

# **Constitution**

of

**Australia Samly Holdings Group Limited**

ACN 164 307 975

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## **PART A. GENERAL OUTLINE**

### **CONSTITUTION**

1. This is the constitution of **Australia Samly Holdings Group Limited** ('the company').
- 1.1 This constitution includes all schedules and annexures referred to in the constitution.
- 1.2 The company is an Australian public company limited by shares. The liability of its members is limited to any unpaid amount owing on their shares.
- 1.3 This constitution sets out the basis on which the company is to be managed and the rights and responsibilities of members, directors and other officers of the company.
- 1.4 Subject to sub-section 1.7 below, nothing in the constitution is intended to derogate from the terms of the *Corporations Act* 2001 (hereafter referred to as 'the Act').
- 1.5 The Act imposes numerous obligations on the company, not all of which are reproduced in this constitution. Subject to sub-clause 1.7 below, the terms of the Act apply to any matter not specifically referred to in this constitution.
- 1.6 In addition to its other content, this constitution replaces a number of the 'replaceable rules' in the Act.
- 1.7 Words used in the constitution that have a meaning in the Act have the same meaning in this constitution.
- 1.8 **To the extent that there is any inconsistency between the constitution and the APX Listing Rules, the relevant provisions of the APX Listing Rules governing the same topic will prevail to the extent of inconsistency.**
- 1.9

## **PART B COMPANY'S POWERS AND MANAGEMENT**

### **2. COMPANY'S POWERS**

- 2.1 Subject to any restrictions under the Act, the company has all the powers of a natural person.
- 2.2 It also has the power:
  - to issue and cancel shares, including bonus shares, redeemable or non-redeemable preference shares, and partly paid shares;
  - to issue debentures of the company;
  - to grant options over unissued shares;
  - to distribute company property among members, whether in kind or otherwise;
  - to give security by charging uncalled capital of the company;
  - to grant a charge over company property;
  - to obtain the registration or recognition of the company as a body corporate in any other jurisdiction;
  - to do anything it may lawfully do in any jurisdiction.

### **3. COMPANY MANAGEMENT**

- 3.1 The board of directors shall manage the company at all times. It must do so in accordance with this constitution, the Act and the lawful resolutions of the company.
- 3.2 Directors shall be responsible for the lodgement of all financial and directors' reports as required under the Act and all reports required under the Act to be placed before members at the Annual General Meeting (AGM) of the company.
- 3.3 Directors shall appoint an independent auditor in accordance with the Act and ensure compliance with all company obligations in respect of auditors as set down in the Act.
- 3.4 The initial directors are named in Schedule 1 of this constitution. A director is not required to own shares in the company.

### **4. POWERS OF DIRECTORS**

- 4.1 The directors have the power and duty to manage and control the business and affairs of the company.
- 4.2 They may exercise all the company's powers, except those that are required to be exercised by the company in general meeting.
- 4.3 The directors' powers include all those powers referred to in Clause 2.2 herein, and include, but are not limited to, the following additional, specific powers:
  - (a) to borrow or raise money;
  - (b) to secure the payment of any money in any way, including by mortgage, debenture or charge on all the company's assets and undertakings, present and future;
- 4.4 The directors shall appoint a company secretary and a company public officer in accordance with the Act and clause 6. of this constitution and on the terms and conditions they think fit.
- 4.5 The directors may remove a company secretary or company public officer from office.

### **5. CONFERRAL OF DIRECTORS' POWERS**

- 5.1 The directors may confer upon a person (including a director) the power to perform specified acts on behalf of the company, whether by power of attorney or not. They may also confer upon that person a power of sub-delegation.
- 5.2 The conferral of a power to a person or a director does not exclude its exercise by the directors themselves.
- 5.3 The directors may limit the exercise of any power conferred by them upon any director or other person or remove such conferred power at any time.

## **6. NUMBER OF DIRECTORS**

- 6.1 There shall, at all times, be a minimum of three directors of the company two of whom must be ordinarily resident in Australia. The members may increase the number of directors above three by passing a resolution at a general meeting of members.
- 6.2 If the number of directors falls below the minimum set by the company, they must not act as directors until the number is increased to the minimum, except:
- (a) to increase the number of directors to the minimum; or
  - (b) to convene a general meeting of the company.
- 6.3 On the registration of the company there shall be three directors of the company.
- 6.4 At all times during the life of the company, at least two of the directors of the company shall be Australian residents.
- 6.5 One of the directors referred to in Clause 6.4 herein may be the company's secretary.
- 6.6 One of the directors referred to in Clause 6.4 herein may be the company's public officer for the purposes of Australian taxation law.

## **7. APPOINTMENT, REMOVAL AND RETIREMENT OF DIRECTORS**

- 7.1 The company may either appoint a director or remove a director by passing a resolution at a general meeting of the company. [Section 203D of the Act applies in the case of the removal of a director by the company]
- 7.2 Notice of intention to move the resolution must be given to the company at least two months before the meeting is to be held. However, if the company calls a meeting after the notice of intention is given under this subsection, the meeting may pass the resolution even though the meeting is held less than two months after the notice of intention is given.
- 7.3 Short notice of the meeting cannot be given for this resolution.
- 7.4 The company must give the director a copy of the notice as soon as practicable after it is received.
- 7.5 The director is entitled to put their case to members by:
- (a) giving the company a written statement for circulation to members [see subsections (5) and (6)]; and
  - (b) speaking to the motion at the meeting (whether or not the director is a member of the company).
- 7.6 The written statement is to be circulated by the company to members by:
- (a) sending a copy to everyone to whom notice of the meeting is sent if there is time to do so; or

- (b) if there is not time to comply with paragraph(a)—having the statement distributed to members attending the meeting and read out at the meeting before the resolution is voted on.

- 7.7 The director's statement does not have to be circulated to members if it is more than 1,000 words long or defamatory.
- 7.8 The directors may appoint a director only for the purpose of filling a casual vacancy.
- 7.9 Directors may not remove a director or require a director to vacate his or her office as director. [Section 203E of the Act]
- 7.10 A director may retire from office by giving written notice to the company at its registered office. The resignation is effective at the time stated in the notice, provided it is after the time the notice was given. If not, the notice is effective immediately it is given.

