

Constitution

FibreCo Queensland Pty Ltd (ACN 633 081 517) ("**Company**")

A proprietary company limited by shares

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Constitution

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Constitution

1 Interpretation

1.1 Definitions

In this Constitution unless the contrary intention appears:

Auditor-General means the Queensland Auditor-General under the *Auditor-General Act 2009* (Qld).

Committee means a committee of Directors constituted under article 9.7.

Company means FibreCo Queensland Pty Ltd (ACN 633 081 517), as that name may be changed from time to time.

Constitution means this constitution, and a reference to an article is a reference to an article of this constitution.

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

Director means a person holding office as a Member Director or Independent Director of the Company.

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

Disinterested Member Director means, in relation to a Related Party Proposal, the Member Director appointed by the Member (being PQ or EQ, as applicable) that is not interested in the Related Party Proposal.

Dispute includes any dispute, controversy, difference or claim arising out of or in connection with this Constitution or the subject matter of this Constitution, including any question concerning its adoption, validity, interpretation, performance, breach or termination.

EQ means Energy Queensland Limited ACN 612 535 583.

GOC has the meaning given in the GOC Act.

GOC Act means the *Government Owned Corporations Act 1993* (Qld).

Independent Director has the meaning given in article 8.3.

Member means a person entered in the Register as a holder of shares in the capital of the Company.

Member Director has the meaning given in article 8.3.

Non-Voting Share means a share in the capital of the Company having the rights referred to in article 4.

Ordinary Share means a share in the capital of the Company having the rights referred to in article 4.

PQ means Queensland Electricity Transmission Corporation ACN 078 849 233.

Prescribed Interest Rate means the rate determined by the Directors for the purpose of this Constitution, and in the absence of a determination means 2% per annum.

Public Service Officer has the meaning given by the *Public Service Act 1996* (Qld).

Register means the register of Members of the Company under the Corporations Act.

Registered Office means the registered office of the Company.

Related Body Corporate has the meaning given in the Corporations Act.

Related Party of a person means:

- (a) a Related Body Corporate of that person; or
- (b) any director, officer or employee of that party.

Related Party Proposal means any proposal involving the Company and a Member (or a Related Party of a Member) entering into or varying any agreement, arrangement or understanding, or to exercise, enforce, waive rights in relation to, or not comply with, such agreement, arrangement or understanding.

Representative means a person appointed to represent a corporate Member at a general meeting of the Company in accordance with the Corporations Act.

Secretary means a person appointed under article 11.1 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 or share means a share in the capital of the Company and includes an Ordinary Share or a Non-Voting Share.

Shareholding Ministers means the shareholding ministers of PQ and EQ from time to time.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this Constitution:

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include all other genders;
- (c) a reference to a document includes any variation or replacement of it;
- (d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (e) a reference to "**person**" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;

- (g) a reference to “**law**” includes common law, principles of equity and legislation (including regulations);
- (h) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacement of any of them;
- (i) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (j) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (k) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (l) a reference to “**writing**” or “**written**” includes printing, typing and other modes of reproducing words in a visible form including any representation of words in a physical document or in an electronic communication or form or otherwise;
- (m) a reference to a person being “**present**” at a meeting includes participating using technology approved by the Directors in accordance with this Constitution; and
- (n) where a document (including a notice or consent) is required to be “**signed**”, the requirement may be satisfied in relation to an electronic communication of the document in any manner:
 - (i) permitted by relevant law relating to electronic transmissions (including electronic signature); or
 - (ii) approved by the Directors (which could include authentication by providing an allocated code or specified personal information).

1.3 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) a word or expression defined or used in the Corporations Act has the same meaning when used in this Constitution in a similar context; and
- (b) “section” means a section of the Corporations Act.

1.4 The GOC Act

- (a) As at the date of adoption of this Constitution, the Company acknowledges that it is a subsidiary of a GOC (being PQ) and, to the extent applicable to GOC subsidiaries, the provisions of the GOC Act apply to the Company.
- (b) To the extent of any inconsistency between the GOC Act and this Constitution, the GOC Act will prevail.
- (c) To the extent of any inconsistency between the GOC Act and the Corporations Act regarding this Constitution, the GOC Act will prevail.
- (d) To the extent of any inconsistency between the Corporations Act and this Constitution, subject to article 1.5, the Corporations Act will prevail.

1.5 Replaceable rules not to apply

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

1.6 Currency

The Directors may:

- (a) differentiate between Members as to the currency in which any amount payable to a Member is paid (whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution in a currency other than Australian dollars and the amount payable will be converted from Australian dollars in any manner, at any time and at any exchange rate as the Directors think fit; and
- (c) in deciding the currency in which a payment is to be made to a Member, have regard to the registered address of the Member, the register on which a Member's shares are registered and any other matters as the Directors consider appropriate.

