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Australian Solar Thermal Energy Association Limited

A company limited by guarantee

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Operative provisions

1 Preliminary

Definitions

1.1 In this Constitution, unless the context otherwise requires:

\$ means Australian dollars;

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

Associate Member means a person who is granted Membership in the Company in accordance with clause 2, and is entered in the Membership Register as an Associate Member.

Audit Committee means any audit committee as appointed by the Board under clause 10.10(a);

Board means the Directors acting as a Board of Directors;

Chief Executive Officer means a chief executive officer appointed by the Directors in accordance with clause 13.1.

Clean Energy Council means Clean Energy Council Limited.

Company means Australian Solar Thermal Energy Association Limited, c/- Baker & McKenzie, Level 27, AMP Centre, 50 Bridge Street, Sydney 2000 NSW;

Constitution means the Constitution of the Company for the time being in force;

Directors means the directors of the Company from time to time;

Financial Year has the same meaning as in the Act;

Founding Members means

- (a) Cobra Solar Thermal Australia Pty Ltd ACN 141 813 630;
- (b) Novatec Solar Australia Pty Limited ACN 145 027 630; and
- (c) Vast Solar Pty Ltd ACN 136 258 574.

Fund Raising Committee means any fund raising committee as appointed by the Board under clause 10.10(b).

Initial Directors means the following:

- (a) Andrew James Want;
- (b) Alan Bentley Atchison; and
- (c) Phillip Alexander Hayes-St Clair.

Member means a person who is granted Membership in the Company in accordance with clause 2.6, and is entered in the Membership Register as a Member, including the Founding Members;

Membership means membership of the Company and, for clarity, includes (without limitation) both Members and Associate Members;

Membership Register means the register of Members and Associate Members to be kept pursuant to the Act;

Month means calendar month;

Office means the registered office for the time being of the Company;

Ordinary Resolution means a resolution that has been passed by more than 50% of the votes cast by the persons present and entitled to vote on the resolution.

Principal Purpose means the purposes of the Company as set out in clause 1.5;

Related Body Corporate has the same meaning as in the Act;

Replaceable Rules means the provisions of the Act which would but for this Constitution apply as replaceable rules under section 141 of the Act;

Resolution means a resolution other than a Special Resolution;

Seal means the common seal of the Company (if the Board resolves to adopt a common seal) or, where appropriate, the duplicate seal or the official seal;

Secretary means a person appointed as secretary of the Company from time to time in accordance with clause 16; and

Special Purpose Subscription means a subscription payable by a Member and/or Associate Member as determined by the Board in accordance with clause 2.7.

Special Resolution means a resolution that has been passed by at least 75% of the votes cast by persons present and entitled to vote on the resolution at any annual general meeting at which notice of the proposed resolution will have been given or at a special general meeting convened for such purpose.

Interpretation

1.2 In this Constitution, unless the context otherwise requires:

- (a) a reference to:
 - (i) the singular includes the plural and vice versa;
 - (ii) a gender includes every gender;
 - (iii) the Act, any section, regulation or schedule of the Act or any other legislation is a reference to that law as amended, consolidated, supplemented or replaced;
 - (iv) **in writing** or **written** includes printing, lithography, photography and other means of representing or reproducing words in a visible form;
 - (v) **paid up** or **paid** includes credited as paid up or paid;
 - (vi) **dividend** includes a bonus;
 - (vii) any person includes a reference to any individual, company, body corporate, association, partnership, firm, joint venture, trust or government agency;

- (viii) the word *including* or *includes* means *including but not limited to* or *including without limitation*; and
- (b) headings are for convenience only and must be ignored in interpreting this Constitution.

Replaceable Rules not to apply

- 1.3 The Replaceable Rules are displaced by this Constitution and do not apply to the Company to the extent that they would otherwise apply under section 135 of the Act.

Constitution subject to the Act

- 1.4 This Constitution is subject to the Act and where there is any inconsistency between a clause of this Constitution and the Act, (excluding the Replaceable Rules which are displaced by this Constitution), the Act prevails to the extent of the inconsistency.

Company's Principal Purposes

- 1.5 The Company's Principal Purposes are to support the development and widespread use of solar thermal power generation technologies in Australia by:
- (a) acting as a source of information and analysis on solar thermal power generation technologies for market participants, the media, policy makers and the general public;
 - (b) promoting education and learning in respect of the benefits of solar thermal power technologies for the Australian community;
 - (c) promoting the development and use of solar thermal power generation technologies;
 - (d) supporting Members and Associated Members in their engagement with policy makers on programs and policies concerning solar thermal power;
 - (e) developing and supporting the implementation of programmes and campaigns aimed at enhancing the confidence of the community in the solar thermal power industry;
 - (f) working in concert with similar organisations to promote the development and widespread use of solar power and other renewable energy power generation technologies;
 - (g) doing all other things as may be incidental and ancillary to the attainment of these purposes; and
 - (h) exercising any powers that the Company has by having the legal capacity of a natural person, including by performing any act or function which it is authorised or required to do by any law.
- 1.6 The Company must pursue the Principal Purposes listed in clauses 1.5 and will not operate as a profit making or commercial enterprise.
- 1.7 Clause 1.5 does not limit the legal capacity and powers of the Company, as set out in section 124 of the Act.

Income and property

- 1.8 Subject to clause 1.9, the income and property of the Company wherever derived shall be applied solely towards promoting the Company's Principal Purposes and no portion may be

paid or transferred (whether directly or indirectly and whether by way of dividend, bonus or otherwise) to the Members or Directors.

- 1.9 Clause 1.8 does not prevent the payment in good faith:
- (a) of remuneration to the Chief Executive Officer, appointed in accordance with this Constitution, in return for services actually rendered to the Company;
 - (b) of remuneration to any Member or Associate Member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
 - (c) of remuneration to any Director of the Company in return for any professional services actually rendered to the Company pursuant to the terms of a contract executed under clause 13.6;
 - (d) to Directors in respect of travelling and other expenses incurred by them; or
 - (e) the payment of reasonable and proper rent for premises leased by any Member or Director or Associate Member to the Company, or interest at reasonable and proper commercial rates on money borrowed from a Member, Associate Member or Director, where approved by the Board in accordance with the terms of this Constitution.

2 Membership

Categories of Membership

- 2.1 The Company will consist of:
- (a) Founding Members, being also the Initial Directors of the Company; and
 - (b) Members, whose rights, privileges and obligations are set out in clauses 2.10 and 2.11;
 - (c) Associate Members, whose rights, privileges and obligations are set out in clause 2.12;
 - (d) any other class of Membership determined from time to time by the Members entitled to vote in a general meeting in accordance with this Constitution.