## **8. CESSATION OF A DIRECTOR'S OFFICE**

- 8.1 A director (including a managing director) automatically ceases to be a director if any one of the following applies:
  - (a) the director is prohibited from being a director or ceases to be a director or is removed from being a director by the Act or by an order made under it;
  - (b) the director becomes insolvent or makes a composition or arrangement with his or her creditors or a class of them;
  - (c) the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under any law relating to mental health;
  - (d) the director is absent from meetings of directors for 6 consecutive months without special leave from the directors, and the directors consequently declare his or her office vacant;
  - (e) the director fails to pay a call on his or her shares in the company for at least one month after the call was made – or such longer period as allowed by the directors.

## **9. ALTERNATE DIRECTORS**

- 9.1 A director may appoint an adult natural person to act in his or her place as an alternate for any period the director thinks fit.
- 9.2 The appointment must be in writing and is not effective unless it has been unanimously approved by the other directors.
- 9.3 The managing director may not appoint an alternate managing director.
- 9.4 An alternate director is not required to own shares in the company.
- 9.5 An alternate director may only be an alternate for one director.

## **10. POWERS OF ALTERNATE DIRECTORS**

- 10.1 In the absence of the appointing director, his or her alternate has all the rights, and may exercise all the powers of, the director (including voting at meetings) on the same conditions as the appointing director.
- 10.2 The exercise of rights and powers has the same effect as if the appointing director had exercised them. However, the alternate director is not the appointing director's agent and is personally responsible to the company and in law for his or her conduct.
- 10.3 An alternate director may not call a meeting of members unless granted the authority to do so by all the remaining directors.

## **11. NOTICE OF MEETINGS TO ALTERNATE DIRECTORS**

- 11.1 An alternate director is entitled to receive notices of meetings of directors.

## **12. RESIGNATION OF ALTERNATE DIRECTORS**

- 12.1 An alternate director may resign by giving the company written notice at its registered office. The resignation takes effect immediately when the notice is given.

## **13. TERMINATION OR SUSPENSION OF THE APPOINTMENT OF AND ALTERNATE DIRECTOR**

- 13.1 An appointing director may terminate the appointment of his or her alternate, or suspend the appointment, only by giving the company written notice at the registered office.
- 13.2 The other directors may immediately terminate the appointment of an alternate, or suspend that appointment, by passing a resolution at a meeting of directors after giving the appointing director written notice.
- 13.3 The appointment of an alternate terminates automatically if the appointing director ceases to be a director, or if anything happens in respect of the alternate which, if it had happened to the appointing director, would result in that director ceasing to hold office.

## **14. APPOINTMENT OF MANAGING DIRECTOR**

- 14.1 The directors shall appoint one of themselves to be the company's managing director for the period and on the terms (including terms as to salary and fees) they think fit.
- 14.2 If the managing director is temporarily unable to act in that office, the directors may appoint a person to act temporarily as managing director.

## **15. REMOVAL OF MANAGING DIRECTOR**

- 15.1 The directors may remove the managing director from the office of managing director, but only in accordance with the terms of the company's contract of employment with such managing director.

- 15.2 The managing director automatically ceases to hold office when he or she ceases to be a director.

## **16. POWERS OF MANAGING DIRECTOR**

- 16.1 The managing director has the powers conferred upon him or her by the directors.
- 16.2 The directors may withdraw or vary any power conferred upon the managing director.
- 16.3 The conferral of a power upon the managing director does not exclude its exercise by the directors themselves.

## **17. REMUNERATION OF DIRECTORS**

- 17.1 The directors are entitled to be paid directors' fees set by the directors.
- 17.2 The directors may set different amounts for different directors.
- 17.3 If the directors do not set different fees to be paid to different directors, each director's fees must be the same as each other director's fees.
- 17.4 The directors' fees must not exceed the maximum amount approved by the company in general meeting.
- 17.5 Directors may resolve to pay directors' fees by a fixed monthly or annual fee.
- 17.6 Alternate directors shall be entitled to all director's fees and expenses on a pro-rata basis for the periods during which they are alternate directors.

## **18. DIRECTORS' EXPENSES**

- 18.1 In addition to their fees, directors are entitled to be paid or reimbursed for all travelling and all other expenses they properly incur in relation to exercising their powers and performing their duties in relation to:
- (a) meetings of directors;
  - (b) conferences (including tele-conferences) of directors;
  - (c) meetings of committees of directors;
  - (d) general or special meetings of the company; or
  - (e) any business or affairs of the company.

## **19. DIRECTORS HOLDING OTHER OFFICES IN THE COMPANY**

- 19.1 A director is entitled to hold another office in the company, and to be remunerated for other work (including professional work) for the company, despite being a director.
- 19.2 The position as company auditor shall not be held by a director or other officer of the company.

## **20. POTENTIAL CONFLICT OF INTEREST AND DISCLOSURE**

- 20.1 Section 195 of the Act applies in the case of a director having a material personal interest in a matter being considered at a meeting of directors.
- 20.2 A director is not disqualified from office by reason of entering into a contract or arrangement with the company or having an interest in a contract or arrangement with the company, nor is any such contract or arrangement void or liable to be avoided by reason only of the director's involvement.
- 20.3 A director does not have to account to the company for any profit arising from a contract or arrangement with the company by reason only of the director's role as a director of the company and having a fiduciary duty to the company.
- 20.4 A director must disclose any material personal interest in any matter, contract or arrangement with the company as required by s195 of the Act.
- 20.5 A director must give a written general notice to the company at its registered office of a material personal interest in a matter being considered by the directors or that he or she is an officer or member of a specified corporation or firm, or has some other material personal interest in such corporation or firm.
- 20.6 The notice must set out the nature and extent of the director's interest.
- 20.7 The notice is effective on all subsequent occasions as a disclosure of the director's interest in a matter involving the company and that corporation or firm, but only if the director's interest at the time of first consideration of the matter is no greater than as stated in the original general notice.
- 20.8 In the case that such an interest becomes greater than notified in the original general notice; the director must give a further written notice to the company at its registered office of such greater interest.

