a general meeting of the company or, where the company has one shareholder only, propose one or more resolutions to be considered by the shareholder whenever the Director thinks fit.
- (b) Any Director may cancel or postpone any meeting convened by that Director by notice in writing to all persons who were entitled to receive notice of that meeting, except where the cancellation or postponement would be contrary to the Corporations Act. Any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.
- (c) Nothing in this Constitution limits the company's power to pass a resolution without a general meeting in accordance with the Corporations Act.
- (d) Without limiting rule 14(c), where the company has one shareholder only, a document signed by the shareholder which records a decision of the shareholder:
 - (i) constitutes a decision of the company and is valid and effective as if it were an ordinary or special resolution, as applicable, passed at a meeting of the shareholders; and



- (ii) has effect as a minute of that decision.

15. Notice of General Meetings

A notice of a general meeting is to specify the place and time of the meeting, the general nature of the business to be transacted at the meeting and any other matters required by the Corporations Act. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate any resolution passed at the meeting.

16. Quorum

- (a) No business may be transacted at any general meeting unless a quorum of shareholders is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, a quorum for a general meeting is constituted by one shareholder present at the venue or venues for the meeting, in person or by proxy, by attorney or, where the shareholder is a body corporate, by representative.

Directors

17. Number of Directors

The number of Directors (not including alternate Directors) must be not less than the minimum number required by the Corporations Act¹. Each Director is to be a natural person.

18. Appointment and Removal

Subject to the Corporations Act:²

- (a) the Majority Shareholders may appoint any person to be a Director to fill a vacancy or as an addition to the existing Directors or remove a Director from office; and
- (b) any appointment or removal of a Director by the Majority Shareholders must be in writing. Any such appointment or removal will take effect immediately on delivery of the instrument of appointment or removal to the registered office of the company.

¹ As at the date of this Constitution, the minimum number of directors required for a public company is three (s201A(2) Corporations Act).

² As at the date of this Constitution, the law is not settled as to whether the removal of a director must comply with s203D Corporations Act or whether removal using this procedure in rule 18 will suffice. The application of s203D must be considered at the relevant time.



19. Remuneration

- (a) Subject to rule 19(b), the Directors are to be paid for their services as Directors.
- (b) A Director who is remunerated as an executive Director will not be paid fees under rule 19(a) or (c).
- (c) As remuneration for services, each Director is to be paid out of the funds of the company a sum per annum (accruing from day to day) determined by the company in general meeting (or in accordance with rule 14(d)). The Directors may determine to suspend, reduce or postpone payment of any remuneration if the Directors think fit. The expression **remuneration** in this rule does not include any amount which may be paid by the company under any of rules 19(e), 19(f), 21 and 45.
- (d) The remuneration to be paid or provided under rule 19(a) is to be divided among the Directors in the proportions as they may agree or, if they cannot agree, equally among them.
- (e) 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 the company or otherwise in connection with the business or affairs of the company.
- (f) If any non-executive Director, with the approval of the Directors, performs extra services or makes any special exertions for the benefit of the company, the Directors may approve the payment to that Director of special and additional remuneration as the Directors determine 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.
- (g) Subject to the Corporations 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 Directors.

20. Vacation of Office

- (a) In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:
 - (i) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (ii) resigns by notice in writing to the company;
 - (iii) is absent without the consent of the Directors from meetings of the Directors held during a continuous period of six months; or
 - (iv) dies.



- (b) The office of a Director who is an employee of the company or any of its subsidiaries is terminated on the Director ceasing to be employed but the person concerned is eligible for reappointment or re-election as a Director of the company.
- (c) The office of a Director is terminated and becomes vacant if the Director is removed by the Majority Shareholders in accordance with rule 18.