Application for Membership

- 2.2 Every applicant for Membership must:
- (a) be an individual, partnership, corporation or organisation that:
 - (i) is interested in and agrees to support the Principal Purposes of the Company;
 - (ii) agrees to abide by this Constitution as amended from time to time; and
 - (iii) meets any additional criteria established for Membership in the Company as may be adopted by the Board and approved by the Members from time to time;
 - (b) sign an application for Membership in the form prescribed by the Directors at that time; and

- (c) as a condition of admission, pay the entrance fee (if any) and/or any annual subscription fee prescribed by the Board from time to time for the relevant category of Membership.

Nomination for Membership

- 2.3 A person who is not a Member or Associate Member shall not be admitted to Membership unless:
- (a) they are nominated as provided in clause 2.4; and
 - (b) their admission as a Member or Associate Member (as the case requires) is approved by the Board in its absolute discretion.
- 2.4 A nomination of a person for Membership:
- (a) may only be made by a Member;
 - (b) must be seconded by a second Member;
 - (c) must be made in writing in the form determined by the Directors; and
 - (d) must be lodged with the Secretary.
- 2.5 As soon as is practicable after the receipt of a nomination, the Secretary shall refer the nomination to the Board.
- 2.6 Upon a nomination being referred to the Board, the Board shall determine whether to approve or to reject the nomination.
- 2.7 Upon a nomination being approved by the Board, the Secretary shall, with as little delay as possible, notify the nominee in writing that the nominee is approved for Membership and request payment within the period of 28 days after receipt of the notification of the entrance fee and the first year's annual subscription and any Special Purpose Subscription determined by the Board as payable by Members or Associate Members (as the case requires).

Entry of nominee's name into the Membership Register

- 2.8 The Secretary shall, upon payment of the amounts referred to in clause 2.7 within the period referred to in that clause, enter the nominee's name in the Membership Register and, upon the name being so entered, the nominee becomes a Member.

Membership rights

- 2.9 A right, privilege, or obligation of a person by reason of his or her membership:
- (a) is not capable of being transferred or transmitted to another person; and
 - (b) terminates upon the cessation of membership (except as otherwise provided in this Constitution).

Rights and privileges of Membership

- 2.10 Without limiting any other rights conferred on Members, Members have the right to receive notice of, attend and vote at any general meeting of the Company.

- 2.11 The rights of Founding Members are the same as the rights of other Members, except that the Initial Directors shall not, in their capacity as Initial Directors, have any right to vote on any resolution of Members.
- 2.12 Associate Members have the right to receive notice of and to attend at, but not the right to vote at, any general meeting of the Company.

Entrance fees

- 2.13 The entrance fee for Membership is \$20 or such other sum as the Board prescribes from time to time for each category of Membership.

Annual Subscription

- 2.14 The annual subscriptions payable by Members and Associate Members respectively of the Company may be prescribed by the Directors from time to time in accordance with the following process:
- (a) if the Directors, in their absolute discretion, decide that annual subscriptions should be payable by Members and/or Associate Members, the Directors will recommend to the Members that annual subscriptions should be payable, and the subscription amounts proposed by the Directors to be paid by Members and Associate Members respectively; and
 - (b) if the Directors recommend that annual subscriptions should be payable by Members and/or Associate Members, the Members may, in their absolute discretion, approve or disapprove the payment of the annual subscriptions recommended.
 - (c) For clarity, the approval or disapproval of all Membership subscriptions is a matter for determination by the Members, and Associate Members may not approve or disapprove of Membership subscriptions.
- 2.15 All annual subscriptions will become due and payable in advance on the first day of July every year.
- 2.16 Without limiting clause 2.14, in determining that annual subscriptions should be payable by Members and Associate Members, the Board may provide for different subscriptions for each category of Membership and different subscriptions within a particular category based on such factors appearing to the Board to justify differential subscriptions.
- 2.17 If a Member or Associate Member is admitted to Membership during a financial year, the subscription may, at the discretion of the Board, be calculated proportionately for the part of the financial year remaining in whole Months plus the Month in which the Member or Associate Member was admitted to Membership.

Register of Members

- 2.18 The Secretary shall keep and maintain the Membership Register in which shall be entered the full name, address and date of entry of the name of each Member and Associate Member and the register shall be available for inspection by Members and Associate Members at the Company's address.

Resignation or expulsion of Member or Associate Member

- 2.19 A Member or Associate Member who has paid all moneys due and payable to the Company may cease their Membership by giving one month's notice in writing to the

Secretary. On expiration of the notice period, the Membership of the Member or Associate Member shall cease. The Member or Associate Member will remain liable for any annual subscription and all other moneys due by them to the Company and unpaid as at the date of resignation and for any sum for which they are liable under clause 2.14 or 2.15.

- 2.20 Upon the expiration of a notice given under clause 2.19, the Secretary shall make in the Membership Register an entry recording the date on which the Membership of the relevant Member or Associate Member ceased .
- 2.21 Subject to these rules, the Board may by resolution:
- (a) expel a Member or Associate Member; or
 - (b) suspend a Member or Associate Member from Membership for a specified period, who has:
 - (c) refused or neglected to comply with this Constitution; or
 - (d) engaged in conduct which is, in the determination of the Board, unbecoming a Member or Associate Member, prejudicial to the interests of the Company or contrary to any Principal Purpose.
- 2.22 If the subscription of a Member of Associate Member remains unpaid for 3 calendar months after it becomes due, the Secretary will give notice to the Member or Associate Member, as the case requires, of that fact. If the subscription remains unpaid 14 days after the date of the notice, the Directors may expel the Member or Associate Member from membership of the Company and remove the Member's or Associate Member's name from the Register. The Directors may reinstate the Member or Associate Member, on payment of all arrears if the Directors think fit to do so.
- 2.23 Where the Board passes a resolution under clause 2.21 or 2.22, the Secretary shall, as soon as practicable, cause to be served on the Member or Associate Member a notice in writing setting out the resolution of the Board and the grounds on which it is based.

Other grounds for cessation of membership

- 2.24 A Member's or Associate Member's membership of the Company will automatically cease:
- (a) in the case of a Member who is a natural person, on the date that the Member or Associate Member:
 - (i) dies; or
 - (ii) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (b) in the case of a Member or Associate Member which is a body corporate, on the date that:
 - (i) a liquidator is appointed in connection with the winding up of the Member or Associate Member; or
 - (ii) an order is made by a court for the winding-up or deregistration of the Member or Associate Member.

Limited Liability

2.25 The liability of the Members and Associate Members is limited.

Members' and Associate Members' guarantee

2.26 If the Company is wound up, anyone who is a Member or Associate Member when the Company is wound up or who ceases to be a Member or Associate Member within one year before the Company is wound up must, on winding up, contribute to the Company's property the lesser of:

- (a) the amount required for:
 - (i) payment of the Company's debts and liabilities that were contracted before the person ceased to be a Member or Associate Member;
 - (ii) the costs, charges and expenses of the winding up; and
 - (iii) adjustment of the rights of contributors between themselves; and
- (b) \$20.00.