Payment in another currency of an amount converted under this article is as between the Company and a Member adequate and proper payment of the amount payable.

2 Objects of Company

2.1 Objects

- (a) The primary object of the Company is to operate as a data and telecommunications carrier, save as the Shareholding Ministers may otherwise approve in writing from time to time.
- (b) Without limiting article 2.1(a), the company may seek to improve competition for telecommunications in regional Queensland by:
 - (i) unlocking spare capacity in government-owned fibre networks (including those of PQ and EQ), including by utilising any existing dark fibre capacity, to improve access to digital services for regional Queenslanders; and
 - (ii) supplying increased backhaul capacity at competitive prices.
- (c) Additional objects of the Company include providing, trading or selling any forms of telecommunications services or other rights or benefits associated with or derived from any activity described in article 2.1(a) or 2.1(b), including:
 - (i) to persons and entities who hold a carrier licence under the *Telecommunications Act 1997* (Cth) (including persons and entities with substantially equivalent status under that Act);
 - (ii) to carriage service providers and content service providers within the meaning of the *Telecommunications Act 1997* (Cth) (including persons and entities with substantially equivalent status under that Act);

- (iii) to other organisations who lawfully provide or propose to provide telecommunications services to third parties; and
- (iv) to other customers whether persons, entities or organisations, including GOCs and other government entities (including Commonwealth, State and local government entities and departments) and private sector entities and organisations,

in all cases excluding the provision of any such telecommunications services or other rights or benefits to small business customers and residential customers, without the prior written approval of the Shareholding Ministers.

- (d) The objects of the Company extend to performing any activities incidental to the objects of the Company contained in articles 2.1(a), 2.1(b) and 2.1(c).

2.2 Approval of activities outside scope of objects

The Company must not undertake any further activities, or activities contrary to, the scope of the objects contained in article 2.1, unless the Shareholding Ministers authorise or instruct otherwise in writing.

3 Share capital and variation of rights

3.1 Directors to issue shares

The issue of shares in the Company is under the control of the Directors who may:

- (a) issue, allot, cancel and otherwise dispose of shares in the Company;
- (b) grant options over unissued shares in the Company; and
- (c) settle the manner in which fractions of a share, however arising, are to be dealt with,

subject to the Corporations Act and any special rights conferred on the holders of any shares or class of shares, and provided that shares and options must not be issued otherwise than to PQ or EQ without the Shareholding Ministers' written consent.

3.2 Preference shares

The Company may not issue preference shares (including redeemable preference shares) and issued shares may not be converted into preference shares unless the rights attached to the preference shares have been approved by special resolution.

3.3 Conversion of preference shares

Subject to compliance with the Corporations Act and other applicable laws, the conversion of any preference share issued in compliance with article 3.2 will not constitute a cancellation, redemption or termination of the preference share or the issue, allotment or creation of new shares, but will have the effect of varying the status of, and the rights attaching to, the preference share so that it becomes an ordinary share.

3.4 Variation of class rights

Subject to this Constitution and the terms on which any shares in the Company are issued, the rights attaching to shares in a class of shares may only be varied or cancelled by a special resolution of the Company and:

- (a) by a special resolution passed at a meeting of Members entitled to vote and holding shares in that class; or
- (b) with the written consent of holders entitled to vote in respect of at least 90% of the issued shares of that class.

3.5 Class meetings

The provisions of this Constitution relating to general meetings apply so far as they are capable of application and with any necessary changes to every separate meeting of the holders of a class of shares except that:

- (a) a quorum is constituted by at least 2 persons who, between them, hold or represent one-third of the issued shares of the class (unless only one person holds all of the shares of the class, in which case that person constitutes a quorum); and
- (b) any holder of shares of the class, present in person or by proxy, or attorney or Representative, may demand a poll.

3.6 Redemption in accordance with terms of issue of shares

The terms of article 3.4 do not apply and consent is not required for a redemption of any shares or variation of rights attaching to any shares in compliance with the terms of issue of those shares.

3.7 No variation

The rights attaching to shares in a class of shares will not be taken to be varied by:

- (a) the issue of further shares of that class;
- (b) the issue of any shares of any other class; or
- (c) the conversion of shares or other securities to new shares or securities,

which rank equally with, or in priority to, the shares in the relevant class of shares, unless expressly provided by their respective terms of issue or the Corporations Act.

3.8 Non-recognition of interests

Except as required by law, the Company is not required to recognise:

- (a) a person as holding a share on any trust; or
- (b) any other interest in any share or any other right in respect of a share except an absolute right of ownership in the registered holder,

whether or not it has notice of the trust, interest or right.

