

SUGAR TERMINALS LIMITED
ACN 084 059 601

CONSTITUTION
(with proposed amendments as at 11 September 2004)

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Corporations Law

A Company Limited by Shares

CONSTITUTION

of

SUGAR TERMINALS LIMITED**1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In this Constitution, unless a contrary intention appears, the following terms have the meaning set out beside them:-

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| Active Miller | a Mill Owner who:- (a) has received Sugar Cane from Growers and who has processed or crushed that Sugar Cane during the current year's Production Season; (b) is an Exempt Active Miller; or (c) establishes to the satisfaction of the Directors that he or she will be able to meet the requirements of being an Active Miller in either paragraph (a) or (b) above, within such period of time determined by the Directors from time to time and who has met those requirements before the expiration of that time period. |
| Address | (a) in the case of a Member, the address of the Member in the Register; (b) in the case of a Director or the auditors of the Company; such address of that person derived from information that is available to the public from the Australian Securities and Investment Commission; and (c) in the case of any Recipient, such address (if any), whether within or outside the Jurisdiction, as notified in writing to the Company by the Recipient for the purpose of serving notice on that Recipient. |
| Applicable Law | means the Corporations Law, the Listing Rules and the ATSC Operating Rules |
| ASTC Operating Rules | means the operating rules of ASX Settlement and Transfer Corporation Pty Ltd in its capacity as a CS facility licensee. |
| Business Day | a day which is not a Saturday, Sunday or public holiday in the Jurisdiction. |
| Certificate | a certificate in respect of Shares. |

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| CHESS | the meaning in section 2 of the clearing and settlement rules made by ASX Settlement and Transfer Corporation Pty Ltd |
| Company | Sugar Terminals Limited whatever its name may be from time to time. |
| Corporations Law | Corporations Act 2001 and its regulations as amended from time to time |
| Corporation | any body corporate, whether formed or incorporated within or outside the Jurisdiction. |
| Debenture | a debenture, debenture stock (perpetual, redeemable or otherwise), bond, note, charge, bill of sale, other security or debt instrument. |
| Director | a Director for the time being of the Company. |
| Eligible Voter | in relation to a meeting of Members: (a) a Member; (b) a proxy of a Member; (c) an attorney of a Member; or (d) the Representative of a Member. |
| Executive Director | a Director who is an employee (whether full-time or part-time) of the Company or of any related body corporate of the Company. |
| Exempt Active Miller | a person who was an Active Miller and who:- (a) establishes to the satisfaction of the Directors that:- (i) the person is a Mill Owner; (ii) the person ceased to be an Active Miller because of an event beyond the person's reasonable control and the person has taken all proper precautions against the occurrence of that event; and (iii) there are reasonable grounds for believing that the person will again become an Active Miller within paragraph (a) of the definition of "Active Miller" within such period of time determined by the Directors (" Active Miller Exemption Period "); and (b) the Directors determine that the person be an Exempt Active Miller. |

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| First Directors | the persons described in Article 17.2 of this Constitution as Directors of the Company. |
| "G" Class Shares | the "G" class shares issued by the Company. |
| "G" Class Shareholders | at any time, all of the persons then holding the issued "G" Class Shares and "'G" Class Shareholder" means any one of them. |
| Group Company | the Company or a subsidiary of the Company. |
| Grower Director | a Director appointed or elected by the holders of "G" Class Shares pursuant to Article 17.3(a) or Article 18.5. |
| Grower | a person who has delivered or will deliver Sugar Cane to a Mill in Queensland under a cane supply contract during the current year's Production Season under a cane supply contract. "Person" shall include a trustee, an executor or personal representative and any party to a partnership or sharefarming agreement. |
| Inactive Miller | <ul style="list-style-type: none"> (a) a Mill Owner who has not been an Active Miller for 2 consecutive Production Seasons or part thereof; (b) an Exempt Active Miller who fails to meet the requirements of being an Active Miller prior to the expiration of the Active Miller Exemption Period; (c) a Miller who has previously established to the satisfaction of the Directors that he or she will be able to meet the requirements of being an Active Miller within either paragraph (a) or (b) of the definition of "Active Miller" within a particular time period determined by the Directors but who has not met those requirements before the expiration of that time period; (d) an Active Miller that is a company or a body corporate in relation to which an Insolvency Event occurs or which is dissolved or otherwise ceases to exist. |
| Independent Director | a Director appointed by the Directors under Article 17.5. |
| Industry Director | a non-executive Director who is a Grower Director or a Miller Director. |
| Insolvency Event | <p>in relation to a Grower or Active Miller, the happening of any of the following events:-</p> <ul style="list-style-type: none"> (a) the making of a winding up order; |

- (b) the appointment of a liquidator or provisional liquidator whether or not under an order;
- (c) the appointment of an administrator;
- (d) entering into a scheme or arrangement or composition with or assignment for the benefit of creditors, except to reconstruct or amalgamate while solvent;
- (e) taking any steps to obtain protection or being granted protection from creditors;
- (f) the appointment of a receiver, receiver and manager or agent in possession unless the Directors are satisfied that the receiver, receiver and manager or agent in possession will come within the meaning of either Grower or Active Miller.

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| Jurisdiction | the State of Queensland. |
| Legal Costs | legal costs incurred by that person in defending an action for a Liability of that person |
| Liability | any liability incurred by that person as an officer of the Company or a subsidiary of the Company |
| Listing Rules | the Listing Rules of NSX and any other rules of NSX which are applicable while the Company is admitted to the Official List of NSX, each as amended or replaced from time to time, except to the extent of any express written waiver by NSX. |
| "M" Class Shares | the "M" class shares issued by the Company. |
| "M" Class Shareholders | at any time, all of the persons then holding the issued "M" Class Shares and "M" Class Shareholder" means any one of them. |
| Member | a person whose name is entered in the Register as the holder of a Share. |
| Member Status Declaration | a document to confirm the status of a Member as a Grower or an Active Miller in such form as prescribed by the Directors from time to time. |
| Mill | works that are equipped for the manufacture of Sugar from Sugar Cane. |
| Mill Owner | an entity that owns a Mill or a Related Entity of an entity that owns a Mill. |

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| Miller Director | a Director appointed or elected by the holders of "M" Class Shares pursuant to Article 17.3(b) or Article 18.5. |
| NSX | Stock Exchange of Newcastle Limited or Newcastle Stock Exchange |
| Non-Executive Directors | all Directors other than Executive Directors. |
| Official List | the list of issuers maintained by NSX. |
| Office | the registered office for the time being of the Company. |
| Officer | has the meaning given in: (a) section 241(4) of the Corporations Law, in the case of Article 34; and; (b) section 82A of the Corporations Law, in all other cases. |
| Option | an option over an Unissued Share. |
| Paid Up | includes credited as paid up. |
| Personal Representative | in relation to a deceased person, the legal personal representative, executor or administrator of that person's estate. |
| Prescribed Notice | in relation to a meeting, notice given in accordance with this Constitution for the Prescribed period or such shorter period of notice allowed under the Corporations Law. |
| Prescribed Period | 21 days. |
| Prescribed Rate | 10% per annum or such other rate as the Directors may determine from time to time. |
| Proceedings | in relation to a person, any proceedings (whether civil or criminal) in which it is alleged that the person has done or omitted to do some act, matter or thing: (a) in his or her capacity as an Officer of a Group Company; or (b) in the course of acting in connection with the affairs of a Group Company; or (c) otherwise arising out of the person holding office as an |

Officer of a Group Company,

including proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to a Group Company.

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| Production Season | the period in any calendar year in which Sugar Cane is delivered to a Mill for processing or crushing. |
| Recipient | a Member or other person receiving notice under this Constitution. |
| Record Date | the time and date fixed by the Directors under Article 27.2(b) for determining entitlements to a dividend. |
| Register | the register of Members kept under the Corporations Law and, where appropriate, includes any branch register. |
| Related Entity | means where an entity is: <ul style="list-style-type: none"> (a) a 100% holding company of another entity; (b) a wholly owned subsidiary of another entity; (c) a wholly owned subsidiary of a 100% holding company of another entity, the first mentioned entity are related. |
| Representative | a person appointed under Article 16.11 or under section 250D of the Corporations Law. |
| Retiring Member | has the meaning given in Article 0. |
| Seal | the common seal of the Company (if any), and as the context allows, includes a Share Seal. |
| Secretary | the secretary for the time being of the Company, and if there are joint secretaries, any one or more of such joint secretaries. |
| Share | a share in the capital of the Company. |
| Share Seal | a duplicate of the common seal of the Company with the addition on its face of the words "Share Seal" or "Certificate Seal". |
| Sugar | raw sugar, refined sugar, crystal sugar, sugar syrups, inverted syrups, liquid sugar, molasses and any other form of sugar which |

is manufactured.

- Sugar Cane** any plant or part of a plant of the genus *Saccharum* or any hybrid of Sugar Cane.
- Sugar Industry Association:** the Australian Sugar Milling Council, the Queensland Cane Growers Council and the Australian Cane Farmers Association Limited.
- Technology** includes radio, telephone, closed circuit television or other electronic means or telecommunications device for audio or audio-visual communication.
- Transfer Notice** has the meaning given in Article 0.
- Transmittee** a person entitled to a Share because of:
- (a) the death, bankruptcy or mental incapacity of a Member; or
 - (b) a Member being subject to a Vesting Event.
- Vesting Event** in relation to a Share of a Member, the vesting in, or transfer (not being a transfer of a Share in accordance with Article 9) to, a person (other than that Member) of that Share pursuant to:
- (a) any legislation, statute, ordinance, code or other law;
 - (b) any order of a court of competent jurisdiction; or
 - (c) any other method by which securities (as defined in the Corporations Law) may vest in, or be transferred to, a person without that person becoming a Member.

1.2 Interpretation

In this Constitution:

- (a) headings are for convenience only and do not affect meaning; and unless the contrary intention appears:
- (b) words importing the singular number include the plural number and vice versa;
- (c) words importing any gender include all other genders;
- (d) a reference to a person includes a corporation, a partnership, a body corporate, an unincorporated association and a statutory authority;

- (e) where any word or phrase is given a defined meaning any other part of speech or grammatical form in respect of that word or phrase has a corresponding meaning;
- (f) a reference to an Article or a Schedule is to an article or a schedule of this Constitution and a reference in a Schedule to a paragraph is to a paragraph of that Schedule;
- (g) any Schedule is part of this Constitution;
- (h) a reference to this Constitution is to this Constitution (and where applicable any of its provisions) as amended, supplemented or replaced from time to time;
- (i) a reference to any legislation or to any section or provision thereof includes any statutory modification, amendment or re-enactment or any statutory provision substituted for it;
- (j) a reference to a meeting of Members includes a meeting of any class of Members; and
- (k) any power, right, discretion or authority conferred upon any person or groups of persons under this Constitution may be exercised at any time and from time to time.

1.3 Application of Corporations Law

Except so far as a contrary intention appears anywhere in this Constitution:

- (a) section 110B of the Corporations Law is to operate to apply provisions of the Corporations Law in the interpretation of this Constitution so far as they can apply and with such changes as are necessary as if this Constitution were an instrument made under the Corporations Law, but is not to so apply sections 105, 109D, 109X and 109Y;
- (b) an expression used in a particular Part or Division of the Corporations Law which is given a special meaning by any provision of that Part or Division for the purposes of that Part or Division (or any part thereof) has, in any provision of this Constitution which deals with a matter dealt with by that Part or Division (or part thereof), the same meaning as in that Part or Division;
- (c) an expression which is given a general meaning by any provision of the Corporations Law has the same meaning in this Constitution; and
- (d) section 110C of the Corporations Law (which deals amongst other things with severance of invalid provisions) applies in the interpretation and operation of this Constitution as if it was an instrument made under the Corporations Law.

1.4 Inconsistencies

- (a) To the extent that the provisions of this Constitution are inconsistent with the Corporations Law, the Corporations Law will prevail.
- (b) For the purposes of this Constitution, if the provisions of the Corporations Law and the Applicable Law conflict on the same matter, the provisions of the Corporations Law prevail.

1.5 Replaceable rules

Each of the provisions of the sections or sub-sections of the Corporations Law which would but for this Article 1.5 apply to the Company as a replaceable rule in accordance with section 135(1) of the Corporations Law is displaced and does not apply to the Company.

1.6 Constitution subject to Listing Rules

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

- (a) Despite 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 requires 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 that provision, is deemed to contain that provision.
- (e) If the Listing Rules require this Constitution not to contain a provision and it contains that 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.

2. SHARES

2.1 Classes of Shares

The unissued Shares of the Company, on issue, shall be divided into the following classes:

- (a) "G" Class Shares;
- (b) "M" Class Shares.

2.2 Control of Directors

The unissued Shares and all Options are under the control of the Directors who, subject to:

- (a) the Corporations Law;
- (b) the provisions of this Constitution, particularly, Article 2.3; and
- (c) any rights for the time being attached to any special class of Shares,

may, on behalf of the Company:

- (d) allot, issue or otherwise dispose of those unissued Shares to , Growers or Active Millers only, on such terms and conditions, at such times, with such preferred, deferred, qualified or other rights or restrictions (including the right to have any amounts payable to the holder, whether by way of or on account of dividends, repayment of capital or participation in surplus assets or profits of the Company paid in the currency of a country other than Australia), and for such consideration as the Directors think fit; and

- (e) grant Options on such terms and conditions, at such times and for such consideration as the Directors think fit.

2.3 Number of "G" Class and "M" Class Shares

The Directors must use their best endeavours to ensure that at any time the total number of "M" Class Shares issued is not less than 56.9% and not more than 57% of the total number of "G" Class Shares issued.

2.4 Preference shares

The Company may issue any Shares as preference Shares including:

- (a) preference Shares which are liable to be redeemed in a manner permitted by the Corporations Law; and
- (b) preference Shares in accordance with the terms of Schedule 1.

2.5 Effect of Applications for Shares

Where the Company receives an application for a Share signed by or on behalf of the applicant and the Company allots a Share to the applicant as a consequence of that application, the application is to be treated as:

- (a) an agreement by the applicant to accept that Share subject to the terms and conditions on which the Share is allotted;
- (b) a request by the applicant for the Company to enter the applicant's name in the Register in respect of that Share; and
- (c) an agreement by the applicant to become a Member and, subject to the Corporations Law, to be bound by this Constitution on being registered as the holder of that Share.

2.6 Brokerage and commission on subscriptions for unissued Shares

- (a) The Company may pay brokerage or commission to a person in respect of that person or another person agreeing to subscribe for unissued Shares.
- (b) Subject to Article 3, payments by way of brokerage or commission may be satisfied by the payment of cash, by the allotment of fully or partly paid Shares or partly by the payment of cash and partly by the allotment of fully or partly paid Shares.

3. SHARE RIGHTS

3.1 Shareholding Qualifications

- (a) "G" Class Shares shall only be issued to Growers.
- (b) "M" Class Shares shall only be issued to Active Millers.