3 General Meetings**Annual general meetings**

3.1 Subject to the Act:

- (a) the Company must hold its first annual general meeting by the end of the calendar year of the registration of the Company; and
- (b) subsequent annual general meetings must be held at least once in every calendar year and within five months after the end of the financial year of the Company.

The annual general meeting shall be specified as such in the notice convening it.

3.2 All other general meetings of the Company may be convened at any time.

Venue and conduct of general meetings

3.3 Subject to section 249R of the Act annual general meetings and general meetings may be held within or outside Australia.

Deemed holding of annual general meeting

3.4 An annual general meeting is deemed to have been held if the Company has held a general meeting at which resolutions have been passed dealing with all matters required to be dealt with at an annual general meeting, but this does not affect the obligation to hold an annual general meeting as required by the Act or this Constitution.

Calling of general meetings

3.5 In relation to the convening of general meetings, either:

- (a) a Director may resolve to call general meetings to be held at any place the Director thinks fit; or

- (b) the Directors must call, and arrange to hold, a general meeting within 21 days after being requested to do so by at least 100 Members or by Members with at least 5% of the votes that may be cast at the general meeting.

Notice of general meetings

- 3.6 Except as permitted by the Act, at least 21 days' notice of every general meeting or meeting of any class of Membership must be given in the manner provided by this Constitution to the Members and to the Associate Members and any other persons entitled under this Constitution to receive notices.

Contents of notice of general meetings

- 3.7 Every notice convening a general meeting must:
- (a) set out the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (b) set out the rights of and requirements for a Member to appoint a proxy;
 - (c) be accompanied by an instrument of proxy in the form which complies with the Act, and this Constitution or in any other form as the Directors may from time to time prescribe or accept; and
 - (d) otherwise comply with the requirements of section 249L of the Act.

Omission to give notice

- 3.8 The accidental omission to give notice of a meeting of Members to, or the non-receipt of any such notice by, a person or other entity entitled to receive it does not invalidate the proceedings at, or any resolution passed at, the meeting.

4 Proceedings at General Meeting

Business at annual general meeting

- 4.1 The business of an annual general meeting may include the following even if not referred to in the notice of the meeting:
- (a) to consider the annual financial report, the Directors' report and auditor's report;
 - (b) to elect Directors;
 - (c) to appoint the auditor;
 - (d) to fix the remuneration of the auditors (if relevant); and
 - (e) to transact any other business which may be properly brought before the meeting.

Quorum for general meeting

- 4.2 No business will be transacted at any general meeting unless a quorum is present at the beginning of the business and during the whole of the meeting. A quorum is constituted by:
- (a) where the Company has a single Member, that Member; and

- (b) where the Company has two or more Members, two Members present in person or by attorney or proxy.

4.3 For the purpose of determining whether a quorum is present, a person attending as a proxy, or as an attorney for a Member, or as a duly authorised representative of a corporation that is a Member, will be taken to be a Member present in person.

Representative of body corporate

4.4 Where:

- (a) a person present at a general meeting is authorised to act as the representative of a body corporate at the general meeting under an authority given by the body corporate under section 250D of the Act; and

- (b) the person is not otherwise entitled to be present at the general meeting,

the body corporate will, for the purposes of this Constitution, be deemed to be present in person at the general meeting.

No quorum

4.5 If a quorum is not present within 20 minutes after the time appointed for the meeting:

- (a) any meeting convened on a requisition of Members will be dissolved; and
- (b) any other meeting will be adjourned to the same day in the next week at the same time and place or to such other day, time and place that the Directors may appoint by notice to the Members and Associate Members.

If at the adjourned meeting a quorum is not present, the meeting will be dissolved.

Chairman of general meeting

4.6 The Directors may elect one of their number as chairman of the general meeting and may decide the period for which the elected Director is to hold office.

4.7 The chairman of the Directors, or, in the chairman's absence, the deputy chairman (if any), is entitled to take the chair at every general meeting.

4.8 If there is no chairman or if at any meeting the chairman is not present within 15 minutes after the time appointed for holding the meeting or if the chairman is unwilling to act:

- (a) the Directors present may choose a chairman; or
- (b) if the Directors do not choose a chairman, the Members present must choose 1 of the Directors to be chairman and if no Director is present or willing to take the chair, the Members must choose someone to be chairman.

Adjournment of general meeting

4.9 The chairman of a general meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but only business left unfinished at the original meeting may be transacted at the adjournment.

Notice of adjourned meeting

- 4.10 If any general meeting is adjourned for more than one month, a notice of the adjournment must be given to Members and Associate Members of the Company in the same manner as notice was or ought to have been given of the original meeting. In the case of all other adjournments, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

5 Voting

Matters requiring a Special Resolution

- 5.1 Any business which under the Act requires a Special Resolution will require a Special Resolution of the Members at any general meeting.

Resolution determined by majority

- 5.2 At a general meeting:
- (a) all questions submitted to the meeting will be decided by a simple majority of votes except where a greater majority is required by clause 5.1, or elsewhere in this Constitution, or the Act;
 - (b) in the first instance, voting will be on a show of hands;
 - (c) a poll may be demanded on any question before the close of the meeting by the chairman, any Member, or their proxy, attorney or representative. The chairman must decide in each case the manner in which a poll will be taken. Any dispute about the admission or rejection of a vote must be determined by the chairman and the chairman's determination made in good faith will be final and conclusive; and
 - (d) if necessary the chairman will have a casting vote in addition to the vote or votes to which the chairman may be entitled as a Member.

Votes

- 5.3 On a show of hands and on a poll every person present as a Member or as a duly authorised representative, proxy or attorney of a Member will have one vote whether present in person or by proxy, attorney or representative.
- 5.4 A person entitled to cast more than one vote on a poll need not use all their votes or cast all the votes they use in the same way.
- 5.5 A Member is not entitled to vote at a general meeting unless all sums presently payable by that Member in respect of that Member's membership in the Company have been paid.
- 5.6 An Associate Member is not entitled to attend a general meeting unless all sums presently payable by that Associate Member in respect of that Associate Member's membership in the Company have been paid or the Board otherwise approves.

Objections to qualification to vote

- 5.7 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.

5.8 Any such objection will be resolved by the chairman of the meeting, whose decision is final.

5.9 A vote not disallowed pursuant to an objection is valid for all purposes.

Attorney of Member

5.10 Any Member may appoint an attorney to act on the Members' behalf at all meetings of the Company or all meetings of the Company during a specified period. Before the first meeting at which the attorney acts on the Members' behalf, the relevant power of attorney must be deposited at the Office or at any place specified in the notice convening that meeting. At the first meeting and at any subsequent meeting to which the power of attorney may relate, the attorney must hand to the chairman of the meeting a properly executed declaration of non-revocation of the power of attorney.