3.9 Joint holders of shares

Where 2 or more persons are registered as the joint holders of shares then they are taken to hold the shares as joint tenants with rights of survivorship. However, the Company is not bound:

- (a) to register more than 3 persons as joint holders of a share; or
- (b) to issue more than one certificate or holding statement for shares jointly held.

4 Share classes

4.1 Company share classes

The Company shall have 2 classes of shares:

- (a) Ordinary Shares; and
- (b) Non-Voting Shares.

4.2 Rights attaching to shares

The rights attaching to Ordinary Shares and Non-Voting Shares shall be as follows:

- (a) Ordinary Shares:
 - (i) shall, except as provided by article 4.2(a)(ii), confer on the holder all of the rights attaching to shares under this Constitution and the Corporations Act, including the right to vote in respect of any resolution at a general meeting or otherwise under this Constitution; and
 - (ii) do not confer a right on the holder to receive any dividend or distribution of the Company or to vote in relation to the variation of rights attaching to Non-Voting Shares.
- (b) Non-Voting Shares:
 - (i) shall confer a right upon the holder to receive any dividend or distribution of the Company and to vote in relation to any variation or rights attaching to Non-Voting Shares; and
 - (ii) shall not confer any other rights on the holder.

5 Transfer of shares

5.1 Forms of instrument of transfer

Subject to this Constitution, a share in the Company is transferable by any method of transfer required or permitted by the Corporations Act.

5.2 Execution and delivery of transfer

If a duly completed instrument of transfer:

- (a) is used to transfer a share in accordance with article 5.1; and

- (b) is left for registration at the share registry of the Company, accompanied by any information that the Directors properly require to show the right of the transferor to make the transfer,

the Company must, subject to the powers vested in, and the obligations imposed on, the Directors by this Constitution, register the transferee as the holder of the share.

5.3 Effect of registration

A transferor of a share remains the holder of the share transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the share.

5.4 Company to retain instrument of transfer

The Company must retain every instrument of transfer which is registered for the period required by any applicable law.

5.5 Registration of share transfers

The Directors:

- (a) must register a transfer of shares which is authorised or instructed to the Company by the Shareholding Ministers in writing; and
- (b) must register a transfer of shares executed by the Premier under section 81 of the GOC Act; and
- (c) subject to articles 5.5(a) and 5.5(b):
 - (i) must refuse to register a transfer of shares if the transferee is not PQ or EQ; and
 - (ii) may otherwise refuse to register a transfer of shares, without having to give any reason.

6 General meetings

6.1 Convening a general meeting

The Directors may convene and arrange to hold a general meeting of the Company whenever they think fit and must do so if required to do so under the Corporations Act.

6.2 Use of technology at general meetings

The Company may hold a meeting of Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

6.3 Notice of general meeting

Notice of a general meeting must be given in accordance with article 18 and the Corporations Act.

6.4 Calculation of period of notice

In computing the period of notice under article 6.3, both the day on which the last notice to Members is given or taken to be given and the day of the meeting convened by it are to be disregarded.

6.5 Cancellation or postponement of a meeting

Where a general meeting is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This article 6.5 does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members or to a meeting convened by a court.

6.6 Notice of cancellation or postponement of a meeting

Notice of cancellation or postponement or change of place of a general meeting must state the reason for cancellation or postponement and be given:

- (a) to each Member; and
- (b) to each other person entitled to be given notice of a general meeting.

6.7 Contents of notice of postponement of meeting

A notice of postponement of a general meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in 2 or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

6.8 Number of clear days for postponement of meeting

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days' notice of the general meeting required to be given by this Constitution or the Corporations Act.

6.9 Business at postponed meeting

The only business that may be transacted at a postponed general meeting is the business specified in the original notice convening the meeting.

6.10 Proxy, attorney or Representative at postponed meeting

Where by the terms of an instrument appointing a proxy or attorney or an appointment of a Representative:

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and

- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its Registered Office written notice to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

6.11 Non-receipt of notice

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

6.12 Director entitled to notice of meeting

A Director is entitled to receive notice of and to attend all general meetings and all separate meetings of the holders of any class of shares in the capital of the Company and is entitled to speak at those meetings.

6.13 Appointment of proxy, Representative or attorney

Subject to the Corporations Act, and provided the Shareholding Ministers have been notified that a proxy has been appointed, a Member who is entitled to participate in and vote at a meeting of the Company may appoint a person as the Member's proxy, or may appoint a Representative or an attorney, to participate in and vote at the meeting for the Member.

If a Member is entitled to cast two or more votes at the meeting, the Member may appoint two proxies who may each exercise half of the Member's votes at the meeting, unless the instrument appointing the proxies specifies the proportion or number of the Member's votes that each proxy may exercise.