21. Retirement Allowance for Directors

- (a) The company, with the approval of the Majority Shareholders, may pay, provide or make any payment, pension, retiring allowance or other benefit to any Director of the company or any other person in connection with the Director's retirement, resignation from or loss of office or death while in office.
- (b) Subject to rule 21(a) the Directors, with the approval of the Majority Shareholders, may:
 - (i) make contracts or arrangements with a Director or a person about to become a Director of the company under which the Director or any person nominated by the Director is paid or provided with a payment, pension, retiring allowance or other benefit on or after the Director or person about to become a Director ceases to hold office for any reason; and
 - (ii) establish any fund or scheme to provide payments, pensions, retiring allowances or other benefits for:
 - (A) Directors, on them ceasing to hold office; or
 - (B) any person including a person nominated by the Director, in the event of 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.
- (c) Without limiting rules 21(a) and 21(b), the company may pay superannuation contributions for each Director to the extent necessary for the avoidance or minimisation of any penalty, charge, tax, or other impost on the company under any applicable legislation which imposes a penalty, charge, tax or other impost on employers if a minimum level of superannuation contributions is not paid for an employee (within the meaning of the legislation).
- (d) The company may authorise any subsidiary to make a similar contract or arrangement with its directors and maintain any fund or scheme, whether or not all or any of the directors of the subsidiary are also Directors of the company.

22. Directors May Lend to the Company

Any Director may lend money to the company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the company and underwrite or guarantee the subscription of Securities of the company or of any corporation in which the company may be interested without being disqualified in respect of



the office of Director and without being liable to account to the company for the commission or profit.

23. Alternate Directors

Subject to this Constitution and the approval of the Majority Shareholders, each Director may appoint any person approved by a majority of the other Directors to act as an alternate Director in the Director's place, either for a stated period 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 to the registered office or to a meeting of the Directors. The appointment takes effect on approval by a majority of the other Directors or, where the approval has been granted, at any later time specified in the appointment. The following provisions apply to any alternate Director:

- (a) the appointment of the alternate Director is terminated or suspended on receipt at the registered office of notice in writing from the Director by whom the alternate Director was appointed;
- (b) the alternate Director is entitled to receive notice of meetings of the Directors 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 Directors otherwise determine, (without affecting the right to reimbursement for expenses under rule 19(e)) entitled to receive any remuneration as a Director from the company, and any remuneration (not including remuneration authorised by the Directors 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 terminated on the death of, or termination 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 is not the agent of the Director by whom the alternate Director was appointed.



Powers of Directors

24. Powers of Directors

The business of the company is managed by the Directors, who may exercise all powers of the company which are not, by the law or this Constitution, required to be exercised by the company in general meeting.

25. Wholly Owned Subsidiary

At any time when the company is a wholly-owned subsidiary of another body corporate (the **Holding Company**) each Director is authorised to act in the best interests of the Holding Company.

Proceedings of Directors

26. Proceedings

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they determine.
- (b) Until otherwise determined by the Directors, two Directors form a quorum. Directors' meetings may be called by a Director giving reasonable notice to every other Director. A notice may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or at any other address given to the Secretary by the Director or by any technology agreed by all the Directors.

27. Meetings by Technology

- (a) For the purposes of the Corporations Act, each Director, by consenting to be a Director (or by reason of the adoption of this Constitution), consents to the use of each of the following technologies for holding a Directors meeting:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;
 - (iv) any other technology which permits each Director to communicate with every other Director; or
 - (v) any combination of these technologies.

A Director may withdraw the consent given under this rule in accordance with the Corporations Act.



- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
- (i) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Directors, taken to be assembled together at a meeting and to be present at that meeting;
 - (ii) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were physically present in the one location; and
 - (iii) the meeting is considered 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.

28. Chair of Directors

- (a) The Directors may, with the approval of the Majority Shareholders, elect one of their number as their Chair and may decide the period for which the Chair is to hold office as Chair. References to the Chair in this Constitution include, in the absence of the Chair, the deputy Chair (unless the context otherwise requires).
- (b) Where a meeting of Directors is held and:
- (i) a Chair has not been elected as provided by rule 28(a); or
 - (ii) the Chair is not present at the time appointed for the holding of the meeting or does not wish to Chair the meeting,
- the deputy Chair is Chair of the meeting or, if rule 28(b)(i) or (ii) applies to the deputy Chair, the Directors present may elect one of their number to be Chair of the meeting.

