

Corporations Act

Constitution

of

**Icon Retail Investments Limited
ACN 074 371 207**

a company limited by shares

(as amended to reflect changes made 15 December 2016)

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1 Preliminary

Definitions

- 1.1 The following words have these meanings in this Constitution unless the contrary intention appears.

ACT Self-Government Act means the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

Alternate Director means a person appointed as alternate director under clause 14.

Auditor means the auditor for the time being of the Company.

Chair means the chair of the board of directors of the Company and **Deputy Chair** means the deputy chair of the board.

Charge includes a mortgage.

Chief Minister means the Chief Minister for the Territory elected under section 40 of the ACT Self-Government Act.

Committee and **Committee of Directors** mean any Director or Directors acting as a committee of Directors.

Company means Icon Retail Investments Limited.

Constitution means this Constitution as amended from time to time.

Corporations Law means the *Corporations Act 2001* (Cth).

Director means a director of the Company, and where appropriate includes an Alternate Director.

Directors means all or some of the Directors acting as a board.

Executive Director means a person appointed as executive director under clause 13.

Icon Water means Icon Water Limited.

Icon Water's Statement of Corporate Intent (and any subsequent approved modification thereof) means the current statement prepared in relation to Icon Water, or in relation to Icon Water and one or more subsidiaries, pursuant to section 19(2)(d) of the Territory-owned Corporations Act, as modified from time to time in accordance with that Act.

Legislative Assembly means the Legislative Assembly for the Territory established by section 8 of the ACT Self-Government Act.

Managing Director means a person appointed as managing director under clause 13, and where appropriate includes an assistant managing director or an acting managing director.

Minister means the Chief Minister or a Minister appointed under section 41 of the ACT Self-Government Act.

Paid, in relation to Shares and capital, includes credited as paid.

Register means the register of holders of Shares kept in accordance with the Corporations Law, and where appropriate includes a branch register.

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

Related Body Corporate and **Subsidiary** have the same meanings as in the Corporations Law.

Seal includes the common seal of the Company and any duplicate common seal of the Company.

Secretary means a person appointed as a secretary of the Company, and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

Share means an issued share of the Company.

Specified Number means five while the number of Directors in office is eight, four while the number of Directors in office is six or seven, and otherwise three.

Territory has the same meaning as in the ACT Self-Government Act.

Territory-owned Corporations Act means the *Territory-owned Corporations Act 1990* of the Territory.

Voting Shareholders means the persons who from time to time hold one or more shares in Icon Water that confer the right to vote at general meetings of Icon Water.

Interpretation

- 1.2 In this Constitution unless the contrary intention appears:
- (a) the word **person** includes a firm, a body corporate, an unincorporated association or an authority;
 - (b) the singular includes the plural and vice versa;
 - (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
 - (d) a reference to writing includes typewriting, printing, facsimile, electronic mail and other modes of representing or reproducing words in a visible form;
 - (e) a reference to a section is a reference to a section of the Corporations Law; and
 - (f) a reference to the Corporations Law or to a provision of the Corporations Law, means the Corporations Law or that provision as amended from time to time, or any statute, code or provision enacted in its place, whether by the Australian Capital Territory or the Commonwealth of Australia, and includes regulations and other instruments under it.
- 1.3 Headings are inserted for convenience and do not affect the interpretation of this Constitution.
- 1.4 Powers conferred on the Company, the Directors, a Committee of Directors, a Director or a holder of Shares may be exercised at any time and from time to time.
- 1.5 **Including, includes** and **in particular** do not limit the generality of the subject matter which precedes them or to which they refer.

Replaceable rules

- 1.6 The provisions of the Corporations Law that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

Notice from Icon Water

- 1.7 Icon Water may exercise a power or give its consent for a purpose under this Constitution by notice in writing, either under its common seal or signed by any two of its directors, delivered to or sent by facsimile or electronic mail addressed

to the Company at the Registered Office or any business office of the Company and marked for the attention of the Chair or the Secretary.

2 Objects

The objects for which the Company is established are to:

- (a) procure and supply gas, electricity and related products and services;
- (b) promote and market gas, electricity, water and sewerage services and related products and services;
- (c) provide billing services;
- (d) enter into a partnership or other form of joint venture to achieve its objects; and
- (e) undertake any other related business or activity which may be undertaken by a natural person.