6.14 Circulating resolutions

The Company may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

Separate copies of the document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

The resolution is passed when the last Member signs.

7 Proceedings at general meetings

7.1 Number for a quorum

Subject to article 7.4, the quorum for a general meeting is, where the Company has only one Member, that Member and otherwise, 2 Members, present in person or by proxy, attorney or Representative are a quorum at a general meeting. If an individual is attending both as a Member and as a proxy, attorney or Representative, that individual is to be counted once for that Member and

once for each Member for whom that individual is attending as proxy, attorney or representative.

7.2 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chair of the meeting (on the chair's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

7.3 If quorum not present

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

7.4 Adjourned meeting

At a meeting adjourned under article 7.3(b), where the Company has only one Member, the quorum is that Member, and otherwise, the quorum is 2 persons each being a Member (or the proxy, attorney or Representative of a Member) present at the meeting, are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

7.5 Appointment of chair of general meeting

If the Directors have appointed one of their number as chair of their meetings, that person is entitled to preside as chair at a general meeting.

7.6 Absence of chair at general meeting

If a general meeting is held and:

- (a) a chair has not been appointed under article 7.5; or
- (b) the appointed chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chair of the meeting (in order of precedence):

- (c) a Director chosen by a majority of the Directors present;
- (d) the only Director present; or
- (e) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

7.7 Conduct of general meetings

The chair of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chair considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chair under this article is final.

7.8 Adjournment of general meeting

The chair of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place, but:

- (a) in exercising the discretion to do so, the chair may, but need not, seek the approval of the Members present in person or by proxy, attorney or Representative; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chair, a vote may not be taken or demanded by the Members present in person or by proxy, attorney or Representative in respect of any adjournment.

7.9 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

7.10 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

7.11 No casting vote for chair

If there is an equality of votes, either on a show of hands or on a poll, the chair of the general meeting is not entitled to a casting vote in addition to any votes to which the chair is entitled as a Member or proxy or attorney or Representative.

7.12 Voting on show of hands

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn. A declaration by the chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

7.13 Poll

If a poll is effectively demanded:

- (a) it must be taken in the manner and at the date and time directed by the chair and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a chair or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

7.14 Entitlement to vote

Subject to this Constitution, the Corporations Act, and to any rights or restrictions for the time being attached to any class or classes of shares:

- (a) on a show of hands, each Member present in person and each other person present as a proxy, attorney or Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote for each fully paid share held by the Member and each person present as proxy, attorney or Representative of a Member has one vote for each fully paid share held by the Member that the person represents.

7.15 Joint shareholders' vote

If a share is held jointly and more than one Member votes in respect of that share, only the vote of the Member whose name appears first in the Register counts.

7.16 Validity of vote in certain circumstances

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated;
- (c) the Member revokes the appointment or authority;
- (d) the Member revokes the authority under which the appointment was made by a third party; or
- (e) the Member transfers the share in respect of which the appointment or authority was given.

7.17 Objection to voting qualification

An objection to the right of a person to attend or vote at the meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chair of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

8 The Directors

8.1 Eligibility to be a Director

The only persons eligible to be appointed as a Director are:

- (a) persons who are directors of a Member of the Company;
- (b) persons employed by a Member of the Company; or
- (c) such other persons as are approved in writing by the Shareholding Ministers.

8.2 Persons not eligible to be a Director

A Public Service Officer is not eligible for appointment as a Director of the Company.

8.3 Number and composition of Directors

Without limiting articles 8.1 and 8.2:

- (a) the Company must have at least one Director;
- (b) subject to prior written approval of a proposed Director by the Shareholding Ministers at the request of PQ or EQ, such Member shall be entitled to appoint such proposed Director as a Director (each a **Member Director**) by written notice to the Company. PQ and EQ shall be entitled to appoint no more than one Director each under this article 8.3(b) at any time; and
- (c) following the prior written approval of a proposed independent Director by the Shareholding Ministers, the Members must appoint such proposed Director as a Director (each an **Independent Director**) by written notice to the Company. No more than three Directors shall be appointed as Independent Directors of the Company under this article 8.3(c) at any time.

8.4 Change of number of Directors

Subject to prior written approval by the Shareholding Ministers, the Members may increase or reduce the number of Directors, by notice in writing to the Company. Any additional Directors shall be appointed in accordance with article 8.3 as Member Directors or Independent Directors (in the Shareholding Ministers' discretion) and the Shareholding Ministers may require changes to this Constitution under article 23 to accommodate the change in the number of Directors.

8.5 Removal of Director

- (a) PQ or EQ may, by notice in writing, remove a Member Director appointed by it from office as a Director.

