

Constitution of Eungella Water Pipeline Pty Ltd

Adopted by Eungella Water Pipeline Pty Ltd as its Constitution pursuant to a resolution of SunWater Limited ACN 131 034 985, the sole member of the Company, dated: 15/12/2008

Constitution of Eungella Water Pipeline Pty Ltd

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Constitution

1. Preliminary

1.1 Definitions and interpretation

Schedule 1 applies and forms part of this Constitution.

1.2 Nature of the Company

The Company is a proprietary company limited by shares.

1.3 Replaceable rules

The replaceable rules in the *Corporations Act* do not apply to the Company.

1.4 Objects

The Company is established with the object to operate as a water business in accordance with Chapter 3 of the *GOC Act*.

1.5 GOC Act prevails

- (a) This Constitution is to be read subject to the *GOC Act*.
- (b) To the extent of any inconsistency between the *GOC Act* and the *Corporations Act*, the *GOC Act* will prevail.
- (c) To the extent of any inconsistency between the *GOC Act* and this Constitution, the *GOC Act* will prevail.
- (d) Subject to Article 1.5(b), to the extent of any inconsistency between the *Corporations Act* and this Constitution, the *Corporations Act* will prevail.

2. Shares

2.1 Issue of Shares and options

Subject to the *Corporations Act* and Article 13 and any rights and restrictions attached to a class of Shares, the Company may:

- (a) allot and issue unissued Shares; and
- (b) grant options over unissued Shares,

on any terms, at any time and for any consideration, as the Directors resolve.

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2.2 Variation of classes and class rights

- (a) Subject to the *Corporations Act* and Article 13 and the terms of issue of Shares in a particular class, the Company may:
 - (i) vary or cancel rights attached to Shares in that class; or
 - (ii) convert Shares from one class to another,
either by:
 - (iii) special resolution of the Company and:
 - (A) a special resolution passed at a meeting of Members holding Shares in that class; or
 - (B) the written consent of Members who are entitled to at least 75% of the votes that may be cast in respect of Shares in that class; or
 - (iv) by written resolution of a sole Member.
- (b) The provisions in this Constitution concerning meetings of Members (with the necessary changes) apply to a meeting held under Article 2.2(a)(iii).

2.3 Converting Shares

The Company may by ordinary resolution passed at a general meeting convert all or any of its Shares into a larger or smaller number of Shares.

2.4 Reductions of capital and buy-backs

- (a) Subject to the *Corporations Act* and Article 13, the Company may by special resolution reduce its share capital out of the Company's capital redemption reserve fund or any share premium account.
- (b) The method of distribution of a reduction of the share capital of the Company may include any or all of the payment of cash, the issue of shares or other securities, the grant of options and the transfer of assets.
- (c) If a distribution of reduction of the share capital of the Company includes an issue or transfer of shares in a body corporate, each Member:
 - (i) agrees to become a member of that body corporate; and
 - (ii) in the case of transfer, appoints the Company and each Director as its agent to execute an instrument of transfer or other document required to transfer those shares to that Member.

2.5 Registered holder is absolute owner

Except as required by law or this Constitution, the Company is not required to recognise any interest in, or right in respect of, a Share except as an absolute right of legal ownership of the Member registered as the holder of that Share.

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2.6 Certificates

- (a) The Company must issue to each Member, free of charge and in accordance with the *Corporations Act*, one certificate in respect of each class of Shares registered in the Member's name.
- (b) If a Share is jointly held:
 - (i) the Company is not required to issue more than one certificate for the Share; and
 - (ii) delivery of a certificate for the Share to any one of the joint holders of the Share is delivery to all the joint holders.
- (c) Subject to the *Corporations Act*, the Company must issue a replacement certificate for a Share if:
 - (i) the Company receives and cancels the existing certificate; or
 - (ii) the Company is satisfied that the existing certificate is lost or destroyed, and the Member complies with all conditions set out in the *Corporations Act* and pays any fee as the Directors resolve.

3. Borrowing Powers

3.1 Directors may exercise Company's power to borrow

Subject to Article 13, the Directors may from time to time at their discretion exercise all the powers of the Company to borrow or raise or secure the payment of money and to guarantee or to become liable for the payment of money or for the performance of any obligations by any Corporation or person.

3.2 Directors may exercise power to give security

Subject to Article 13, the Directors may exercise the powers conferred in Article 3.1 in such manner and upon such terms and conditions in all respects as they think fit, and in particular by the issue of perpetual or redeemable debentures or any charge, bill of sale or other security on the whole or any part of the property of the Company, both present and future, including its uncalled capital for the time being.

3.3 Debenture may be issued at discount or premium

Subject to Article 13, any debentures may be issued at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, allotment of shares, attending at general meetings of the Company, and otherwise

4. intentionally deleted

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5. Transfer of Shares

5.1 Forms of transfer

Subject to this Constitution, a Member may transfer one or more Shares the Member holds by an instrument of transfer in compliance with this Constitution.

5.2 Instrument of transfer

An instrument of transfer of a Share referred to in Article 5.1 must be:

- (a) in writing;
- (b) in any usual form or in any other form approved by the Directors that is otherwise permitted by law;
- (c) executed by or on behalf of the transferor, and if required by the Company, the transferee;
- (d) stamped, if required by a law about stamp duty; and
- (e) delivered to the Company, at the place where the Register is kept, together with the certificate (if any) of the Share to be transferred and any other evidence as the Directors require to prove:
 - (i) the title of the transferor to that Share;
 - (ii) the right of the transferor to transfer that Share; and
 - (iii) the proper execution of the instrument of transfer.

5.3 Transferor is holder until transfer registered

A person transferring a Share remains the registered holder of that Share until the transfer for that Share is registered and the name of the person to whom the Share is being transferred is entered in the Register as the holder of that Share.

5.4 Refusal to register transfers

- (a) The Company must refuse to register a transfer of Shares:
 - (i) where the *Corporations Act* or a law about stamp duty requires the Company to do so; or
 - (ii) if upon registration of the transfer the number of Members would exceed any maximum specified by the *Corporations Act* for a proprietary company.
- (b) The Company must give notice in writing of any refusal to register a transfer of Shares to the person transferring those shares within 2 months after the date on which the transfer was lodged with the Company.
- (c) Failure by the Company to give notice under Article 5.4(b) does not invalidate the refusal to register the transfer.

