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# **Constitution of VICSEG NEW FUTURES**

**A Company Limited by Guarantee**

**Date: 19<sup>th</sup> November 2008**

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## CONSTITUTION OF VICSEG NEW FUTURES

### A Company Limited by Guarantee

#### 1. General

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##### 1.1. Name of Company

The name of the Company is VICSEG New Futures.

#### 2. The Company

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##### 2.1. Public Company Limited by Guarantee

The Company is a company limited by guarantee pursuant to the Act.

##### 2.2. Restriction on Shares

The Company does not have the power to issue or allot shares or securities of any kind.

##### 2.3. Non-profit

(a) The income, property, profits and financial surplus of the Company, whenever derived, must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.

(b) The Company is a non-profit organisation and must not carry on business for the purpose of profit or gain to its Members. Further, no portion of its income, property, profits and financial surplus may be paid, distributed to or transferred, directly or indirectly, by way of dividend, property, bonus or otherwise by way of profit, to the Members, or the Directors, or their relatives, except as provided by this Constitution.

(c) Nothing in this Constitution prevents:

(i) the payment, in good faith, of reasonable and proper remuneration to any officer or employee of the Company, or to any Member or the Board of the Company, in return for any services actually rendered to

the Company or for goods supplied in the ordinary and usual course of business;

- (ii) the payment of interest at the rate not exceeding interest at the minimum rate for the time being charged by the Company's bankers for overdrawn accounts of a similar amount on money borrowed from a Director or a Member; or
- (iii) payment of reasonable and proper rent for premises let by any Director or Member to the Company.

## 2.4. No distribution of profits to Members on winding up

- (a) If the Company is wound up or dissolved, the assets and property available for distribution after satisfaction of all debts and liabilities are to be given or transferred to some other institution or institutions:
  - (i) having objects similar to the objects of the Company; and
  - (ii) whose constitution prohibits the distribution of its income and property to an extent at least as great as that imposed by this Constitution.
- (b) The Directors may determine the identity of the institution or institutions for the purpose of clause 2.4(a) at the time of dissolution. If the Directors fail to determine the identity of the institution or institutions under this clause 2.4(b), the Supreme Court of Victoria may make that determination.

## 3. Guarantee of Members

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In the event that the Company is wound up, each Member undertakes to contribute a maximum of \$20.00 to the Company for payment of:

- (a) the debts and liabilities of the Company;
- (b) the costs, charges and expenses of any winding up; and
- (c) the adjustment of the rights of Members among themselves,

while the Member is a Member or within one (1) year after the Member ceases to be a Member.

## 4. Objects

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### 4.1. Objects of the Company

The objects for which the Company is established are:

- (a) to develop and implement programmes for the purposes of providing direct support, assistance, advice and training to refugee and migrant families who are disadvantaged by reason of poverty, misfortune, destitution or helplessness;
- (b) to establish areas of communications, co-operation and joint action amongst ethnic groups and service agencies for the purposes of fostering children's and related family services for refugee and migrant families or developing other areas of co-operation amongst such groups which are deemed to be charitable;
- (c) to deliver training programs, particularly to refugee and migrant women, so as to enable them to obtain employment and so enhance their social and economic wellbeing; and
- (d) to provide general community services for the use of refugee and migrant families and to ensure such services are sensitive and responsive to the need of such families and to develop additional services where required.

## 5. Establishment and Operation of a Gift Fund

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### 5.1. Establishment of a Gift Fund trust

- (a) The Company has the power to establish and maintain a trust for the purpose of a fund (*Gift Fund*) to which gifts of money or property can be made.
- (b) Should the Company decide to establish a Gift Fund, the Company will do all things and execute all documents necessary for the establishment of a trust, and the Company will be the trustee of such trust.

## 5.2. Purpose of the Gift Fund

The Company may only establish a Gift Fund for a purpose that is consistent with the objects of the Company.

## 5.3. Limits on Use of Gift Fund

The Company shall use the following only for the purpose of the Gift Fund, as determined in accordance with clause 5.2:

- (a) gifts made to the Gift Fund; and
- (b) any money received because of such gifts.

## 5.4. Bank Account of Gift Fund

The company must establish a new bank account for use solely for the Gift Fund and ensure that any money received by the Gift Fund is recorded separately in the bank account of the Gift Fund.