- (b) An Independent Director shall only cease to be a Director in accordance with article 8.9.

8.6 Remuneration of Directors

A Director will not be entitled to be paid by way of fees or other remuneration for their services as a Director unless approved in writing by the Shareholding Ministers.

8.7 Expenses

A Director is 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.

8.8 Director's interests

- (a) Subject to complying with the Corporations Act, a Director may:
 - (i) hold any office or place of profit in the Company, except that of auditor;
 - (ii) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
 - (iii) enter into any contract or arrangement with the Company;
 - (iv) participate in any association, institution, fund, trust or scheme for past or present employees of the Company or Directors or persons dependent on or connected with them;
 - (v) act in a professional capacity (or be a member of a firm or an officer or employee of a body corporate which acts in a professional capacity) for the Company, except as auditor;
 - (vi) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors;
 - (vii) sign or participate in the execution of a document by or on behalf of the Company;
 - (viii) do any of the above despite the fiduciary relationship of the Director's office:
 - (A) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (B) without affecting the validity of any contract or arrangement;
 - (ix) exercise the voting power conferred by securities in any entity held by the Company, in accordance with the terms of their appointment, even in circumstances where a Director may be interested in the exercise (such as a resolution appointing a Director as an officer of the entity); and

- (x) act as a nominee or representative of a Member of the Company, on terms agreed with the Company.
- (b) The Directors must act in good faith and in the best interests of the Company as a whole and otherwise comply with the duties imposed on directors by law (including under the Corporations Act). Subject to these duties, a Member Director may have regard to, and act in the interests of, their appointing Member and may disclose to their appointing Member information obtained in their capacity as a Director. Such Member must only use and disclose such information in a manner consistent with any contractual obligations binding on it.

A reference to the Company in article 8.8(a) is also a reference to each Related Body Corporate of the Company.

8.9 Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if:

- (a) the Director ceases to be a director of or employed by a Member of the Company;
- (b) the Director becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (c) the Director resigns from the office by notice in writing to the Company;
- (d) the Director is not present personally or by proxy at meetings of the Directors for a continuous period of 12 months without leave of absence from the Directors;
- (e) the Director is removed from office under article 8.5, but without depriving the Director of any compensation or damages payable to the Director in respect of the termination of the Director's appointment as a Director or of an appointment terminating with that appointment; or
- (f) the Shareholding Ministers withdraw their approval of the Director for the purposes of article 8.3(b) or article 8.3(c) (as applicable).

Once the office of a Director becomes vacant, the relevant Director may be replaced in accordance with article 8.3.

8.10 Shareholding Ministers not Directors

In accordance with the GOC Act, the Shareholding Ministers are not, and are not to be treated as, Directors of the Company.

9 Powers and duties of Directors and Shareholding Ministers

9.1 Directors to manage Company

The Directors are responsible for overseeing the proper management of the business of the Company. They may exercise all the powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting or otherwise restricted.

9.2 Specific powers of Directors

Without limiting the generality of article 9.1, the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

9.3 Interests of holding company

The Directors are authorised to act in the best interests of any company of which the Company is a wholly-owned subsidiary in the circumstances contemplated by section 187 of the Corporations Act.

9.4 Appointment of attorney

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.

9.5 Provisions in power of attorney

A power of attorney granted under article 9.4 may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

9.6 Signing of receipts and negotiable instruments

The Directors may determine the manner in which, and persons by whom, cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

9.7 Committees

The Directors may delegate any of their powers, other than powers required by law to be dealt with by Directors as a board, to a Committee or Committees consisting of one or more of their number as they think fit.

9.8 Powers delegated to Committees

A Committee to which any powers have been delegated under article 9.7 must exercise those powers in accordance with any directions of the Directors.

9.9 Delegation of Directors' powers

The Directors may delegate any of their powers to any persons they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

10 Proceedings of Directors

10.1 Directors' meetings

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit. The Directors must endeavour to meet together for such purpose at least three to four times per annum.

10.2 Director may convene a meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors on reasonable notice to the Directors.

10.3 Use of technology for Directors' meetings

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

10.4 Questions decided by majority

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote provided that:

- (a) at least 1 Member Director votes in favour of the relevant matter; and
- (b) if the question concerns a Related Party Proposal, the Disinterested Member Director and a majority of the Independent Directors vote in favour of the relevant matter.

10.5 Proxy and voting

A person who is present at a meeting of Directors as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is a proxy and, if that person is also a Director, has one vote as a Director in that capacity.

10.6 Chair of Directors

- (a) The chair of meetings of the Directors will be a Director nominated by the Members and appointed by the Directors. The Members must nominate as the chair of meetings of the Directors such Director as approved for that purpose by the Shareholding Ministers.
- (b) The position of chair of meetings of the Directors is vacated if the chair ceases to be a Director.