## **21. EFFECT OF DIRECTOR'S DISCLOSURE**

- 21.1 In accordance with s195 of the Act, if a director complies with the law and this constitution in relation to disclosing an interest in a matter, other directors not having a material personal interest in such a matter may decide that:
- (a) the director may vote on whether the company enters into the contract or arrangement;
  - (b) the contract or arrangement may be entered into;
  - (c) the director may participate in the execution of the contract; and
  - (d) the director may vote on matters involving the contract unless the board decides otherwise.

## **22. MEETINGS OF DIRECTORS**

- 22.1 The directors may regulate their meetings in whatever manner they decide.



- 22.2 A director may request the secretary to convene a meeting of directors at any time with reasonable notice and for reasonable purpose.
- 22.3 The company secretary must convene a meeting if requested by a director to do so.
- 22.4 The convenor convenes a meeting by giving written, electronic or oral notice of it to all directors.
- 22.5 The convenor is to give notice of a meeting to all directors including any director who may be outside Australia by way of written, electronic or telephonic communication.

## **23. FAILURE TO GIVE PROPER NOTICE**

- 23.1 The resolutions passed at a meeting of directors for which notice was not given to all directors, and actions taken to implement those resolutions, shall be valid if each director who was not given notice later agrees to waive the receipt of that notice.

## **24. QUORUM**

- 24.1 No business may be transacted at any time during a meeting of directors unless a quorum is present.
- 24.2 Until the directors decide otherwise, the quorum for a meeting of directors is any two directors.
- 24.3 The quorum must be present throughout a meeting.
- 24.4 An alternate director who is not also a director may be counted in the quorum if the appointing director is not present.

## **25. CHAIR OF THE BOARD OF DIRECTORS**

- 25.1 The directors shall elect one of them to be chair for a specified period.
- 25.2 If a meeting of directors is held and no chair has been appointed, or the usual chair is not present within thirty minutes after the scheduled starting time or is unwilling to chair the meeting, the directors present must elect one of them to chair that meeting.

## **26. MEETINGS IN MORE THAN ONE GEOGRAPHICAL LOCATION**

- 26.1 With the consent of all directors notified orally or in writing to the company secretary, a meeting of directors may be convened at different venues, provided the technology used gives the directors at each venue a reasonable opportunity to participate in the meeting.
- 26.2 The meeting is taken to be held where the chair is present or such other location as specified by the chair.
- 26.3 If there is a failure in the technology which deprives any director of a reasonable opportunity of participating in the meeting, the chair must adjourn the meeting until the failure is rectified.

- 26.4 If the failure is not rectified within two hours, the chair must adjourn the meeting to a date, place and time when the chair believes all directors will be able to participate.

**27. WITHDRAWAL OF A DIRECTOR FROM A MEETING HELD IN MORE THAN ONE GEOGRAPHICAL LOCATION**

- 27.1 A director who wishes to absent himself or herself from a meeting of directors being held, even though all directors are not in the same geographical location, must obtain the express consent of the chair.
- 27.2 A director who fails to obtain such consent is conclusively presumed to be present throughout the meeting for the purposes of the quorum for that meeting.

**28. VOTING AND RESOLUTIONS AT DIRECTORS' MEETINGS**

- 28.1 At a meeting of directors:
- (a) each director who is present has one vote;
  - (b) an alternate director who is also a director has one vote as director and one vote for each appointing director who is absent from the meeting and by whom he or she has been appointed as an alternate; and
  - (c) the chair has a casting as well as a deliberative vote.
- 28.2 A resolution is passed at a meeting of directors if a majority of the votes cast is in favour of it.

**29. RESOLUTIONS BY CIRCULAR**

- 29.1 The directors may pass a resolution by circular without holding a meeting.
- 29.2 Reasonable notice of the proposed resolution must be given to all directors.
- 29.3 The resolution must be signed by a majority of directors (including alternates if applicable) entitled to vote on it and must state that they are in favour of it.
- 29.4 That majority must not be less than the number required for a quorum at a meeting of directors.
- 29.5 The resolution is valid from the time the last director signs it and is taken to have been passed at that time.
- 29.6 Different directors may sign different documents provided they are identical.
- 29.7 Documents circulated by facsimile are acceptable.
- 29.8 Failure to vote on a circulated resolution by any properly notified director shall be taken as an abstention.
- 29.9 The resolution must be noted in the records of minutes of the meetings of directors.

### **30. MINUTES OF MEETINGS**

- 30.1 The directors must keep minutes of meetings in accordance with the Act. They must record each of the following:
- (a) the names of directors and alternate directors present at each meeting of directors;
  - (b) all orders, resolutions and proceedings of meetings of directors;
  - (c) any matter that the Act requires to be recorded in the books of the company. This includes any declarations and notices of interest made and given by a director.
- 30.2 The chair of the meeting or of the next meeting must sign the minutes as a true and correct record of the meeting. Such signing of the minutes is sufficient evidence of anything recorded and of the regularity of what was done at the meeting.

### **31. COMMITTEES OF DIRECTORS**

- 31.1 The directors may delegate any of their powers to a committee of directors they specify.
- 31.2 A committee of directors shall be comprised of at least two directors only one of whom may be an alternate director.
- 31.3 The chair may, at his or her absolute discretion, attend and vote at any committee meeting.
- 31.4 The directors may revoke a delegation.
- 31.5 A committee must comply with any conditions on the exercise of its powers that the directors set.
- 31.6 A power properly exercised by a committee is exercised by the directors.
- 31.7 The clauses in this constitution that apply in relation to the proceedings of a meeting of directors apply in relation to meetings of a committee of directors.

### **32. MINUTES OF COMMITTEE MEETINGS**

- 32.1 The rules that apply to the minutes of meetings of directors and their signing apply, with any appropriate variations, to the minutes of meetings of a committee.

### **33. VALIDITY OF ACTS OF DIRECTORS**

- 33.1 Any act done at a meeting of directors or of a committee of directors, or by any person acting as director, or by a person acting under a power of attorney executed by the company, is valid even if it is later discovered that there was a defect in the person's appointment or continuance in office, or that the person was disqualified from voting or not entitled to vote.