3.2 Rights and Restrictions attaching to "G" Class Shares

- (a) Subject to Articles 3.2(b) and 15.7, the holder of a "G" Class Share shall have the following rights:
- (i) the right to receive notice of and to attend general meetings of the Company;
 - (ii) the right to receive notice of and to attend class meetings of the "G" Class Shareholders;
 - (iii) in a winding up or reduction of capital of the Company, the right to repayment of the capital paid up thereon and to participate in the distribution of the surplus assets of the Company;
 - (iv) the right to receive dividends as determined from time to time by the Directors; and
 - (v) at any class meeting of "G" Class Shareholders or any general meeting or annual general meeting, to vote in the manner provided in this Constitution.
- (b) The holders of "G" Class Shares are subject to the following restrictions:
- (i) "G" Class Shares do not confer any right to vote on a resolution for the removal from office of a Miller Director or to attend class meetings of the "M" Class Shareholders; and
 - (ii) On a poll at a meeting of Members, no holder of "G" Class Shares, being present in person, or by proxy or attorney or by Representative, may vote more than the number of votes equal to 5% of the total number of "G" Class Shares.

3.3 Rights and Restrictions attaching to "M" Class Shares

- (a) Subject to Articles 3.3(b) and 15.7, the holder of an "M" Class Share shall have the following rights:
- (i) the right to receive notice of and to attend general meetings of the Company;
 - (ii) the right to receive notice of and to attend class meetings of the "M" Class Shareholders;
 - (iii) in a winding up or reduction of capital of the Company, the right to repayment of the capital paid up thereon and to participate in the distribution of the surplus assets of the Company;
 - (iv) the right to receive dividends as determined from time to time by the Directors; and
 - (v) at any class meeting of "M" Class Shareholders or any general meeting or annual general meeting, to vote in the manner provided in this Constitution.
- (b) The holders of "M" Class Shares are subject to the following restrictions:
- (i) "M" Class Shares do not confer any right to vote on a resolution for the removal from office of a Grower Director or to attend class meetings of the "G" Class Shareholders.

3.4 Applications for "G" Class Shares and "M" Class Shares

- (a) An application for "G" Class Shares must be accompanied by evidence establishing to the Directors' reasonable satisfaction that the applicant is a Grower.
- (b) An application for "M" Class Shares must be accompanied by evidence establishing to the Directors' reasonable satisfaction that the applicant is an Active Miller.

- (c) The Directors must refuse an application for Shares if, in the reasonable opinion of the Directors:
- (i) the application, if approved, would result in a breach of Article 2.3;
 - (ii) where the application is for "G" Class Shares, the applicant is not a Grower; or
 - (iii) where the application is for "M" Class Shares, the applicant is not an Active Miller

3.5 Active Miller becoming inactive

- (a) A Member who becomes an Inactive Miller must:-
- (i) dispose of all their "M" Class Shares as soon as practicable after becoming an Inactive Miller; and
 - (ii) immediately notify the Directors in writing that they have become an Inactive Miller.
- (b) The Directors may at any time, by written notice, require a Member to provide a duly signed Member Status Declaration which may be relied upon by the Directors to determine the status of a Member as a Grower or Active Miller. .

3.6 Issue of Transfer Notice

The Directors may require a Member (“**Retiring Member**”) to dispose of all of their Shares within a specified time, by written notice (“**Transfer Notice**”) if:-

- (a) the Directors are satisfied that the Member has become an Inactive Miller; or
- (b) the Member has failed to comply with a notice provided by the Directors under Article (b) or has otherwise failed to provide such information or evidence required by the Directors.

3.7 Non-compliance with Transfer Notice – Appointment of the Board as attorney for sale

If a Retiring Member does not comply with a Transfer Notice, then the Directors are jointly and each of them severally irrevocably appointed by the Retiring Member to be his or her duly appointed agent and attorney for the sale of all Shares held by the Retiring Member with full power to sell, dispose of and complete a sale of the Shares on behalf of the Retiring Member at such price and in such manner and on such terms and conditions as the Directors shall in their absolute discretion think fit and including the execution and delivery in the name of the Retiring Member of a transfer of the Shares to a purchaser and to receive and give a good discharge for the purchase money on behalf of the Retiring Member.

3.8 Effect of transfer notice under Article 3.6

Upon the giving of a Transfer Notice pursuant to Article 0, the Retiring Member shall cease to have any voting rights at any general meeting or class meeting or any ballot conducted by the Company.

3.9 Payment of sale proceeds and recovery of Certificates

The purchase money received on any sale effected under the provisions of this Article 3 less the expenses of sale and any other monies owing by the Retiring Member to the Company shall be paid to the Retiring Member by whom the Shares so sold were held, provided that the Retiring Member has delivered to the Company for cancellation any Certificate in which such Shares were comprised. Failing such delivery, the Company may sue such Member in an action in detinue for the recovery of the Certificate in which such Shares were comprised and the Member shall not in such action deny or dispute the Company's ownership and right in possession to such Certificate.

3.10 Transferee not affected by irregularities

The transferee of Shares sold under this Article 3 is not bound to determine the regularity of the proceedings or the application of the purchase money (if any) and, after the transferee's name has been entered in the Register in respect of those Shares, the validity of the sale or other disposal will not be impeached by any person.

3.11 Person aggrieved by sale

The remedy of any person aggrieved by a sale or other disposal of Shares under this Article 3 will be in damages only and against the Company exclusively.

4. HOLDING STATEMENTS AND CERTIFICATES**4.1 Uncertified holdings and holding statements**

(a) Notwithstanding any other provision of this Constitution, the Directors may determine:-

- (i) not to issue Certificates; or
- (ii) to cancel existing Certificates without issuing any replacement Certificates,

where such practice is not contrary to the Applicable Law .

(b) Where the Directors have made a determination, a Member will be entitled to receive statements of the holdings of Shares of the Member as the Company is required to give pursuant to the Applicable Law. .

4.2 Member's entitlement to Share Certificate

Subject to Article 4.1:

- (a) Every Member will be entitled to one Certificate, or to several Certificates in reasonable denominations, in respect of Shares registered in the Member's name.
- (b) The Company will dispatch Certificates to Members in accordance with the requirements of the Applicable Law. .

4.3 Issuing of Certificates

(a) Any Certificates will:

- (i) be uniquely numbered;
- (ii) contain such information as required by the Corporations Law; and
- (iii) be executed in a manner permitted under the Corporations Law as the Directors may determine.

(b) Subject to Article 4.4, the Company will not charge a fee for issuing Certificates.

4.4 Duplicate Share certificates

(a) If any Certificate is worn out or defaced, then on production of it to the Directors, the Directors may order it to be cancelled and the Company may issue a duplicate of it.

- (b) If any Certificate is lost or destroyed, then on application by the Member in accordance with the Corporations Law, the Company will issue a duplicate of it.
- (c) The Company will issue any duplicate Certificate under this Article 4.4:
 - (i) on the conditions set out in the Corporations Law; and
 - (ii) on payment of a fee (not exceeding that prescribed in the Corporations Law) as the Directors determine.

4.5 Certificate of joint holders

- (a) Any Certificates issued in respect of Shares held jointly by 2 or more persons will be in the same number which would be issued for those Shares if those Shares were held by one person.
- (b) Delivery of a certificate for a Share to any one of several joint holders named on the Register in relation to that Share is deemed to be delivery to all the joint holders.

4.6 Options

This Article 4 applies, with necessary alterations, to Options.

5. REGISTER

5.1 Registered holder absolute owner

Except as required by law, or as otherwise required by this Constitution, the Company:

- (a) is entitled to treat the registered holder of any Share as the absolute owner of that Share; and
- (b) is not bound to recognise any equitable or other claim to, or interest in, that Share on the part of any other person, whether or not the Company has notice of that claim or interest.

5.2 Transferor is holder until transfer registered

A transferor of Shares remains the registered holder of the Shares transferred until the transfer for those Shares is registered and the name of the transferee is entered in the Register in respect of them.

5.3 Closure of Register

The Register may be closed during such time or times as the Directors think fit provided that the Register is not closed for more than 30 days in aggregate in any calendar year.

5.4 Branch registers

- (a) Subject to the Corporations Law and this Constitution, the Directors may, on behalf of the Company, keep a branch register of Members at a place outside the Jurisdiction and may comply with the requirements of any law applying in the place where the branch register is kept.
- (b) Subject to the Corporations Law, the Directors may make provision for the transfer of Shares between the Register and any branch register of Members.

6. CALLS ON SHARES

6.1 Directors' power to make calls

Subject to the Corporations Law, the Directors may, on behalf of the Company:

- (a) make such calls on the Members as the Directors think fit in respect of all or any part of the amount unpaid on Shares held by the Members, unless the conditions of issue of the Shares make that money payable at fixed times; and
- (b) differentiate between the Members as to the amounts of calls to be paid on Shares and as to the times for payment of those calls.

6.2 Notice of call

- (a) Notices of any calls given by the Company must specify the amount of the call, the time and place of payment and the person to whom that call must be paid.
- (b) The Company will give Members at least 10 Business Days notice of any call.
- (c) The non-receipt of a notice of any call by any of the Members will not invalidate the call.

6.3 Terms and time of calls

- (a) Subject to the conditions of issue of a Share, a call may be made payable by instalments.
- (b) The Directors may revoke or postpone any call.
- (c) A call is deemed to have been made when the Directors resolve to make the call.

6.4 Payment of calls

- (a) Subject to Article 6.4(b), each Member will pay the amount of every call so made on the Member to the persons and at the times and places specified in the notice of the call.
- (b) If, by the terms of issue of any Share or otherwise, any amount unpaid on that Share is made payable at any fixed time or by instalments at fixed times, every such amount or instalment will be payable as if it were a call duly made by the Directors.
- (c) In this Constitution, a reference to a call includes an amount unpaid on Shares referred to in Article 6.4(b).

6.5 Interest on unpaid calls

- (a) If the sum payable in respect of any call is not paid on or before the date appointed for its payment, the holder of the Share in respect of which the call has been made will pay interest at the Prescribed Rate on the sum payable from the date appointed for payment to the time of the actual payment.
- (b) The Directors may waive payment of interest under Article 6.5(a) in whole or in part.

6.6 Liability of joint holders for calls

The joint holders of a Share are jointly and severally liable for the payment of all calls due in respect of that Share.

6.7 Proof of liability for calls

On the trial or hearing of any action for the recovery of any money due for any call:

- (a) proof that:
 - (i) the name of the Member sued is entered in the Register as the holder or one of the holders of the Shares in respect of the call; and
 - (ii) subject to Article 6.4(b), the resolution making the call is duly recorded in the minute book and notice of the call was duly given to the Member sued,

will be conclusive evidence of the debt due in respect of a call; and
- (b) it will not be necessary to prove the appointment of the Directors who made the call or any other matter.

6.8 Payment of calls in advance

- (a) The Company may accept from any Member an amount representing all or any part of the amount unpaid on the Shares held by the Member beyond the amount actually called for.
- (b) The Company may pay interest on any advance payment pursuant to Article 6.8(a) to the extent that the amount paid for the time being exceeds the amount of the calls made on the Shares in respect of which the advance payment is made. The interest rate is to be agreed between the Directors and the Member who makes the advance payment.
- (c) The amount paid in advance pursuant to Article 6.8(a) will not confer a right to participate in a dividend determined to be paid or otherwise to participate in profits of the Company for the period before the date when the amount advanced would, but for such payment, have become payable.
- (d) The Directors may repay the amount advanced pursuant to Article 6.8(a) upon giving to the Member at least 14 days notice in writing.

7. FORFEITURE

7.1 Notice to pay calls and interest

If any Member fails to pay any call on or before the date for its payment, the Directors may, at any time after that date while any part of the call remains unpaid, serve a notice on such Member requiring the Member to pay the call together with any interest that may have accrued and all expenses that may have been incurred by the Company by reason of the non-payment.

7.2 Form of notice to pay calls and interest

A notice under Article 7.1 must:

- (a) specify a date being not less than 10 Business Days from the date of the notice and a place or places on and at which the call, interest, and expenses are to be paid; and

- (b) state that if payment is not made at or before the time and at the place appointed, the Shares in respect of which the call was made will be liable to be forfeited.

7.3 Failure to comply with notice

- (a) If the requirements of any notice under Article 7.1 are not complied with, the Directors may by resolution, at any time after the date specified in the notice but before payment of all calls, interest and expenses due in respect of the Shares the subject of the notice, forfeit all or any of those Shares.
- (b) Forfeiture will include all dividends determined to be paid in respect of the forfeited Shares and not actually paid before the forfeiture.

7.4 Notice of forfeiture

- (a) When any Share has been forfeited, the Company must:
 - (i) give notice of the forfeiture to the Member in whose name it stood immediately before the forfeiture; and
 - (ii) make an entry of the forfeiture with the date of forfeiture in the Register.
- (b) A failure by the Company to give notice or to make an entry as specified in Article 7.4(a) will not invalidate the forfeiture in any way.

7.5 Sale or reissue of forfeited Shares

Subject to the provisions of this Constitution and in particular Article 2.3, the Directors may on behalf of the Company sell, otherwise dispose of or reissue a Share which has been forfeited on such terms and in such manner as the Directors think fit and, in the case of reissue, with or without any money paid on the Share by any former holder being credited as paid up.

7.6 Cancellation of forfeiture

Where any Share has been forfeited, the Directors may on behalf of the Company, at any time before a sale, disposition or reissue of the Share, cancel the forfeiture on such terms as the Directors think fit.

7.7 Company may receive consideration

Subject to Article 7.5, the Company may receive the consideration (if any) given for a forfeited Share on any sale, disposition or reissue of the Share.

7.8 Previous holder's position

- (a) Any Member whose Shares have been forfeited ceases to be a Member in respect of the forfeited Shares.
- (b) Notwithstanding Article 7.8(a) but subject to Article 7.8(d), a Member whose Shares have been forfeited remains liable to pay to the Company, all calls, interest and expenses owing on or in respect of those Shares at the time of forfeiture, together with interest on such amounts from the time of forfeiture until payment at the Prescribed Rate.
- (c) The Directors have the discretion to determine whether, on behalf of the Company, to enforce the payment of all or any part of the amounts referred to in Article 7.8(b).

- (d) The Company may by ordinary resolution passed at a general meeting release a Member from the liability to pay any amount referred to in Article 7.8(b).

7.9 Proof of due forfeiture

A certificate in writing from the Company signed by 2 Directors or one Director and the Secretary that:

- (a) a call in respect of any Shares was made;
- (b) notice of the call was served;
- (c) default in payment of the call was made; and
- (d) forfeiture of the Shares was made by resolution of the Directors to that effect,

will be prima facie evidence of the facts stated in such certificate as against all persons claiming to be entitled to those Shares and of the right and title of the Company to dispose of them.

8. LIENS

8.1 Company's lien for calls

- (a) The Company has a first and paramount lien on:
 - (i) the Shares registered in the name of the Member, whether solely or jointly with others;
 - (ii) the proceeds of sale of those Shares; and
 - (iii) all dividends from time to time determined to be payable in respect of those Shares,
 for:
 - (iv) each unpaid call or instalment which is due but unpaid on those Shares;
 - (v) all amounts which the Company is required by law to pay, and has paid, in respect of those Shares (including any payment under Article 8.2) or the forfeiture or sale of those Shares; and
 - (vi) interest and expenses incurred by the Company because any of the abovementioned amounts is not paid by the holder of those Shares.
- (b) Unless otherwise agreed, the registration of a transfer of Shares will operate as a waiver of the Company's lien (if any) on those Shares.