## 5.5. Deductible Gift recipient Status

The Company shall apply for deductible gift recipient status for the Gift Fund under Division 30 of the ITAA.

## 5.6. Winding up or Dissolution of Gift Fund

Upon the first to occur of:

- (a) the winding up or dissolution of the Company;
- (b) the winding up or dissolution of the Gift Fund; or
- (c) following receipt of approval of the Gift Fund as a deductible gift recipient under Division 30 of the ITAA, the Gift Fund Trust ceasing to be endorsed as such a deductible gift recipient,

any surplus assets remaining after the payment of the Company's liabilities and debts shall not be paid to or distributed among the Members but shall be given to or transferred to some other institution or institutions having objects similar to the

objects of the Gift Fund and which is a fund, authority or institution approved by the Commissioner of Taxation as a fund, authority, or institution referred to in subsection 78(4) of the *Income Tax Assessment Act 1936* (Cth).

## 5.7. Auditing of Gift Fund

The Board must cause the Company to prepare financial reports in relation to the Gift Fund, and cause such financial reports to be audited in accordance with clause 10.

## 6. Legal Scope of the Company's Powers

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Subject to clauses 2, 3, 4 and 7, in pursuing the above objects of the Company, the Company has, both within Australia and outside Australia, the legal capacity of a natural person and all the powers provided by the Act.

## 7. Income and Property

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### 7.1. Application of Income and Property

The income and property under the control of the Company must be applied in and towards the promotion and achievement of the objects of the Company as set out in this Constitution, and no portion shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to the Members or Directors.

### 7.2. Travel Expenses for Directors

Notwithstanding clause 7.1, the Company may pay in good faith reasonable travelling and other expenses properly incurred by any Director of the Company;

- (a) in attending and returning from:
  - (i) meetings of the Directors;
  - (ii) meetings of any committee of the Directors; or
  - (iii) general meetings of the Company,in accordance with any travel guidelines the Board may establish; or
- (b) otherwise in connection with the business of the Company.

## **8. Membership**

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### **8.1. Number of Members**

- (a) There must be at least one (1) Member.
- (b) The Board may set a limit on the maximum number of Members.

### **8.2. Admission to Membership**

- (a) Any person who is admitted to Membership of the Company by the Directors shall be a Member of the Company and shall be deemed to be bound by this Constitution.
- (b) Any person becoming a Member of the Company must pay to the Company the then current subscription fee (if any).

### **8.3. Board may establish Categories of Members**

The Board may:

- (a) establish different categories of Membership; and
- (b) prescribe the qualifications, rights and privileges and subscription fees (if any) of persons to become a Member of a class of Membership.

### **8.4. Address of Member**

- (a) Each Member is required to provide to the Company details of an address in Australia where the Company can send notices.
- (b) If a Member fails to provide an address in accordance with Clause 8.4(a), the address of the Member is deemed to be the Office.

### **8.5. Membership Entitlements Not Transferable**

A right, privilege or obligation which a person has by reason of being a Member of the Company:



- (a) is not capable of being transferred or transmitted to another person; and
- (b) subject to the Act and this Constitution, terminates on cessation of the person's Membership.

## 8.6. Cessation of Membership

A Member ceases to be a Member if they:

- (a) die;
- (b) resign in writing;
- (c) become of unsound mind or become liable to be dealt with in any way under the law relating to mental health or incapacity;
- (d) are convicted of an indictable offence; or
- (e) are a corporate entity and have a receiver or a receiver and manager, administrator, liquidator or equivalent person appointed in relation to its assets or part of its assets or a resolution is passed or it takes or has taken against it any action having the effect of its winding up.

## 8.7. Non-payment of Subscription

If any subscription or other membership fee of a Member remains unpaid, the Member will be debarred from all privileges of membership. The Directors may, if they think fit, reinstate the Member on payment of all arrears.

## 8.8. Effect of cessation

A Member who ceases to be a Member continues to be liable for:

- (a) any subscription and all arrears due and unpaid at the date of cessation;
- (b) all other moneys due by them to the Company; and
- (c) the guarantee set out in clause 3.

## 9. Rights and Obligations of Members

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### 9.1. Amount of fees and subscriptions payable

Annual subscription fees for the various categories of Membership (if any), sponsorship payments and other periodical payments due from Members will be in such amounts and due at such times as the Board determines.