6 Proxies

Instrument appointing proxy

6.1 The instrument appointing a proxy must be in writing signed by the appointor or by the appointor's attorney properly authorised in writing, or, if the appointor is a body corporate, by its corporate representative or at least two of its officers.

Validity of appointment

6.2 The instrument appointing a proxy and the original power of attorney (if any) under which it is signed or a certified copy of the power of attorney must be received by the Company at least 48 hours before the time for holding the meeting either by delivery to the Company's registered office, by facsimile received at a fax number at the Company's registered office or otherwise by any other means permissible under section 250B(3) of the Act.

6.3 An instrument appointing a proxy will only be valid for 12 Months from the date of its execution unless it states that it is valid for all meetings until revoked, except that any instrument may be used at any adjournment of the meeting for which it was originally intended.

Validity of vote given in accordance with proxy

6.4 Unless the Company has received written notice of the matter before the start or resumption of the Members' meeting at which a proxy or an attorney votes, a vote cast by the proxy or attorney will be valid even if, before the proxy or attorney voted, the Member:

- (a) dies;
- (b) is mentally incapacitated;
- (c) revokes the proxy's or attorney's appointment; or
- (d) revokes the authority under which the proxy was appointed by a third party.

Form of proxy

6.5 Every instrument of proxy must specify the Members' name and address, the Company's name, the proxy's name or the name of the office held by the proxy and the meetings at which the proxy may be used, and must otherwise comply with the provisions of section 250A of the Act.

- 6.6 The instrument of proxy may be worded so that a proxy is directed to vote either for or against each of the resolutions to be proposed. Any instrument of proxy deposited in accordance with this Constitution in which the name of the appointee is not filled will be deemed to be given in favour of the chairman of the meeting to which it relates. The instrument of proxy may specify the proportion or number of votes that the proxy may exercise.

Two proxies

- 6.7 A Member entitled to cast two or more votes at a meeting may appoint two proxies. If the Member appoints two proxies and the appointment does not specify the proportion or number of the Members' votes each proxy may exercise half of the votes.

7 Resolutions without meetings

Where only one Member

- 7.1 Where the Company has only one Member, any resolution may be passed without a general meeting being held if that Member (or being a corporation, its duly authorised representative or attorney) records the resolution and signs the record.

Where more than one Member

- 7.2 Where the Company has more than one Member, any resolution, other than a resolution to remove an auditor under section 329 of the Law, may be passed without a general meeting being held if all the Members entitled to vote on the resolution (or being corporations, their duly authorised representatives or attorneys) sign a statement that they are in favour of a resolution set out in the document. Identical copies of the document and accompanying information may be distributed for signing by different Members. The resolution is passed when the last Member signs the document.
- 7.3 A statement of a Member under clause 7.2 which is communicated by email or facsimile (or by any other electronic medium approved by the Directors from time to time) will be accepted as a valid vote of the Member.

8 Directors

Number of directors and composition of the Board

- 8.1 The number of the Directors must not be less than three, nor, more than six, until otherwise determined by the Company in general meeting at all times in accordance with the Act.
- 8.2 Without limiting clause 8.1, for so long as:
- (a) there remains a category of Associate Member within the Membership of the Company; and
 - (b) there are three or more Associate Members registered in the Membership Register,
- then the Associate Members may appoint, substitute and remove one Director from the Board as determined by a simple majority of the Associate Members and notified in writing to the Company.

- 8.3 A Director appointed by the Associate Members in accordance with clause 8.2 automatically ceases to be a Director if the requirements of clauses 8.2(a) or 8.2(b) cease to be satisfied.

Residence of directors

- 8.4 At least two of the directors must be natural persons who ordinarily reside within Australia.

Consent to act as Director

- 8.5 Before being appointed as a Director a person must give the Company a signed consent to act as Director, which must be retained by the Company.

Initial Directors

- 8.6 The Initial Directors will be Directors on incorporation.

Appointment or removal of Directors

- 8.7 Directors may be appointed or removed either by Ordinary Resolution of Members or by notice in writing to the Company signed by or on behalf of Members holding a majority of the votes that may be cast at general meetings. Any removal or appointment by notice takes effect immediately on delivery of the notice to the registered office or on presentation at a duly constituted Directors' meeting.

Directors may fill casual vacancies or appoint additional Directors

- 8.8 Notwithstanding the previous clause, the Directors also have the power at any time to appoint any other person as a Director, either to fill a casual vacancy or as an addition to the Board, except that the total number of Directors must not at any time exceed the maximum number for the time being fixed by or under this Constitution.

Auditor cannot be Director

- 8.9 Subject to the Act, an auditor of the Company or partner or employee or employer of an auditor must not be appointed a Director or an alternate Director.

Director

- 8.10 Subject to the Act, each Director may with the approval of a majority of the other Directors by writing under hand or by facsimile appoint any person to act as an alternate Director in the Director's place during any period the Director thinks fit. Any alternate Director:
- (a) may be removed or suspended from office by written notice to the Company from the Director who appointed the alternate Director;
 - (b) is entitled to receive notice of meetings of the Board, to attend meetings (if the Director who appointed the alternate Director is not present) and to be counted towards a quorum at meetings;
 - (c) is entitled to vote at meetings he or she attends on all resolutions on which the appointor could vote had he or she attended and, where the alternate is a Director in the alternate's own right, will have a separate vote on behalf of the Director the alternate is representing in addition to the alternate's own vote;
 - (d) need not be a Member;
 - (e) may exercise any powers that the appointor may exercise in the alternate's own right where the appointor is unavailable for any reason except the power to appoint an

alternate Director. The action of an alternate Director will be conclusive evidence as against third parties of the unavailability of the appointor;

- (f) will automatically vacate office if the Director who appointed the alternate is removed or otherwise ceases to hold office for any reason;
- (g) while acting as a Director is responsible to the Company for the alternate's own acts and defaults and will not be deemed to be the agent of the appointor;
- (h) will not be entitled to receive any remuneration from the Company but will, if approved by the Directors in accordance with clause 13.9, be entitled to reimbursement for reasonable travelling and other expenses incurred by the alternate in attending meetings of the Board or otherwise on the Company's business;
- (i) will not be taken into account in determining the number of Directors for the purposes of this Constitution except for the purposes of determining a quorum in accordance with clause 10; and
- (j) may act as an alternate for more than one Director.