8.2 Payments by the Company on Member's behalf

If any law of any country, state or place imposes or purports to impose any immediate or future liability upon the Company to make any payment or empowers any government or taxing authority or governmental official to require the Company to make any payment:

- (a) in respect of Shares held solely or jointly;
- (b) in respect of a transfer or transmission of Shares by a Member;
- (c) in respect of dividends, bonuses or other money due or payable or which may become due and payable to a Member; or

- (d) otherwise for or on account of or in respect of a Member;

whether as a consequence of:

- (e) the death of that Member;
- (f) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that Member or the Personal Representative of that Member;
- (g) the non-payment of any estate, probate, succession, death, stamp or other duty by that Member or the Personal Representative of that Member; or
- (h) any other act or thing;

then, in addition to any right or remedy that law may confer on the Company:

- (i) the Member or, if the Member is deceased, the Member's Personal Representative, will:
- (i) fully indemnify the Company against that liability;
- (ii) reimburse the Company for any payment made under or as a consequence of that law immediately on demand by the Company; and
- (iii) pay interest from the date the Company makes a payment under or as a consequence of that law until the date the Company is reimbursed for that payment at the Prescribed Rate;
- (j) the Company may recover, as a debt due from that Member or from that Member's Personal Representative, any money payable to the Company under this Article 8.2; and
- (k) the Company may refuse to register a transfer of any Shares by that Member or that Member's Personal Representative until all money payable to the Company under this Article 8.2 has been paid.

8.3 Recovery by Company of amount paid on Member's behalf

All amounts paid or to be paid under Article 8 may be:

- (a) deducted by the Company from any money payable by the Company to that Member or that Member's Personal Representative (as the case may be) in respect of those Shares; or
- (b) recovered by the Company by action or otherwise from the Member or the Member's Personal Representative (as the case may be).

8.4 Enforcement of liens by sale

- (a) Subject to this Article 8.4, for the purpose of enforcing any lien, the Directors may, on behalf of the Company, sell the Shares subject to the lien in such manner as the Directors think fit.
- (b) Subject to Article 8.2, no sale of Shares subject to a lien will be made until:
- (i) notice in writing of the intention to sell has been served on the Member or the Member's Personal Representative (as the case may be); and

- (ii) the Member or the Member's Personal Representative has defaulted in the payment, fulfilment or discharge of the debts or liabilities giving rise to the lien for 10 Business Days after service of that notice.

8.5 Application of proceeds of sale, other disposal or reissue

- (a) The proceeds of any sale, other disposal or reissue of any Shares pursuant to Article 7 or this Article 8 will be applied in payment of:

- (i) first, the expenses of the sale, other disposal or reissue;
- (ii) second, any expenses necessarily incurred in respect of the forfeiture, enforcement of a lien on the sale, other disposal or reissue; and
- (iii) third, the calls, interest, expenses, money paid or liabilities due and unpaid,

and the residue (if any) will be held on trust by the Company until paid to the Member or the Member's Personal Representative or assigns (as the case requires) or as such person directs in writing.

- (b) The Company will so pay the residue (if any) referred to in Article 8.5(a) within 5 Business Days of the Company receiving the Certificate that relates to the forfeited Shares or such other satisfactory evidence as the Company may require relating to ownership of the forfeited Shares.

8.6 Execution of transfer of Shares sold

On any sale or other disposal after forfeiture under Article 7, or on enforcing a lien in purported exercise of the powers in this Article 8, the Directors may:

- (a) appoint a person to effect a transfer of the Shares sold or otherwise disposed of and such person will have authority to do all such things as may be necessary or appropriate for it to do to effect the transfer; and
- (b) cause the transferee's name to be entered in the Register in respect of the Shares sold or otherwise disposed of.

8.7 Transferee's title

- (a) The title of the transferee to the Shares sold under Article 7 or this Article 8 is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the Share.
- (b) The transferee of Shares sold under Article 7 or this Article 8 is not bound to determine the regularity of the proceedings or the application of the purchase money (if any) and, after the transferee's name has been entered in the Register in respect of those Shares, the validity of the sale or other disposal will not be impeached by any person.
- (c) The remedy of any person aggrieved by a sale or other disposal of Shares under Article 7 or this Article 8 will be in damages only and against the Company exclusively.

8.8 Exemption from lien

The Directors, on behalf of the Company, may at any time exempt any Share wholly or in part from the provisions of this Article 8.

9. TRANSFER OF SHARES

9.1 Electronic Transfer Systems

The Company may do any act, matter or thing permitted under the Applicable Law to facilitate involvement by the Company in any clearing and settlement facility provided under the Applicable Law for the transfer of securities.

9.2 Forms of transfer

- (a) Subject to this Constitution, a Member may transfer any Shares it holds by:
 - (i) a proper ASTC transfer;
 - (ii) a written instrument of transfer in any usual form;
 - (iii) or in any other form approved by the Directors, that is otherwise permitted by the Applicable Law
- (b) Except as permitted by the Listing Rules, a Member must not dispose of restricted securities during the escrow period for those securities.

9.3 Registration process

The following provisions apply to instruments of transfer referred to in Article 9.2(a)(ii):

- (a) the instrument will be signed by, or executed by or on behalf of:
 - (i) the transferor; and
 - (ii) if required by the Company, the transferee;
- (b) the instrument of transfer will be left at the place where the Register is kept and must be accompanied by :-
 - (i) such evidence as the Directors may from time to time require to prove the transferor's title to, or right to transfer, the Shares; and
 - (ii) a duly executed Member Status Declaration.
- (c) any instrument of transfer which the Directors shall decline to register shall be returned to the person depositing it except in the case of fraud.

9.4 Refusal to register transfers

- (a) Subject to Article 9.3(c), the Directors will refuse to register any transfer of Shares where:
 - (i) the Corporations Law requires the Company to do so;
 - (ii) the Shares are "G" Class Shares and the transferee has not provided a duly executed Member Status Declaration;
 - (iii) the Shares are "M" Class Shares and the transferee has not provided a duly executed Member Status Declaration;
 - (iv) in the opinion of the Directors, the transfer, if registered, will in the reasonable opinion of the Directors result in a breach of Article 2.3;
- (b) The Directors may, in their absolute discretion, refuse to register any transfer of Shares where:

- (i) the Directors have required the transferee of the Shares or an authorised officer of the transferee to complete a statutory declaration stating that the transferee is financially able to meet any unpaid liability in respect of the Shares the subject of the transfer and the declaration has not been received by the Company;
- (ii) the Company has a lien on any of the Shares; or
- (iii) registration of the transfer may contravene a law or a court order which applies to any of the Shares or the Member transferring the Shares.

9.5 Directors to register transfers

Subject to Articles 5.3, 8.2(k), 9.3 and 9.4, the Directors will not refuse to register or fail to register or give effect to a transfer of Shares. Subject to the ATSC Operating Rules, a person transferring a Share remains the registered holder of that Share until the transfer for that Share is registered and the name of the person to whom the Share is being transferred is entered in the register as the holder of that Share.

9.6 Notice of refusal to register

- (a) Where the Directors refuse to register a transfer of Shares under Article 9.4, the Company will give written notice of the refusal to the transferee within 1 month after the date on which the transfer was lodged with the Company.
- (b) A failure by the Company to give notice under Article 9.6(a) will not invalidate the refusal to register the transfer in any way.

9.7 Retention of transfers by Company

- (a) All instruments of transfer of Shares which are registered will be retained by the Company for a period of one year.
- (b) Except in the case of fraud, any instrument of transfer of Shares which the Directors decline or refuse to register will, on demand, be returned to the transferee.

9.8 Powers of attorney

Any power of attorney granted by a Member empowering the donee to transfer Shares which may be lodged, produced or exhibited to the Company or any Officer of the Company:

- (a) will be taken and deemed to continue and remain in full force and effect as between the Company and the grantor of that power; and
- (b) may be acted on until express notice in writing that it has been revoked or notice of the death of the grantor has been given and lodged at the Office or at the place where the Register is kept.

9.9 No fees for registering transfers

The Company will not charge a fee for registering transfers of Shares in registrable form.

10. TRANSMISSION OF SHARES

10.1 Title to Shares of deceased Member and deceased joint holder

- (a) When a Member (not being one of several joint holders) dies, the Company will recognise only the Personal Representative of that Member as having any title to or interest in the Shares registered in the name of that Member or any benefits accruing in respect of those Shares.
- (b) When a Member (being any one or more of the joint registered holders of any Shares) dies, the Company will recognise only the surviving joint registered holders of those Shares as having any title to or interest in or any benefits accruing in respect of those Shares.
- (c) Nothing in this Constitution will be taken to release the estate of a deceased Member from any liability.
- (d) Where 2 or more persons are jointly entitled to any Share in consequence of the death of the registered holder of that Share, for the purpose of this Constitution they will be deemed to be joint holders of that Share.

10.2 Title to Shares on transmission event

- (a) Subject to the Bankruptcy Act 1966 and the Corporations Law, a Transmittree who gives the Directors the information they reasonably require to establish the Transmittree's entitlement to be registered as the holder of any Shares may:
 - (i) elect to be registered as a Member in respect of those Shares, if otherwise eligible to hold Shares in the Company, by giving a signed notice in writing to the Company; or
 - (ii) transfer those Shares to another person eligible to hold Shares under this Constitution.
- (b) A notice or transfer under Article 10.2(a) is subject to all provisions of this Constitution relating to transfers of Shares as if the event giving rise to the Transmittree's entitlement to the Shares had not occurred and the notice or transfer was a transfer signed by that Member.
- (c) If the Company has acted in good faith in registering a Transmittree or the transferee of a Transmittree under this Article 10.2, that person will indemnify the Company to the extent of any loss or damage suffered by the Company as a result of such registration.

10.3 Rights of Transmittree

- (a) Subject to Article 10.3(b), a Transmittree who has given to the Directors the information referred to in Article 10.2(a) is entitled to the same rights to which the Transmittree would be entitled if registered as the holder of the Share.
- (b) Subject to the Corporations Law, a Transmittree will not be entitled in respect of a Share to exercise any right conferred by membership in relation to general meetings or meetings of Members in respect of that Share until the Transmittree is registered as a holder of the Share.

11. ALTERATION OF CAPITAL

11.1 Converting shares

The Company may by ordinary resolution passed by both "G" Class Shareholders and "M" Class Shareholders at a general meeting convert all or any of its Shares into a larger or smaller number of Shares provided that Article 2.3 is complied with.

11.2 Reductions of capital

- (a) Subject to the Corporations Law, the Company may reduce its share capital in any manner.
- (b) Without limiting the generality of Article 11.2(a), the Company when reducing its share capital may resolve that such reduction be effected wholly or in part by the distribution of specific assets (whether held in the name of the Company or in the name of any wholly owned subsidiary of the Company) and in particular Paid Up Shares, Debentures in any other Corporation or in any one or more of such ways.
- (c) Where the Company pursuant to a reduction of its share capital distributes to its Members shares in another Corporation:
 - (i) the Members will be deemed to have agreed to become members of that Corporation; and
 - (ii) each of the Members appoint the Company or any of the Directors as its agent to execute any transfer of shares or other document required to effect the distribution of shares to that Member.

11.3 Power to buy-back Shares

Subject to the Corporations Law and Article 2.3, the Company may buy Shares in itself on terms and at times determined by the Directors.

11.4 Cancelling Shares

Subject to Article 2.3, the Company may by ordinary resolution passed at a general meeting cancel Shares that have been forfeited under the terms on which the Shares are on issue.

12. VARIATION OF CLASS RIGHTS

12.1 Consent or special resolution of Members in class

If at any time the share capital is divided into different classes of Shares, the rights attached to any class may be varied or cancelled, unless otherwise provided by this Constitution or by the terms of issue of the Shares of that class:

- (a) with the consent in writing of holders of the Shares included in that class who are entitled to at least 75% of the votes that may be cast in respect of those Shares; or
- (b) by a special resolution passed at a separate class meeting of the holders of the Shares included in that class.

12.2 No variation of rights of preference Shares

If the Company issues any new preference Shares that rank equally with an existing class of preference Shares, the issue of the new preference Shares is not a variation of the rights attaching to the existing preference Shares unless otherwise expressly provided by the terms of issue of the existing preference Shares.

13. MEETINGS OF MEMBERS

13.1 Calling meetings of Members

- (a) The Directors may call a meeting of Members whenever they think fit.
- (b) The Directors will call and arrange to hold a general meeting on the request of Members made in accordance with the Corporations Law.
- (c) The Members may call and arrange to hold a general meeting as provided by the Corporations Law.

13.2 Annual general meetings

Where the Corporations Law requires the Company to hold annual general meetings, the Company will hold those annual general meetings in accordance with the Corporations Law.

13.3 Calling of class meetings by Directors when requested by Members

- (a) The Directors will call and arrange to hold a class meeting:
 - (i) of the holders of "G" Class Shares on the request of:
 - A. Members with at least 5% of the total number of "G" Class Shares; or
 - B. at least 100 Members who are entitled to vote at the class meeting.
 - (ii) of the holders of "M" Class Shares on the request of:
 - A. Members with at least 10% of the total number of "M" Class Shares; or
 - B. at least 3 Members who are entitled to vote at the class meeting.
- (b) The request must:
 - (i) be in writing; and
 - (ii) state any resolution to be proposed at the meeting; and
 - (iii) be given to the Company.
- (c) Separate copies of a document setting out the request may be used for signing by Members if the wording of the request is identical in each copy.
- (d) The percentage of votes that Members have is to be worked out as at the midnight before the request is given to the Company.
- (e) The Directors must call the meeting within 21 days after the request is given to the Company. The meeting is to be held not later than 2 months after the request is given to the Company.

13.4 Failure of Directors to call class meeting

- (a) Members with more than 50% of the votes of all of the Members who make a request under Article 13.3 may call and arrange to hold a class meeting if the Directors do not do so within 21 days after the request is given to the Company.

- (b) The class meeting must be called in the same way – so far as is possible – in which general meetings of the Company may be called. The meeting must be held not later than 3 months after the request is given to the Company.
- (c) To call the class meeting the Members requesting the meeting may ask the Company for a copy of the Register and the Company must give the Members the copy of the Register without charge.
- (d) The Company must pay the reasonable expenses the Members incurred because the Directors failed to call and arrange to hold the class meeting. The Company may recover the amount of the expenses from the Directors, however a Director is not liable for the amount if they prove that they took all reasonable steps to cause the Directors to comply with Article 13.3. The Directors who are liable are jointly and individually liable for the amount. If a Director who is liable for the amount does not reimburse the Company, the Company must deduct the amount from any sum payable as fees to, or remuneration of, the Director.

13.5 Calling of class meetings by Members

- (a) Members with at least 5% of the total number of "G" Class Shares may call, and arrange to hold, a class meeting.
- (b) Members with at least 10% of the total number of "M" Class Shares may call, and arrange to hold, a class meeting.
- (c) The Members calling a class meeting must pay the expenses of calling and holding the meeting.
- (d) A class meeting must be called in the same way – so far as possible – in which general meetings of the Company may be called.
- (e) The percentage of votes that Members have is to be worked out as at the midnight before the meeting is called.