### 9.2. Variation of rights of Members

The rights attached to any specific category of Membership (if any) may, whether or not the Company is being wound up, be varied only by resolution of the Membership

## 10. Financial Reports and Audit

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### 10.1. Company must keep financial records

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

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) 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 to inspect those records at all reasonable times.

### 10.2. Financial reporting

The Board must cause the Company to prepare a financial report and a directors' report that comply with the Act and must report to Members in accordance with the Act no later than the deadline set by the Act.

### 10.3. Audit

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report. The eligibility, appointment, removal, remuneration, rights and duties of the Auditor are regulated by the Act.

## 10.4. **Conclusive reports**

Audited financial reports laid before the Company in general meetings are conclusive except as regards to errors notified to the Company within three (3) months after the relevant general meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

## 10.5. **Inspection of financial records and books**

A Member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or as specified in the Act.

## 11. **General meetings**

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### 11.1. **Annual General Meetings**

An annual general meeting of the Company must be held in accordance with the provisions of the Act.

### 11.2. **Convening of meetings by Directors**

A Director may convene a general meeting at any time.

### 11.3. **Convening of meetings by Members**

The Directors must call and arrange to hold a general meeting upon the requisition of the Members, if required to do so under the Act.

### 11.4. **Notice of general meeting**

- (a) The Secretary must, at least twenty-one (21) days before the date fixed for the holding of a general meeting, give notice to the Membership of the general meeting.
- (b) A notice of a general meeting may be given by any form of communication permitted by the Act. The notice must specify the place, the day and the hour of meeting and if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate the meeting, the general nature of

the business to be transacted and any other matters as are required by the Act.

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

#### 11.5. Quorum at general meetings

- (a) Business may not be transacted at a general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. A quorum consists of:
  - (i) if there are 3 Members or less, all Members of the Company present in person or by representative; and
  - (ii) in any other case, 4 Members of Company present in person or by representative.
- (b) If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the chairperson, one of the following procedures must be followed:
  - (i) if the meeting was convened on the requisition of Members, it must be dissolved; or
  - (ii) if the meeting is convened otherwise, it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Directors.
- (c) If a meeting has been adjourned to another time and place determined by the Directors, not less than seven (7) days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.
- (d) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

## 11.6. Appointment of chairperson

- (a) If a chairperson of the Directors meetings is appointed in accordance with this Constitution to chair their meetings, that person is entitled to preside as the chairperson at every general meeting.
- (b) If a deputy chairperson of Directors meetings is appointed in accordance with this Constitution, that person is entitled to preside as the chairperson at any general meeting if any of the following events occur:
  - (i) a Director has not been appointed as the chairperson of Directors' meetings;
  - (ii) the chairperson is not present within 15 minutes after the time appointed for the holding of the meeting; or
  - (iii) the chairperson is unwilling or unable to act.
- (c) The Directors present at a general meeting must elect one of their number to chair the meeting in any of the following circumstances:
  - (i) if a Director has not been appointed as the chairperson or deputy chairperson of Directors' meetings;
  - (ii) if the chairperson or the deputy chairperson is not present within 15 minutes after the time appointed for the holding of the meeting; or
  - (iii) if the chairperson or deputy chairperson is unwilling or unable to act.
- (d) The Members present at a general meeting must elect one of their number to chair the meeting in either of the following circumstances:
  - (i) if there are no Directors present within 15 minutes after the time appointed for the holding of the meeting; or
  - (ii) if all Directors present decline to take the chair.

## 11.7. Chairperson's powers

Subject to the terms of this Constitution dealing with adjournment of meetings, rulings of the chairperson on all matters relating to the order of business, procedure and conduct of the general meeting are final and no motion of dissent from a ruling of the chairperson may be accepted.