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5.5 No registration fee

The Company must not charge a fee to register a transfer of a Share in compliance with this Constitution.

5.6 Transmission of Shares

Schedule 2 applies and forms part of this Constitution.

5.7 Suspension of transfers

The Directors may suspend registration of transfers of Shares at the times and for the periods as they determine. The periods of suspension must not exceed 30 days in aggregate in any one calendar year.

6. Proceedings of Members

6.1 Written resolutions of Members

- (a) While the Company has only one Member, the Company may pass a resolution by that Member signing a record in writing of that resolution.
- (b) The Company may pass a resolution without a meeting of the Members in accordance with the *Corporations Act* and this Constitution.

6.2 Who can call meetings of Members

- (a) Subject to the *Corporations Act* and Article 13, the Directors may call a meeting of Members at a time and place as the Directors resolve.
- (b) The Directors must call and arrange to hold a general meeting on the request of Members made in accordance with the *Corporations Act*.
- (c) The Members may call and arrange to hold a general meeting as provided by the *Corporations Act*.

6.3 How to call meetings of Members

- (a) The Company must give not less than Prescribed Notice of a meeting of Members.
- (b) Notice of a meeting of Members must be given to each Member, each Director, each Alternate Director and any auditor of the Company.
- (c) Subject to Article 6.11(h), a notice of a meeting of Members must:
 - (i) set out the place, date and time for the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
 - (ii) state the general nature of the business of the meeting; and
 - (iii) set out or include any other information or documents specified by the *Corporations Act*.

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- (d) A person may waive notice of any meeting of Members by notice in writing to the Company to that effect.
- (e) Subject to the *Corporations Act* and Article 13, anything done (including the passing of a resolution) at a meeting of Members is not invalid if either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.

6.4 Right to attend meetings

- (a) Each Member and any auditor of the Company is entitled to attend any meetings of Members.
- (b) Subject to this Constitution, each Director is entitled to attend and speak at all meetings of Members.

6.5 Meeting at more than one place

- (a) A meeting of Members may be held in 2 or more places linked together by any technology that:
 - (i) gives the Members as a whole in those places a reasonable opportunity to participate in proceedings;
 - (ii) enables the chairperson to be aware of proceedings in each place; and
 - (iii) enables the Members in each place to vote on a show of hands and on a poll.
- (b) If a meeting of Members is held in 2 or more places under Article 6.5(a):
 - (i) a Member present at one of the places is taken to be present at the meeting; and
 - (ii) the chairperson of that meeting may determine at which place the meeting is taken to have been held.

6.6 Quorum

- (a) A quorum for a meeting of Members is:
 - (i) if the Company has only one Member, one person; or
 - (ii) otherwise, 2 persons,provided that each such person is a Member, or a proxy of a Member, or attorney of a Member or a representative of a Member entitled to vote at that meeting.
- (b) In determining whether a quorum for a meeting of Members is present:
 - (i) where more than one proxy, attorney or representative of a Member is present, only one of those persons is counted;
 - (ii) where a person is present as a Member and as a proxy, attorney or representative of another Member, that person is counted separately for each appointment provided that there is at least one other Member present; and

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- (iii) where a person is present as a proxy, attorney or representative for more than one Member, that person is counted separately for each appointment provided that there is at least one other Member present.
- (c) A quorum for a meeting of Members must be present at all times during the meeting.
- (d) If a quorum is not present within 30 minutes after the time appointed for a meeting of Members:
 - (i) if the meeting was called under Article 6.2(b) or Article 6.2(c), the meeting is dissolved; and
 - (ii) any other meeting is adjourned to the date, time and place as the Directors may by notice to the Members appoint, or failing any appointment, to the same day in the next week at the same time and place as the meeting adjourned.
- (e) If a quorum is not present within 30 minutes after the time appointed for an adjourned meeting of Members, the meeting is dissolved.

6.7 Chairperson

- (a) The chairperson of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Members.
- (b) If at a meeting of Members:
 - (i) there is no chairperson of Directors;
 - (ii) the chairperson of Directors is not present within 15 minutes after the time appointed for the holding of a meeting of Members; or
 - (iii) the chairperson of Directors is present within that time but is not willing to chair all or part of that meeting,the Directors present may, by majority vote, elect a person present to chair all or part of the meeting of Members.
- (c) Subject to Article 6.7(a), if at a meeting of Members:
 - (i) a chairperson of that meeting has not been elected by the Directors under Article 6.7(b); or
 - (ii) the chairperson elected by the Directors is not willing to chair all or part of a meeting of Members,the Members present must elect another person present and willing to act to chair all or part of that meeting.

6.8 General conduct of meetings

- (a) Subject to the *Corporations Act* and Article 13, the chairperson of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.

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- (b) The chairperson of a meeting of Members may delegate any power conferred by this Article to any person.
- (c) The powers conferred on the chairperson of a meeting of Members under this Article 6.8 do not limit the powers conferred by law.

6.9 Resolutions at meetings of Members

- (a) Subject to the *Corporations Act* and Article 13, a resolution is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than against the resolution.
- (b) Unless a poll is requested in accordance with Article 6.10, a resolution put to the vote at a meeting of Members must be decided on a show of hands.
- (c) A declaration by the chairperson of a meeting of Members that a resolution has on a show of hands is passed, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the meeting, are sufficient evidence of that fact, unless proved incorrect.