13.6 Holding of class meetings

Except as otherwise specifically provided in this Constitution, a class meeting must be held in the same way - so far as possible - in which general meetings of the company may be held.

13.7 Meeting of Members to be called by Notice

- (a) The Company calls a meeting of Members by giving Prescribed Notice of the meeting in writing to each Member entitled to vote at the meeting, in a manner authorised by Article 32.1 and in accordance with the Corporations Law.
- (b) Prescribed Notice of every meeting of Members must also be given in a manner authorised by Article 32.1 and in accordance with the Corporations Law to:
 - (i) every Member;
 - (ii) every Director; and
 - (iii) the auditors of the Company.
- (c) Subject to the Corporations Law, no person other than those specified in this Article 13.7 is entitled to receive notices of meetings of Members.

13.8 Contents of notice

A notice of a meeting of Members will:

- (a) set out the place, date and time of the meeting (and, if the meeting is to be held in 2 or more places, the Technology that will be used to facilitate this);
- (b) subject to the Corporations Law, state the general nature of the business of the meeting;
- (c) if a special resolution is to be proposed at the meeting, set out the intention to propose the special resolution and state the resolution;
- (d) in the case of an election or proposed appointment of Industry Directors pursuant to Articles 17.3 or 18.5, set out the names of the candidates for election or appointment;
- (e) if the purpose of the meeting is to remove a Director, set out the name of the Director to be removed and the name of the successor, if any, to be proposed for appointment;
- (f) if a Member is entitled to appoint a proxy, contain a statement that:
 - (i) the Member has a right to appoint a proxy;
 - (ii) the proxy of a Member does not need to be a Member; and
 - (iii) a Member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of the Member's votes each proxy is entitled to exercise;
- (g) set out or include any additional information or documents specified by the Corporations Law; and
- (h) enclose the Member Status Form and advise Members of the requirements of clause 15.7.

13.9 Failure to give notice

Subject to the Corporations Law, the accidental omission to give notice of any meeting of Members to, or the non-receipt of that notice by, any of the Members will not invalidate any resolution passed at that meeting.

13.10 Notice of adjourned meeting in certain circumstances only

- (a) Whenever a meeting of Members is adjourned for less than the Prescribed Period, no further notice of the time and place of the adjourned meeting need be given.
- (b) Whenever a meeting of Members is adjourned for at least the Prescribed Period, at least 3 days notice of the time and place of the adjourned meeting will be given to Members.

13.11 Persons entitled to attend meetings of Members

- (a) All Members are entitled to attend meetings of Members as well as any other persons entitled to attend under the Corporations Law.
- (b) Subject to this Constitution, each Director is entitled to attend and speak at all meetings of Members.

- (c) The chairperson of a meeting of Members may require any person to leave and remain out of any such meeting who, in the opinion of the chairperson, is not complying with his or her reasonable directions.

13.12 Postponement or cancellation of meeting

The Directors may whenever they think fit postpone or cancel any meeting of Members other than a meeting called as a result of a request under Article 13.1(b) or 13.3(a).

13.13 Meeting of Members at more than one place

- (a) A meeting of Members called in accordance with this Constitution may be held in 2 or more separate meeting places linked together by an instantaneous audio-visual communication device or any other Technology which, by itself or in conjunction with other arrangements:
- (i) gives the Members as a whole in the separate meeting places a reasonable opportunity to participate in proceedings;
 - (ii) enables the chairperson to be aware of proceedings in each such place; and
 - (iii) enables the Members in each such place to vote on a show of hands and on a poll.
- (b) A Member present at one of the separate meeting places is taken to be present at the meeting of Members and entitled to exercise all rights which the Member is granted under this Constitution.
- (c) Where a meeting of Members is held in 2 or more separate places pursuant to Article 13.13(a), that meeting will be deemed to have been held at one of those places as is determined by the chairperson of the meeting.

14. PROCEEDINGS AT MEETINGS OF MEMBERS

14.1 Business of annual general meeting

The business of an annual general meeting is:

- (a) to receive and consider the annual financial report and any other accounts, reports and statements as are required to be laid before the meeting;
- (b) to elect Directors;
- (c) to determine the remuneration of the Directors; and
- (d) to transact any other business which under this Constitution or the Corporations Law is required to be or may be transacted at an annual general meeting.

14.2 Special business

- (a) All business transacted at an annual general meeting other than the matters specified in Article 14.1 and all business transacted at any other meeting of Members will be deemed special business.
- (b) Subject to the Corporations Law, no person may move at any meeting of Members:
 - (i) any resolution (other than a resolution in the same terms as specified in the notice of meeting); or

- (ii) any amendment of a resolution,

in respect of special business, unless the approval of the Directors or the chairperson of the meeting is obtained.

14.3 Quorum

- (a) A quorum for a general meeting of Members is:
 - (i) 10 Eligible Voters in relation to "G" Class Shares who have the right to vote at that meeting; and
 - (ii) 3 Eligible Voters in relation to "M" Class Shares who have the right to vote at that meeting.
- (b) A quorum for a class meeting of Members holding "G" Class Shares is 10 Eligible Voters in relation to "G" Class Shares who have the right to vote at that meeting.
- (c) A quorum for a class meeting of Members holding "M" Class Shares is 3 Eligible Voters in relation to "M" Class Shares who have the right to vote at that meeting.
- (d) For the purposes of determining whether a quorum is present:
 - (i) where a Member appoints more than one proxy or attorney or Representative, only one such proxy, attorney or Representative will be counted; and
 - (ii) a Member who is present in the Member's own capacity and as a proxy, attorney or Representative of another Member will be counted only once.
- (e) No business can be transacted at any meeting of Members unless the requisite quorum is present at the commencement of the meeting.
- (f) If a quorum is present at the beginning of a meeting of Members it is deemed present throughout the meeting unless the chairperson otherwise declares on the chairperson's own motion or at the instance of an Eligible Voter.
- (g) If half an hour after the time appointed for a meeting of Members a quorum is not present:
 - (i) a meeting called by the Directors on a request of Members, or called by the Members as is provided by the Corporations Law, will be dissolved; and
 - (ii) in any other case, the meeting will be adjourned to the date, time and place as the Directors may by notice to the Members appoint, but failing such appointment, then to the same day in the next week at the same time and place as the meeting adjourned.
- (h) If at any adjourned meeting of Members a quorum is not present after half an hour from the time appointed for that adjourned meeting of Members, then the meeting will be dissolved.

14.4 Chairperson

- (a) The chairperson of Directors, or in the chairperson's absence, the deputy chairperson, if any, will preside as chairperson at every meeting of Members.

- (b) If:
- (i) there is no such chairperson or deputy chairperson; or
 - (ii) at any meeting of Members neither the chairperson nor the deputy chairperson is present within 15 minutes of the time appointed for holding the meeting or willing to act as chairperson for all or part of that meeting,
- the Director or Directors present may choose another Director as chairperson of the meeting of Members or part of that meeting (as the case may be).
- (c) If no Director is present or if all Directors present decline to act as chairperson of all or part of a meeting of Members, the Members present may choose one of their number to be chairperson of that meeting or part of that meeting (as the case may be).
- (d) In the case of an equality of votes at any meeting of Members, the chairperson of the meeting has a casting vote both on a show of hands and on a poll, in addition to any votes to which the chairperson is entitled in his or her capacity as an Eligible Voter.

14.5 Voting to be by show of hands or poll

- (a) At any meeting of Members a resolution put to the vote of the meeting will be decided on a show of hands unless:
- (i) before a vote is taken; or
 - (ii) before or immediately after the declaration of the result of the show of hands,
- a poll is demanded:
- (iii) by the chairperson;
 - (iv) by at least 5 Members, present in person or by proxy or attorney or by a Representative, having the right to vote at the meeting; or
 - (v) by any Member or Members, present in person or by proxy or attorney or by a Representative, who are together entitled to at least 1% of the votes that may be cast on that resolution on a poll.
- (b) No poll will be demanded on any resolution concerning the election of a chairperson of a meeting or the adjournment of any meeting.

14.6 Questions decided by majority

Subject to the requirements of the Corporations Law in relation to special resolutions and subject to the provisions of this Constitution, particularly Articles 14.7, 14.8 and 14.9, a resolution will be taken to be carried if more votes are cast in favour of the resolution than against it.

14.7 Further requirement for Amendment to Constitution

A special resolution for the modification or repeal of this Constitution, or any provision of this Constitution, will not have any effect unless the resolution is also passed by at least:

- (a) 75% of the votes cast by Eligible Voters in relation to "G" Class Shares and provided that that 75% of votes has been cast by Eligible Voters representing the holders of at least 20% of the "G" Class Shares; and
- (b) 75% of the votes cast by Eligible Voters in relation to "M" Class Shares.

14.8 Disposal of substantial assets

A proposal for the disposal of a substantial proportion of the Company's assets cannot be actioned by the Company unless the proposal is passed by a special resolution of the Members at a meeting of Members and is also passed by at least 75% of the votes cast by Eligible Voters in relation to "G" Class Shares and 75% of the votes cast by Eligible Voters in relation to "M" Class Shares.

14.9 Additional requirement for matters determined by Directors

An ordinary resolution passed at a general meeting of Members will not have any effect unless it is also passed by at least 50% of the votes cast by Eligible Voters in relation to "G" Class Shares and 50% of the votes cast by Eligible Voters in relation to "M" Class Shares, if:

- (a) the Directors have resolved prior to the general meeting that the matter is of such importance that it should also be passed by the both the Eligible Voters in relation to "G" Class Shares and the Eligible Voters in relation to "M" Class Shares; and
- (b) the notice of the general meeting:
 - (i) sets out the Directors' resolution made under this Article 14.9(a) and the Directors' reasons for making that resolution;
 - (ii) sets out in full the resolution to be proposed at the general meeting; and
 - (iii) states that this Article requires that the matter be passed by both the Eligible Voters in relation to "G" Class Shares and the Eligible Voters in relation to "M" Class Shares.

14.10 Declaration by chairperson of resolution's result

A declaration by the chairperson of a meeting of Members that a resolution has on a show of hands been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the book of proceedings of the Company will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

14.11 Conduct of poll

- (a) If a poll has been demanded under this Article 14, it will be taken:
 - (i) in such manner and at such time and place as the chairperson directs; and
 - (ii) either at once or after an interval or adjournment or otherwise.
- (b) The result of the poll will be deemed to be the resolution of the meeting of Members at which the poll was demanded.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll will not prevent the continuance of the meeting or the transaction of any business other than the resolution on which a poll has been demanded.

14.12 Adjournment of meetings of Members

- (a) The chairperson must adjourn a meeting of Members from time to time and from place to place or close that meeting if the Eligible Voters with a majority of votes that may be cast at that meeting in each class agree or direct the chairperson to do so.

- (b) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

14.13 General conduct of meetings

- (a) Subject to the Corporations Law, the chairperson will be responsible for the general conduct of meetings of Members and for the procedures to be adopted at meetings of Members.
- (b) The chairperson may make rulings or adjourn a meeting of Members without putting the question (or any question) to the vote if such action is required to ensure the orderly conduct of the meeting.
- (c) The chairperson may require the adoption of any procedures which are, in the chairperson's opinion, necessary or desirable for the proper and orderly casting or recording of votes at any meeting of Members, whether on a show of hands or on a poll.
- (d) The chairperson may determine conclusively any dispute concerning the admission, validity or rejection of a vote at a meeting of Members.
- (e) Persons in possession of visual-recording, pictorial-recording or sound-recording devices or placards, banners or articles considered by the Directors or the chairperson to be dangerous, offensive or liable to cause disruption, or persons who refuse to produce or to permit examination of any articles in their possession or the contents thereof, may be refused admission to any meeting of Members or may be required to leave and remain out of the meeting.
- (f) Nothing contained in this Article 14.13 will be taken to limit the powers conferred on the chairperson by law.

15. VOTES AT MEETINGS OF MEMBERS

15.1 Number of votes

Subject to any special rights or restrictions for the time being attaching to any class of Shares, particularly the restriction on "G" Class Shares in Article 3.2(b) and subject to Articles 15.3, 15.6, 16.8, 16.9, and 16.11:

- (a) on a show of hands at a meeting of Members, every Eligible Voter present has one vote; and
- (b) on a poll at a meeting of Members, every Member, not being a Corporation, present in person or by proxy or attorney, and every Member, being a Corporation, present by a Representative or by proxy or attorney, has one vote for each Share that Member holds but:
 - (i) if at any time there is on issue any Share which has not been fully Paid Up that Share on a poll will confer only that fraction of one vote which the amount Paid Up on that Share, excluding any amounts paid up in advance of the applicable due date for payment, bears to the total amounts Paid Up and payable on that Share; and
 - (ii) if the total number of votes to which a Member is entitled on a poll does not constitute a whole number, then the Company will disregard the fractional part of that total.

15.2 Votes of incapacitated Member

If a Member is mentally incapacitated, the person entitled to manage that Member's estate may, subject to Article 10.3(b), exercise any rights of the Member in relation to a meeting of Members as if that person were the Member.

15.3 No vote if call unpaid

Notwithstanding this Article 15, an Eligible Voter will not be entitled to vote on any resolution, whether on a show of hands or on a poll, in respect of any Shares on which any calls due and payable in respect of those Shares have not been paid.

15.4 Objections to qualification to vote

- (a) No objection to the qualification of any person to vote at a meeting of Members will be raised except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at that meeting is valid for all purposes.
- (b) Any objection to the qualification of any person to vote at a meeting of Members made in due time will be referred to the chairperson of the meeting, whose decision, made in good faith, is final and conclusive.

15.5 Vote of joint holders

- (a) Where there are joint registered holders of any Shares, any one of them may vote at any meeting of Members personally, by proxy, by attorney, or by Representative in respect of those Shares as if that person was solely entitled to those Shares.
- (b) If more than one of the joint holders of any Shares is present as an Eligible Voter at any meeting of Members, only the joint holder present whose name stands first in the Register in respect of the Shares is entitled to vote in respect of those Shares as an Eligible Voter.
- (c) For the purposes of this Article 15.5, several Personal Representatives of a deceased Member in whose sole name any Shares are registered will be deemed joint holders of those Shares.

15.6 No vote if contrary to Corporations Law

Notwithstanding anything contained in this Constitution to the contrary:

- (a) an Eligible Voter will not be entitled to vote; and
- (b) the Company will disregard any vote purported to be cast by an Eligible Voter,

on a particular resolution where such a vote is prohibited by the Corporations Law.

15.7 No vote without Member Status Declaration

- (a) An Eligible Voter will not be entitled to vote on any resolution, whether on a show of hands or on a poll, unless the Member has executed and provided to the company a Member Status Declaration at -
 - (i) the beginning of the meeting where the vote is to be taken; or

- (ii) if a Member is appointing a proxy, at the time the Member provides the appointment of the proxy to the Company.
- (b) The Directors' or chairperson's decision as to the validity of a Member Status Declaration will be final and binding.