## 11.8. Conduct of meetings

- (a) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the Members in person, to constitute a quorum constitutes a meeting of the Members, provided each Member has a reasonable opportunity to participate at the meeting.
- (b) All the provisions in this constitution relating to meetings of the Members apply, so far as they can and with any necessary changes, to meetings of the Members by telephone or other electronic means.
- (c) A Member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the Members involved was at that place for the duration of the meeting

## 11.9. Adjournment of meetings

- (a) The chairperson may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and place.
- (b) The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

- (d) Except when a meeting is adjourned for 30 days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

## 11.10. Voting on show of hands

- (a) At a general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded before that vote is taken or before the result is declared or immediately after the result is declared.
- (b) If a poll is not duly demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

## 11.11. Demand for a poll

- (a) A poll may be demanded by any of the following:
  - (i) the chairperson;
  - (ii) at least three (3) Members entitled to vote on the resolution; or
  - (iii) any Members with at least 5% of the votes that may be cast on the resolution of a poll.
- (b) The demand for a poll may be withdrawn.
- (c) The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which a poll is demanded.
- (d) If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chairperson or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll is demanded.

- (e) A poll demanded on the election of the chairperson or on a question of adjournment must be taken immediately.

## 11.12. Voting rights of Members

- (a) Subject to any rights or restrictions for the time being attached to a category or categories of Membership (if any), on a show of hands every Member present or who represents a Member has one vote.
- (b) Subject to any rights or restrictions for the time being attached to a category or categories of Membership (if any), on a poll every Member present in person or by a proxy, attorney or representative has one vote.

## 11.13. Chairperson's vote at general meetings

The chairperson of a general meeting is entitled to a second or casting vote.

## 11.14. Objections to voter qualification

No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered. An objection to the qualification of a voter must be referred to the chairperson, whose decision is final. A vote not disallowed according to an objection as provided in this Constitution is valid for all purposes.

## 12. Proxies and representatives

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### 12.1. Proxies and representatives of Members

At meetings of Members or categories of Members (if any), each Member entitled to vote may vote by a proxy, or by an attorney, and may appoint an individual as its representative. Except as expressly provided by the terms of their appointment, a person attending as a proxy, or as the attorney or representative of a Member has all the powers of a Member, except where expressly stated to the contrary in this Constitution.

### 12.2. Appointment of proxies

A Member may appoint either one (1) or two (2) persons as their proxy to attend and vote instead of the Member. A proxy need not be a Member. A document



appointing a proxy must be in writing in any form permitted by the Act and signed by the Member making the appointment.

## 12.3. Authority of proxies

A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document. Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the Member can do in respect of a general meeting.

## 12.4. Verification of proxies

- (a) Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, all of the following documents must be deposited with the Company:
  - (i) the document appointing the proxy; and
  - (ii) if the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of that authority.
- (b) Those documents must be received at the Office, at a fax number at the Office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting not less than 48 hours before the time for holding the meeting.
- (c) If a general meeting has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

## 12.5. Validity of proxies

A proxy document is invalid if it is not deposited or produced prior to a meeting or a vote being taken as required by this Constitution.

## 12.6. **Revocation of appointment of proxy**

A vote given in accordance with the terms of a proxy document, power of attorney or otherwise is valid, despite the revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of any of such revocation has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the document is used.

## 13. **Directors**

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### 13.1. **Number of Directors**

The Board may decide the number of Directors but that number must be at least three (3).

### 13.2. **Qualification of Director or Auditor**

A Director need not be a Member. Neither the Auditor of the Company for the time being nor any partner or employee of the Auditor is eligible to act as a Director.

### 13.3. **Appointment by the Board**

Subject to the Constitution and the Act, the Board may appoint a person to be a Director at any time except during a general meeting. Any Director so appointed automatically retires at the next annual general meeting and is eligible for re-election by that general meeting.

### 13.4. **Election by general meeting**

Subject to this Constitution and the Act, the Members may elect Directors by ordinary resolution.

### 13.5. **Eligible candidates**

The Company in general meeting cannot validly elect a person as a Director unless:

- (a) the person is automatically retired under 13.3 and seeks re-election;
- (b) the Board recommends the appointment; or

- (c) at least fourteen (14) days before the meeting at which the relevant resolution will be considered, the Company receives both:
  - (i) a nomination of the person by at least two (2) Members (other than the person); and
  - (ii) a consent to act as a director signed by the person.

The Company must notify members of every candidate for election as a Director at least seven (7) days before the relevant general meeting.

## 13.6. Cessation of Director's appointment

A person automatically ceases to be a Director if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a director;
- (b) becomes disqualified from managing corporations under the Act and is not given permission or leave to manage the Company under the Act;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) fails to attend 3 consecutive Board meetings without leave of absence from the Board;
- (e) resigns by notice in writing to the Company; or
- (f) is removed from office under clause 13.7.