6.10 Polls

- (a) A poll may be demanded on any resolution at a meeting of Members.
- (b) A poll on a resolution at a meeting of Members may be demanded by:
 - (i) one or more Members present and who are together entitled to at least 5% of the votes that may be cast on that resolution on a poll; or
 - (ii) the chairperson of that meeting.
- (c) A poll on a resolution at a meeting of Members may be demanded:
 - (i) before a vote on that resolution is taken; or
 - (ii) before or immediately after the results of the vote on that resolution on a show of hands are declared.
- (d) A demand for a poll may be withdrawn.
- (e) A poll demanded on a resolution at a meeting of Members other than for the election of a chairperson of that meeting or the adjournment of that meeting must be taken in the manner and at the time and place the chairperson directs.
- (f) A poll demanded on a resolution at a meeting of Members for the election of a chairperson of that meeting or the adjournment of that meeting must be taken immediately.
- (g) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.
- (h) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

6.11 Adjourned, cancelled and postponed meetings

- (a) Subject to the *Corporations Act* and Article 13, the chairperson:

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- (i) may adjourn a meeting of Members to any day, time and place; and
 - (ii) must adjourn a meeting of Members if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so. The chairperson may adjourn that meeting to any day, time and place.
- (b) No person other than the chairperson of a meeting of Members may adjourn that meeting.
- (c) The Company is only required to give notice of a meeting of Members resumed from an adjourned meeting if the period of adjournment exceeds the Prescribed Period.
- (d) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
- (e) Subject to the *Corporations Act*, Article 13 and this Article 6.11, the Directors may at any time postpone or cancel a meeting of Members by giving notice not less than 5 Business Days before the time at which the meeting was to be held to each person who is, at the date of the notice:
 - (i) a Member;
 - (ii) a Director or Alternate Director; or
 - (iii) an auditor of the Company.
- (f) A general meeting called under Article 6.2(b) must not be cancelled by the Directors without the consent of the Members who requested the meeting.
- (g) A general meeting called under Article 6.2(c) must not be cancelled or postponed by the Directors without the consent of the Members who called the meeting.
- (h) A notice under Article 6.11(c) of a meeting of Members resumed from an adjourned meeting and a notice postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in 2 or more places, the technology that will be used to facilitate this).

6.12 Number of votes

- (a) Subject to this Constitution and any rights or restrictions attached to a class of Shares, on a show of hands at a meeting of Members, every Member present has one vote.
- (b) Subject to this Constitution and any rights or restrictions attached to a class of Shares, on a poll at a meeting of Members, every Member present has:
 - (i) one vote for each fully paid up Share (whether the issue price of the Share was paid up or credited or both) that the Member holds; and
 - (ii) a fraction of one vote for each partly paid up Share that the Member holds. The fraction is equal to the proportion which the amount paid up or credited on that Share (excluding any amounts paid up in advance of the applicable due date for payment), is to the total amounts paid up and payable (including amounts credited) on that Share.

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- (c) If the total number of votes to which a Member is entitled on a poll does not constitute a whole number, the Company must disregard the fractional part of that total.
- (d) In the case of an equality of votes on a resolution at a meeting of Members, the chairperson of that meeting has a casting vote on that resolution both on a show of hands and on a poll, in addition to any vote the chairperson of that meeting has in respect of that resolution.
- (e) 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.
- (f) A person may vote in respect of a Share at a meeting of Members if:
 - (i) the person is entitled to be registered as the holder of that Share because of a Transmission Event; and
 - (ii) the person satisfied the Directors of that entitlement not less than 48 hours before that meeting.In that event, the Member of that Share must not vote.
- (g) A Member present at a meeting of Members is not entitled to vote on any resolution in respect of any Shares on which any calls or any other amount due and payable in respect of those Shares have not been paid.
- (h) A Member present at a meeting of Members is not entitled to vote on a resolution at that meeting where that vote is prohibited by the *Corporations Act* or an order of a court of competent jurisdiction.
- (i) The Company must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Member where that person is not entitled to vote on that resolution.
- (j) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members in respect of the Shares to which the authority relates is suspended while the Member is present in person at that meeting.
- (k) If more than one proxy or attorney for a Member is present at a meeting of Members:
 - (i) none of them is entitled to vote on a show of hands; and
 - (ii) on a poll, the vote of each one is of no effect where the aggregate number or proportion of the Member's votes for which they have been appointed exceeds the total number or proportion of votes that could be cast by the Member.

6.13 Objections to qualification to vote

- (a) An objection to the qualification of any person to vote at a meeting of Members may only be made at that meeting (or any resumed meeting if that meeting is adjourned), to the chairperson of that meeting.
- (b) Any objection under Article 6.13(a) must be decided by the chairperson of the meeting of Members, whose decision, made in good faith, is final and conclusive.

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6.14 Proxies, attorneys and representatives

- (a) A Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:
 - (i) in person or, if the Member is a body corporate, by its representative appointed in accordance with the *Corporations Act*;
 - (ii) by proxy or, if the Member is entitled to cast two or more votes at the meeting, by not more than 2 proxies; or
 - (iii) by attorney or, if the Member is entitled to cast two or more votes at the meeting, by not more than 2 attorneys.
- (b) A proxy, attorney or representative of a Member need not be a Member.
- (c) A Member may appoint a proxy, attorney or representative for:
 - (i) all or any number of meetings of Members; or
 - (ii) a particular meeting of Members.
- (d) An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains:
 - (i) the name and address of that Member;
 - (ii) the name of the Company;
 - (iii) the name of the proxy or the name of the office of the proxy; and
 - (iv) the meetings of Members at which the proxy may be used.
- (e) The chairperson of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in Article 6.14(d).
- (f) An instrument appointing an attorney or representative must be in a form as the Directors may prescribe or the chairperson of a meeting of Members may accept.
- (g) Subject to the *Corporations Act* and Article 13, the decision of the chairperson of a meeting of Members as to the validity of an instrument appointing a proxy, attorney or representative is final and conclusive.
- (h) Unless otherwise provided in the *Corporations Act* or in the appointment, a proxy or attorney may:
 - (i) agree to a meeting of Members being called by shorter notice than is required by the *Corporations Act* or this Constitution;
 - (ii) agree to a resolution being either or both proposed and passed at a meeting of Members of which notice of less than the Prescribed Period is given;
 - (iii) speak on any resolution at a meeting of Members on which the proxy or attorney may vote;
 - (iv) vote at a meeting of Members (but only to the extent allowed by the appointment);