16. PROXIES AND REPRESENTATIVES

16.1 Right to appoint proxy or attorney

- (a) A Member who is entitled to attend and cast a vote at a meeting of Members may appoint a person (whether a Member or not) as the Member's proxy or attorney, as the case may be, to attend and vote for the Member at the meeting.
- (b) If a Member is entitled to cast 2 or more votes at a meeting of Members that Member may appoint 2 proxies or attorneys.
- (c) The appointment of a proxy or attorney by a Member may specify the proportion or number of the Member's votes that the proxy or attorney may exercise.
- (d) Where a Member appoints 2 proxies or attorneys, and the appointment does not specify the proportion or number of the Member's votes that each proxy or attorney may exercise, each such proxy or attorney, as the case may be, may exercise one half of the votes of the Member.
- (e) If the total number of votes to which a proxy or attorney is entitled to exercise does not constitute a whole number, then the Company will disregard the fractional part of such total.
- (f) A proxy or attorney may be appointed for all meetings or for any number of meetings or for a particular purpose.

16.2 Form of proxy or attorney

- (a) An instrument appointing a proxy or attorney:
 - (i) must be in writing executed under the hand of the appointer or of the appointer's attorney duly authorised in writing or, if the appointer is a Corporation, under its common seal (if any) or the hand of its duly authorised attorney or executed in a manner permitted by the Corporations Law;
 - (ii) may contain directions as to the manner in which the proxy or attorney, as the case may be, is to vote in respect of any particular resolution or resolutions; and
 - (iii) subject to the Corporations Law, may otherwise be in such form as the Directors may prescribe or accept.
- (b) A facsimile of a written appointment of a proxy or a power of attorney is valid.
- (c) An appointment of a proxy may be valid notwithstanding that it contains only some of the information required by the Corporations Law.

16.3 Directors or chairperson decide validity

Subject to the Corporations Law, the Directors' or chairperson's decision as to the validity of a proxy or power of attorney or a facsimile thereof will be final and binding.

16.4 Authority conferred on proxy or attorney

Unless otherwise provided in the instrument, an instrument appointing a proxy or attorney will be taken to confer authority:

- (a) to agree to a meeting of Members being called by shorter notice than is required by the Corporations Law or this Constitution;
- (b) to agree to a resolution being proposed and passed at a meeting of Members of which notice of less than the Prescribed Period is given;
- (c) to vote on a show of hands or poll in accordance with the directions (if any) given in the instrument;
- (d) even though the instrument may refer to specific resolutions and may direct the proxy or attorney how to vote on those resolutions:
 - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and
 - (ii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting;
 - (iii) to speak on any proposed resolution on which the proxy or attorney may vote; and
 - (iv) to demand or join in demanding a poll on any resolution on which the proxy or attorney may vote.

16.5 Deposit of power of attorney and proxy form before meeting

An instrument appointing an attorney or a proxy and, the power of attorney or other authority (if any) under which it is signed or a copy of that power or authority certified as a true copy or a facsimile of any of the documents referred to in this Article, must be deposited:

- (a) at such place, fax number or electronic address as is specified in the notice of meeting of the Company to which the proxy or attorney relates; or
- (b) at the Office or a fax number at the Office,

not less than 48 hours before the time scheduled for commencement of the meeting (or any adjournment of that meeting) at which the person named in the instrument intends to vote.

16.6 Vote by proxy valid notwithstanding intervening event

Unless the Company has received written notice not less than 48 hours before the time scheduled for the commencement of the meeting at which a person named in a proxy or power of attorney, as the case may be, intends to vote, a vote cast by that person will, subject to this Constitution, be valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated;

- (c) the Member revokes the proxy or power of attorney;
- (d) the Member revokes the authority under which the person was appointed by a third party; or
- (e) the Member transfers the Shares in respect of which the proxy or power of attorney is given.

16.7 How proxy is to vote

- (a) Any form of proxy sent out by the Company to Members in respect of a proposed meeting of Members will make provision for the Member to indicate whether the Member wishes to vote for or against each resolution.
- (b) A Member may, but need not, specify the manner in which a proxy is to vote on a particular resolution.
- (c) Where a Member does specify how a proxy is to vote on a particular resolution:
 - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote in accordance with that specification;
 - (ii) if the proxy has 2 or more appointments that specify different manners in which a proxy is to vote on the resolution, the proxy must not vote on a show of hands;
 - (iii) if the proxy is the chairperson of the meeting concerned, the proxy must vote in accordance with that specification; and
 - (iv) if the proxy is not the chairperson of the meeting concerned, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote in accordance with that specification.

16.8 Proxy not to vote if Member present

If a Member is present at a meeting of the Company and a proxy or attorney for such Member is also present, the proxy or attorney is not, in respect of the Shares to which the proxy or attorney relates, entitled to speak at the meeting or vote on a show of hands or on a poll.

16.9 When numerous proxies are present

If more than one proxy or attorney for a Member is present at a meeting of the Company then:

- (a) none of them will be entitled to vote on a show of hands; and
- (b) on a poll the vote of each one is of no effect where each such person is appointed to exercise:
 - (i) a specified number of the Member's votes and such numbers in aggregate exceed the total number of votes that could be cast by the Member; or
 - (ii) a specified proportion of the Member's votes and such proportions in aggregate exceed 100%.

16.10 Failure to name appointee

Any instrument of proxy in which the name of the appointee is not filled in will be deemed to be given in favour of the chairperson or such other person as is nominated by the Directors in the instrument of proxy or the notice calling the meeting of Members to which the proxy relates.

16.11 Appointment of Representative by Corporation

- (a) Any Corporation which is a Member may appoint an individual (either by name or position and whether a Member or not) as its representative to exercise all or any of the powers the Corporation may exercise:
 - (i) at a meeting of Members; or
 - (ii) relating to resolutions to be passed without a meeting of Members.
- (b) A Representative may be appointed for all meetings of Members or for any number of such meetings.
- (c) The appointment of a Representative by a Corporation may set out restrictions on the Representative's powers.
- (d) A Corporation may appoint more than one Representative but only one Representative may exercise that Corporation's powers at any one time.
- (e) Unless otherwise specified in the appointment, a Representative acting in accordance with his or her authority until it is revoked by the Corporation, is entitled to exercise the same powers on behalf of that Corporation as that Corporation could exercise at a meeting or in voting on a resolution.
- (f) A certificate signed by the Corporation or such other document as the chairperson of the meeting in his or her sole discretion considers sufficient will be prima facie evidence of the appointment, or of the revocation of the appointment, as the case may be, of a Representative.

17. DIRECTORS: APPOINTMENT AND REMOVAL

17.1 Number of Directors

- (a) Subject to Article 17.1(b), the Company must at all times have a least 5 and not more than 10 Directors.
- (b) The Company in general meeting may by ordinary resolution:
 - (i) increase or reduce the maximum or minimum number of Directors, provided that the minimum will not be less than 3;
 - (ii) increase or reduce the number of directors to be appointed by the holders of any class of Shares under Article 17.3 provided there is always the same number of Grower Directors as there is Miller Directors; and
 - (iii) increase or reduce the number of Independent Directors to be appointed by the Directors under Article 17.5.
- (c) The number of Grower Directors and the number of Miller Directors must be equal.

17.2 First Directors

- (a) The First Directors of the Company will be:-
 - (i) Geoffrey Edmund Mitchell;
 - (ii) Harold Rosario Bonanno;
 - (iii) Warren Alfred Martin;
 - (iv) John Anthony Desmarchelier;
 - (v) Michael Douglas Brown.

- (b) The First Directors must nominate whether a First Director is to be a Grower Director, a Miller Director or an Independent Director. The nomination must relate to each of the First Directors and consist of 2 Grower Directors, 2 Miller Directors and 1 Independent Director. Such a nomination will have the following effect for the purposes of this Constitution:-
- (i) A First Director nominated to be a Grower Director will be deemed to be a Grower Director;
 - (ii) A First Director nominated to be a Miller Director will be deemed to be a Miller Director; and
 - (iii) A First Director nominated to be an Independent Director will be deemed to be an Independent Director.
- (c) The Directors must ensure that the first term of appointment of each of the First Directors is such that:-
- (i) 1 Grower Director and 1 Miller Director must retire at the annual general meeting held in the year 2002;
 - (ii) 1 Grower Director and 1 Miller Director must retire at the annual general meeting held in the year 2003; and
 - (iii) The Independent Director must retire at the annual general meeting held in the year 2004.

17.3 Appointment of Industry Directors

- (a) Subject to the provisions of this Constitution, particularly Articles 17.1(c) and 18.6, the holder or holders of "G" Class Shares may, by an ordinary resolution passed at either a class meeting of the holders of "G" Class Shares or at a general meeting of Members, appoint any person:
- (i) as a new Director; or
 - (ii) as a Director to fill a Director's office that has been vacated by a Grower Director.
- (b) Subject to the provisions of this Constitution, particularly Articles 17.1(c) and 18.6, the holder or holders of "M" Class Shares may, by an ordinary resolution passed at either a class meeting of the holders of "M" Class Shares or at a general meeting of Members, appoint any person:
- (i) as a new Director; or
 - (ii) as a Director to fill a Director's office that has been vacated by a Miller Director.
- (c) Where a Director is appointed by the holders of "G" Class Shares or "M" Class Shares pursuant to Article 17.3(a) or 17.3(b), the resolution to appoint the Directors takes effect on delivery of a notice of the appointment to the Secretary.
- (d) Directors appointed pursuant to this Article 17.3 will be subject to retirement by rotation in accordance with Article 18.

17.4 Removal of Industry Directors

- (a) Subject to the provisions of this Constitution, the Members may, by an ordinary resolution at a general meeting, remove a Director before the end of the Director's period of office provided that:
- (i) if the resolution is to remove a Grower Director, that the resolution is also passed by at least 50% of the votes cast by Eligible Voters who hold "G" Class Shares; or

- (ii) if the resolution is to remove a Miller Director, that the resolution is also passed by at least 50% of the votes cast by Eligible Voters who hold "M" Class Shares.
- (b) Subject to the provisions of this Constitution, the holder or holders or a majority of "G" Class Shares may remove a Grower Director by an ordinary resolution at a class meeting of holders of "G" Class Shares.
- (c) Subject to the provisions of this Constitution, the holder or holders or a majority of "M" Class Shares may remove a Miller Director by an ordinary resolution at a class meeting of holders of "M" Class Shares.
- (d) Where a Director is removed under this Article 17.4, the resolution to remove the Director does not take effect until a resolution appointing the Director's successor becomes effective.
- (e) Notice of the intention to move a resolution to remove a Director under this Article 17.4 must be given to the Company at least 30 days before the meeting is to be held. However, if the Company calls a meeting after the notice of intention is given under this Article 17.4(e), the meeting may pass a resolution pursuant to Article 17.4(a) even though the meeting is held less than 2 months after the notice of intention is given.
- (f) As soon as practicable after receiving notice of an intended resolution to remove a Director under Article 17.4(e), the Company shall send a copy of the notice to the Director concerned, and the Director is entitled to be heard on the resolution at the meeting.
- (g) A Director appointed by both the holders of "G" Class Shares and the holders of "M" Class Shares can only be removed pursuant to this Article 17.4 if a majority of the holders of both "G" and "M" Class Shares resolve to remove the Director at a general meeting or at separate class meetings.

17.5 Appointment of Independent Directors

- (a) The Directors may by ordinary resolution appoint any person, from business, industry or the professions, including an executive of the Company, as an Independent Director, provided that
 - (i) in the opinion of the Directors, the person has such experience and skills as shall be beneficial to the growth, development and operation of the Company;
 - (ii) the total number of Industry Directors exceeds the number of Independent Directors by at least 1; and
 - (iii) the total number of Directors does not exceed the maximum number of Directors allowed pursuant to Article 17.1.
- (b) Any Director appointed pursuant to this Article 17.5 will be subject to retirement by rotation in accordance with Article 18.

17.6 Removal of Independent Directors

- (a) Subject to the provisions of this Constitution, the Company in general meeting may by ordinary resolution remove an Independent Director before the end of the Director's period of office.
- (b) Subject to the provisions of this Constitution, the Directors may remove an Independent Director before the end of the Director's period of office.

17.7 Term of appointment of Directors

- (a) Subject to Article 17.7(b), no Director shall be appointed for a term exceeding 3 years and every Director will be subject to retirement by rotation pursuant to Article 18.
- (b) Article 17.7(a) does not apply in relation to the first term of appointment of the First Directors.

17.8 Directors not eligible for more than 3 consecutive terms

A Director may only be appointed for 3 consecutive terms as a Director and is not eligible for appointment or election as a Director for a 4th consecutive term.

17.9 Limited ability of Directors to act during vacancies

The continuing Directors may act notwithstanding any vacancy in their number, but for as long as the number of Directors is below the minimum fixed by this Constitution, the Directors will not act except in emergencies or for the purpose of filling vacancies or convening a meeting of Members.

17.10 Director need not be Member

A Director need not be a Member.

17.11 Directors may attend and speak at meetings of Members

A Director is entitled to:

- (a) receive all notices to be served or given under Article 13.7; and
- (b) to attend and speak at all meetings the subject of such notices.

17.12 Resignation of Directors

A Director may resign from office on giving the Company notice in writing.

17.13 Suspension of Director guilty of prejudicial behaviour

- (a) If the conduct or position of any Director is such that continuance in office appears to a majority of the Directors to be prejudicial to the interests of the Company, a majority of the Directors at a meeting of the Directors specially convened for that purpose may suspend that Director.
- (b) Within 14 days of the suspension, the Directors will call a general meeting, at which the Members may either:
 - (i) confirm the suspension and remove that Director from office in accordance with Article 17.4 if the Director is an Industry Director or Article 17.6 if the Director is an Independent Director; or
 - (ii) annul the suspension and reinstate that Director.

17.14 Vacation of office of Director

- (a) Subject to Article 18, each Director will remain in office until his or her office is vacated pursuant to Article 17.14(b).

- (b) The office of a Director is vacated if that 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) is absent without the consent of the Directors from all meetings of the Directors held during a period of 6 months and the Directors resolve that his or her office be vacated;
 - (iii) resigns the office of Director in accordance with Article 17.12;
 - (iv) is removed under the provisions of Article 17.4 or 17.6;
 - (v) becomes an insolvent under administration (within the meaning of the Corporations Law); or
 - (vi) otherwise ceases to be, or becomes prohibited from being, a Director by virtue of the Corporations Law.
- (c) If the office of a Grower Director is vacated at least 2 months before the next annual general meeting, and an appointment has not been made by the holders of "G" Class Shares pursuant to Article 17.3 within 1 month of the vacation of the office, then the Directors must immediately call either a class meeting of the holders of "G" Class Shares or a general meeting for the purpose of appointing a successor to be held within 1 month of the calling of the meeting.
- (d) If the office of a Miller Director is vacated at least 2 months before the next annual general meeting, and an appointment has not been made by the holders of "M" Class Shares pursuant to Article 17.3 within 1 month of the vacation of the office, then the Directors must immediately call either a class meeting of the holders of "M" Class Shares or a general meeting for the purpose of appointing a successor to be held within 1 month of the calling of the meeting.
- (e) The Directors may by a unanimous vote of all Directors appoint any person as a Director to fill a casual vacancy of an Independent Director, but the total number of Directors is not to exceed the maximum number of Directors allowed pursuant to Article 17.1.
- (f) A person appointed as an Independent Director under Article 17.14(e):
- (i) may retire at the next general meeting of the Company;
 - (ii) must retire at the next following annual general meeting of the Company, unless the Director has retired in accordance with Article 17.14(f)(i),
- and, in either case, may submit himself or herself for and will be eligible for re-election at that meeting.
- (g) If the Directors have not appointed a person to fill a casual vacancy of an Independent Director within 3 months, then that office will remain vacant until the first Directors' meeting following the next annual general meeting at which the office vacated will be filled in accordance with Article 18.5(a)(iii).