9 Directors' terms

Directors' tenure of office

- 9.1 At the first annual general meeting of the Company, the Initial Directors must retire from office, with effect from the end of the first annual general meeting, but may seek re-election in accordance with this Constitution and, if duly re-elected, will take office with effect from the end of the first annual general meeting.
- 9.2 Subject to the Act, this Constitution and clause 9.3, a Director must retire from office or seek re-election by no later than the third annual general meeting following his or her appointment or election or 3 years, whichever is longer.
- 9.3 Clauses 9.1 and 9.2 do not apply to the Chief Executive Officer.

Retirement by rotation

- 9.4 Subject to the Act and to clause 13.2, at every annual general meeting of the Company following the first annual general meeting, one-third of the Directors (rounded up to the nearest whole number) must retire from office, with effect from the end of the annual general meeting. For the avoidance of doubt, in addition to the one-third of Directors to retire at an annual general meeting (other than the first annual general meeting), in accordance with clause 9.2 a Director must also retire at an annual general meeting if that annual general meeting is the third annual general meeting following the Director's appointment and the Director is not one of the one-third of Directors otherwise retiring.
- 9.5 The one-third (or rounded up nearest whole number) of Directors to retire at every annual general meeting (other than the first annual general meeting) will be the Director or Directors who have been longest in office. As between two or more Directors who have been in office an equal length of time, the Director or Directors to retire must be determined by lot, unless otherwise agreed among themselves.

Retiring Director eligible for re-election

9.6 Subject to clause 9.8, a Director who retires or whose office is vacated under this Constitution is eligible for election or re-election to the Board except as expressly provided in this Constitution.

Vacation of office

9.7 The office of a Director will be automatically vacated if the Director:

- (a) becomes insolvent under administration;
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
- (c) resigns office by notice in writing to the Company; or
- (d) vacates office or is prohibited from being a Director under any of the provisions of the Act or any order made under the Act.

9.8 A Director whose office is vacated under clauses 9.7(a), 9.7(b) or 9.7(d) will not be eligible for re-election until the disability (or disabilities) referred to is (or are) removed.

Vacancies

9.9 In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may not act until the Company appoints sufficient new Directors so that the number of Directors increases to a number sufficient to constitute such a quorum.

10 Proceedings of Directors**Board meetings and quorum for Board meetings**

10.1 Unless clause 10.2 applies:

- (a) the Directors may meet for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit;
- (b) the Directors may determine the quorum necessary for the transaction of business;
- (c) until a determination under clause 10.1(b) is made, the quorum will be two Directors; and
- (d) if a quorum is present at the beginning of the meeting, it is deemed to be present throughout the meeting even if a Director absents himself or herself, or absents from voting, for any reason.

10.2 In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may only act for the purposes of increasing the number of Directors to a number sufficient to constitute a quorum or of convening a general meeting of the Company.

Use of technology

- 10.3 A Directors' meeting may be called or held by telephone or by using any other technology consented to by all the Directors. The consent may be a standing one and may only be varied or withdrawn by a further Ordinary Resolution of Directors.

Calling of Board meeting and place of meeting

- 10.4 The Board must meet whenever a meeting is called by at least 3 Directors provided that not less than one working days' written notice has been given to the other Directors.

Board meeting competent to exercise all powers

- 10.5 A meeting of the Directors at which a quorum is present may exercise all or any of the powers and discretions vested in or exercisable by the Directors generally.

Resolution passed deemed to be determination of Board

- 10.6 Any resolution properly passed at a duly convened meeting of the Directors at which a quorum is present will be deemed to be a determination by all the Directors of the Board for the purposes of this Constitution.

Chairman of Board meetings

- 10.7 The Directors may elect a chairman and deputy chairman of their meetings and determine the period they are to hold office. If no chairman or deputy chairman is elected, or if elected, both the chairman and deputy chairman decline to act or if at any meeting neither the chairman nor the deputy chairman is present at the time appointed for the meeting, the Directors present at the meeting must choose one of their number to be chairman of the meeting.

Questions to be decided by majority

- 10.8 Questions arising at any meeting will be decided by a majority of votes of Directors present and entitled to vote on the resolution. If necessary the chairman of the meeting will not have a casting vote in addition to any vote he or she has as a Director.

Committee powers and meetings

- 10.9 The Directors may delegate any of their powers to a committee of Directors or to a sole Director and may revoke any delegation. Any committee or sole Director must exercise the powers delegated to it in accordance with any directions of the Board. The meetings and proceedings of any committee consisting of two or more Directors will be governed by the provisions of this Constitution regulating the meetings and proceedings of the Directors so far as they are applicable and are not superseded by any direction made by the Board under this clause.

- 10.10 Subject to the above clause 10.9:

- (a) the Board may appoint an Audit Committee and/or appoint a financial manager to such Audit Committee. The Board may instruct the Audit Committee to:
- (i) oversee the financial management of the Company;
 - (ii) liaise with the Auditors;
 - (iii) oversee and prepare financial statements on behalf of the Board; and/or

- (iv) report to the Board on a regular basis regarding the financial status of the Company; and
- (b) the Board may appoint a Fund Raising Committee, and may instruct the Fund Raising Committee to:
 - (i) oversee the fundraising initiatives of the Company;
 - (ii) assist in the development of strategies for fund raising;
 - (iii) secure sources of funds from government, corporate and public sectors;
 - (iv) ensure financial due diligence over all fundraising activities of the Company is observed; and/or
 - (v) report to the Board on strategies and outcomes on fundraising activities of the Company.

Resolutions without meetings

10.11 If a majority of Directors entitled to attend at the meeting of the Directors and vote on the resolution sign a document containing a statement that they are in favour of a resolution or resolutions set out in the document, the resolution or resolutions will be taken to have been passed at a meeting of the Directors duly convened and held on the day on which and at the time at which the document was last signed by a Director.

10.12 For the purposes of clause 10.11:

- (a) two or more separate documents containing statements in identical terms or counterparts, each of which is signed by one or more Directors, will together be taken to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents;
- (b) a reference to all the Directors does not include a reference to an alternate Director whose appointer has signed the document, but an alternate Director may sign the document in the place of his appointer; and
- (c) a telex, telegram or facsimile message which is received by the Company and is expressed to have been sent by a Director or alternate Director will be taken to be a document signed by that Director or alternate Director at the time of receipt of the telex, telegram or facsimile message by the company.
- (d) a statement by a Director under this clause 10.12 which is communicated by email or fax (or by any other electronic medium approved by the Directors from time to time) will be accepted as a valid vote of that Director.

Validity of acts of Directors

10.13 All acts done by any meeting of the Directors or by a committee of the Directors or by any person acting as a Director are valid even if it is discovered afterwards that there was some defect in the appointment or election of any Director or person acting as a Director or that any Director was disqualified or had vacated office or was otherwise not entitled to vote or act.