#### **34. EXECUTION OF DOCUMENTS**

- 34.1 In addition to any other way in which the company may execute a document, it may do so, when authorised by the board, by two directors signing it, or by one director and a secretary of the company signing it.
- 34.2 Execution under a common seal is not required.

#### **35. COMPANY SEAL**

- 35.1 The directors may adopt a company seal.
- 35.2 They must provide for its safe-keeping.
- 35.3 The directors may also adopt a duplicate of the seal – that is, a facsimile of the seal with the words 'Share seal' on its face.
- 35.4 The directors may adopt different duplicate seals for use in different places. Each must have on its face the place where it is to be used.

### **PART C GENERAL MEETINGS OF THE COMPANY**

#### **36. CONVENING A GENERAL MEETING**

- 36.1 The chair or the chair and one other director together may convene a general meeting of the company at any time.
- 36.2 A member or members can only convene a meeting as provided by the terms of the Act.
- 36.3 A meeting may be convened at different venues, provided the technology used gives the members at each venue a reasonable opportunity to participate in the meeting. Such meeting is to be held at the place where the chair is present.
- 36.4 If there is a failure in the technology which deprives any member of a reasonable opportunity of participating in the meeting, the chair must adjourn the meeting until the failure is rectified. If the failure is not rectified within two hours, the chair must adjourn the meeting to a date and time when the chair believes all members will be able to participate.

#### **37. NOTICE OF GENERAL MEETINGS**

- 37.1 Unless consent is given for shorter notice in accordance with the Act, at least twenty eight days' notice must be given of a general meeting to those persons entitled to notice under the Act. The notice must specify each of the following:
- (a) the location and time for the meeting;
  - (b) the general nature of the business to be transacted at the meeting;
  - (c) the details of any special resolution intended to be proposed at the meeting;
  - (d) the technology to be used if the meeting is to be held at more than one location;

- (e) that a member who is entitled to cast two or more votes is entitled to appoint up to two proxies; and that, if the member appoints two proxies, the member must specify the proportion or number of votes each proxy is appointed to exercise;
  - (f) any other information required by the Act.
- 37.2 An accidental failure to give notice to a person, or the non-receipt by that person of the notice, does not affect the validity of the proceedings at the meeting or any resolution passed at it.
- 38. CANCELLATION OF A PROPOSED GENERAL MEETING**
  - 38.1 The directors may cancel a general meeting convened by them.
  - 38.2 The directors may cancel a general meeting convened by a member or members in accordance with the Act if they have received from that member or members a signed notice withdrawing their request for the meeting.
- 39. ADJOURNMENT OF A GENERAL MEETING**
  - 39.1 The directors may postpone a general meeting or change a venue at which it is to be held.
  - 39.2 The only business that may be transacted at an adjourned meeting is the business stated in the notice concerning the original meeting.
  - 39.3 If a meeting is cancelled or adjourned, the directors must notify in writing each person entitled to receive notice of the fact of its cancellation or adjournment.
  - 39.4 In the case of an adjournment, the notice must state the new time and venue for the meeting.
  - 39.5 An accidental failure to give notice to a person, or the non-receipt by that person of the notice, does not affect the validity of the cancellation or adjournment of the meeting.
- 40. QUORUM AT A GENERAL MEETING**
  - 40.1 No business may be transacted at any time during a general meeting unless a quorum is present. The quorum for a general meeting is 2 members who are present in person or by proxy, representative or attorney and who are entitled to vote.
  - 40.2 In the case of a meeting convened by a member or members, if a quorum is not present within 30 minutes after the time appointed for a general meeting to be held, the meeting is automatically abandoned.
  - 40.3 In the case of a meeting convened by the directors, if a quorum is not present within 30 minutes after the time appointed for a general meeting to be held, it automatically stands adjourned to the same day of the following week at the time and venue the directors notify to the members in writing. If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is automatically abandoned.

**41. CHAIR OF GENERAL MEETING**

- 41.1 The chair of meetings of directors is also the chair of a general meeting.
- 41.2 If there is no chair, or the chair is unwilling to act as chair, or the chair is not present within 30 minutes after the time appointed for the general meeting to be held, the directors may choose another director to be chair of the meeting.
- 41.3 If the directors fail to do so, or all directors present decline to be chair, the members who are present may choose one of them to be chair of the meeting.

**42. CHAIR'S RULING FINAL**

- 42.1 The chair's rulings on any matter relating to the order of business, procedure and conduct of the general meeting are final.
- 42.2 No motion of dissent from a chair's ruling will be accepted.

**43. ADJOURNMENT OF GENERAL MEETING**

- 43.1 On the request or on the decision of a majority of members present and entitled to vote, the chair must adjourn a general meeting, or any business, motion, resolution, question, debate, discussion or poll.
- 43.2 The adjournment of any business, motion, resolution, question, debate, discussion or poll may be until later in the meeting or to an adjourned meeting in accordance with the decision or request and does not affect the conduct of any other business that remains to be conducted at the meeting.

**44. ADJOURNED GENERAL MEETINGS**

- 44.1 No notice has to be given of an adjourned meeting or the business to be transacted at it unless the adjournment is for at least 30 days.
- 44.2 In that case, the notice requirements relating to the original meeting apply.
- 44.3 No business may be transacted at an adjourned meeting except the business from the meeting adjourned.
- 44.4 A resolution passed at an adjourned meeting is passed on the day of that adjourned meeting.

**45. VOTING RIGHTS**

- 45.1 Subject to any rights or restrictions attached at the relevant time to a class or classes of shares, each member of the company, or each member of a class of members, who is entitled to attend and vote may attend a meeting of the company, or of the class of members.
- 45.2 An individual member may vote personally or by proxy or attorney.