3 Shares

Issue of Shares and grant of options

3.1 Subject to the Corporations Law, this Constitution, any special rights conferred on the holders of any Shares or class of Shares and the prior consent of Icon Water:

- (a) the issue of Shares is under the control of the Directors;
- (b) the Directors may allot or otherwise dispose of them with such preferred, deferred or other rights and subject to such restrictions as to dividends, voting, return of capital, payment of calls or otherwise on such terms as they think fit; and
- (c) the Directors may grant an option over Shares during such time and for such consideration as they think fit,

but, with the exception of the Shares held by the subscribers to this Constitution on the Company's incorporation, no Share or Shares or option over a Share or Shares may be issued or granted to a person other than Icon Water.

Preference Shares

3.2 The Company may not issue any preference Shares nor may any issued Shares be converted into preference Shares.

Shares held by Minister

3.3 A Minister ceases to be eligible to hold Shares in the Company on ceasing to be a Minister, and may then exercise

no right as a holder of Shares (except to transfer their Shares as directed by the Chief Minister, which they must do on receipt of that direction).

4 Transfer of shares

Registration

- 4.1 A transfer of Shares must not be registered unless there has been lodged with the Company a proper instrument of transfer duly stamped if necessary, executed by the transferor (subject to clause 4.8) and the transferee.
- 4.2 In the case of a transfer of partly paid Shares the transfer may not be registered unless it is endorsed by, or accompanied by an instrument executed by, the transferee to the effect that the transferee agrees to accept the Shares subject to the terms on which the transferor held them and to be bound by this Constitution.
- 4.3 Subject to clause 3.3, the transferor remains the holder of the Shares for all purposes until the name of the transferee is entered in the Register.

Instruments of transfer

- 4.4 Subject to any applicable law an instrument of transfer must be in a usual or common form or in any other form acceptable to the Directors and must be delivered to the Company for registration accompanied by the certificate for the Shares to be transferred.

Restrictions on transfer

- 4.5 Subject to clause 4.8, the Directors may not register any transfer of Shares.
- 4.6 If the Directors refuse to register a transfer, they must send notice of the refusal to the transferee within two months from the date on which the transfer was lodged with the Company.

Consent of Voting Shareholders

- 4.7 Shares may not be issued or transferred unless the Voting Shareholders have consented in writing.

Chief Minister's power to transfer

- 4.8 The Chief Minister may execute a transfer of an issued Share whether or not the holder of the Share consents and, in the case of a person who, at the time of becoming a shareholder in the Company, was a Minister, whether or not the person still holds office as a Minister, and the Company must register a transfer signed by the Chief Minister that is accompanied by a declaration that the signature of the transferor cannot readily be obtained.

5 Share capital

The Company may deal with its Share capital in any manner authorised by law.

6 Borrowing powers

The Directors may, subject to the provisions of the Territory-owned Corporations Act, exercise all the Company's powers to borrow and raise money and secure any debts, liabilities, contracts or obligations incurred or undertaken by the Company in such manner and on such terms as they think fit.

7 General meetings

Where:

- (a) all Shares are held by Icon Water; and
- (b) a resolution is signed under section 249B by a representative of Icon Water authorised under section 250D stating that any act, matter or thing, or any ordinary or special resolution, required by the Corporations Law or by this Constitution to be made, performed or passed by or at a general meeting of the Company has been made, performed or passed,

then that act, matter, thing or resolution shall, for all purposes, have been duly made, performed or passed by or at a general meeting of the Company.

8 Directors

Number of Directors

- 8.1 The number of Directors must not be less than four nor, until otherwise determined by Icon Water, more than eight.

No share qualification

- 8.2 A Director does not require a share qualification.

Appointment

- 8.3 Subject to clause 8.6, Icon Water may by notice to the Company appoint a person as a Director either to fill a casual vacancy or as an additional Director.
- 8.4 Each person holding office as a Director at the date on which this Constitution comes into operation or, if there are no persons so holding office on that date, each person previously nominated in writing by Icon Water is to be deemed appointed by Icon Water under article 8.3.

- 8.5 Subject to clause 8.6, the Directors may appoint a person as a Director to fill a casual vacancy.

Consent of Voting Shareholders

- 8.6 A person may not be appointed as a Director unless the Voting Shareholders consent to the appointment.