11 Directors' contracts

Directors not disqualified from holding office or contracting with the Company

11.1 No Director is disqualified because of his or her office from:

- (a) holding any other office or position with the Company or with any company promoted by the Company or with any corporation in which the Company is a member or which is a Member of the Company or in which the Company is otherwise interested; or
- (b) contracting with the Company (whether as vendor, purchaser or otherwise).

11.2 No contract referred to in clause 11.1(b) or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested will be avoided and no Director will be liable to account to the Company for any profit arising from such a contract or arrangement or from any office referred to in clause 11.1(a) (or other place of profit) only because that Director holds that office or because of the fiduciary relations established by it.

Director may hold office or act in professional capacity

11.3 Subject to the Act, a Director:

- (a) may hold any office in connection with the Company's business; and
- (b) may act individually or through the Director's firm in a professional capacity for the Company. The Director will only be entitled to remuneration for these professional services if approved by the Directors.

Director may vote on contract in which that Director is interested

11.4 Subject to the Act (and in particular section 195) and to clause 11.5, a Director may vote on any matter about any contract or arrangement in which the Director is interested (whether directly or indirectly) and may be counted in a quorum, may affix the Seal to, and may otherwise act on any matter about that contract or arrangement.

Director not deemed to be interested in certain contracts or arrangements

11.5 A Director will not be deemed to be interested (whether directly or indirectly) or to have been at any time interested in any contract or arrangement or proposed contract or arrangement of a type referred to in section 191(2) of the Act.

Directors to declare interest

11.6 Any Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest, unless the interest is of a type referred to in section 191(2)(a) of the Act, or the conditions referred to in section 191(2)(b), (c) or (d) of the Act are satisfied.

11.7 The Director must declare the nature and extent of the Director's interest and the relation of the interest to the affairs of the Company at the meeting of the Directors as soon as possible after the Director becomes aware of their interest in the matter.

11.8 A Director who has an interest in a matter may give a standing notice to the other Directors of the nature and extent of that Director's interest in the matter in accordance with section 192 of the Act.

Directors to declare potential conflicts

- 11.9 Any Director who holds any office or possesses any property which might (whether directly or indirectly) create duties or interests in conflict with that Director's duties or interests as a Director of the Company must declare the fact of the holding and the nature and extent of any conflict at the first meeting of the Directors held after the Director becomes a Director or (if already a Director) at the first meeting of the Directors held after the relevant facts came to the Director's knowledge.

Secretary to record declarations of Directors

- 11.10 The Secretary must record any declarations made or notices given by a Director under this Constitution in the minutes of the meeting.

Effect of failure to make or record disclosures

- 11.11 Failure to make or to record any disclosures will not render voidable or void any contract, transaction or arrangement to which the disclosure relates.

12 Powers of Directors

Powers of Directors

- 12.1 Subject to the Act and this Constitution, the business of the Company will be managed by the Directors, who may pay and, if approved by the Directors, including in accordance with clause 13.9 as appropriate, be reimbursed by the Company for, all reasonable expenses incurred in promoting and forming the Company and may exercise all of the powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Company in general meeting.

Powers to borrow or raise money

- 12.2 Without limiting the previous clause, the Directors may from time to time borrow or raise any sum or sums of money or incur other financial obligations for the purposes of the Company and may give or take security over the repayment of that sum or sums or the payment, performance or fulfilment of any debts, liabilities, contracts or obligations incurred or undertaken by the Company on terms and conditions as they determine.

Directors may vote shares in other corporations

- 12.3 Subject to the Act, the Directors may exercise the voting power conferred by the shares in any corporation held by the Company as they determine including in circumstances where a Director may be interested in the exercise, such as an exercise in favour of any resolution appointing a Director as an officer of a corporation or voting or providing for the payment of remuneration to officers of the other corporation.

Security over the Company's assets

- 12.4 Subject to the Act, if any Director or any other person becomes personally liable (whether as surety or otherwise) for the performance of any of the Company's obligations, the Directors may, despite their interest, execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the liability.

13 Executive Directors

Appointment of Chief Executive Officer

- 13.1 The Directors may at any time appoint any person (whether or not a Director) to the office of Chief Executive Officer or to any other executive office for any period and on any terms they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke the appointment.
- 13.2 The Directors may resolve to appoint a person appointed as Chief Executive Officer as a Director for the duration of his or her appointment as Chief Executive Officer or part thereof, or such longer period as provided for in this Constitution.
- 13.3 If a Member is appointed as Chief Executive Officer, then to the extent permitted by law, the rights of that Member as a Member will be automatically suspended upon such appointment until such time as the appointment ends, at which time the suspension of the person's rights as a Member will cease. A person appointed as Chief Executive Officer is not eligible to apply for or be admitted as a Member at any time during such appointment. For clarification, this clause only applies to a Member who is a natural person, and does not affect the rights and privileges of a Member that is a body corporate where an officer of the body corporate is appointed as Chief Executive Officer of the Company.

Payments to Chief Executive Officer

- 13.4 Where the Directors appoint a Chief Executive Officer in accordance with clause 13.1 such Chief Executive Officer shall be entitled to receive remuneration in respect of services actually rendered to the Company, subject to the terms of any agreement entered into in respect of such appointment, as approved by the Board in accordance with this Constitution, including for the avoidance of doubt where such Chief Executive Officer is a Member or Director of the Company.

Directors may confer powers on executive Directors

- 13.5 The Board may grant a Chief Executive Officer or other executive Director any of the powers exercisable by the Directors on terms and conditions and with any restrictions that they think fit. Any powers which are conferred may be concurrent with or to the exclusion of their own powers. The Directors may at any time revoke, withdraw, alter or vary all or any of those powers.

Engagement of Directors to perform executive functions or provide consultancy services

- 13.6 The Board may contract with a Director or Directors for the performance by such Director or Directors of executive functions in relation to the Company or the provision of consultancy services to the Company.

Remuneration of Directors

- 13.7 Subject to clause 13.8, the Directors shall not be entitled to receive remuneration for services provided by them as Directors of the Company.
- 13.8 Any payments to a Director by the Company as provided for under clause 1.9 must be approved by the Directors.

Expenses of Directors

- 13.9 If approved by the Directors, a Director may also be paid all travelling and other expenses incurred by them in attending and returning from meetings of the Directors, any committee of the Directors or any general meetings of the Company or otherwise in connection with the business of the Company and the performance of their functions in accordance with this Constitution.

14 Local management and attorneys

Local Boards and agencies

- 14.1 Subject to the Act, the Directors may at any time provide for the management of the affairs of the Company in any place and in any manner they think fit and without limiting the generality of this clause, the Directors may:
- (a) establish any local boards or agencies for managing any of the affairs of the Company in any locality and may appoint any persons to be Members of the local board or to act as managers or agents of the Company and, in connection with any appointment, may fix remuneration, impose conditions and remove any appointee as the Directors think fit;
 - (b) delegate to any person referred to in subclause 14.1(a) any of the powers, authorities and discretions of the Directors other than the power of making calls, and vary or terminate that delegation; and
 - (c) authorise the Members of any local board (or any of them) to fill up any vacancies and to act despite vacancies.