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- (v) demand or join in demanding a poll on any resolution at a meeting of Members on which the proxy or attorney may vote; and
- (vi) attend and vote at any meeting of Members which is rescheduled or adjourned.
- (i) Unless otherwise provided in the *Corporations Act* or in the appointment, a proxy or attorney may vote on:
 - (i) any amendment to a resolution on which the proxy or attorney may vote;
 - (ii) any motion not to put that resolution or any similar motion; and
 - (iii) any procedural motion relating to that resolution, including a motion to elect the chairperson of a meeting of Members, vacate the chair or adjourn that meeting, even if the appointment directs the proxy or attorney how to vote on that resolution.
- (j) If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is:
 - (i) the person specified by the Company in the form of proxy in the case the Member does not choose; or
 - (ii) if no person is so specified, the chairperson of that meeting.
- (k) A Member may specify the manner in which a proxy or attorney is to vote on a particular resolution at a meeting of Members.
- (l) The appointment of a proxy or attorney by a Member may specify the proportion or number of the Member's votes that the proxy or attorney may exercise.
- (m) If a Member appoints 2 persons as proxy or attorney, and the appointment does not specify the proportion or number of the Member's votes those persons may exercise, those persons may exercise one half of the votes of the Member.
- (n) If the total number of votes to which a proxy or attorney is entitled to exercise does not constitute a whole number, the Company must disregard the fractional part of that total.
- (o) An appointment of proxy or attorney for a meeting of Members is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time scheduled for commencement of that meeting (or any adjournment of that meeting).
- (p) Unless the Company has received notice in writing of the matter not less than 48 hours before the time scheduled for the commencement of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy, attorney or representative is, subject to this Constitution, valid even if, before the person votes:
 - (i) there is a Transmission Event in respect of that Member;
 - (ii) that Member revokes the appointment of that person;
 - (iii) that Member revokes the authority under which the person was appointed by a third party; or
 - (iv) that Member transfers the Shares in respect of which the appointment is made.

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- (q) A Member must notify the Shareholding Ministers of the appointment of a proxy, attorney or representative under this Article.

7. Directors

7.1 Number of Directors

- (a) The Company must have not less than one, and not more than nine.
- (b) The Company by written resolution if a sole Member or in general meeting may by ordinary resolution alter the maximum or minimum number of Directors provided that the minimum is not less than one.
- (c) Subject to this Article 7.1, the Directors must determine the number of Directors provided that the Directors cannot reduce the number of Directors below the number in office at the time that determination takes effect.
- (d) If the number of Directors is below the minimum fixed by this Constitution, the Directors must not act except in emergencies, for appointing one or more directors in order to make up a quorum for a meeting of Directors, or to call and arrange to hold a meeting of Members.

7.2 Appointment of Directors

- (a) The first Directors are the persons specified as directors in the application for the registration of the Company under the *Corporations Act*.
- (b) Subject to Article 13, the Company by written resolution if a sole Member or in general meeting may by ordinary resolution appoint any person as Director, provided that the person must be a director presently appointed to the board of SunWater.
- (c) A Director need not be a Member.

7.3 Vacation of office

- (a) A Director may resign from office by giving the Company or in circumstances where there is only one Member, the sole Member, notice in writing.
- (b) The Company by written resolution if a sole Member or in general meeting convened on Prescribed Notice may by ordinary resolution remove any Director, and if thought fit, appoint another person in place of that Director.
- (c) A Director ceases to be a Director if:
 - (i) the Director ceases to be a director of SunWater;
 - (ii) the Director becomes of unsound mind or a person whose property is liable to be dealt with under a law about mental health;
 - (iii) the Director is absent without the consent of the Directors from all meetings of the Directors held during a period of 6 months and the other Directors resolve that his or her office be vacated;

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- (iv) the Director resigns or is removed under this Constitution;
- (v) the Director becomes an insolvent under administration; or
- (vi) the *Corporations Act* so provides.

7.4 Alternate Directors

- (a) Subject to Article 13, a Director may appoint a person as an alternate director of that Director for any period.
- (b) An Alternate Director need not be a Member.
- (c) The appointing Director may terminate the appointment of his or her Alternate Director at any time.
- (d) A notice of appointment, or termination of appointment, of an Alternate Director shall be in accordance with Article 7.5 and is effective only if:
 - (i) the notice is in writing;
 - (ii) the notice is signed by the Director who appointed that Alternate Director; and
 - (iii) the Company is given a copy of the notice.
- (e) If the Director who appointed an Alternate Director is not present at a meeting of Directors, that Alternate Director may, subject to this Constitution:
 - (i) attend, count in the quorum of, speak at, and vote at that meeting in place of that appointing Director; and
 - (ii) exercise any other powers (except the power under Article 7.4(a)) that the appointing Director may exercise.
- (f) An Alternate Director cannot exercise any powers of his or her appointing Director if that appointing Director ceases to be a Director.
- (g) A person does not cease to be a Director under Article 7.4(f) if that person retires as a Director at a meeting of Members and is re-elected as a Director at that meeting.
- (h) Subject to Article 7.6(a), the Company is not required to pay any remuneration to an Alternate Director.
- (i) An Alternate Director is an officer of the Company and not an agent of his or her appointing Director.

7.5 Form of appointment of alternate Director

Any instrument appointing an alternate Director shall as nearly as circumstances will admit be in the following form or to the effect of the following:

EUNGELLA WATER PIPELINE PTY LTD

I, the undersigned being a Director of the abovenamed Company in pursuance of the power in that behalf contained in the constitution of the Company and having obtained the prior consent of [whichever member appointed the Director] DO HEREBY NOMINATE

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AND APPOINT

.....

of.....

to act as alternate Director in my place and to exercise and discharge my duties as Director.

Signed this day of

or in such other form as the Directors may in particular cases accept.

7.6 Remuneration of Directors

- (a) The remuneration payable to Directors of the Company shall be:
 - (i) limited to such amounts which are as approved by Cabinet of the State Government and the Shareholding Ministers; or
 - (ii) in any other case, nil.
- (b) Any change to the level of remuneration of Directors must be approved by a sole Member.
- (c) The Company must pay all reasonable travelling, accommodation and other expenses that a Director or Alternate Director properly incurs:
 - (i) in attending meetings of Directors or any meetings of committees of Directors;
 - (ii) in attending any meetings of Members; and
 - (iii) in connection with the business of the Company.