29. Directors' Voting Rights and Exercise of Powers

- (a) Subject to this Constitution, questions arising at a meeting of Directors are decided by a majority of votes of Directors present and voting.
- (b) In the case of an equality of votes the Chair of the meeting has a casting vote in addition to the Chair's deliberative vote.
- (c) Subject to rule 30 and the Corporations Act, a Director:
- (i) who has an interest in a matter may vote in respect of that matter if it comes before the Directors and be counted as part of the quorum;
 - (ii) may enter into contracts with, or otherwise have dealings with, the company; and
 - (iii) may hold other offices in the company.



- (d) A Director is not liable to account to the company for any profit realised by any contract or arrangement, by reason only of holding the office of Director or of the fiduciary relationship established by the office.
- (e) Subject to the Corporations Act, a Director or any person who is an associate of a Director may participate in any issue by the company of financial products.
- (f) Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.

30. Material Personal Interests

- (a) A Director is not disqualified from the Director's office by contracting with the company or any related body corporate of the company in any capacity by reason of holding the office of Director.
- (b) In relation to a contract or arrangement in which a Director has a material personal interest:
 - (i) the fact that the Director signed the document evidencing the contract or arrangement will not in any way affect its validity;
 - (ii) a contract or arrangement made by the company or any related body corporate with a Director may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it; and
 - (iii) the Director will not be liable to account to the company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.
 - (iv) Nothing in this clause affects the duty of a Director:
 - (A) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Directors' duties or interests as a Director, to declare at a meeting of Directors, the fact and the nature, character and extent of the conflict; and
 - (B) to comply with the Corporations Act.

31. Committees

- (a) The Directors may delegate any of their powers to committees consisting of any one or more Directors or any other person or persons as the Directors think fit. In the exercise of delegated power, any committee formed or person or persons appointed to the committee must conform to any regulations that may be imposed by the Directors. A delegate of the Directors may be authorised to sub-delegate any of the powers for the time being vested in the delegate.
- (b) 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



Directors so far as they are applicable and are not in conflict with or superseded by, any regulations made by the Directors under rule 31(a).

- (c) Nothing in this rule 31 limits the power of the Directors to delegate.

32. Written Resolutions

A resolution in writing signed by all Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Directors) is a valid resolution of the Directors and is effective when signed by the last of all the Directors. The resolution may consist of several documents in the same form each signed by one or more of the Directors. For the purposes of this rule 32, the references to Directors include any alternate Director appointed by a Director who is not available to sign the document or is otherwise unable to sign the document within a reasonable time, but do not include any other alternate Director. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director and is deemed to be signed when received in legible form.

33. Defects in Appointments

- (a) All actions at any meeting of the Directors 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 properly appointed and was qualified and continued to be a Director or a member of the committee.
- (b) 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 general meeting of the company but for no other purpose.

34. Secretaries

- (a) A Secretary of the company holds office on the terms and conditions as the Directors, with the approval of the Majority Shareholders, decide.
- (b) The Directors may at any time terminate the appointment of a Secretary.

35. Other Officers

- (a) The Directors may from time to time:
- (i) create any other position or positions in the company with the powers and responsibilities as the Directors may from time to time confer; and
 - (ii) appoint any person, whether or not a Director, to any position or positions created under rule 35(a)(i).



- (b) The Directors may at any time terminate the appointment of a person holding a position created under rule 35(a)(i) and may abolish the position.

Seals

36. Seals and their Use

The company may have a common seal and a duplicate common seal which are to be used by the company as determined by the Directors.

Dividends, Interest and Reserves

37. Powers to Determine Dividends and Pay Interest

- (a) Subject to any special rights or restrictions attached to any shares, the Directors may determine that a Dividend is payable.
- (b) No Dividend bears interest against the company.

38. Crediting of Dividends

- (a) Subject to any special rights or restrictions attached to any shares, every Dividend is to be paid according to the amounts paid or credited as paid on the shares.
- (b) An amount paid or credited as paid on a share in advance of a call is not taken for the purposes of rule 38(a) to be paid or credited as paid on the share.
- (c) Subject to any special rights or restrictions attached to any shares, the Directors may from time to time resolve that Dividends are to be paid out of a particular source or particular sources, and in those circumstances the Directors may in their absolute discretion:
 - (i) allow each or any shareholder to elect from which specified sources that particular shareholder's Dividend may be paid by the company; and
 - (ii) where elections are permitted and any shareholder fails to make an election, identify the particular source from which Dividends are payable.