18. ROTATION OF DIRECTORS

18.1 Retirement of First Directors

- (a) Each of the First Directors will retire at the annual general meeting specified in Article 17.2(c).
- (b) Subject to the provisions of this Constitution, each of the First Directors will be eligible to be elected or appointed for a further term as a Director.

18.2 Retirement of Directors at annual general meetings

At the annual general meeting of the Company held in the year 2004 and at every subsequent annual general meeting, one third of all the Directors (or if their number is not a multiple of 3 then rounded down to the whole number nearest to one-third) shall retire from office and be eligible for re-election provided that the Director has served no more than 2 consecutive terms immediately prior to the annual general meeting at which he or she is retiring.

18.3 Each Director will retire at every third annual general meeting

- (a) Notwithstanding Article 18.2, but subject to Article 18.3(c), each Director will retire from office no later than at the third annual general meeting following the Director's last election or appointment, but may submit himself or herself for and will be eligible for re-election or re-appointment.
- (b) Any Director who at any annual general meeting retires under this Article 18.3 will be eligible to count towards the number to retire under Article 18.2 at the same meeting.
- (c) Article 18.3(a) is not applicable to the First Directors of this Constitution until after the expiration of their first term of appointment as a Director.

18.4 Order of retirement of Directors at annual general meetings

- (a) The Directors to retire under Article 18.2 will be those who have been longest in office.
- (b) As between 2 or more Directors who have been in office an equal length of time, the Directors to retire will be determined by lot, failing agreement between them.
- (c) Where a Director has previously vacated office, the length of time which that Director has been in office will be computed from the Director's last election or appointment.

18.5 Election of Directors at Annual General Meeting

- (a) Subject to the Corporations Law and to the provisions of this Constitution, at an annual general meeting at which any Director retires or at which for any reason a Director's office is or becomes vacant at that meeting, the office vacated may be filled at that meeting in the following manner:
 - (i) if the office vacated was held by a Grower Director, then the office may only be filled by the holders of "G" Class Shares electing a person to that office;
 - (ii) if the office vacated was held by a Miller Director, then the office may only be filled by the holders of "M" Class Shares electing a person to that office;
 - (iii) if the office vacated was held by a person appointed by the Directors as an Independent Director, then the office may only be filled by the Directors electing a person to that office at the next Directors' meeting following that annual general meeting.
- (b) Where an election to fill an office vacated by an Industry Director is held at an annual general meeting and more than two persons are nominated pursuant to the procedure in Article 18.6 for election to the vacated office, then the one person with the most votes shall be the person elected to that office.

18.6 Nomination of Industry Directors for office

- (a) No person other than a Director retiring in accordance with this Constitution is eligible for election under Article 18.5 or appointment under Article 17.3 as a Grower Director or a Miller Director at any meeting of Members unless:
- (i) in the case of a person whose nomination is recommended by the Directors, at least the Prescribed Period before the meeting; and
 - (ii) in any other case, at least 30 Business Days before the meeting,
- there has been left at the Office:
- (iii) a notice in writing signed by a Member duly entitled to attend the meeting and vote on the election or appointment, nominating the person for election or appointment as a Director; and
 - (iv) notice in writing signed by the person of his or her willingness to be appointed as a Director.
- (b) Members duly entitled to attend at the meeting and vote on an election or appointment may also propose themselves for election as a Director in accordance with this Constitution.
- (c) The Company must give Members not less than Prescribed Notice of each and every candidate for election or appointment as a Director at a class meeting or at a general meeting.

18.7 Directors must call for nomination of Directors

The Directors must send a notice to all Members at least 30 days prior to an annual general meeting which:

- (a) specifies the number of Directors who are to retire at the meeting and the names of those expected to retire at the meeting; and
- (b) invites nominations from Members of candidates for election as Directors and sets out the requirements for a Member to make a valid nomination in accordance with Article 18.6.

19. POWERS OF COMPANY AND ITS DIRECTORS

19.1 Directors have powers of the Company

- (a) The business of the Company is to be managed by or under the direction of the Directors.
- (b) The Directors may exercise all the powers of the Company and do all such acts and things which the Company is authorised or permitted to exercise and do and which are not by this Constitution or by statute directed or required to be exercised or done by the Company in general meeting.
- (c) The operation and effect of this Article 19.1 are not limited in any way by the following provisions of this Article 19.

19.2 Directors may exercise Company's power to borrow

The Directors may exercise all the powers of the Company to:

- (a) borrow or raise money;
- (b) charge any property or business of the Company and all or any of its unpaid capital;
- (c) issue Debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (d) guarantee or to become liable for the payment of money or the performance of any obligations by any other person.

19.3 Directors may exercise power to give security

The Directors may exercise the powers conferred on them by Article 19.2 in such manner and upon terms and conditions in all respects as the Directors think fit, and in particular but without limiting the generality of the foregoing, by the issue of any Debenture on the whole or any part of the property of the Company (both present and future), including its uncalled capital for the time being.

19.4 Terms of Debentures

Any Debentures may be issued by the Company at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, conversion, allotment of shares, attending and voting at meetings of Members, appointment of directors, or other matter.

19.5 Assignability of Debentures

Debentures issued or given by the Company may be made assignable free from any equities between the Company and the person to whom the same may be issued.

19.6 Commission on issue of Debentures

The Company may pay a commission to a person in respect of that person or another person agreeing to subscribe for any Debentures of the Company.

19.7 Security from Company for Directors

If:

- (a) the Directors or any of them; or
- (b) any other persons,

become or are about to become personally liable for the payment of any sum due from the Company, the Directors may execute or cause to be executed any mortgage, charge, bill of sale or security over or affecting the whole or any part of the assets of the Company in order to secure the Directors or persons so becoming liable from any loss in respect of such liability.

19.8 Directors may appoint attorney or agent

- (a) The Directors may, by resolution, power of attorney, or other written instrument, appoint any person or persons, to be attorney or agent of the Company:
- (i) for such purposes;
 - (ii) with such powers, authorities and discretions being powers, authorities and discretions vested in or exercisable by the Directors;
 - (iii) for such period; and
 - (iv) subject to such conditions,
- as the Directors think fit.
- (b) An appointment under Article 19.8(a) may:
- (i) be on such terms for the protection and convenience of persons dealing with the attorney or agent as the Directors think fit; and
 - (ii) authorise the attorney or agent to delegate all or any of the powers, authorities and discretions vested in the attorney or agent.

19.9 Execution of negotiable instruments

All cheques, promissory notes, banker's drafts, bills of exchange and other negotiable instruments signed, drawn, accepted, endorsed or otherwise executed by the Company, and all receipts for money paid to the Company, will be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner and by such persons as the Directors determine.

20. REMUNERATION OF DIRECTORS**20.1 Remuneration of Non-Executive Directors**

- (a) The Non-Executive Directors will be paid not more than an aggregate fixed sum paid out of the funds of the Company by way of remuneration for their services (not being a commission on, or percentage of, profits or operating revenue) as is determined by an ordinary resolution of the Company, but until so determined that remuneration will be such sum as the Directors determine.
- (b) Remuneration will be paid to or applied for the benefit of the Non-Executive Directors in such proportions and in such manner as the Non-Executive Directors determine, and will be paid to them equally failing such determination.
- (c) The remuneration of the Non-Executive Directors will be deemed to accrue from day to day.

20.2 Remuneration of Executive Directors

The remuneration of the Executive Directors:

- (a) will, subject to the provisions of any contract between each of them and the Company, be fixed by the Directors; and
- (b) may be by way of fixed salary or commission on or percentage of profits of the Company or of any other company in which the Company is interested or partly in one way and partly in another or others,

but will not be by way of commission on, or percentage of, operating revenue.

20.3 Payments on retirement, loss of office or death of Director

Subject to the Corporations Law, the Directors may give a prescribed benefit including an exempt benefit to a person in connection with the retirement of a person from a prescribed office in relation to the Company.

20.4 Remuneration of Directors - extra services, payment of expenses and increases in fees

(a) If any Director is called upon to:

- (i) perform extra services (including being a member on a committee established under Article 22.9); or
- (ii) make any special exertion in going or residing abroad or otherwise for any of the purposes of the Company,

the Company may, subject to the Corporations Law and Article 20.4(b), pay additional remuneration or provide benefits to that Director as the Directors determine.

(b) Any additional remuneration or benefits paid or provided under Article 20.4(a) will not be:

- (i) by way of commission on or percentage of operating revenue; or
- (ii) except in the case of an Executive Director, by way of commission on or percentage of profits.

(c) The Company will pay all reasonable travelling, accommodation and other expenses incurred by a Director in consequence of his or her attendance at meetings of Directors and otherwise in the execution of his or her duties as a Director.

20.5 Interests in staff funds

Subject to the Corporations Law, any Director may participate in any association, institution, fund, trust or scheme for the benefit of past or present employees or Directors of the Company, a related body corporate of the Company or any of their respective predecessors in business or for the benefit of the dependants of any such persons or for the benefit of persons connected with any of those persons.

21. DIRECTORS' CONTRACTS WITH COMPANY

21.1 Director may hold other office of profit

A Director may hold any other office or place of profit in the Company (except that of auditor) in conjunction with the office of Director, on such terms as the Directors arrange.

21.2 Contract not avoided when Director interested

Subject to the Corporations Law:

- (a) no Director will be disqualified by virtue of holding the office of Director from holding any office or place of profit under any Corporation in which the Company is a shareholder or is otherwise interested;
- (b) no Director will be disqualified by virtue of holding the office of Director from contracting with the Company or any Corporation in which the Company is a shareholder or is otherwise interested, either as vendor, purchaser or otherwise, and nor will any contract or arrangement

entered into by or on behalf of the Company in which any Director is in any way interested be avoided; and

- (c) a Director is not liable to account to the Company for any profit arising from that office or place of profit or realised by the contract or arrangement, or by any participation in an association or otherwise under Article 20.5 by reason only of the Director holding that office or of the fiduciary relations thereby established, provided that the disclosure required by Article 21.6 has been made.

21.3 When Director may vote

- (a) A Director who has an interest in a matter that is being considered at a meeting of Directors, may, despite that interest, vote, be present and be counted in a quorum at that meeting, unless that is prohibited by the Corporations Law.
- (b) No act of the Company is invalid or voidable by reason only of a failure of the Director to comply with such prohibition.

21.4 Director may act in professional capacity

Subject to the Corporations Law:

- (a) any Director may act by himself or herself or the Director's firm may act in a professional capacity for the Company or any other Corporation in which the Company is a shareholder or is otherwise interested; and
- (b) that Director and that Director's firm will be entitled to remuneration for professional services as if that Director were not a Director,

but nothing in this Article 21.4 authorises a Director or that Director's firm to act as an auditor of the Company.

21.5 Director may affix Seal notwithstanding interest

Notwithstanding that a Director is interested in a contract or arrangement, that Director may be appointed as the Director to sign on behalf of the Company or in whose presence the Seal of the Company is to be affixed to any instrument to which the interest relates.

21.6 Disclosure of interest

- (a) A Director who is in any way, whether directly or indirectly, interested in a matter in which the Company has an interest will declare the nature of the interest at a meeting of the Directors as soon as practicable after the relevant facts have come to the Director's knowledge.
- (b) For the purposes of Article 21.6(a), a general notice given to the Directors by a Director to the effect that the Director is an officer or member of a specified Corporation or a member of a specified firm or is otherwise interested in any Corporation or firm and is to be regarded as interested in any matter, after the date of the notice, in which that Corporation or firm may have an interest, will be deemed to be a sufficient declaration of interest in relation to the matter if:
 - (i) the notice states the nature and extent of the Director's interest in the Corporation or firm;

- (ii) when the matter is first considered, the extent of the Director's interest in the Corporation or firm is not greater than is stated in the notice; and
 - (iii) the notice is given at a meeting of the Directors or the Director takes reasonable steps to ensure that it is brought up and read at the next meeting of the Directors after it was given.
- (c) It is the duty of a Director who holds any office or possesses any property the holding of which office or the possession of which property might, whether directly or indirectly, create duties or interests in conflict with his duties or interests as a Director of the Company to declare:
- (i) at the first meeting of Directors held after he or she becomes a Director; or
 - (ii) if he or she is already a Director, at the first meeting of Directors held after he or she commenced to hold such office or possess such property,

the fact of his or her holding such office or possessing such property and the nature, character and extent of the conflict.

21.7 Record of disclosures by Directors

It is the Secretary's duty to record in the minutes any disclosure given by a Director under this Article 21.

22. PROCEEDINGS OF DIRECTORS

22.1 Meetings of Directors

The Directors may hold a meeting, adjourn and otherwise regulate their meetings as they think fit.

22.2 Quorum for meetings of Directors

- (a) The Directors may determine the quorum necessary for the transaction of business.
- (b) Until otherwise determined, a quorum for the purpose of considering a matter at a meeting will be two persons each of whom is:
 - (i) a Director; and
 - (ii) entitled under the Corporations Law to vote on a motion that may be moved in relation to such matter at that meeting.
- (c) A meeting of the Directors during which a quorum is present is competent to exercise all or any of the authorities, powers and discretions under this Constitution for the time being vested in or exercisable by the Directors generally.
- (d) Where a quorum cannot be established for a meeting of Directors (or consideration of a particular matter) a Director may convene a general meeting of Members to deal with the matter or the matters in question.
- (e) The Directors do not need to be present in the same place to satisfy the quorum requirement.

22.3 Calling meetings of Directors

A Director may at any time and the Secretary will on the request of a Director call a meeting of the Directors.

22.4 Notice of meetings of Directors

- (a) Notice of every Directors' meeting must be given to each Director.
- (b) Notice of a meeting of Directors may be given:
 - (i) in writing (including to an electronic address) or by any Technology; and
 - (ii) in writing or one form of Technology to one or more Directors and by another form of Technology or in writing to the other Directors.
- (c) If notice of a meeting of Directors cannot be given to a particular Director by one or more Technologies, written notice served on:
 - (i) the usual residential address of that person;
 - (ii) the alternative address of that person notified under the Corporations Law; or
 - (iii) such other address (including an electronic address) provided to the Company by that person for the purpose of serving notice on that person,

will constitute notice to that person of that meeting for the purposes of this Article 22.4.

22.5 Meetings by using Technology

- (a) Without limiting the discretion of the Directors to regulate their meetings under Article 22.1, the Directors may, if they think fit, confer by any Technology.
- (b) Notwithstanding that the Directors are not present together in one place at the time of the conference, a resolution passed by such a conference will be deemed to have been passed at a meeting of the Directors held on the day on which and at the time at which the conference was held.
- (c) The provisions of this Constitution relating to proceedings of Directors apply to such conferences to the extent that they are capable of applying, and with the necessary changes.
- (d) A Director present at the commencement of the conference will be conclusively presumed to have been present and, subject to other provisions of this Constitution, to have formed part of the quorum throughout the conference.
- (e) Any minutes of a conference of the type referred to in Article 22.5(a) purporting to be signed by the chairperson of that conference or by the chairperson of the next succeeding meeting of Directors will be sufficient evidence of the observance of all necessary formalities regarding the convening and conduct of the conference.
- (f) When, by the operation of Article 22.5(b), a resolution is deemed to have been passed at a meeting of the Directors, that meeting will be deemed to have been held at such place as is determined by the chairperson of the relevant conference, provided that at least one of the Directors who took part in the conference was at such place for the duration of the conference.