7.7 Interests of Directors

- (a) A Director may:
 - (i) hold an office or place of profit in the Company, on any terms as the Directors resolve;
 - (ii) hold an office or otherwise be interested in any related body corporate of the Company or other body corporate in which the Company is interested; or
 - (iii) act, or the Director's firm may act, in any professional capacity for the Company or any related body corporate of the Company or other body corporate in which the Company is interested,and retain the benefits of doing so if the Director discloses in accordance with the *Corporations Act* the interest giving rise to those benefits.
- (b) If a Director discloses the interest of the Director in accordance with the *Corporations Act*:
 - (i) the Director may contract or make an arrangement with the Company, or a related body corporate of the Company or a body corporate in which the Company is interested, in any matter in any capacity;

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- (ii) the Director may be counted in a quorum for a meeting of Directors considering the contract or arrangement;
- (iii) the Director may vote on whether the Company enters into the contract or arrangement, and on any matter that relates to the contract or arrangement;
- (iv) the Director may sign on behalf of the Company, or witness the affixing of the common seal of the Company to, any document in respect of the contract or arrangement;
- (v) the Director may retain the benefits under the contract or arrangement; and
- (vi) the Company cannot avoid the contract or arrangement merely because of the existence of the Director's interest.

8. Officers

8.1 Secretary

- (a) The first Secretary is the person specified (if any) in the application for registration of the Company as company secretary.
- (b) Subject to Article 13, the Directors, or the Company by written resolution in circumstances where there is a sole Member or in general meeting by ordinary resolution, may appoint one or more Secretaries, for any period and on any terms (including as to remuneration) the Directors or the Company resolve, provided that the person is presently a secretary of SunWater. In relation to remuneration, the provisions of Article 7.6 apply equally to a Secretary.
- (c) Subject to any agreement between the Company and a Secretary, the Directors, or the Company by written resolution in circumstances where there is a sole Member or in general meeting by ordinary resolution, may remove or dismiss a Secretary at any time, with or without cause.
- (d) The Directors, or the Company by written resolution in circumstances where there is a sole Member or in general meeting by ordinary resolution, may revoke or vary the appointment of a Secretary.

8.2 Indemnity and insurance

- (a) To the extent permitted by law, the Company must indemnify each Relevant Officer against:
 - (i) a Liability of that person; and
 - (ii) Legal Costs of that person.
- (b) To the extent permitted by law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.

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- (c) To the extent permitted by law, the Company may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:
 - (i) a Liability of that person; and
 - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Company may enter into an agreement or deed with:
 - (i) a Relevant Officer; or
 - (ii) a person who is, or has been an officer of the Company or a subsidiary of the Company,under which the Company must do all or any of the following:
 - (iii) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
 - (iv) indemnify that person against any Liability of that person;
 - (v) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
 - (vi) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

8.3 Directors to act in best interests of holding company

Subject to the *Corporations Act*, where the Company is a wholly owned subsidiary of a body corporate, each Director is authorised to act in the best interests of the holding company of the Company subject to:

- (a) the Director acting in good faith in the best interests of the holding company; and
- (b) the Company not being insolvent at the time the Directors acts and not becoming insolvent because of the Director's act.

9. Powers of the Company and Directors

9.1 General powers

- (a) The Company may exercise in any manner permitted by the *Corporations Act* any power which a proprietary company limited by shares may exercise under the *Corporations Act*.
- (b) The business of the Company is managed by or under the direction of the Directors.
- (c) The Directors may exercise all the powers of the Company except any powers that the *Corporations Act* or this Constitution requires the Company to exercise in general meeting.
- (d) The powers of Directors are subject to any prior undertaking that SunWater has given to the Shareholding Ministers in its Statement of Corporate Intent or SunWater's Corporate Plan.

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9.2 Execution of documents

- (a) If the Company has a common seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by:
 - (i) 2 Directors;
 - (ii) a Director and a Secretary;
 - (iii) a Director and another person appointed by the Directors for that purpose;
 - (iv) if the Company has only one Director who is also the only Secretary, that Director; or
 - (v) if the Company has only one Director and does not have a Secretary, that Director.
- (b) The Company may execute a document without a common seal if the document is signed by:
 - (i) 2 Directors;
 - (ii) a Director and a Secretary;
 - (iii) a Director and another person appointed by the Directors for that purpose;
 - (iv) if the Company has only one Director who is also the only Secretary, that Director; or
 - (v) if the Company has only one Director and does not have a Secretary, that Director.
- (c) The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with Article 9.2(a) or 9.2(b).
- (d) The Directors may resolve, generally or in a particular case, that any signature on certificates for securities of the Company may be affixed by mechanical or other means.
- (e) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Company in the manner and by the persons as the Directors resolve.

9.3 Committees and delegates

- (a) The Directors may delegate any of their powers (including this power to delegate) to a committee of Directors, a Director, an employee of the Company or any other person.
- (b) The Directors may revoke or vary any power delegated under Article 9.3(a).
- (c) A committee or delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (d) The exercise of a power by the committee or delegate is as effective as if the Directors exercised the power.
- (e) Article 10 applies with the necessary changes to meetings of a committee of Directors.

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9.4 Attorney or agent

- (a) The Directors may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Directors resolve.
- (b) The Directors may revoke or vary an appointment under Article 9.4(a).

10. Proceedings of Directors

10.1 Written resolutions of Directors

- (a) While the Company has only one Director, that Director may pass a resolution by signing a record in writing of that resolution.
- (b) The Directors of the Company may pass a resolution without a Directors' meeting being held only if all the Directors entitled to vote on the resolution signify their assent to the resolution in accordance with Article 10.1(c).
- (c) A Director may signify assent to a resolution under this Article 10.1 by signing a document containing a statement that they are in favour of the resolution set out in the document or by notifying the Company of the assent of the Director:
 - (i) in a manner permitted by Article 15.3; or
 - (ii) by any technology including telephone.
- (d) The resolution of Directors only takes effect when all Directors entitled to vote on the resolution have voted in favour of the resolution and signified their assent to the resolution under Article 10.1(c).
- (e) Separate copies of the document referred to in Article 10.1(c) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.
- (f) Where a Director signifies assent to a document under Article 10.1(c) other than by signing the document, the Director must by way of confirmation sign the document before or at the next meeting of Directors attended by that Director.
- (g) The resolution the subject of a document under Article 10.1(b) is not invalid if a Director does not comply with Article 10.1(f).

10.2 Meetings of Directors

- (a) The Directors may meet, adjourn and otherwise regulate their meetings as they think fit.
- (b) A meeting of Directors may be held using any technology consented to by a majority of the Directors.
- (c) The consent of a Director under Article 10.2(b):
 - (i) may be for all meetings of Directors or for any number of meetings; and
 - (ii) may only be withdrawn by that Director within a reasonable period before a meeting of Directors.