10.7 Absence of chair at Directors' meeting

If a Directors' meeting is held and:

- (a) a chair has not been appointed under article 10.6; or
- (b) the chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chair of the meeting.

10.8 No casting vote for chair at Directors' meetings

If there are an equal number of votes for and against a question, the chair of the Directors' meeting is not entitled to a casting vote.

10.9 Director attending and voting by proxy

A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director;
- (b) the appointment is signed by the appointor; and
- (c) the Shareholding Ministers have been notified that a proxy has been appointed.

The appointment may be general or for one or more particular meetings. A Director present as a proxy for another Director, who would be entitled to vote if present at the meeting, has one vote for the appointor and one vote in his or her own capacity as a Director.

10.10 Quorum for Directors' meeting

Without limiting article 10.4, at a meeting of Directors, the number of Directors whose presence in person or by proxy is necessary to constitute a quorum is 3 Directors (including 1 Member Director).

10.11 Continuing Directors may act

The continuing Director or Directors may act despite a vacancy in their number.

10.12 Chair of Committee

The members of a Committee may elect one of their number as chair of their meetings. If a meeting of a Committee is held and:

- (a) a chair has not been elected; or
- (b) the chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be chair of the meeting.

10.13 Meetings of Committee

A Committee may meet and adjourn as it thinks proper.

10.14 Determination of questions

Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members of the Committee present and voting.

If there are an equal number of votes for and against a question, the chair of the meeting is not entitled to a casting vote.

10.15 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if a majority of the Directors entitled to vote on the resolution have

consented to the resolution in accordance with this article 10.15 provided that:

- (i) at least 1 Member Director consents to the resolution; and
 - (ii) if the question concerns a Related Party Proposal, the Disinterested Member Director and a majority of the Independent Directors consent to the resolution.
- (b) The resolution is passed when the last participating Director consents to the resolution in accordance with this article 10.15.
- (c) The resolution is not invalidated if it is consented to by a Director who is not entitled to vote provided that the required number of Directors consented to the resolution excluding such Director.
- (d) A Director may consent to a resolution by signing a document that sets out the terms of the resolution and contains a statement to the effect that the Director is in favour of the resolution.
- (e) Alternatively, a Director may consent to a resolution by giving the Company a written notice (including by fax or other electronic means) addressed to and received by the Secretary or the chair:
- (i) that signifies the Director's assent to the resolution;
 - (ii) that sets out the terms of the resolution or identifies those terms; and
 - (iii) if the Director has notified the Company in writing of a specified means by which his or her consent must be authenticated (including by providing particular personal information or an allocated code), that authenticates the Director's consent by those specified means.
- (f) Any document referred to in this article may be in the form of a fax or electronic notification. Separate copies of a document (including in electronic form) may be signed or otherwise approved by the Directors if the wording of the resolution and statement is identical in each copy.
- (g) This article 10.15 applies to resolutions of Committees as if the references to Directors were references to Committee members.

10.16 Validity of acts of Directors

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

11 Secretary

11.1 Appointment of Secretary

The Company may, but need not, have one or more Secretaries who are to be appointed by the Directors.

11.2 Suspension and removal of Secretary

The Directors may suspend or remove a Secretary from that office.

11.3 Powers, duties and authorities of Secretary

A Secretary holds office on the terms and conditions and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

12 Chief Executive Officer and Senior Executives

12.1 Appointment

- (a) Any chief executive officer of the Company appointed by the Directors may only be appointed with the prior written approval of the Shareholding Ministers.
- (b) Article 12.1(a) shall not apply:
 - (i) to the appointment of an interim or acting chief executive officer who is appointed for a period of six months or less; or
 - (ii) where approval of the appointment by the Shareholding Ministers is deemed to be granted under an applicable Queensland Government policy.

12.2 Shareholding Ministers to be informed

As soon as reasonably practicable following the appointment of a person to a position as a senior executive of the Company, the Directors must inform the Shareholding Ministers of the senior executive's appointment and remuneration arrangements.

12.3 Managing or executive director

No person may be appointed as Managing Director or Executive Director of the Company and accordingly no employee of the Company may be a Director, unless the Shareholding Ministers approve in writing.

12.4 GOC Act

Part 17 of Chapter 3 of the GOC Act shall apply in respect of employees of the Company.

13 Seals

13.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

13.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be 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.