Removal

- 8.7 Icon Water may by notice to the Company remove any Director from office.

Casual vacancy

- 8.8 Where:
- (a) an appointment referred to in section 12(3) of the Territory-owned Corporations Act is made; and
 - (b) the Voting Shareholders have not complied with section 12(2) of the Territory-owned Corporations Act;

the Director appointed holds office:

- (c) until the expiry of a period of 90 days from the day of appointment; or
- (d) until the Director ceases to hold office for any other reason;

whichever first occurs.

9 Remuneration and expenses

- 9.1 A Director is entitled to be paid out of the funds of the Company as remuneration for services as a Director such sum accruing from day to day as Icon Water determines.
- 9.2 If a Director, at the request of the Directors, performs additional or special duties for the Company, the Company may remunerate that Director by payment of a fixed sum or salary to be determined by Icon Water and that remuneration may be either in addition to or in substitution for that Director's remuneration under clause 9.1.
- 9.3 A Director is also entitled to be reimbursed out of the funds of the Company such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company.

10 Vacation of office and conflict of interest

Vacation of office

- 10.1 The office of a Director is automatically vacated if the Director:
- (a) ceases to be a Director by virtue of, or becomes prohibited from being a Director because of an order made under, the Corporations Law;
 - (b) becomes bankrupt or insolvent or makes an arrangement or composition with creditors of the Director's joint or separate estate generally;
 - (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
 - (d) resigns office by notice in writing to the Company or refuses to act;
 - (e) is not present personally or by an Alternate Director or by a proxy appointed under clause 12.7 at the meetings of the Directors for a continuous period of three months without leave of absence from the Directors;
 - (f) is removed from office by Icon Water in accordance with clause 8.7; or
 - (g) vacates office in accordance with clause 8.8.

Director's interests

- 10.2 Each Director must disclose his or her interests to the Company in accordance with the Corporations Law and the Secretary must record any such declaration in the minutes of the relevant meeting.
- 10.3 No Director may vote or take part in the debate in respect of a contract in which the Director has a material interest and if the Director does so vote his or her vote may not be counted although the Director may be counted in the quorum present at any Directors' meeting at which the contract is considered.
- 10.4 A Director may, notwithstanding his or her interest, and whether or not the Director is entitled to vote or does vote, participate in the execution of any instrument by or on behalf of the Company whether through signing or sealing the same or otherwise.
- 10.5 A Director may, notwithstanding the Director's office and the fiduciary relationship established by it:
- (a) hold an office or place of profit (except that of Auditor) under the Company, a Related Body

Corporate of the Company or any other body corporate in which the Company is a member or otherwise interested;

- (b) enter into a contract with the Company as vendor, purchaser or otherwise and participate in any association, institution, fund, trust or scheme for 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 their dependants or persons connected with them; and
 - (c) retain for the Director's own benefit any profit arising from any such office, place of profit or contract and any pension, allowance or other benefit received because of that participation.
- 10.6 A contract entered into by or on behalf of the Company is not void or voidable by reason only that a Director is in any way directly or indirectly interested in it.
- 10.7 An interested Director may attest the affixing of the Seal to a contract or any other document.
- 10.8 In this clause 10, where the context admits, **contract** includes an arrangement and a proposed contract or arrangement.

Interests of the holding company

- 10.9 A director is entitled to act in the best interests of Icon Water as contemplated by section 187 of the Corporations Law.

11 Powers of directors

- 11.1 The management of the business of the Company is vested in the Directors who may exercise all such powers of the Company as are not, by the Corporations Law or by this Constitution, required to be exercised by the Company in general meeting, but the Directors may not sell or dispose of the Company's main undertaking unless the sale or disposal is subject to ratification by Icon Water.
- 11.2 In exercising their powers under clause 11.1, the Directors must act in accordance with Icon Water's Statement of Corporate Intent.

12 Proceedings of directors

Meetings

- 12.1 The Directors may meet for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as they think fit.

Quorum

- 12.2 Until otherwise determined by the Directors, the Specified Number of Directors present in person or by proxy are a quorum.
- 12.3 An interested Director is to be counted in a quorum notwithstanding the Director's interest.