- 45.3 A corporation member may do so by a representative who is an individual. No person who is not a member of the company, or a member of the class of members, or a proxy or attorney of that member— or, in the case of a corporation member, a representative of that member— may vote at a meeting of members or of a class of members.
- 46. APPOINTMENT OF A PROXY** [See section 249X of the Act]
- 46.1 A member of a company who is entitled to attend and cast a vote at a meeting of the company's members may appoint a person as the member's proxy to attend and vote for the member at the meeting.
- 46.2 The person appointed as the member's proxy may be an individual or a body corporate.
- Note: A body corporate may appoint a representative to exercise the powers that the body corporate may exercise as the member's proxy.
- 46.3 The appointment may specify the proportion or number of votes that the proxy may exercise.
- 46.4 If the member is entitled to cast 2 or more votes at the meeting, they may appoint 2 proxies. If the member appoints 2 proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of the votes.
- 46.5 Any fractions of votes resulting from the application of this section are to be disregarded.
- 46.6 When a member has appointed a proxy or attorney, the member, the member's attorney or the corporation member's representative must sign the appointment.
- 46.7 The appointment is valid if it contains the information which the Act requires it to contain. At the date of this constitution, the Act required it to contain each of the following:
- (a) the name and address of the member;
  - (b) the name of the company;
  - (c) the proxy's name or the name of the proxy's office;
  - (d) the meetings at which the proxy is to be used.
- 46.8 An appointment is not invalid merely because it does not specify all this information.
- 46.9 An appointment may be a standing appointment.
- 46.10 An appointment for a meeting is valid for an adjournment of that meeting.
- 47. FORM OF PROXY**
- 47.1 The form in Annexure A of this constitution may be used for the appointment of a proxy.

**48. REVOCATION OF APPOINTMENT OF A PROXY**

- 48.1 A member who has appointed a proxy may revoke the appointment at any time by giving the company written notice.
- 48.2 An appointment is not revoked by the appointing member attending and taking part in a general meeting. However, if the member votes on a resolution, the proxy or other person appointed to exercise a member's voting rights is unable to vote.

**49. LODGEMENT OF PROXIES**

- 49.1 A proxy, power of attorney or other authority to exercise a member's voting rights at a general meeting is not to be treated as valid unless notice of it is received by the company at its registered office (or another place specified in the notice of meeting) at least 48 hours before the time the meeting (or adjourned meeting) at which it is to be exercised is due to commence.
- 49.2 The proxy or power of attorney must be accompanied by the authority under which the proxy was signed or a certified copy of the power of attorney. Faxed documents are acceptable.

**50. RIGHTS OF PROXIES**

- 50.1 A proxy or other person appointed to exercise a member's voting rights has the same rights as the member to speak and vote at a general meeting.
- 50.2 Those rights are suspended while the member is personally present at the meeting. The proxy or other person must vote on a resolution in accordance with any direction in the appointment.
- 50.3 If there is no direction, and the person is separately entitled to vote on the resolution, the person may vote on it for the member as he or she thinks fit.
- 50.4 If there is no direction, and the person is *not* separately entitled to vote on the resolution, he or she must abstain from voting on it.
- 50.5 A proxy or other person appointed to exercise a member's voting rights may demand or join in a demand for a poll.

**51. VOTES BY PROXIES REMAIN VALID**

- 51.1 A vote by proxy, power of attorney or other authority is valid despite any of the following:
- (a) the death of the member or the member ceasing to have mental capacity;
  - (b) the bankruptcy or liquidation of the member;
  - (c) the revocation of the proxy, power of attorney or other authority;
  - (d) the transfer of the share in respect of which the vote was cast.



- 51.2 This does not apply if the company receives notice of the relevant fact at its registered office at least 48 hours before the commencement of the meeting (or adjourned meeting) at which the vote is to be cast.

**52. PROXY OF JOINT HOLDER**

- 52.1 The vote of a proxy appointed by all the joint holders of a share is to be counted to the exclusion of a vote by any other proxy of any of the joint holders.

**53. IDENTIFICATION OF PROXY**

- 53.1 The chair of a general meeting may require a person acting as a proxy for a member to establish that he or she is the person named in the lodged proxy. If the person cannot do so, he or she may be excluded from voting as proxy for the member.

**54. MEETINGS OF MEMBERS OF A CLASS OF SHARES**

- 54.1 The rules applying to general meetings of the company apply with any necessary modification to meetings of members holding a class of shares, unless a matter is dealt with specifically by the rules for meetings of class members.

**55. VOTING PROCEDURE**

- 55.1 A resolution at a general meeting is to be decided on a show of hands unless a poll is demanded by any of the following:
- (a) the chair of the meeting;
  - (b) at least 5 members present who are entitled to vote on the resolution;
  - (c) by a member or members who represent at least 10% of the votes that may be cast on the resolution.
- 55.2 On a show of hands, each member present (except by proxy) at a meeting of members or of a class of members who is entitled to vote has one vote.
- 55.3 On a poll, each member present at a meeting of members or of a class of members who is entitled to vote has one vote.

**56. VOTES BY JOINT HOLDERS**

- 56.1 Any joint holder of shares may vote at a general meeting. However, if more than one vote is cast, the only one that will be counted is that of the joint holder whose name appears first on the Share Register of the company.

**57. WHEN MEMBERS ARE NOT ENTITLED TO VOTE**

- 57.1 A member who is a minor or who is of unsound mind or who is, or whose estate is, liable to be dealt with in any way under any law relating to mental health may vote by the

person or body who has the management or guardianship of the person or his or her estate.

57.2 That person or body may vote by proxy or by representative, but only after giving the directors satisfactory proof of the right to do so under this clause.

57.3 A member is not entitled to be present or to vote at a general meeting unless all calls and other amounts payable at the time of the meeting in respect of shares held by the member have been paid in full.

## **58. OBJECTION TO VOTING**

58.1 A challenge to a person's entitlement to vote at a general meeting or to the validity of a vote made at that meeting may only be raised at that meeting.

58.2 If a vote is allowed by the chair, it is valid for all purposes.

## **59. CHAIR TO DECLARE PROXIES BEFORE TAKING VOTE**

59.1 Before taking a vote on a resolution at a general meeting, the chair must inform the meeting whether any proxy votes have been received and how any proxy votes are to be cast.

## **60. DECLARATION OF THE RESULT OF A VOTE ON A SHOW OF HANDS**

60.1 A declaration by the chair of a general meeting of the result of a vote on a show of hands, and a subsequent entry into the minutes of that meeting confirming that result that is signed by the chair of that meeting or the next general meeting, is by itself conclusive evidence of the declared result.