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- (d) If a meeting of Directors is held in 2 or more places linked together by any technology:
 - (i) a Director present at one of the places is taken to be present at the meeting unless and until the Director states to the chairperson of the meeting that the Director is discontinuing her or her participation in the meeting; and
 - (ii) the chairperson of that meeting may determine at which place the meeting will be taken to have been held.

10.3 Who can call meetings of Directors

- (a) A Director may call a meeting of Directors at any time.
- (b) On request of any Director, a Secretary of the Company must call a meeting of the Directors.

10.4 How to call meetings of Directors

- (a) Notice of a meeting of Directors must be given to each Director and Alternate Director.
- (b) A notice of meeting of Directors must:
 - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); and
 - (ii) state the general nature of the business of the meeting.
- (c) The Company must give not less than 48 hours notice of a meeting of Directors, unless all Directors agree otherwise.
- (d) A Director or Alternate Director may waive notice of a meeting of Directors by notice in writing to the Company to that effect.

10.5 Quorum

- (a) A quorum for a meeting of Directors is:
 - (i) if the Directors have fixed a number for the quorum, that number of Directors; and
 - (ii) in any other case, 3 Directors entitled to vote on a resolution that may be proposed at that meeting.
- (b) In determining whether a quorum for a meeting of Directors is present:
 - (i) where a Director has appointed an Alternate Director, that Alternate Director is counted if the appointing Director is not present;
 - (ii) where a person is present as Director and an Alternate Director for another Director, that person is counted separately provided that there is at least one other Director or Alternate Director present; and
 - (iii) where a person is present as an Alternate Director for more than one Director, that person is counted separately for each appointment provided that there is at least one other Director or Alternate Director present.

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- (c) A quorum for a meeting of Directors must be present at all times during the meeting.
- (d) If there are not enough persons to form a quorum for a meeting of Directors, one or more of the Directors (including those who have an interest in a matter being considered at that meeting) may call a general meeting and the general meeting may pass a resolution to deal with the matter.

10.6 Chairperson

- (a) The Directors may elect a Director as chairperson of Directors for any period they resolve, or if no period is specified, until that person ceases to be a Director.
- (b) The Directors may remove the chairperson of Directors at any time.
- (c) The chairperson of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and will to act) chair each meeting of Directors.
- (d) If:
 - (i) there is no chairperson of Directors; or
 - (ii) the chairperson of Directors is not present within 15 minutes after the time appointed for the holding of a meeting of Directors; or
 - (iii) the chairperson of Directors is present within that time but is not willing to chair all or part of that meeting,the Directors present must elect one of themselves to chair all or part of the meeting of Directors.
- (e) A person does not cease to be a chairperson of Directors if that person retires as a Director at a meeting of Members and is re-elected as a Director at that meeting.

10.7 Resolutions of Directors

- (a) A resolution of Directors is passed only by a majority of the votes cast by Directors entitled to vote on the resolution.
- (b) Subject to Article 7.7 and this Article 10.7, each Director has one vote on a matter arising at a meeting of the Directors.
- (c) In determining the number of votes a Director has on a matter arising at a meeting of Directors:
 - (i) where a person is present as Director and an Alternate Director for another Director, that person has one vote as a Director and, subject to Article 7.4(e), one vote as an Alternate Director; and
 - (ii) where a person is present as an Alternate Director for more than one Director, that person has, subject to Article 7.4(e), one vote for each appointment.

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11. Financial reports and audit

11.1 Auditor

The Directors of the Company must appoint the Auditor-General to be the auditor of the Company and shall perform such duties and have such rights and reserves as may be provided in the *Corporations Act*.

11.2 Financial records

The Directors must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
 - (b) would enable true and fair financial statements to be prepared and audited,
- and must allow a Director and the Auditor-General to inspect those records at all reasonable times.

11.3 Reports

- (a) The Directors must cause the Company to provide SunWater with all necessary information for SunWater to make a quarterly report to the Shareholding Ministers on the operations of the Company in accordance with the *GOC Act*.
- (b) The Directors must provide information (including information on the operations, financial performance and financial position) of the Company and its subsidiaries in accordance with the *GOC Act*.

12. Dividends and profits

12.1 Who may determine Dividends

- (a) Subject to any rights or restrictions attached to a class of Shares, the Company may pay Dividends as the Directors resolve but only out of profits of the Company in accordance with the provisions of the *GOC Act*.
- (b) The Directors may determine that a Dividend is payable on Shares and fix:
 - (i) the amount of the Dividend;
 - (ii) whether or not the Dividend is franked, the franking percentage and franking class;
 - (iii) the time for determining entitlements to the Dividend;
 - (iv) the time for the payment of the Dividend; and
 - (v) the method of payment of the Dividend.
- (c) The method of payment of a Dividend may include any or all of the payment of cash, the issue of shares or other securities, the grant of options and the transfer of assets.
- (d) If the method of payment of a Dividend includes an issue or transfer of shares in a body corporate, each Member:
 - (i) agrees to become a member of that body corporate; and

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- (ii) in the case of a transfer, appoints the Company and each Director as its agent to execute instrument of transfer or other document required to transfer those shares to that Member.
- (e) A Dividend in respect of a Share must be paid to the person whose name is entered in the Register as the holder of that Share:
 - (i) where the Directors have fixed a time under Article 12.1(b)(iii), at that time; or
 - (ii) in any other case, on the date the Dividend is paid.

12.2 Dividends for different classes

The Directors may determine that Dividends be paid:

- (a) on Shares of one class but not another class; and
- (b) at different rates for different classes of Shares.

12.3 Dividends proportional to paid up capital

- (a) Subject to any rights or restrictions attached to a class of Shares, the person entitled to a Dividend on a Share is entitled to:
 - (i) if the Share is fully paid (whether the issue price of the Share was paid or credited or both), the entire Dividend; or
 - (ii) if the Share is partly paid, a proportion of that Dividend equal to the proportion which the amount paid (including amounts credited) on that Share is of the total amounts paid or payable (including amounts credited) on that Share.
- (b) Amounts paid in advance of a call on a Share are ignored when calculating the proportion under Article 12.3(a)(ii).

12.4 Effect of a transfer on Dividends

If a transfer of a Share is registered after the time determined for entitlements to a Dividend on that Share but before the Dividend is paid, the person transferring that Share is entitled to that Dividend.