Effect of vacancy

- 12.4 The continuing Directors may act notwithstanding a vacancy in their number but, if and so long as their number is reduced below the minimum fixed by clause 8.1, the continuing Directors may, except in an emergency, act only for the purpose:
- (a) subject to clause 8.6, of filling vacancies to the extent necessary to bring their number up to that minimum; or
 - (b) of summoning a general meeting.

Convening meetings

- 12.5 A Director may, and the Secretary on the request of a Director must, convene a meeting of the Directors.
- 12.6 A Director who is not in Australia is not entitled to notice of a meeting of Directors.

Appointment of proxy

- 12.7 A Director may attend and vote by proxy at a meeting of the Directors if the proxy is a Director and has been appointed by writing under the signature of the appointer. Such an appointment may be general or for any particular meeting or meetings. A Director present as a proxy for another Director who would be entitled to vote if present at the meeting has one vote as proxy for that other Director and one vote as a Director in their own right.

Chair and Deputy Chair

- 12.8 Icon Water is to appoint a Chair, and may appoint a Deputy Chair. Icon Water may determine the period during which each is to hold office.
- 12.9 Subject to Icon Water's approval, the Chair or Deputy Chair may be removed from that office by a resolution of the Directors of which not less than 14 days' notice has been given to all the Directors for the time being in Australia.
- 12.10 The Chair is entitled to preside at meetings of the Directors but, if the Chair is not present and able and willing to act within 15 minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of

entitlement): the Deputy Chair, a Director chosen by a majority of the Directors present.

How questions decided

- 12.11 Questions arising at a meeting of the Directors are to be decided by a majority of votes and in the event of an equality of votes the chair of the meeting will have a casting vote. The chair has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

Committees

- 12.12 The Directors may delegate any of their powers to Committees consisting of such Directors and other persons as they think fit and may revoke that delegation.
- 12.13 A Committee in the exercise of the powers so delegated is to conform to any regulations imposed by the Directors.
- 12.14 Subject to clause 12.13, the meetings and proceedings of a Committee consisting of two or more Directors are governed by the provisions of this Constitution as to the meetings and proceedings of the Directors so far as they are applicable.

Written resolution

- 12.15 Subject to the Corporations Law, a resolution in writing signed by all the Directors who are for the time being in Australia or all the members of a Committee who are for the time being in Australia, in either case being at least a quorum, is as valid and effectual as if it had been passed at a meeting of the Directors or Committee duly called and constituted at the time the resolution was last signed and may consist of several documents in like form each signed by one or more of the Directors or members.

Use of technology

- 12.16 A Directors' meeting may be called or held using any technology consented to by each Director. The consent may be a standing one. A Director may only withdraw consent within a reasonable period before the meeting.

Validity of acts of Directors

- 12.17 All acts of the Directors, a Committee or a person acting as a Director or Committee or member of a Committee are valid notwithstanding that it is afterwards discovered that there was some defect in the appointment, election or qualification of them or any of them or that they or any of them were disqualified or had vacated office.

13 Managing and Executive Directors

Appointment and removal

- 13.1 The Directors may with Icon Water's prior approval appoint one or more of their number to the office of Managing

Director or Executive Director either for a fixed term or without limitation as to period of appointment but not for life, and may with like approval remove a person so appointed and appoint another instead.

- 13.2 A Managing Director or Executive Director, subject to the provisions of any contract with the Company, is subject to the same provisions as to resignation and removal as the other Directors and automatically ceases to be a Managing Director or Executive Director on ceasing to be a Director.

Remuneration

- 13.3 The Directors may with Icon Water's prior approval determine the remuneration of a Managing Director or Executive Director.

Powers

- 13.4 The Directors may with Icon Water's approval confer on a Managing Director or Executive Director such of the powers conferred on the Directors by this Constitution, for such time, to be exercised for such purposes, on such terms and with such restrictions as they think fit and all or any of those powers may be conferred collaterally with but not to the exclusion of the powers of the Directors and may with the like approval be revoked or varied by the Directors.