14 Financial reports and audit

14.1 Financial reports

The Company must:

- (a) provide each Member with:
 - (i) quarterly management accounts of the Company;
 - (ii) a quarterly operations report for the Company;
 - (iii) annual accounts of the Company; and
 - (iv) all other information reasonably necessary for that Member to comply with its planning and reporting obligations under the GOC Act or other applicable laws; and
- (b) provide information (including information on the operations, financial performance and financial position) of the Company as reasonably requested from time to time by a Member,

in each case as soon as it is reasonably practicable to do so.

14.2 Audit

If required by the Corporations Act or requested by the Shareholding Ministers, the Directors must cause the Company's accounts for each financial year to be audited and obtain an Auditor's report. Such audited accounts and report must be provided to the Members promptly following their finalisation and issue to the Company.

14.3 Auditor

The Directors must appoint the Auditor-General as the Auditor of the Company.

15 Inspection of records

15.1 Inspection by Members

Subject to the Corporations Act, the Directors may determine whether, to what extent, at what time and places and under what conditions the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors and, if relevant, a holding company of the Company).

15.2 Right of a Member or other person to inspect

- (a) A Member or other person (other than a Director or, if relevant, a holding company of the Company) does not have the right to inspect any document of the Company except as provided by law, article 14.1 or authorised by the Directors or by the Company in general meeting.
- (b) The Shareholding Ministers may inspect or request a copy of any document of the Company. The Company must promptly allow such inspection or provide a copy of such document.

16 Dividends and reserves

16.1 Dividends able to be paid

- (a) The Directors may (in their discretion), subject to compliance with the Corporations Act, determine or declare that a dividend or interim dividend is payable and fix:
 - (i) the amount;
 - (ii) the time for payment; and
 - (iii) the method of payment.
- (b) The methods of payment may include the payment of cash.
- (c) Interest is not payable on a dividend.

16.2 Time when the debt arises

Subject to the Corporations Act, the Company incurs a debt for payment of a dividend or interim dividend only when the time fixed for payment arrives.

16.3 Company may retain profits

The Company may retain profits to pursue its objects outlined in article 2.1 in accordance with an annual budget approved by the Members.

17 Capitalisation of profits

17.1 Capitalisation of reserves and profits

The Directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account

or the profit and loss account or otherwise available for distribution to Members; and

- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in article 17.2, for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

17.2 Applying a sum for the benefit of Members

The ways in which a sum may be applied for the benefit of Members under article 17.1 are:

- (a) in paying up any amounts unpaid on shares held by Members;
- (b) in paying up in full unissued shares or debentures to be issued to Members as fully paid; or
- (c) partly as mentioned in article 17.1(a) and partly as mentioned in article 17.1(b).

17.3 Implementing the resolution

The Directors may do all things necessary to give effect to a resolution under article 17.1 and in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

- (a) make cash payments in cases where shares or debentures become issuable in fractions;
- (b) authorise any person to make, on behalf of all or any of the Members entitled to any further shares or debentures on the capitalisation, an agreement with the Company providing for:
 - (i) the issue to them, credited as fully paid up, of any further shares or debentures; or
 - (ii) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement so made is effective and binding on all the Members concerned;

- (c) fix the value of specified assets; or
- (d) vest property in trustees.

18 Service of documents

18.1 Document includes notice

In this article 18, a reference to a document includes a notice and a notification by electronic means.

18.2 Form of document

Unless expressly stated otherwise in this Constitution, all notices, certificates, statements, demands, appointments, directions and other documents referred to in this Constitution must be in writing.

18.3 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by delivering it or sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to a fax number or electronic address nominated by the Member; or
- (d) by notifying the Member by an electronic means nominated by the Member that:
 - (i) the document is available; and
 - (ii) how the Member may use the nominated access means to access the document.

18.4 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and, in either case, is taken to have been given and received on the day after the day of its posting.

18.5 Fax or other electronic means

A document sent or given by fax or other electronic means:

- (a) is taken to be effected by properly addressing and transmitting the fax or other electronic transmission; and
- (b) is taken to have been given and received on the day after the date of its transmission.

18.6 Evidence of service

A certificate signed by a Director or a Secretary stating that a document was sent, delivered or given to a Member personally, by post, fax or other electronic means on a particular date is evidence that the document was sent, delivered or given on that date and by that means.

18.7 Joint holders

A document may be given by the Company to the joint holders of a share by giving it to the joint holder first named in the Register for the share.

18.8 Persons entitled to shares

A person who by operation of law, transfer or other means whatsoever becomes entitled to any share is absolutely bound by every document given in accordance with this article 18 to the person from whom that person derives title prior to registration of that person's title in the Register.

19 Winding up

19.1 Distribution of assets

If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as the liquidator considers fair on any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

19.2 Powers of liquidator to vest property

The liquidator may, with the sanction of a special resolution of the Company, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any shares or other securities in respect of which there is any liability.