## **61. DEMAND FOR A POLL**

61.1 A poll may be demanded before a vote on a resolution is taken, before the result of a vote on a show of hands is declared, or immediately after the result is declared.

61.2 A demand for a poll may be withdrawn at any time before the poll is taken.

## **62. TAKING A POLL**

62.1 If a poll is demanded, it must be taken in accordance with the directions of the chair.

62.2 However, if the poll concerns the election of a chair or the adjournment of the meeting, it must be taken immediately.

62.3 A delayed poll does not affect the transaction of other business.

62.4 The result of the poll is the resolution of the meeting on that question.

**63. CHAIR'S VOTES**

- 63.1 In addition to any deliberative vote or votes as a member, the chair of a meeting is entitled to a casting vote in the case of an equality of votes on a show of hands or a poll.

**64. RIGHT OF NON-MEMBERS TO ATTEND MEETING**

- 64.1 The chair may invite any person who is not a member to attend and address a general meeting including but not limited to a director, auditor or company secretary.

**65. RESOLUTIONS BY CIRCULAR**

- 65.1 The members may pass a resolution by circular without holding a general meeting.
- 65.2 The resolution must be signed by all members entitled to vote on it and must state that they are in favour of it.
- 65.3 If there are joint holders of shares entitled to vote on the resolution, each must sign it.
- 65.4 The resolution is valid from the time the last member signs it and is taken to have been passed at that time.
- 65.5 Different members may sign different documents provided they are identical. Faxed documents are acceptable. The resolution must be recorded in the minutes of the company's meetings.
- 65.6 This clause does not apply to either of the following resolutions:
- (a) a resolution to remove a director or appoint a director in place of a director who has been removed;
  - (b) a resolution to remove an auditor under section 329 of the Act.

**PART D SHARES IN THE COMPANY**

**66. POWER TO ISSUE SHARES**

- 66.1 The directors may issue shares in the company at any time. They must preserve any special rights conferred on holders of existing shares.
- 66.2 The directors may issue shares on any conditions they think fit.
- 66.3 The directors may issue or allot shares as fully paid or partly paid, or as payment for property acquired by, or services rendered to, the company.
- 66.4 They may differentiate between holders, including holders of the same class of shares, in relation to amount of calls or the timing of calls that are to be paid.
- 66.5 The directors may impose conditions dealing with preferred, deferred, qualified, guaranteed and other special rights, privileges, conditions, restrictions or limitations in regard to dividend, return of capital and distribution of assets, voting or otherwise.
- 66.6 The directors may grant options to call on the company to issue shares.

- 66.7 The directors must not issue any bearer shares or stock, or convert any shares into stock.
- 66.8 The shares issued by the directors must be of a class described in the Schedule or
- 66.9 otherwise authorised by this constitution or the Act.
- The directors determine the value of any shares they issue.
- 66.10 The rules in respect of all other matters relevant to the issue of shares by the company shall comply with the rules contained in the Act. [ in particular, Chapters 2H and 2J of the Act].
- 66.11 The company shall not charge any registration fees for transfers or any other documents or instructions relating to or affecting the title to any securities issued by the company unless permitted by the APX Listing Rules.
- 66.12 Subject to clause 67 of this constitution, any fully paid securities issued by the company shall not be subject to any lien or restrictions on the right of transfer.

**Notes:**

- “APX” ( “Asia Pacific Exchange Limited (ABN 19 080 399 220)” );
- APX Listing Rules” (e.g., as “the APX Listing Rules published by APX under such name and as may be amended by APX from time to time” )

**67. RULES IN RESPECT OF CERTAIN SHARE TRANSACTIONS BY THE COMPANY**

**67.1 RESTRICTIONS ON THE SALE OF CERTAIN SECURITIES BY THE COMPANY**

The company may only sell the securities of a member who holds less than the “ minimum parcel” of securities (as define in the APX Listing– Rule 2.1 ‘Definitions’).

67.1.1 Rules under the following conditions:

The company may sell such securities only once in any 12 month period provided that;

67.1.2 The company shall, prior to any such sale, notify its intention to sell the securities to the security holder by written communication;

67.1.3 The security holder shall be given a period of six weeks, from the date that the notification referred to in 67.1.2 herein is sent, to advise the company that the security holder wishes to retain the securities held by the security holder;

67.1.4 If the security holder advises the company of its wish to retain the securities in accordance with 67.1.3 herein, the company shall not sell the securities held by the security holder;

67.1.5 In the event that a takeover (as defined in the APX Listing Rules– Rule 2.1 ‘Definitions’ and s9 and Chapter 6 of the Act) is announced, the company’s power to sell the securities lapses. During the period of takeover bids the company may not sell the securities or re-commence the process referred to in 67.1 herein to sell the securities until any takeover bid offers are closed or withdrawn.

67.1.6 The proceeds of the sale of the securities, under the process referred to in 67.1 herein, shall only be forwarded by the company to the security holder when the company either receives the relevant securities certificate(s) from the holder or confirmation of the loss or destruction of such certificate(s).

**67.2. RULES IN RESPECT OF THE ISSUE OF RESTRICTED SECURITIES BY THE COMPANY**

67.2.1 It is the company’ intention to utilise the services of an approved settlement facility in respect of the issue of its securities and that no paper certificates will be issued.

67.2.2 In the case that the company issues any restricted securities (including those issued to employees under any employee incentive scheme or bonus scheme) the relevant provisions of Chapter 7 and Chapter 21 of the APX Listing Rules dealing with restricted securities shall apply.

67.2.3 In particular, unless permitted by the APX Listing Rules or APX, during the escrow period in respect of any restricted securities, the company shall not permit the transfer or disposal of such restricted securities and shall strictly enforce this prohibition.

- 67.2. The prohibition under this sub-clause shall form part of the restriction agreement made between the company and the holder of the restricted securities (and any relevant controller) in every case of the issue of restricted securities.
- 4

**68. Alteration of capital**

- 68.1 The Company may:

- (i) convert all or any of its shares into a larger or smaller number of shares. Any amount unpaid on the shares being converted is divided equally among the replacement shares; and
- (ii) cancel shares which have been forfeited.