14 Alternate Directors

- 14.1 Subject to the Corporations Law, a Director (**appointer**) may appoint a person approved by Icon Water and the Voting Shareholders to act as an Alternate Director in the appointer's place whether for a stated period or periods or until the happening of a specified event or from time to time.
- 14.2 An Alternate Director:
- (a) may be removed or suspended from office by Icon Water or by writing under the appointer's hand or by notice in writing from the appointer;
 - (b) subject to this Constitution is entitled to receive notice of meetings of the Directors and to attend and vote if the appointer is not present and, if also a Director in the Alternate Director's own right or Alternate Director for another Director as well, to have a separate vote on behalf of the appointer in addition to the Alternate Director's own or that other Director's vote;
 - (c) may exercise all the powers except the power to appoint an Alternate Director and, subject to the Corporations Law, perform all the duties of the

- appointer in so far as the appointer has not exercised or performed them;
- (d) automatically ceases to be an Alternate Director if the appointer ceases to be a Director;
 - (e) whilst acting as a Director is responsible to the Company for the Alternate Director's own acts and defaults and the appointer is not responsible for them;
 - (f) may not receive any remuneration from the Company as a Director except for any special services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director; and
 - (g) may not be taken into account separately from the appointer in determining the number of Directors.

15 Secretary

A Secretary holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine. The Directors may appoint a Deputy Secretary, who may act as company secretary while the Secretary is in any way incapable of acting as company secretary, or a person as an acting Secretary or as a temporary substitute for the Secretary.

16 Authentication of documents

Company seals

- 16.1 The Company may have:
 - (a) a common seal; and
 - (b) a duplicate common seal, which must be a copy of the common seal with the words “duplicate seal”, “share seal” or “certificate seal” added.
- 16.2 The Directors must provide for the safe custody of all Seals in such manner as they think fit.

Use of a Seal

- 16.3 A Seal may be affixed to a document only by the authority of the Directors or a Committee of the Directors authorised by the Directors in that regard.
- 16.4 Every document to which a Seal is affixed must be signed by a Director and countersigned by the Secretary or a second Director or some other person appointed generally or in a particular case by the Directors for that purpose.

Signatures by mechanical means

- 16.5 The Directors may determine generally or in a particular case that the signature of a Director, Secretary or other person appointed by the Directors for the purpose of signing documents to which a Seal is affixed may be written by a specified mechanical means on documents which bear evidence of examination by the Auditor.

Negotiable instruments

- 16.6 Cheques, bills of exchange, promissory notes and other negotiable instruments may be signed, accepted, drawn, made or endorsed on behalf of the Company in such manner and by such persons (whether Directors or officers of the Company or not) as the Directors determine but not otherwise.

17 Reserves

- 17.1 The Directors may before declaring or paying a dividend set aside out of the profits of the Company such sums as they think proper as reserves to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may properly be applied.
- 17.2 Pending any such application, the reserves may at the discretion of the Directors be used in the business of the Company or be invested in such investments as the Directors think fit.
- 17.3 The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends, without transferring those profits to a reserve.

18 Dividends

Calculation and apportionment

- 18.1 Subject to this Constitution, the profits of the Company which it is determined to distribute in accordance with this clause by way of dividend are to be applied in payment of dividends on the Shares in proportion to the amounts Paid on them respectively.
- 18.2 Except in the case of Shares issued on terms providing to the contrary, all dividends are to be apportioned and paid proportionately to the amounts Paid on the Shares during any portion or portions of the period in respect of which the dividend is declared.

Directors' powers

- 18.3 The Directors may declare interim and final dividends, and fix the time for their payment, by agreement between the Directors and the Voting Shareholders or, failing agreement, as the Voting Shareholders direct in writing.

- 18.4 A dividend does not bear interest against the Company.
- 18.5 A declaration by the Directors as to the amount of the profits available for dividend is conclusive and binding on Icon Water.

Effect of transfer

- 18.6 A transfer of Shares does not pass the right to a dividend or other distribution declared or made on them after the transfer and before its registration.

Distribution of specific assets

- 18.7 The Directors may, with the approval of the Voting Shareholders, resolve that a dividend payable in respect of any particular Shares be satisfied wholly or partly by a distribution of specific assets, including paid up shares in or debentures of another body corporate, and that the dividend payable in respect of other Shares be paid in cash.