12.5 No interest on Dividends

The Company is not required to pay any interest on a Dividend.

12.6 Unpaid amounts

The Company may retain the whole or part of any Dividend on which the Company has a lien and apply that amount in total or part satisfaction of any amount secured by that lien.

12.7 Capitalisation of profits

- (a) The Directors may capitalise any profits of the Company and distribute that capital to the Members, in the same proportions as the Members are entitled to a distribution by Dividend.
- (b) The Directors may fix the time for determining entitlements to a capitalisation of profits.

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- (c) The Directors may decide to apply capital under Article 12.7(a) in either or both of the following ways:
 - (i) in paying up an amount unpaid on Shares already issued; and
 - (ii) in paying up in full any unissued Shares or other securities in the Company.
- (d) The Members must accept an application of capital under Article 12.7(c) in full satisfaction of their interests in that capital.

12.8 Distributions of assets

The Directors may settle any problem concerning a distribution under Article 12 in any way. This may include:

- (a) rounding amounts up or down to the nearest whole number;
- (b) ignoring fractions;
- (c) valuing assets for distribution;
- (d) paying cash to any Member on the basis of that valuation; and
- (e) vesting assets in a trustee on trust for the Members entitled.

13. Approval by Shareholding Ministers

Subject to the *Corporations Act* and notwithstanding any other provision of this Constitution, the members of the Company and the Directors are prohibited from doing or effecting the implementation of any of the following, unless prior written approval from the Shareholding Ministers has been obtained:

- (a) amend, repeal or replace any or all of the provisions of the Constitution of the Company;
- (b) appoint or replace any Director or Alternate Director or Secretary of the Company;
- (c) cessation of appointment of any Director, alternative Director or Secretary of the Company;
- (d) alteration to the issued capital of the Company including the issue or allotment of any shares in the capital of the Company or of any securities of the Company;
- (e) make or allow the Company to borrow any monies, enter into any agreement or arrangement for any financial accommodation or incur Material Financial Indebtedness;
- (f) determine any executive appointments and remuneration arrangements for executives if any;
- (g) require the State to provide a guarantee unless expressly provided in accordance with section 158 of the *GOC Act*; or
- (h) pass any liability to SunWater or the Shareholding Ministers or the State.

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14. Amendment of Constitution

- (a) Subject to Articles 13 and 14(b), the Constitution may be amended in any way permitted by the *Corporations Act*.
- (b) The Company shall do all things necessary to assist SunWater to comply with any direction given by the Shareholding Ministers to SunWater under the *GOC Act* to amend the Constitution.

15. Notices and payments

15.1 Notice to Members

- (a) The Company may give notice to a Member:
 - (i) in person;
 - (ii) by sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member; or
 - (iii) by sending it to the fax number or electronic address (if any) nominated by that Member.
- (b) If the address of a Member in the Register is not within Australia, the Company must send all documents to that Member by air-mail, air courier or by fax.
- (c) The Company must give any notice to Members who are joint holders of a Share to the person named first in the Register in respect of that Share, and that notice is notice to all holders of that Share.
- (d) The Company may give notice to a person entitled to a Share because of a Transmission Event in any manner specified in Article 15.1(a).
- (e) Notice to a person entitled to a Share because of a Transmission Event is taken to be notice to the Member of that Share.
- (f) Subject to the *Corporations Act* and Article 13, a notice to a Member is sufficient, even if:
 - (i) a Transmission Event occurs in respect of that Member (whether or not a joint holder of a Share); or
 - (ii) that Member is an externally administered body corporate, and regardless of whether or not the Company has notice of that event.
- (g) A person entitled to a Share because of a transfer, Transmission Event or otherwise, is bound by every notice given in respect of that Share.
- (h) Any notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

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15.2 Notice to Directors

The Company may give notice to a Director or Alternate Director:

- (a) in person;
- (b) by sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) by sending it to the fax number or electronic address (if any) nominated by that person; or
- (d) by any other means agreed between the Company and that person.

15.3 Notice to the Company

A person may give notice to the Company:

- (a) by leaving it at the registered office of the Company;
- (b) by sending it by post to the registered office of the Company;
- (c) by sending it to the fax number at the registered office of the Company;
- (d) by sending it to the electronic address (if any) nominated by the Company for that purpose;
or
- (e) by any other means permitted by the *Corporations Act*.

15.4 Time of service

- (a) A notice sent by post to an address within Australia is taken to be given:
 - (i) in the case of a notice of meeting, one Business Day after it is posted; or
 - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by post or air-mail to an address outside Australia is taken to be given:
 - (i) in the case of a notice of meeting, two (2) Business Days after it is posted; or
 - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by air courier to a place outside Australia is taken to be given seven (7) Business Days after delivery to the air courier.
- (d) A notice sent by fax is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number.
- (e) The giving of a notice by post, air-mail or air courier is sufficiently proved by evidence that the notice:
 - (i) was addressed to the correct address of the recipient; and
 - (ii) was placed in the post or delivered to the air courier.
- (f) A certificate by a Director or Secretary of a matter referred to in Article 15.4(e) is sufficient evidence of the matter, unless it is proved to the contrary.

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15.5 Signatures

The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.

15.6 Payments

- (a) The Company may pay a person entitled to an amount payable in respect of a Share (including a Dividend) by:
 - (i) crediting an account nominated in writing by that person;
 - (ii) cheque made payable to bearer, to the person entitled to the amount or any other person the person entitled directs in writing; or
 - (iii) any other manner as the Directors resolve.
- (b) The Company may post a cheque referred to in Article 15.6(a)(ii) to:
 - (i) the address in the Register of the Member of the Share;
 - (ii) if that Share is jointly held, the address in the Register of the Member named first in the Register in respect of the Share; or
 - (iii) any other address which that person directs in writing.
- (c) Any joint holder of a Share may give effective receipt for an amount (including a Dividend) paid in respect of the Share.

16. Winding up

16.1 Distributions proportional to paid up capital

Subject to any rights or restrictions attached to a class of Shares, on a winding up of the Company, any surplus must be divided among the Members in the proportions which the amount paid (including amounts credited) on the Shares of a Member is of the total amounts paid and payable (including amounts credited) on the Shares of all Members.