- 68.2 Subject to the Corporations Act, the directors may do anything required to give effect to any resolution which alters the Company's share capital. Where a member becomes entitled to a fraction of a share on a consolidation, this power includes:

- (i) making cash payments;
- (ii) determining that fractions may be disregarded to adjust the rights of all parties;
- (iii) appointing a trustee to deal with any fractions on behalf of members; and
- (iv) rounding up each fractional entitlement to the nearest whole share by capitalising any amount available for capitalisation even though only some of the members may participate in the capitalisation.

- 68.3 Subject to the Corporations Act and the Listing Rules, the Company may reduce its capital in any manner, including by way of distributing specific assets, including securities of the Company or of any other corporation, trust or entity.

- 68.4 The Company may, in accordance with the Corporations Act and the Listing Rules, buy back its own shares on any terms and conditions determined by the directors. The consideration paid for a buy back of shares may include specific assets, including securities of the Company or of any other corporation, trust or entity.

**PART E LOANS TO MEMBERS**

**68. LOANS TO MEMBERS**

- 68.1 The rules in respect of loans to members shall be the rules contained in Chapter 2J of the Act.

**PART F MISCELLANEOUS**

**69. DISPLAY OF COMPANY NAME**

- 69.1 The company must display its name prominently at every place at which the company carries on business and that is open to the public. It must display its name and Australian Company Number ('ACN') on the first page of all its public documents and negotiable instruments, except in cases (eg, cash register receipts) where that is not required by the Act.

**70. REGISTERED OFFICE**

- 70.1 The directors must decide the place of the company's registered office.

**71. PROPER RECORDS TO BE KEPT**

- 71.1 The directors must keep proper financial records and accounts.
- 71.2 They must distribute copies of financial reports and a directors' report in accordance with the Act.
- 71.3 They must decide whether, to what extent, where, when and under what conditions the accounts and records of the company are to be available for inspection by members who are not directors.
- 71.4 A member who is not a director is not entitled to inspect accounts and records except as decided by the directors or in accordance with the Act.

**72. REGISTER OF CHARGES**

- 72.1 The company must observe the provisions of the Act with respect to the keeping of a register of all mortgages and charges specifically affecting the company's property.

**73. ACCESS TO CONFIDENTIAL INFORMATION**

- 73.1 A member who is not a director is not entitled to require or receive from the directors or the company any information concerning the business, trading or customers of the company, or any trade secret, secret process or other confidential information belonging to or used by the company.

**74. NOTICES, TIME OF SERVICE ETC.**

- 74.1 The company may give a notice to a member in any of the following ways:
- (a) by serving it on the member personally;
  - (b) by posting it to the member or leaving it at the member's address shown in the Share Register, or at a replacement address for giving notices supplied to it by the member;
  - (c) by faxing it or sending it electronically to the fax number or electronic address supplied by the member to the company for the giving of notices.
- 74.2 A notice is to be treated as received in accordance with the following:
- (a) if it is sent by post in Australia, on the next business day after pre-paid posting;
  - (b) if it is sent by post to an address outside Australia, in the ordinary course of pre-paid mail;
  - (c) if it is faxed or sent electronically, on the business day after it is sent.
- 74.3 A notice to joint holders is given if the notice is given to the holder first named in the Share Register as joint holder.
- 74.4 Notice of a general meeting must be given to each of the following:
- (a) each member;
  - (b) each director;
  - (c) the auditor of the company;
  - (d) each person entitled to shares because of the death or bankruptcy of a member or under any law relating to mental health.
- 74.5 A person who does not have an address in the Share Register and who has not supplied an address or number for the giving of notices is not entitled to be given notice.

**75. WINDING UP THE COMPANY**

- 75.1 If, on the winding up of the company, the assets are more or less than sufficient to repay the whole of the issued capital of the company, the assets must be distributed so that the

profit that is made or the loss is borne by members proportionally to the capital which was paid up or which ought to have been paid up on their shares at the commencement of the winding up. Amounts paid in advance of a call are to be ignored.

**76. DISTRIBUTION OF COMPANY ASSETS, REMUNERATION ON WINDING UP**

76.1 If the company is wound up, the liquidator may, on a special resolution of the company, divide any part of the assets among members. The liquidator may do any one or more of the following:

- (a) set what he or she regards as fair values on those assets;
- (b) decide on the division between different members or classes of members;
- (c) vest any assets in trustees on trust for the benefit of members as the liquidator thinks fit, but not so that a member would be forced to accept a share or security on which there is any liability.

76.2 No remuneration may be paid to a director or liquidator from the proceeds of the sale or realisation of the company's property or undertaking, except with the approval of the company in general meeting.



## Annexure A

### Proxy Form

Australia Samly Holdings Group Limited

ACN:

#### Meeting

Place	
Date	
Time	

I/We, *[insert name and address of member/members]*, am/are a member/members of *[insert company name and ACN]*. I appoint the following person/persons as my proxy/proxies to vote on my/our behalf at the specified meeting and any adjournment.

Name or office of proxy	Address

I/We appoint the following alternate person/persons to vote on my/our behalf at that meeting and any adjournment if a person I/we have appointed proxy is/are unable to act.

Name of proxy	Name of alternate	Address of alternate

*[Include any instructions concerning voting in favour of or against particular resolutions]*

**Signature/signatures of member/members**

*[Insert name of member/members appointing proxy]*

## Schedule 1

### Names and usual residential addresses of initial directors

Name of director	Usual residential address of director
<b>Liangchao CHEN</b>	<b>D-D304, Shahe Meijia Plaza, 2 Shahe Chaozhou Street West, Nanshan District, SHENZHEN CITY, Guangdong Province, People's Republic of China.</b>
<b>Zhimin XIONG</b>	<b>137 La Perouse Boulevard, BONBEACH, Victoria 3196 AUSTRALIA</b>
<b>Shengli ZHU</b>	<b>137 La Perouse Boulevard, BONBEACH, Victoria 3196 AUSTRALIA</b>

## Schedule 2

### List of Classes of Shares (and their Rights etc.) in the Company

**Classes of shares** Ordinary shares, 'A' class shares, 'B' class shares, 'C' class shares, 'D' class shares, 'E' class shares, 'F' class shares, 'G' class shares, 'H' class shares, 'I' class shares, 'J' class shares, 'K' class shares, 'L' class shares, 'M' class shares, Redeemable preference shares

**Restricted Shares** In the case of any restricted shares issued by the company, the proposed holder of such restricted shares (and any controller) must enter a restriction agreement with the company before the issue of such shares

The restriction agreement will, in every case, contain a prohibition on the transfer or disposal of such restricted shares during the escrow period.