19 Capitalisation of profits

- 19.1 The Directors may, with Icon Water's prior consent, resolve that any moneys, investments or other assets:
- (a) forming part of the undivided profits of the Company;
 - (b) standing to the credit of a reserve;
 - (c) in the hands of the Company and available for dividend; or
 - (d) representing premiums received and standing to the credit of a Share premium account,
- be capitalised and applied, in any of the ways mentioned in clause 19.2, for Icon Water's benefit.
- 19.2 The ways in which moneys, investments or other assets referred to in clause 19.1 may be applied for Icon Water's benefit under that clause are:
- (a) in paying any amounts (including any premium) unpaid on Shares held by Icon Water;
 - (b) in paying up in full (including any premium) unissued Shares or debentures to be issued to Icon Water as fully Paid; or
 - (c) partly as mentioned in clause 19.2(a) and partly as mentioned in clause 19.2(b).
- 19.3 The Directors must do all things necessary to give effect to a resolution under clause 19.1.

20 Inspection of books

Icon Water and the Voting Shareholders may at any time inspect the books and documents of the Company or any of them.

21 Service of notices

- 21.1 A notice may be delivered or served by the Company either personally or by sending it:
- (a) in the case of an address outside Australia, by airmail post or courier; and
 - (b) in any other case, by ordinary post, courier or hand delivery.
- 21.2 A notice sent by post, courier or hand delivery is to be deemed received or served on the day next following that on which it was posted, couriered or hand delivered and in proving delivery or service it is sufficient to prove that the envelope or wrapper containing the document was properly addressed and, if applicable, stamped and was posted.
- 21.3 A notice may be served by the Company on a person receiving notice under this Constitution by sending it by facsimile or electronic mail to that person at the person's address notified to the Company for that purpose. A notice so sent is to be deemed served:
- (a) if transmitted by facsimile, on the day following production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the person's facsimile number; or
 - (b) if transmitted by electronic mail, on the day following the other party acknowledging receipt by any means in person, by phone or by message which indicates the electronic mail was received.
- 21.4 Subject to the Corporations Law:
- (a) if a given number of days' notice or notice extending over any other period is required to be given, the day on which the notice is to be deemed served and in case of a notice convening a meeting the day on which the meeting is to be held are to be excluded in calculating the number of days or other period; and
 - (b) if this Constitution requires or permits a notice to be given by the Company, the Directors, a Director or the Secretary, neither accidental omission to give the notice nor non-receipt of the notice invalidates the

meeting, resolution, procedure or matter to which the notice relates.

22 Winding up

Distribution of assets

- 22.1 When the Company is wound up, the assets available for distribution are to be paid to Icon Water.
- 22.2 When the Company is wound up the liquidator may with Icon Water's approval:
- (a) distribute the whole or any part of the Company's assets (whether consisting of property of the same sort or not) in kind to Icon Water and for that purpose set such value as the liquidator considers fair on the property so distributed; and
 - (b) vest the whole or any part of the Company's assets (whether consisting of property of the same sort or not) in trustees on such trusts for the benefit of Icon Water,

but Icon Water may not be compelled to accept any Shares in a body corporate or other securities in respect of which there is a liability.

23 Indemnity and insurance

Indemnity

- 23.1 Every person who is or has been
- (a) a Director; or
 - (b) a Secretary;
- is entitled to be indemnified out of the property of the Company against:
- (c) every liability incurred by the person in that capacity (except a liability for legal costs); and
 - (d) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (e) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or

- (f) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.
- 23.2 The amount of any indemnity payable under clause 23.1 will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of any input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

Insurance

- 23.3 The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who has or has had a capacity mentioned in paragraph (a) or (b) of clause 23.1 against liability incurred by the person in that capacity, including a liability for legal costs, unless:
- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
 - (b) the contract would, if the Company paid the premium, be made void by statute.

24 General overriding provisions - Territory-owned Corporations Act

- 24.1 This Constitution may not be altered in a way that is inconsistent with the provisions of Schedules 2 and 3 of the Territory-owned Corporations Act unless and until a resolution approving the alteration or addition has been passed by the Legislative Assembly.
- 24.2 The provisions of the Territory-owned Corporations Act prevail over any inconsistent provisions of this Constitution that have not been approved by the Legislative Assembly.
- 24.3 The Company, its Directors and the Voting Shareholders must comply with the Territory-owned Corporations Act.
- 24.4 The Company must ensure that the constitution of its subsidiaries (if any) at all times contain provisions to the effect of those required by Schedules 2 and 3 to the Territory-owned Corporations Act.
- 24.5 The Company must, to the maximum extent practicable, ensure that any subsidiary complies with the constitution of the subsidiary and with the requirements of the Territory-owned Corporations Act.

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