39. Deduction of Unpaid Amounts

The Directors may apply any part of any Dividend otherwise payable to a shareholder towards satisfaction of all sums of money presently payable by the shareholder to the company on account of calls or otherwise in relation to shares in the company.

40. Distributions in Kind

- (a) The Directors may, when declaring a Dividend, direct payment of the Dividend wholly or partly by the distribution of specific assets including paid up shares in or debentures of another body corporate.



- (b) Where a difficulty arises in regard to a distribution under rule 40(a), the Directors may:
 - (i) settle the matter as they determine and fix the value for distribution of the specific assets or any part of those assets;
 - (ii) decide that cash payments may be made, and make the payments to any shareholders on the basis of the value fixed by them in order to appropriately adjust the rights of all shareholders as the Directors determine in their discretion; or
 - (iii) vest any specific assets in trustees.

41. Payment of Distributions

- (a) Any Dividend, interest or other money payable in cash in respect of Securities may be paid by any of the following means, in the company's discretion, at the sole risk of the intended recipient:
 - (i) by cheque sent through the post directed to:
 - (A) the address of the Security holder as shown in the Securities register or, in the case of joint holders, to the address shown in the Securities register as the address of the joint holder first named in that Securities register; or
 - (B) to any other address as the Security holder or joint holders in writing directs or direct; or
 - (ii) by electronic funds transfer to an account with a bank or other financial institution nominated by the Security holder and acceptable to the company; or
 - (iii) by any other means determined by the Directors; orotherwise be disposed of according to law.
- (b) Payments of Dividends and other distributions by the company may be made in Australian dollars or any other currency determined by the Directors in their discretion. Payments in different currencies may be made to different Security holders as determined by the Directors in their discretion. If a payment is made in a currency other than Australian dollars the Directors may determine in their discretion the appropriate exchange rate and the time of calculation to calculate the amount payable in the relevant currency. The determinations of the Directors are, in the absence of manifest error, final.
- (c) Subject to law, all Dividends unclaimed may be invested or otherwise used by the Directors for the benefit of the company until claimed or otherwise disposed of according to law.



Capitalisation of Profits

42. Capitalisation of Profits

- (a) The company in general meeting (or in accordance with rule 14(d)) or the Directors may resolve:
- (i) to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account, profit and loss account or otherwise available for distribution to Security holders; and
 - (ii) that the sum referred to in rule 42(a)(i) be applied, in any of the ways mentioned in rule 42(b), for the benefit of Security holders in full satisfaction of their interest in the capitalised sum, in the proportions to which those Security holders would have been entitled in a distribution of that sum by way of Dividend or if there is no proportional entitlement, as the Directors determine.
- (b) The ways in which a sum may be applied for the benefit of Security holders under rule 42(a) are:
- (i) in paying up any amounts unpaid on Securities held by Security holders;
 - (ii) in paying up in full unissued Securities to be issued to Security holders as fully paid;
 - (iii) partly as mentioned in rule 42(b)(i) and partly as mentioned in rule 42(b)(ii); or
 - (iv) any other application permitted by law.
- (c) Where the conditions of issue of a partly paid Security provide, the holder is entitled to participate in any application of a sum under rule 42(b) to a greater extent than would have been the case had those funds been distributed by Dividend but not to any greater extent than permitted by the terms of issue.
- (d) The Directors may do all things they consider necessary to give effect to the resolution and, in particular, to the extent they consider necessary to adjust the rights of the Security holders amongst themselves, may:
- (i) fix the value for distribution of the specific assets or any part of those assets;
 - (ii) issue fractional certificates or make cash payments in cases where Securities become issuable in fractions or determine that fractions may be disregarded or that any fractional entitlements are to be increased to the next whole number;
 - (iii) vest any cash or specific assets in trustees on trust for the persons entitled as they determine; and
 - (iv) authorise any person to make, on behalf of all the Security holders entitled to any further Securities on the capitalisation, an agreement with the company providing for the issue to them, credited as fully paid up, of any



further Securities or for the payment by the company on their behalf the amounts or any part of the amounts remaining unpaid on their existing Securities by the application of their respective proportions of the sum resolved to be capitalised and any agreement made under that authority is effective and binding on all the Security holders concerned.