16.2 Distributions of assets

- (a) Subject to any rights or restrictions attached to a class of Shares, on a winding up of the Company, the liquidator may, with the sanction of a special resolution of the Members:
 - (i) distribute among the Members the whole or any part of the property of the Company; and
 - (ii) decide how to distribute the property as between the Members or different classes of Members.
- (b) The liquidator of the Company may settle any problem concerning a distribution under Article 16 in any way. This may include:
 - (i) rounding amounts up or down to the nearest whole number;
 - (ii) ignoring fractions;

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- (iii) valuing assets for distribution;
 - (iv) paying cash to any Member on the basis of that valuation; and
 - (v) vesting assets in a trustee on trust for the Members entitled.
- (c) A Member need not accept any property, including shares or other securities, carrying a liability.

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Schedule 1

Definitions and Interpretation

1. Definitions

In this Constitution:

"**Alternate Director**" means a person for the time being holding office as an alternate director of the Company under Article 7.4.

"**Auditor-General**" means the Auditor-General for the State of Queensland.

"**Business Day**" means a day except a Saturday, Sunday or public holiday in Queensland.

"**Constitution**" means the constitution of the Company as amended from time to time.

"**Corporate Plan**" means the corporate plan of SunWater for the relevant financial year prepared in accordance with the GOC Act.

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

"**Directors**" means the directors of the Company for the time being, and if the Company has only one director, that director.

"**Dividend**" includes an interim dividend and a final dividend.

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

"**Legal Costs**" of a person means legal costs incurred by that person in defending an action for a Liability of that person.

"**Liability**" of a person means any liability incurred by that person as an officer of the Company or a subsidiary of the Company.

"**Material Financial Indebtedness**" refers to the amount stipulated in State Government *Investment Guidelines for Government Owned Corporations* for which a Government Owned Corporation must notify Shareholding Ministers or seek Shareholding Ministers' approval.

"**Member**" means a person whose name is entered in the Register as the holder of a Share.

"**Personal Representative**" means the legal personal representative, executor or administrator of the estate of a deceased person.

"**Prescribed Notice**" means the Prescribed Period or any shorter period of notice for a meeting allowed under the *Corporations Act*.

"**Prescribed Period**" means 21 days.

"**Register**" means the register of Members kept under the *Corporations Act* and, where appropriate, includes any branch register.

"**Relevant Officer**" means a person who is, or has been, a Director or Secretary.

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"**Secretary**" means a company secretary of the Company for the time being.

"**Share**" means a share in the capital of the Company.

"**Shareholding Ministers**" means the Ministers of the Queensland Parliament appointed by administrative order as the shareholding Ministers of SunWater.

"**State**" means the State of Queensland.

"**Statement of Corporate Intent**" has the meaning given in the *GOC Act*.

"**SunWater**" means SunWater Limited ACN 131 034 985.

"**Transmission Event**" means:

- (a) if a Member is an individual:
 - (i) death or bankruptcy of that Member; or
 - (ii) that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health;
- (b) if a Member is a body corporate, the deregistration of that Member; or
- (c) in any case, the vesting in, or transfer to, a person of the Shares of a Member without that person becoming a Member.

2. Interpretation

- (d) In this Constitution:
 - (i) a reference to a partly paid Share is a reference to a Share on which there is an amount unpaid;
 - (ii) a reference to a call or an amount called in respect of a Share includes an amount that, by the terms of issue of a Share or otherwise, is payable at one or more fixed times;
 - (iii) a reference to a meeting of Members includes a meeting of any class of Members;
 - (iv) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy, attorney or representative; and
 - (v) a reference to a notice or document in writing includes a notice or document given by fax or another form of written communication.
- (e) In this Constitution, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
 - (i) words importing the singular include the plural (and vice versa);
 - (ii) words indicating a gender include every other gender;
 - (iii) the word "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

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- (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
- (v) the word "includes" in any form is not a word of limitation.
- (f) Unless the context indicates a contrary intention, in this Constitution:
 - (i) a reference to an Article or a Schedule is to an article or a schedule of this Constitution;
 - (ii) a reference in a Schedule to a paragraph is to a paragraph of that Schedule;
 - (iii) a Schedule is part of this Constitution; and
 - (iv) a reference to this Constitution is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.
- (g) Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.
- (h) Unless the context indicates a contrary intention:
 - (i) an expression in a provision of this Constitution that deals with a matter dealt with by a provision of the *Corporations Act* has the same meaning as in that provision of the *Corporations Act*; and
 - (ii) an expression in a provision of this Constitution that is defined in section 9 of the *Corporations Act* has the same meaning as in that section.

3. Exercise of powers

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.

4. Severing invalid provisions

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.

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Schedule 2

Transmission

1. Deceased Members

1.1 Effect of Death

- (a) If a Member (not being one of several joint holders) dies, the Company must recognise only the Personal Representative of that Member as having any title to or interest in the Shares registered in the name of that Member or any benefits accruing in respect of those Shares.
- (b) If a Member (being any one or more of the joint registered holders of any Share) dies, the Company must recognise only the surviving joint registered holders of that Share as having any title to or interest in, or any benefits accruing in respect of, that Share.

1.2 Estates and Personal Representatives

- (a) The estate of a deceased Member is not released from any liability in respect of the Shares registered in the name of that Member.
- (b) Where 2 or more persons are jointly entitled to any Share as a consequence of the death of the registered holder of that Share, they are taken to be joint holders of that Share.

2. Transmission events

2.1 Transmiteme right to register or transfer

- (a) Subject to the *Bankruptcy Act 1966* and the *Corporations Act*, if a person entitled to a Share because of a Transmission Event gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of any Shares, that person may:
 - (i) elect to be registered as a Member in respect of those Shares by giving a signed notice in writing to the Company; or
 - (ii) transfer those Shares to another person.
- (b) On receiving a notice under paragraph 16.2(a)(i), the Company must register the person as the holder of those Shares.
- (c) A transfer under Article 16.2(a)(ii) is subject to all provisions of this Constitution relating to transfers of Shares.

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2.2 Other transmittor rights and obligations

- (a) A person registered as a Member as a consequence of paragraph 2.1 must indemnify the Company to the extent of any loss or damage suffered by the Company as a result of that registration.
- (b) A person who has given to the Directors the information referred to in paragraph 16.2(a) in respect of a Share is entitled to the same rights to which that person would be entitled if registered as the holder of that Share.