#### Rights and restrictions attached to shares

Holders of classes of shares	Rights and restrictions
Ordinary, 'A', 'B'	Right to receive notice of any general meeting of the company
	Voting rights as set out in this constitution
	Dividends as determined
	Right to participate in distribution of surplus assets on winding up
'D', 'E', and 'F' non-voting	No right to receive notice of any general meeting of the company
	No right to vote at any general meeting of the company
	Dividends as determined
	No right to participate in distribution of surplus assets on winding up
'G', 'H', and 'I'	Right to receive notice of any general meeting of the company Voting rights as set out in this constitution

	Dividends as determined
	No right to participate in distribution of surplus assets on winding up
'J'	Right to receive notice of any general meeting of the company
	Voting rights as set out in this constitution
	No right to receive dividends as determined
	No right to participate in distribution of surplus assets on winding up
'K' non-voting	No right to receive notice of any general meeting of the company
	No right to vote at general meetings of the company
	No right to receive dividends as determined
	Right to participate in distribution of surplus assets on winding up
'L' non-voting	No right to receive notice of any general meeting of the company
	No right to vote at general meetings of the company
	Dividends as determined
	Right to participate in distribution of surplus assets on winding up
'M'	Right to receive notice of any general meeting of the company
	Voting rights as set out in this constitution
	No right to receive dividends as determined
	Right to participate in distribution of surplus assets on winding up

<p>Redeemable preference shares</p>	<p>To receive notices and to vote at general meetings of the company as if they were holders of ordinary shares, but only in one or more of the following circumstances:</p> <ul style="list-style-type: none"> <li>(f) During a period in which a dividend or part of a dividend in respect of the shares is in arrears by more than 6 months</li> <li>(g) On a proposal for a reduction in capital</li> <li>(h) On a resolution to approve the terms of a buy back agreement</li> <li>(i) On a proposal that affects rights attached to the shares</li> <li>(j) On a proposal to wind up the company</li> <li>(k) On a proposal for the disposal of all the company's business, property and undertaking.</li> </ul> <p>Right to a fixed cumulative dividend at a rate per annum determined by the directors at the date of issue, the cumulative dividend (plus arrears and interest) to rank in priority to dividends to be paid on all other shares of the company on issue</p> <p>On a winding up, and on a return of capital, right to a return of capital (plus dividends which have not been paid) but not to participate in any distribution of surplus assets, in priority to all other shares of the company on issue.</p>
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#### **Additional restriction on redeemable preference shares**

Subject to section 254J and 254K of the Act, the company has the right to redeem preference shares by paying the holders their aggregate issue price plus accumulated dividends before 1 July 2050. The right is to be exercised by notice in writing to holders at their addresses in the Share Register, accompanied by the company's cheque for the amount payable.

### Schedule 3

#### Statement by persons who have consented to be members of the company

We, the undersigned entities hereby consent to becoming members of **Australia Samly Holdings Group Limited** ('the company'). We have read and agreed to the terms of this constitution of the company and its schedules and annexure.

Name of member/entity	Registered office address
FULL CARE (INTERNATIONAL) INVESTMENT CO., LIMITED (BVI COMPANY NUMBER: 1771373)	C/- Overseas Management Trust (BVI) Ltd OMC Chambers, Wickhams Cay 1, Road Town, TORTOLA, BRITISH VIRGIN ISLANDS
RU XIN (INTERNATIONAL) INVESTMENT CO., LIMITED (BVI COMPANY NUMBER: 1771375)	C/- Overseas Management Trust (BVI) Ltd OMC Chambers, Wickhams Cay 1, Road Town, TORTOLA, BRITISH VIRGIN ISLANDS
Vita-tech (International) Biotechnology Limited (BVI COMPANY NUMBER: 1743991)	C/- Overseas Management Trust (BVI) Ltd OMC Chambers, Wickhams Cay 1, Road Town, TORTOLA, BRITISH VIRGIN ISLANDS
Samly (International) Biotechnology Limited (BVI COMPANY NUMBER: 1743937)	C/- Overseas Management Trust (BVI) Ltd OMC Chambers, Wickhams Cay 1, Road Town, TORTOLA, BRITISH VIRGIN ISLANDS
SUNSWELTING INVESTMENT DEVELOPMENT CO., LIMITED (BVI COMPANY NUMBER: 1770480)	C/- Overseas Management Trust (BVI) Ltd OMC Chambers, Wickhams Cay 1, Road Town, TORTOLA, BRITISH VIRGIN ISLANDS

## Execution by Members

EXECUTED for and on behalf of  
**FULL CARE (INTERNATIONAL)  
INVESTMENT CO., LIMITED**  
**(BVI COMPANY NUMBER: 1771373)**

by authority of the Director:

\_\_\_\_\_  
Signature of Director/Secretary

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
EXECUTED for and on behalf of  
**RU XIN (INTERNATIONAL)  
INVESTMENT CO., LIMITED**  
**(BVI COMPANY NUMBER: 1771375)**

by authority of the Director:

\_\_\_\_\_  
Signature of Director/Secretary

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXECUTED for and on behalf of  
**Vita-Tech (International)**  
**Biotechnology Limited**  
**(BVI COMPANY NUMBER: 1743991)**

by authority of the Director:

\_\_\_\_\_  
Signature of Director/Secretary

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXECUTED for and on behalf of  
**Samly (International)**  
**Biotechnology Limited**  
**(BVI COMPANY NUMBER: 1743937)**

by authority of the Director:

\_\_\_\_\_  
Signature of Director/Secretary

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



EXECUTED for and on behalf of  
**SUNSWELTING INVESTMENT  
DEVELOPMENT CO., LIMITED**  
**(BVI COMPANY NUMBER: 1770480)**

by authority of the Director:

\_\_\_\_\_  
Signature of Director/Secretary

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_