Appointment of attorney

- 14.2 The Directors may at any time by power of attorney appoint any person or persons to be the attorney or attorneys of the Company for those purposes and with those powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for that period and subject to those conditions that the Directors think fit.
- 14.3 Without limiting clause 14.1(a), any appointment may be made in favour of any company or the Members, directors, nominees or managers of any company or firm or in favour of any fluctuating body of persons (whether nominated by the Directors or otherwise).
- 14.4 Any power of attorney given on behalf of the Company may contain provisions for the indemnification, protection or convenience of the attorney or attorneys and of persons dealing with the attorney or attorneys.

Sub-delegation of powers

- 14.5 Any delegate, manager, agent or attorney appointed by the Directors may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions given to them.

15 Minutes and registers to be kept

Minutes

- 15.1 The Directors must ensure that minute books are kept in which are recorded within 1 Month of the relevant meeting the following:
- (a) the names of the Directors present at each meeting of the Directors and of any committee of Directors;
 - (b) all declarations made or notices given by any Director (either generally or specially) of his or her interest in any contract or proposed contract or of his or her holding of any office or property by which any conflict of duty or interest may arise;
 - (c) all resolutions and proceedings of general meetings of the Company, meetings of the Directors and meetings of any committee of the Directors; and
 - (d) resolutions passed by Members or Directors without a meeting.
- 15.2 Any minutes of any general meetings of the Company, meetings of the Directors or meetings of any committee of the Directors must be signed within a reasonable time after the meeting by the chairman of the meeting or by the chairman of the next succeeding meeting and once signed will be evidence of the matters stated in the minutes.

Registers

- 15.3 The Directors must set up and maintain in accordance with the Act:
- (a) a Membership Register;
 - (b) a register of charges;
 - (c) if the Company issues debentures, a register of debenture holders;
 - (d) a register of the holdings of Directors in debentures of the Company and in shares and debentures of any related body corporate of the Company;
 - (e) a register of the Directors, principal executive officer and Secretaries of the Company which must contain for each Director, his consent in writing to his appointment as a Director; and
 - (f) any other registers required to be kept under the Act.
- 15.4 The registers may be kept either in a bound or loose leaf book or on computer. If a register is kept on computer, its contents must be capable of being printed out in hard copy.

Overseas branch registers

- 15.5 Subject to the Act, the Company may keep a branch Membership register at a place outside or inside Australia.

16 The Secretary

Appointment of Secretary

- 16.1 A Secretary or Secretaries of the Company must be appointed by the Directors complying with the Act. The Directors may also appoint acting and assistant secretaries. At least one Secretary must be ordinarily resident in Australia. Any appointment may be for that term, at that remuneration and on those conditions the Directors think fit and any person so appointed may be removed by the Directors.

17 The Seal

Use of the Seal

- 17.1 If the Company has a Seal:
- (a) the Directors must provide for the safe custody of the Seal;
 - (b) the Seal must be used only by the authority of the Board or a committee of the Directors with authority from the Board to authorise the use of the Seal; and
 - (c) every document to which the Seal is affixed must be signed by a Director and countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

18 Negotiable instruments

Terms of negotiable instruments

- 18.1 All cheques, bills of exchange, promissory notes and other negotiable instruments must be signed, drawn, accepted, made or endorsed (as the case may be) for and on behalf of the Company by those persons and in that manner determined by the Directors.

19 Asset Valuation

Revaluation of assets

- 19.1 Subject to the Act, the Directors may revalue any assets of the Company.

20 Financial statements

Financial records

- 20.1 Except as otherwise required by the Act, the Directors must cause financial and other records to be kept to record correctly and explain the transactions and financial position of the Company, to enable true and fair profit and loss accounts and balance sheets to be prepared

and to permit preparation of any other documents required by the Act or this Constitution. The records must be kept:

- (a) in a manner which will enable them to be conveniently and properly audited, as required under the Act;
- (b) for seven years after the completion of the transactions or operations to which they relate; and
- (c) at the Office or at any other place the Directors think fit and at all times be open to inspection by the Directors.

Financial statements/reports

- 20.2 Except as otherwise required by the Act, at each annual general meeting the Directors must lay before the Company:
- (a) a profit and loss account for the last financial year of the Company;
 - (b) a balance sheet as at the date to which the profit and loss account is made up;
 - (c) an account of the contributions of each Member for the last financial year;
 - (d) attached to the documents listed in paragraphs (a) and (b), a report by the Directors regarding the state of the Company's affairs, a statement by the Directors in accordance with the Act and the auditor's report regarding the documents, unless the Company in accordance with the Act has resolved not to appoint auditors.

21 Audit

Auditors

- 21.1 Auditors of the Company must be appointed and removed and their remuneration, rights and duties must be regulated in accordance with the provisions of the Act.
- 21.2 Except as otherwise required by the Act, the financial statements of the Company must be reviewed for each Financial Year of the Company and the correctness of the profit and loss account and balance sheet must be ascertained by the reviewers of the Company complying with the Act.

Approval of financial statements

- 21.3 Financial statements of the Company when approved by a general meeting will be conclusive except regarding any error identified within three Months after the date of preparation. If any error is identified within this period, the financial statements must immediately be corrected and will then be conclusive.

22 Inspection of records

Right to inspect

- 22.1 Subject to the Act, the Directors will determine whether, to what extent, at what times and places and under what conditions the accounting and other records of the Company or any of them will be open to the inspection of the Members.
- 22.2 A Member who is not a Director will not have any right to inspect any account, book or document of the Company or receive any information concerning the business, trading or customers of the Company or any trade secret or secret process of the Company except as provided by the Act or as authorised by the Directors or a resolution of the Company in general meeting.

23 Notices

Service of notices by the Company

- 23.1 A notice may be given by the Company to any Member or Associate Member either personally, by facsimile or electronically to the relevant facsimile number or electronic address of the Member or Associate Member as shown on the Membership Register, or as advised by the Member or Associate Member, by sending it by post addressed to the Member or Associate Member at the address shown in the Membership Register or otherwise by any other method, including by advertisement, as the Directors determine.

Posting notices to overseas Members

- 23.2 In the case of a Member or Associate Member whose registered address is outside Australia, a notice sent by post must be sent by pre-paid airmail in an envelope.