22.6 Votes at meetings of Directors

Motions and resolutions arising at any meeting of the Directors will be decided by a majority of votes and, subject to the provisions of Article 21, each Director has one vote.

22.7 Casting vote for chairperson of Directors

Subject to the Corporations Law, in case of an equality of votes the chairperson of a meeting of Directors will have a casting vote in addition to any vote he or she has in his or her capacity as a Director.

22.8 Chairperson and deputy chairperson of Directors

- (a) The Directors may elect a chairperson of Directors.
- (b) The Directors may also elect a deputy chairperson who, in the absence of the chairperson at a meeting of the Directors, may exercise all the powers and authorities of the chairperson.
- (c) If:
 - (i) no chairperson or deputy chairperson is elected; or
 - (ii) at any meeting the chairperson or deputy chairperson is not present within half an hour of the time appointed for holding the meeting or is not willing to act as chairperson for all or part of that meeting,

the Directors present will choose one of their number to be chairperson of that meeting or part of that meeting (as the case may be).
- (d) The Directors may determine the period for which a person elected as chairperson or deputy chairperson is to hold office.
- (e) If the Directors do not make a determination under Article 22.8(d) then the person concerned will hold office until otherwise resolved by the Directors or until the person ceases to be a Director.
- (f) If the Directors do make a determination under Article 22.8(d) then the person concerned will hold office until the first to occur of:
 - (i) the expiration of that period;
 - (ii) the person ceasing to be a Director; or
 - (iii) the Directors at any time during that period resolving that the person will from that time cease to hold that office.
- (g) When a Director who is the chairperson or deputy chairperson retires at a general meeting either in accordance with Article 18.2 or otherwise and is re-appointed or re-elected as a Director at that meeting, that chairperson or deputy chairperson will not by that fact alone cease to be the chairperson or deputy chairperson as the case may be.

22.9 Committees of Directors

- (a) The Directors may:
 - (i) delegate any of their powers to committees consisting of one or more members who are Directors as they think fit; and

- (ii) revoke that delegation.
- (b) A committee will conform to any directions and regulations that may be imposed upon it by the Directors in the exercise of its powers.
- (c) So far as they are capable of application and with the necessary changes, the provisions of the Constitution for regulating the meetings and proceedings of the Directors govern the meetings and proceedings of committees of 2 or more members to the extent that the same are consistent with any directions and regulations made by the Directors.
- (d) Where a committee consists of 2 or more members, a quorum will be any 2 members or such larger number as the committee itself determines.

22.10 Defects in appointment or qualifications of Director

All acts:

- (a) done at any meeting of the Directors; or
- (b) of a committee of Directors; or
- (c) by any person acting as a Director,

will be as valid as if every such person or committee had been duly appointed and every Director was qualified and entitled to vote, notwithstanding that it is afterwards discovered that:

- (d) there was some defect in the appointment of a Director or of the committee or of the person acting; or
- (e) any Director was disqualified or not entitled to vote.

22.11 Written resolutions of Directors

- (a) If all of the Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms will be deemed to have been passed at a meeting of the Directors held on the day on which and at the time at which the document was last signed by a Director.
- (b) For the purposes of this Article 22.11:
 - (i) 2 or more separate documents containing statements in identical terms each of which is signed by one or more Directors will together be deemed to constitute one document containing a statement in those terms signed by the Directors;
 - (ii) a reference to all the Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution; and
 - (iii) any document so signed by a Director may be received by the Company at the Office (or other place agreed by the Directors) by post, by facsimile or other Technology which displays the Director's signature or by delivery (personal or otherwise).

23. MINUTES

23.1 Minutes of all proceedings to be kept

The Directors will cause minutes of:

- (a) all proceedings and resolutions of meetings of Members;
- (b) all proceedings and resolutions of meetings of the Directors, including meetings of committees of Directors; and
- (c) all resolutions passed by the Directors without a meeting of Directors in accordance with Article 22.11

to be duly entered in books kept for that purpose in accordance with the Corporations Law.

23.2 Minutes to be signed

- (a) The Directors will cause the minutes referred to in Articles 23.1(a) and 23.1(b) to be signed by:
 - (i) the chairperson of the meeting at which the proceedings took place or at which the resolutions were proposed; or
 - (ii) the chairperson of the next meeting.
- (b) The Directors will cause the minutes referred to in Article 23.1(c) to be signed by a Director within a reasonable time after the resolution the subject of that minute is passed.

23.3 Minutes to be presumed accurate

Where the minutes referred to in Articles 23.1(a) and 23.1(b) are signed in accordance with Article 23.2, those minutes will be presumed to be an accurate record of the relevant proceedings and resolutions unless the contrary is proved.

23.4 Inspection of minutes of meetings of Members

Books containing the minutes of proceedings of meetings of Members will be open for inspection by any Member without charge.

24. SECRETARY

24.1 Appointment and removal of Secretary

- (a) A Secretary or Secretaries will be appointed by the Directors in accordance with the Corporations Law for such term, at such remuneration and on such conditions as the Directors think fit.
- (b) Any Secretary appointed pursuant to Article 24.1(a) may be removed by the Directors.

24.2 Acting Secretary

The Directors may appoint a person as an acting Secretary or as a temporary substitute for a Secretary who for the purpose of this Constitution will be deemed to be a Secretary.

25. EXECUTION OF DOCUMENTS

25.1 Custody and use of Seal

- (a) The Directors may provide a Seal for the Company and, if so, will provide for the safe custody of that Seal.
- (b) The Seal will only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors in that behalf.

25.2 Execution with a Seal

If the Company has a Seal, it may execute a document if the Seal is fixed to the document and the fixing of the Seal is witnessed by two Directors, a Director and a Secretary, or a Director and another person appointed by the Directors for that purpose.

25.3 Execution without the Seal

The Company may execute a document without using a Seal if the document is signed by two Directors, a Director and a Secretary, or a Director and another person appointed by the Directors for that purpose.

25.4 Share Seal

- (a) The Directors may provide the Company with a duplicate seal known as the Share Seal.
- (b) The only documents on which the Share Seal may be used are certificates or other documents relating to securities issued by, or options or rights to take up securities of, the Company.
- (c) Any such certificate or document may be issued under the Share Seal, and if so issued, will be deemed to be sealed with the Seal.
- (d) The Directors may determine the manner in which the Share Seal is affixed to or incorporated in any document, and by whom such a document is to be signed.

25.5 Facsimile signature on certificates

The Directors may determine:

- (a) either generally or in a particular case; and
- (b) in any event, subject to such conditions as the Directors think fit,

that wherever a certificate for securities of the Company requires a signature, that requirement will be satisfied by a facsimile of the signature affixed by mechanical or other means.

25.6 Effect of execution

Any instrument executed in accordance with this Article 25 if issued for valuable consideration will be binding on the Company notwithstanding any irregularity touching the authority of the Directors to issue the same, or the circumstances of its issue.

26. RESERVE FUNDS

26.1 Establishment and purpose of reserve funds

Subject to the Corporations Law, before determining that a dividend be paid, the Directors may set aside out of the profits of the Company such sums as the Directors think proper as a reserve fund to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied, including but not limited to the following:

- (a) to meet contingencies;
- (b) for equalising dividends;
- (c) for special dividends;
- (d) for repairing, improving and maintaining any property of the Company; and
- (e) for such other purposes as the Directors in their absolute discretion think conducive to the interests of the Company.

26.2 Power to invest reserve funds

- (a) The Directors may invest any of the sums set aside as a reserve fund on such investments as the Directors think fit and may deal with, vary, and dispose of all or any part of such sums for the benefit of the Company.
- (b) The Directors may divide the reserve fund into such special funds as the Directors think fit and employ the reserve fund or any part of it in the business of the Company without being bound to keep it separate from the other assets.
- (c) Pending any application of reserves in accordance with this Article 26.2, and at the discretion of the Directors, the reserves may be used in the business of the Company or be invested in such investments as the Directors think fit.

26.3 Profits may be carried forward without going to reserve

The Directors may carry forward so much of the profits remaining as the Directors consider ought not to be distributed as dividends without transferring those profits to a reserve fund.

27. DIVIDENDS

27.1 Proportional distribution of profits

- (a) Subject to:
 - (i) any special rights or restrictions for the time being attaching to any Shares; and
 - (ii) Articles 6.8 and 26.1,

the profits of the Company will be divisible among the Members in the proportion which the amount of the share capital Paid Up on the Shares held by them respectively at the time at which entitlements thereto are determined bears to the total amounts Paid Up or payable on all such Shares held by the Members at that time.

- (b) Subject to Article 27.1(a), any share capital Paid Up on a Share during the period in respect of which a dividend is determined to be paid will only entitle the holder of such Share to an

apportioned amount of that dividend from the date of payment, unless the terms of issue otherwise provide.

- (c) A determination by the Directors as to the amount of profits available for dividend is conclusive.

27.2 Directors determine dividends

- (a) The Directors (without the sanction of a general meeting) may determine that a dividend, whether interim or final, is payable to the Members out of profits and those Members will be entitled to participate in accordance with Article 27.1 and this Article 27.2.
- (b) The Directors may fix:
 - (i) the amount of a dividend;
 - (ii) the time and date for determining entitlements to, and for the payment of, a dividend;
 - (iii) the method of payment of a dividend; and
 - (iv) whether the dividend is franked, the franking percentage and the franking class;
- (c) The persons entitled to be paid a dividend will be persons whose names are entered on the Register as the holders of the Shares at the Record Date for that dividend.
- (d) Without limiting the generality of their powers under Articles 27.2(a) and 27.2(b), the Directors may pay any preferential dividends on Shares issued on terms that preferential dividends are payable on those Shares, whether on fixed dates or otherwise.

27.3 No interest on dividends

The Company is not required to pay any interest on any dividend.

27.4 Payment of dividends with assets, shares or debentures

- (a) The Directors may determine that a dividend is payable wholly or in part by the distribution of specific assets, including Paid Up shares or Debentures of the Company or of any other Corporation.
- (b) If the Company is required to distribute to its Members, by way of dividend, shares in another Corporation:
 - (i) the Members will be deemed to have agreed to become members of that Corporation; and
 - (ii) each Member appoints the Company or any of the Directors as its agent to execute any transfer of shares or other document required to effect the distribution of shares to the Members.
- (c) Where a dispute arises in regard to a distribution under this Article 27.4, the Directors may:
 - (i) settle the matter as they consider expedient;
 - (ii) fix the value for distribution of the specific assets or any part of those assets;
 - (iii) determine that cash payments will be made to any Members on the basis of the value so fixed in order to adjust the rights of all parties; and
 - (iv) may vest any specific assets in trustees as the Directors consider expedient.

- (d) If distribution of specific assets to a particular Member is illegal or, in the Directors' opinion, impracticable, the Directors may make a cash distribution to the Member equal to the cash value or the proposed distribution of specific assets.

27.5 Power of one joint holder to give receipt for dividends

Any one of several persons who are registered as the joint holders of any Share may give effectual receipts for all dividends and payments on account of dividends in respect of the Share.

27.6 Method of payment of dividends

- (a) Payment of any dividend or other money in respect of a Share may be made in any manner and by any means as determined by the Directors including by:
- (i) directly crediting the account nominated in writing by the person entitled to that dividend under Article 27.2 or that other money ("**Payee**") from time to time;
 - (ii) cheque made payable to the Payee or such other person nominated in writing by the Payee ("**Nominee**") sent through the post to:
 - A. in the case where the Payee is not a Member, such address as nominated in writing by the Payee;
 - B. in the case where the Payee is a joint holder of the Share in respect of which the dividend or other money is payable, the address in the Register of the person whose name stands first on the Register in respect of the joint holding; or
 - C. otherwise, to the address of the Payee in the Register.
- (b) The payment of any dividend or other money in respect of a Share is at the Payee's or Nominee's risk.
- (c) Money earned by the Company on the amount of a dividend pending clearance of such a cheque or other collection by a Payee or Nominee will be for the benefit of the Company.

27.7 Power to retain dividends on which there is a lien

The Directors may retain the whole or part of any dividend on which the Company has a lien, and may apply that sum in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists.

27.8 Retention of Transmittee dividends

Subject to the Corporations Law, the Directors may retain the dividends payable on a Share in respect of which a Transmittee is entitled under Article 10.2 to:

- (a) elect to be registered as a Member; or
- (b) transfer to another person,

until that Transmittee becomes a Member in respect of that Share or duly transfers that Share.

27.9 Effect on dividends of transfer of Shares

A transfer of Shares registered after the Record Date for a dividend but before the dividend is paid will not pass the right to that dividend.

27.10 Bonus share plans

- (a) The Directors may establish and maintain one or more bonus share plans whereby any Member or any number or class of Members eligible in accordance with the plans may elect (in the manner prescribed by the plans) to forego any dividends that may be payable on all or some of the ordinary Shares held by that Member and to receive instead some other entitlement in accordance with the plans including the allotment to the Member of fully paid ordinary Shares in the capital of the Company.
- (b) The Directors may implement, suspend, terminate or vary the terms and conditions of any such bonus share plans as and when the Directors consider appropriate.

27.11 Dividend reinvestment plans

- (a) The Directors may establish and maintain one or more dividend reinvestment plans whereby any Member or any number or class of Members eligible in accordance with the plans may elect (in the manner prescribed by the plans) that dividends payable by the Company will be applied on behalf of that Member in subscribing for fully paid ordinary Shares in the capital of the Company in accordance with the plans.
- (b) The Directors may implement, suspend, terminate or vary the terms and conditions of any such plans as and when the Directors consider appropriate.

27.12 Unclaimed dividends

In the discretion of the Directors, all dividends paid but unclaimed may:

- (a) in the case of dividends distributable other than as money, be realised into money; and
- (b) in any case, be invested for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed money.

28. CAPITALISATION OF PROFITS**28.1 Profits may be capitalised**

The Directors, or any general meeting on the recommendation of the Directors, may resolve that any money, investments or other assets forming part of the undivided profits of the Company:

- (a) standing to the credit of the reserve fund or in the hands of the Company; and
- (b) available for dividend,

be capitalised and distributed amongst Members.

28.2 Proportionate distribution of amounts capitalised

- (a) A distribution under Article 28.1 will be made to the Members who would be entitled to receive the same if distributed by way of dividend and in the same proportions, on the footing that they become entitled thereto as capital.
- (b) All or any part of the capitalised fund may be applied on behalf of those Members:

- (i) in paying up in full any unissued Shares or debentures of the Company, which will be distributed accordingly;
- (ii) in or towards payment of the uncalled liability on any issued Shares or debentures of the Company; or
- (iii) partly as mentioned in Article 28.2(b)(i) and partly as mentioned in Article 28.2(b)(ii),

and that distribution or payment will be accepted by Members in full satisfaction of their interest in the capitalised sum.