Notices

43. Notices Generally

- (a) Any Security holder who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the company may be served or sent is not entitled to receive any notice.
- (b) A notice may be given by the company to any Security holder by, in its discretion:
 - (i) serving it on the Security holder personally;
 - (ii) sending it by post to the Security holder or leaving it at the Security holder's address as shown in the Securities register or the address supplied by the Security holder to the company for the giving of notices;
 - (iii) sending it to the fax number supplied by the Security holder to the company for the giving of notices;
 - (iv) sending it electronically to the electronic mail address given by the Security holder to the company for giving notices; or
 - (v) serving it in any manner contemplated in this rule 43(b) on a Security holder's attorney as specified by the Security holder in a notice given under rule 43(c).
- (c) By written notice to the Secretary left at or sent to the registered office or Securities registry, a Security holder may request that all notices to be given by the company or the Directors be served on the Security holder's attorney at an address specified in the notice and the company may do so in its discretion.
- (d) Notice to a Security holder whose address for notices is outside Australia may be sent by airmail, air courier, fax or electronic mail.
- (e) Any notice sent by post is considered to have been served at the expiration of 24 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Security holder personally or left at the Security holder's registered address is considered to have been served when delivered. Any notice served on a Security holder by facsimile or other electronic transmission is considered to have been served when the transmission is sent.
- (f) Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any Securities is bound by every notice which, prior to the person's name and address being entered in the Securities



register in respect of the Securities, was properly given to the person from whom the person derived title to those Securities.

- (g) A notice served in accordance with this Constitution is (despite the fact that the Security holder is then dead and whether or not the company has notice of the Security holder's death) considered to have been properly served in respect of any registered Securities, whether held solely or jointly with other persons by the Security holder, until some other person is registered in the Security holder's place as the holder or joint holder. The service is sufficient service of the notice or document on the Security holder's personal representative and any persons jointly interested with the Security holder in the Securities.

Winding Up

44. Winding Up

- (a) If the company is wound up, whether voluntarily or otherwise, the liquidator may divide among all or any of the contributories as the liquidator thinks fit in kind any part of the assets of the company, and may vest any part of the assets of the company in trustees on any trusts for the benefit of all or any of the contributories as the liquidator thinks fit.
- (b) Any division may be otherwise than in accordance with the legal rights of the contributories and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part, but if any division otherwise than in accordance with the legal rights of the contributories is determined, any contributory who would be prejudiced by the division has a right to dissent and ancillary rights as if the determination were a special resolution passed under the Corporations Act relating to the sale or transfer of the company's assets by a liquidator in a voluntary winding up.
- (c) If any shares to be divided in accordance with rule 44(a) involve a liability to calls or otherwise, any person entitled under the division to any of the shares may, by notice in writing within 10 business days after the passing of the special resolution, direct the liquidator to sell the person's proportion and pay the person the net proceeds and the liquidator is to act accordingly, if practicable.

Indemnity

45. Indemnity of Officers, Insurance and Access

- (a) The company is to indemnify each officer of the company out of the assets of the company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the company or in or arising out of the discharge of the duties of the officer.



- (b) Where the Directors, with the consent of the Majority Shareholders, consider it appropriate, the company may execute a documentary indemnity in any form in favour of any officer of the company or a subsidiary.
- (c) Where the Directors, with the consent of the Majority Shareholders, consider it appropriate, the company may:
- (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the company against any liability incurred by the officer in or arising out of the conduct of the business of the company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the company to make the payments.
- (d) Where the Directors, with the consent of the Majority Shareholders, consider it appropriate, the company may:
- (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give the access.
- (e) In this rule 45:
- (i) **officer** means:
 - (A) a Director or Secretary, executive officer or employee; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the company,and includes a former officer.
 - (ii) **duties of the officer** includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the company or, where applicable, the subsidiary of the company to any other corporation.
 - (iii) **to the relevant extent** means:
 - (A) to the extent the company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.



- (iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.