Notice deemed to be served

- 23.3 Any notice by advertisement will be deemed to have been served on the day of publication of the newspaper containing the advertisement.
- 23.4 Any notice sent by post will be deemed to have been served on the day following the day on which the notice is posted unless sent by airmail to an address outside the country in which it was posted, in which case it will be deemed to have been served on the fifth day following the day on which it is posted.
- 23.5 A notice sent by facsimile or other electronic means will be deemed to have been served on the same day that it is sent.

Service by post

- 23.6 To prove service by post, it is sufficient to prove that the notice with required postage was properly addressed and posted. A certificate in writing signed by any manager, Secretary or other officer of the Company that the notice was properly addressed and posted will be conclusive evidence of those matters.

Notices to Members or Associate Members whose whereabouts unknown

- 23.7 Where:

- (a) the Company has a genuine reason to believe that a Member or Associate Member is not known at the address shown for that Member or Associate Member in the Membership Register;
- (b) the Company has subsequently made an enquiry at that address as to the whereabouts of the Member or Associate Member; and
- (c) the enquiry either elicits no response or a response indicating that the Member's or Associate Member's present whereabouts are unknown,
- (d) all future notices will be deemed to be given to the Member or Associate Member if the notice is exhibited in the Office for a period (not including weekends and public holidays) of not less than 48 hours and will be deemed to be duly served at the beginning of that period.

23.8 This clause will apply unless and until the Member or Associate Member informs the Company of a registered place of address or that the Member or Associate Member has resumed residence at the Member's or Associate Member's address shown in the Membership Register or notifies the Company of a new address to which the Company may send the Member or Associate Member notices (which will be deemed to be the registered address of the Member or Associate Member).

Signing of notices

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

Counting of days

23.10 Where a given number of days' notice or notice extending over any period is required to be given, the day on which notice is deemed to be given will be included in the number of days or other period.

24 Winding up

Distribution of assets

24.1 If upon the winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the Membership of the Company but shall be given or transferred to the Clean Energy Council; or if the Clean Energy Council is not in existence, one or more other funds, authorities or institutions which or each of which:

- (a) has purposes similar to the purposes of the Company; and
- (b) whose constitution prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the Company under or by virtue of clause 1.8,

as determined by the Board at or before the time of dissolution or failing which is to be determined by application to the courts.

Fee or commission paid to liquidator to be approved in general meeting

24.2 No fee or commission will be paid by the Company to any Director or liquidator upon any sale or realisation of the Company's undertaking or assets or any part of them except with the

approval of the Company in general meeting, that meeting to be convened by notice specifying the fee or commission proposed to be paid.

25 Indemnity and insurance

Indemnity

25.1 To the extent permitted by law:

- (a) the Company must indemnify each Director and Secretary, and may indemnify any other officer of the Company (as that term is defined in section 9 of the Act), against any liability (other than legal costs) incurred in acting as a Director, Secretary, or, where applicable, other officer of the Company, other than:
 - (i) a liability owed to the Company or a Related Body Corporate;
 - (ii) a liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H of the Act;
 - (iii) a liability that did not arise out of conduct in good faith; or
 - (iv) a liability to pay a pecuniary penalty under section 76 of the *Competition and Consumer Act 2010* for a contravention of a provision of Part IV of the *Competition and Consumer Act 2010* or legal costs incurred in defending or resisting proceedings in which the officer is found to have such a liability;
- (b) the Company must indemnify each Director and Secretary, and may indemnify any other officer of the Company (as that term is defined in section 9 of the Act), for costs and expenses incurred by a Director, Secretary or, where applicable, other officer of the Company, in defending an action for a liability incurred in acting as a Director, Secretary or, where applicable, other officer of the Company, except for legal costs incurred:
 - (i) in defending or resisting any proceedings, whether civil or criminal, in which the Director, Secretary or, where applicable, other officer of the Company, is found to have a liability for which they could not be indemnified under clause 25.1(a) above;
 - (ii) in defending or resisting criminal proceedings in which the Director, Secretary or, where applicable, other officer of the Company, is found guilty;
 - (iii) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or by a liquidator for a court order if the grounds for making the order are found by the court to have been established, except for costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order; or
 - (iv) in connection with proceedings for relief to the Director, Secretary or, where applicable, other officer of the Company, under the Act in which the relief is denied by the court; and
- (c) the Company may make a payment, or agree to make a payment, whether by way of advance, loan or otherwise, for any legal costs incurred by a Director, Secretary or,

where applicable, other officer of the Company (as that term is defined in section 9 of the Act), on the condition that the Director, Secretary or, where applicable, other officer of the Company, must repay the amount paid by the Company to the extent that the Company is ultimately found not liable to indemnify the Director, Secretary or, where applicable, other officer of the Company, for those legal costs.

Insurance

- 25.2 To the extent permitted by law the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been a Director, Secretary or other officer (as that term is defined in section 9 of the Act), of the Company or of a subsidiary of the Company, other than a liability arising out of:
- (a) conduct involving wilful breach of duty in relation to the Company; or
 - (b) a contravention of section 182 or 183 of the Act.

26 Internal Disputes

- 26.1 The Directors may provide for a mechanism to be established for resolving internal disputes within its membership, which includes, without limitation:
- (a) the appointment of an independent person to arbitrate the dispute;
 - (b) a process to bring disputing parties together to resolve the dispute at an early stage;
 - (c) a process to ensure that all parties receive a full and fair opportunity of presenting their case; and
 - (d) where the dispute cannot be resolved internally by mediation or arbitration, to refer the matter to a community justice centre, or equivalent which functions as "a centre for dispute settlement".

27 Amendment of the Constitution

- 27.1 Subject to clause 5.1, this Constitution may be amended by a Special Resolution.

Execution

Adopted by the Members of the Company.

Signed for and on behalf
of **Cobra Solar Thermal Australia Pty Ltd**
ACN 141 813 630
by its duly authorised representative
in the presence of:

Signature of witness

Signature of authorised representative

Name of witness (please print)

Name of authorised representative
(please print)

Signed for and on behalf
of **Novatec Solar Australia Pty Limited**
ACN 145 027 630
by its duly authorised representative
in the presence of:

Signature of witness

Signature of authorised representative

Name of witness (please print)

Name of authorised representative
(please print)

Signed for and on behalf
of **Vast Solar Pty Ltd ACN 136 258 574**
by its duly authorised representative
in the presence of:

Signature of witness

Signature of authorised representative

Name of witness (please print)

Name of authorised representative
(please print)

Signed for and on behalf
of **Abengoa Solar Power Australia PTY
LTD ACN 141 913 288**
by its duly authorised representative
in the presence of:

Signature of witness

Signature of authorised representative

Name of witness (please print)

Name of authorised representative
(please print)

Signed for and on behalf
of **Areva Solar Pty Ltd ACN 100 512 641**
by its duly authorised representative
in the presence of:

Signature of witness

Signature of authorised representative

Name of witness (please print)

Name of authorised representative
(please print)