28.3 Determination of entitlements to distribution

A resolution under Article 28.1 may fix the time at which entitlements to the distribution are determined.

28.4 Settlement of disputes about distribution

- (a) For the purpose of giving effect to any resolution under Article 28.1, the Directors may settle any dispute which arises in regard to the distribution as the Directors think expedient, and in particular may:
 - (i) in cases where Shares or Debentures become issuable in fractions, make cash payments or declare that fractions be ignored; and
 - (ii) authorise any person to make an agreement with the Company on behalf of all the Members entitled to any further Shares or Debentures on the capitalisation, providing for the issue to them, credited as fully paid up, of any such further shares or debentures or for the payment up by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised.
- (b) Any agreement made under Article 28.4(a)(ii) will be effective and binding on all Members concerned.

29. ACCOUNTS

29.1 Company to keep accounts

The Company will keep such accounting and other records of the business of the Company as it is required to keep by the Corporations Law.

29.2 Financial report to be laid before annual general meeting

At the annual general meeting in every year (if any), the Directors will, if required by the Corporations Law, lay before the meeting:

- (a) the financial report for the last financial year of the Company that ended before that meeting; and
- (b) such other accounts, reports and statements as are required by the Corporations Law.

29.3 Copy of accounts to be sent

Subject to the Corporations Law, a copy of the financial report and other reports referred to in Article 29.2 must be sent to:

- (a) Members;
- (b) Chairpersons of Sugar Industry Associations; and
- (c) other persons entitled to receive them as required by the Corporations Law.

29.4 Accounts conclusive

- (a) The financial report of the Company when:
 - (i) audited; and
 - (ii) if required to be laid before a general meeting of the Company, approved or received by that general meeting,

will be conclusive except as regards any material error discovered in it within 3 months after its approval or receipt (if any).

- (b) Whenever any material error is discovered within the 3 month period referred to in Article 29.4(a), the financial report will be corrected immediately and then it will be conclusive.

29.5 Periodic Reports

In addition to the reports required to be provided under this Article 29 or under the Corporations Law, the Directors may also provide reports to the Members on a quarterly basis, or on some other periodic basis, as they consider necessary and in any manner they think fit.

30. AUDITORS: APPOINTMENT AND REMOVAL

The auditors of the Company will:

- (a) be appointed and may be removed as provided in the Corporations Law; and
- (b) perform the duties and have the rights and powers as may be provided in the Corporations Law.

31. SECRECY

31.1 Members not entitled to discovery

- (a) The Directors will determine whether and to what extent, at what time and place or places, and under what conditions, the accounting records and other documents of the Company will be open to the inspection of Members other than Directors.
- (b) Subject to the Corporations Law, a Member not being a Director does not have the right, but may in the absolute discretion of the Directors be authorised, to inspect or to require or receive any information, or to require discovery of any record or document of the Company or any information respecting any detail of the Company's trading or business, or any matter which is or may be in the nature of a trade secret, confidential information, mystery of trade or secret process which may relate to the conduct of the business of the Company.

31.2 Officers of Company not to disclose information

- (a) Every Director, manager, Secretary, auditor, trustee, member of a committee, agent, accountant or other Officer is bound to observe secrecy with respect to all transactions of the Company with its customers, the state of the account of any individual, and all related matters.
- (b) If required by the Directors, every such person will, before commencing that person's duties or employment or at any time afterwards, sign and make a declaration in a book to be kept for that purpose that they will not reveal or make known any of the matters, affairs or concerns which may come to their knowledge as Director, manager, Secretary, auditor, trustee, member of a committee, agent, accountant or other Officer and whether relating to transactions of the Company with its customers or the state of the account of any individual or to anything else, to any person or persons except:
 - (i) in the course and in the performance of their duties; or
 - (ii) under compulsion or obligation of law; or
 - (iii) when officially required so to do by the Directors or by the auditors for the time being, or by any general meeting of Members.

32. NOTICES

32.1 Method of service of notices

- (a) A notice may be served by the Company on a Member or other person receiving notice under this Constitution by any of the following methods:
 - (i) by serving it personally on the Member;
 - (ii) by leaving it at the address of the Member in the Register;
 - (iii) by sending it by post addressed to the Member at the address of the Member in the Register; or
 - (iv) by sending it to a facsimile number or electronic address (if any) nominated by the Member for the purpose of serving notices on the Member.
- (b) For the purposes of Articles 32.1(a)(ii) and 32.1(a)(iii), a Member may provide the Company with an address other than the address of the Member in the Register for the purpose of serving notice on that Member.

32.2 Notification of address or facsimile number

- (a) Each Member whose address in the Register is not in Australia may at any time notify in writing to the Company an address or facsimile number in Australia which will be deemed to be that Member's address in the Register or facsimile number within the meaning of Article 32.1.
- (b) The Company will acknowledge receipt of all notifications of change of address by holders of partly paid Shares.

32.3 Notices to overseas members without Australian address

If the address of a Member in the Register is not within Australia, all notices to that Member will be posted by air-mail, or sent by facsimile transmission or air courier.

32.4 Notices to joint holders

All notices with respect to any Shares to which persons are jointly entitled will be given to the person named first in the Register, and notice so given will be sufficient notice to all holders of those Shares.

32.5 Notice by advertisement

Any notice by a court of law or otherwise required or allowed to be given by the Company to the Members or any of them by advertisement will unless otherwise stipulated be sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

32.6 Time of service by post

- (a) Any notice sent by post, air-mail or air courier will be deemed to have been served on the day following that on which the letter, envelope or wrapper containing the notice is posted or delivered to the air courier.
- (b) In proving service of any notice it will be sufficient to prove that the letter, envelope or wrapper containing the notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier.
- (c) A certificate in writing signed by any manager Secretary or other Officer of the Company that the letter envelope or wrapper containing the notice was so addressed and posted is conclusive evidence thereof.

32.7 Time of service by facsimile transmission

Any notice sent by facsimile transmission will be deemed to have been served on receipt by the Company of a transmission report confirming successful transmission.

32.8 Service when Member dead or bankrupt

Subject to the Corporations Law:

- (a) any notice or document sent under this Constitution by post to or left at the address in the Register of any Member will:
 - (i) notwithstanding that Member is then deceased or bankrupt; and
 - (ii) whether or not the Company has notice of that Member's death or bankruptcy,
 be deemed to have been duly served in respect of any Shares whether held solely or jointly with other persons by that Member until some other person is registered in place of the deceased or the bankrupt (as the case may be) Member as the holder or joint holder of those Shares; and
- (b) service under Article 32.8(a) will, for all purposes of this Constitution, be deemed a sufficient service of that notice on the deceased's heirs, Personal Representatives and all persons (if any) jointly interested with the deceased or the bankrupt (as the case may be) in those Shares.

32.9 Unregistered transferees bound by notices

Every person who by operation of law, transfer or any other means becomes entitled to any Share is bound by every notice in respect of the Share which, before that person's name and address was entered on the Register, was given to the person from whom that person derived title to that Share and to every previous holder of that Share.

32.10 Signatures on notices

The signature to any notice to be given by the Company may be written or printed or a facsimile thereof may be affixed by mechanical or other means.

32.11 Calculation of notice period

Where a period of notice is required to be given, the day on which the notice is dispatched and the day of doing the act or other thing will not be included in the number of days or other period.

33. WINDING UP**33.1 Distributions**

Subject to any special rights for the time being attaching to any class of Shares, if on a winding up of the Company there remains a surplus:

- (a) the liquidator may, with the sanction of a special resolution, divide among the Members in kind the whole or any part of the property of the Company representing that surplus, and may for that purpose set such value as the liquidator considers fair upon any property to be so divided, and determine how the division is to be carried out as between the Members or different classes of Members; and
- (b) that surplus will be divided amongst the Members in proportion to the amount Paid Up on their Shares, whether or not the liquidator exercises the power under Article 33.1(a).

33.2 Vesting of property in trustees for contributories

Subject to Article 33.3, the liquidator may with the sanction of a special resolution vest the whole or any part of the property in trustees on such trusts for the benefit of the contributories or any of them as the liquidator thinks fit.

33.3 Encumbered property: Member not compelled to accept

No Member will be compelled by the provisions of this Article 33 to accept any property, including shares or other securities, in respect of which there is any liability.

34. INDEMNITIES AND INSURANCE

To the extent permitted by law, the Company -

- (a) Must indemnify each Director and Secretary against a Liability of that person and Legal Costs of that person.
- (b) May make a payment to a Director or Secretary in respect of Legal Costs of that person.

- (c) May pay, or agree to pay, a premium for a contract of insurance insuring a Director or Secretary against a Liability of that person and Legal Costs of that person.
- (d) Enter into an agreement or deed with each Director and Secretary under which the Company may do all or any of the following
 - (i) indemnifies that person against any Liability of that person;
 - (ii) make a payment to that person in respect of Legal Costs of that person;
 - (iii) keep that person insured in respect of any act or omission by that person while a Director or Secretary of the Company.

SCHEDULE 1

PREFERENCE SHARES

1. In this Schedule, unless the context otherwise requires:

"Dividend" means any distribution of any property (including without limitation, money, Paid Up shares, debentures, debenture stock or other securities of the Company or of any other Corporation) to a Holder in respect of a Preference Share as a dividend, whether interim or final.

"Dividend Date" means, in respect of a Preference Share, a date specified in the Issue Resolution on which a Dividend in respect of that Preference Share is payable.

"Dividend Rate" means, in respect of a Preference Share, the terms specified in the Issue Resolution for the calculation of the amount of Dividend to be paid in respect of that Preference Share on any Dividend Date, which calculation may be wholly or partly established by reference to an algebraic formula.

"Franked Dividend" has the meaning given in section 160APA of the Income Tax Assessment Act 1936 (Commonwealth).

"Holder" means, in respect of a Preference Share, the registered holder of that Share.

"Issue Resolution" means the resolution specified in paragraph 3.

"Preference Share" means a Share issued under Article 2.4(b).

"Redeemable Preference Share" means a Preference Share which is specified in the Issue Resolution as being liable to be redeemed in a manner permitted by the Corporations Law.

"Redemption Amount" means, in respect of a Redeemable Preference Share, the amount specified in the Issue Resolution to be paid on redemption of the Redeemable Preference Share.

"Redemption Circumstances" means, in respect of a Redeemable Preference Share, whether the Preference Share is liable to be redeemed:

- (a) at the option of the Holder, or of the Company, or both;
- (b) upon the happening of a particular event; or
- (c) at a fixed time.

"Redemption Date" means, in respect to a Redeemable Preference Share, the date specified in the Issue Resolution for the redemption of that Preference Share or the date upon which an event specified in the Issue Resolution occurs which results in the redemption of that Preference Share.

"Specified Date" means, in respect of a Redeemable Preference Share, the date (if any) specified in the Issue Resolution before which that Redeemable Preference Share may not be redeemed by the Holder.

2. Each Preference Share confers upon its Holder:
- (a) the same rights as holders of ordinary Shares in relation to receiving notices, reports and audited accounts, and attending meetings of Members;
 - (b) the right to vote:
 - (i) during a period during which a dividend (or part of a dividend) in respect of the share is in arrears;
 - (ii) on a proposal to reduce the share capital of the Company;
 - (iii) on a resolution to approve the terms of a buy-back agreement;
 - (iv) on a proposal that affects rights attached to the Share;
 - (v) on a proposal to wind up the Company;
 - (vi) on a proposal for the disposal of the whole of the property, business and undertaking of the Company; and
 - (vii) during the winding up of the Company;
 - (c) the right in winding up to payment in cash of the amount then paid up on it, and any arrears of Dividend in respect of that Preference Share in priority to any other class of Shares;
 - (d) the right in priority to any payment of a Dividend to any other class of Shares, to a cumulative preferential dividend payable on each Dividend Date in relation to that Preference Share calculated in accordance with the Dividend Rate in relation to that Preference Share; and
 - (e) no right to participate beyond the extent elsewhere specified in this paragraph 2 in surplus assets or profits of the Company, whether in winding up or otherwise.
3. The Directors may only allot a Preference Share where by resolution it specifies:
- (a) the Dividend Date;
 - (b) the Dividend Rate;
 - (c) whether the Preference Share is or is not a Redeemable Preference Share;
 - (d) if the Preference Share is a Redeemable Preference Share, the Redemption Amount, the Redemption Date, the Redemption Circumstances and any Specified Date for that Redeemable Preference Share; and
 - (e) any other terms and conditions to apply to that Preference Share.
4. The Issue Resolution in establishing the Dividend Rate for a Preference Share may specify that the Dividend is to be:
- (a) fixed;
 - (b) variable depending upon any variation of the respective values of any factors in an algebraic formula specified in the Issue Resolution; or
 - (c) variable depending upon such other factors as the Board may specify in the Issue Resolution, and may also specify that the Dividend is to be a Franked Dividend or not a Franked Dividend.
5. Where the Issue Resolution specifies that the Dividend to be paid in respect of the Preference Share is to be a Franked Dividend the Issue Resolution may also specify:

- (a) the extent to which such Dividend is to be franked; and
- (b) the consequences of any Dividend paid not being so franked, which may include a provision for an increase in the amount of the Dividend to such an extent or by reference to such factors as may be specified in the Issue Resolution.

6 Subject to the Corporations Law, the Company must redeem a Redeemable Preference Share on issue:

- (a) in the case where the Redeemable Preference Share is liable to be redeemed at the option of the Company, on the specified date where the Company, not less than 14 Business Days before that date, has given a notice to the Holder of that Redeemable Preference Share stating that the Redeemable Preference Share will be so redeemed on the specified date;
- (b) in the case where the Redeemable Preference Share is liable to be redeemed at the option of the Holder, on the specified date where the Holder of that Redeemable Preference Share, not less than 14 Business Days before that date, has given a notice to the Company stating that the Redeemable Preference Share will be so redeemed on the specified date; and
- (c) in any event, on the Redemption Date,

but no Redeemable Preference Share may be redeemed by the Holder before the Specified Date unless the Redemption Date occurs before that date.

7. The certificate (if any) issued by the Company in relation to any Preference Share, must specify in relation to that Preference Share:

- (a) the date of issue of the Preference Share;
- (b) the Dividend Rate and Dividend Dates;
- (c) whether the Preference Share is a Redeemable Preference Share;
- (d) if the Preference Share is a Redeemable Preference Share:
 - (i) the Redemption Circumstances;
 - (ii) the Redemption Amount; and
 - (iii) the Redemption Date to the extent possible or if not, the event which if it occurs will result in redemption of that Redeemable Preference Share; and
- (e) any other matter the Directors determine.

8 On redemption of a Redeemable Preference Share, the Company, after the Holder has surrendered to the Company the certificate (if any) in respect of that Redeemable Preference Share, must pay to the Holder the Redemption Amount by:

- (a) directly crediting the account nominated in writing by the Holder from time to time; or
- (b) cheque made payable to the Holder or such other person nominated in writing by the Holder sent through the post to:
 - (i) in the case where the Holder is a joint holder of the Redeemable Preference Share, the address in the Register of the person whose name stands first on the Register in respect of the joint holding; or

- (ii) otherwise, to the address of the Holder in the Register.