19.3 Shares issued on special terms

Articles 19.1 and 19.2 do not prejudice or affect the rights of a Member holding shares issued on special terms and conditions.

20 Indemnity and insurance

20.1 Indemnity

The Company will indemnify any current or former officer of the Company out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) 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; and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or a subsidiary, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

- (d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
- (e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

20.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been an officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by law.

20.3 Former officers

The indemnity in article 20.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company even though the person is not an officer at the time the claim is made.

20.4 Contract

The Company may enter into an agreement with a person referred to in articles 20.1 and 20.2 with respect to the matters covered by those articles. An agreement entered into pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

21 Proprietary Company

The Company is a proprietary company and accordingly:

- (a) the number of Members:
 - (i) counting joint holders of a particular parcel of shares in the Company as one person; and
 - (ii) excluding:
 - (A) each Member who is an employee of the Company or of a subsidiary of the Company; and
 - (B) each Member who became a Member at a time when that member was an employee of the Company or of a subsidiary of the Company

must not exceed 50; and
- (b) the Company may not engage in anything that would require disclosure to investors under Chapter 6D of the Corporations Act, other than an offer of shares to:
 - (i) a Member; or
 - (ii) a person in the employment of the Company or of a subsidiary of the Company.

22 Company as trustee

The Company may:

- (a) accept appointment as a trustee of a trust only with the prior written approval of the Shareholding Ministers; and
- (b) if appointed as a trustee, retire from its trusteeship only with the prior written approval of the Shareholding Ministers.

23 Amendment to this Constitution

- (a) This Constitution must not be amended, varied or replaced without the prior written approval of the Shareholding Ministers. Without limiting article 23(b), such approval shall be deemed to be given where such an amendment or replacement is authorised by a direction given under section 115 of the GOC Act or by an instruction given thereunder.
- (b) Without limiting section 86 of the GOC Act, the Shareholding Ministers may by written notice to the Company and Members:
 - (i) amend, vary or replace the Company's Constitution; or
 - (ii) require the Company and Members to take such steps as are necessary to amend, vary or replace the Constitution of the Company,

in each case as determined by the Shareholding Ministers.

24 Related Party Proposals

Without limiting the Corporations Act, if a Member or a Related Body Corporate of a Member proposes to implement a Related Party Proposal, that Related Party Proposal must:

- (a) be on arm's length terms;
- (b) be approved by the Directors in accordance with article 10.4 or article 10.15; and
- (c) be notified in writing to all other Members by the interested Member giving full details of the Related Party Proposal.

25 Role of the State

25.1 No Liability

- (a) The Company does not represent, and has never represented, the State of Queensland.
- (b) None of the State of Queensland, the Shareholding Ministers, PQ or EQ is liable for the debts or other liabilities of the Company by virtue of shares being owned by them in the Company (directly or indirectly), except to the extent that liability is expressly and lawfully undertaken by them.
- (c) The State of Queensland and the Shareholding Ministers have no obligations, and shall not have any liabilities, under this Constitution. The Shareholding Ministers shall be entitled to enforce this Constitution notwithstanding that they are not Members of the Company.

25.2 Crime and Corruption Act

The Company shall comply with section 156 of the GOC Act as if it were a GOC or shall cooperate with a GOC of which it is a subsidiary to enable that GOC to do so in respect of a matter concerning the Company.

26 Dispute resolution

- (a) If either a Member or the Company (the **Initiating Party**) claims that a Dispute has arisen, the Initiating Party may give the other parties to the Dispute (each a **Recipient Party**) a notice setting out brief details of the Dispute (**Dispute Notice**). Within 14 days of service of a Dispute Notice, each Recipient Party must give the Initiating Party a notice setting out brief details of the Recipient Party's position on the Dispute (**Reply Notice**).
- (b) Following the giving of a Dispute Notice and Reply Notices by each Recipient Party, the Initiating Party and Recipient Parties must make representatives with authority to settle the Dispute available for the purpose of meeting in an effort to resolve the Dispute. At least 1 meeting of the authorised representatives must take place within 14 days of receipt by the Initiating Party of the Reply Notices.
- (c) If the representatives of the Initiating Party and the Recipient Parties are unable to resolve the Dispute within 2 months of the Dispute Notice being issued (**CEO Referral Date**), then each such party must make its Chief Executive Officer available for the purposes of meeting in an effort to resolve the Dispute.
- (d) If the Chief Executive Officers are unable to resolve the Dispute within 28 days of the CEO Referral Date, then the Initiating Party or a Recipient Party may write to the Shareholding Ministers for advice as to resolution of the Dispute and each of the Company and the Members must follow any advice received from the Shareholding Ministers in respect of the Dispute.