## 13.7. Removal from office

Whether or not a Director's appointment was expressed to be for a specified period:

- (a) the Directors by ordinary resolution; or
- (b) the Members by ordinary resolution,

may remove a Director from office. The powers to remove a Director under this clause 13.7 are in addition to the Act.

## 13.8. Too few Directors

If the number of Directors is reduced below the minimum required by clause 13.1, the continuing Directors may act as the Board only:

- (a) to appoint Directors up to that minimum number; and
- (b) to convene a meeting of Members.

## 14. Powers and proceedings of Directors

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### 14.1. Powers of Directors

- (a) Subject to this Constitution, the Directors may exercise all those powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Members in general meeting or otherwise.
- (b) Without limiting clause 14.1(a), the Directors may exercise all the Company's powers to:
  - (i) borrow or otherwise raise money for the benefit of the Company and its objects;
  - (ii) charge any property or business to the company; and
  - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The Directors may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the Company.
- (d) The Directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.

- (e) The Director may:
  - (i) appoint or employ a person to be an officer, agent or attorney of the company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for the period and on the conditions they think fit;
  - (ii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
  - (iii) subject to the contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.
- (f) A power of attorney may contain any provision for the protection and convenience of the attorney or persons dealing with the attorney that the Directors think fit.

#### 14.2. **Convening of Directors' meetings**

A Director may at any time, and a Secretary must on the requisition of a Director, convene a meeting of the Directors. Reasonable notice of the proposed meeting must be given.

#### 14.3. **Mode of meeting for Directors**

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

#### 14.4. **Quorum at Directors' meetings**

- (a) At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is 3 Directors present in person or by the use of technology in accordance with clause 14.3.
- (b) If the number of Directors is reduced below the number necessary for a quorum of Directors, the continuing Director or Directors may act only to

appoint additional Directors to the number necessary for a quorum or to convene a general meeting of the Company.

**14.5. Voting at Directors' meetings**

Questions arising at a meeting of Directors must be decided by a majority of votes of Directors present and voting. A decision of the majority is for all purposes a decision of the Directors.

**14.6. Appointment of chairperson**

The Directors shall appoint a Director to be the chairperson of Directors' meetings and determine the period for which the person elected is to hold office. If a chairperson has not been elected, or if at any meeting the chairperson is not present within 10 minutes after the time appointed for holding the meeting or is unwilling or unable to act, the deputy chairperson will chair the meeting.

**14.7. Appointment of deputy chairperson**

The Directors shall elect one of their number to be the deputy chairperson of Directors' meetings. The Directors shall determine the period for which the person elected is to hold office. If neither of the chairperson nor the deputy chairperson is present within 10 minutes after the time appointed for holding the meeting or is unwilling or unable to act the Directors present shall elect one of their number to be the chairperson of that meeting.

**14.8. Chairperson's vote at Directors meetings**

Subject to the Act, in case of an equality of votes on a resolution at a meeting of Directors, the chairperson of that meeting has a casting vote on that resolution in addition to any vote the chairperson has in his capacity as a Director in respect of that resolution.

**14.9. Director Not in Breach if Acts in Matters Relating to Director's Interests**

- (a) This clause 14.9 applies if:
  - (i) a Director has an interest or duty in relation to a matter that is not a Material Personal Interest; or

- (ii) a Director with a Material Personal Interest in relation to the Company's affairs:
  - (A) complies with the requirements of the Act in relation to disclosure of the nature and extent of the interest and its relation to the Company's affairs before acting in a matter that relates to the interest; and
  - (B) may be present and vote on the matter under the Act.
- (b) The Director is not in breach of his or her duties to the Company merely because he or she acts in matters that relate to the Director's interest.
- (c) The Director may vote on matters that relate to the Director's interest.
- (d) In relation to any transactions that relate to the Director's interest:
  - (i) the transactions may proceed;
  - (ii) the Company cannot avoid the transactions merely because of the Director's interest; and
  - (iii) the Director may retain benefits under the transactions despite the Director's interest.

**14.10. Director Not in Breach if Does Not Act in Matters Relating to Director's Interests**

- (a) This clause 14.10 applies if a Director with a Material Personal Interest in relation to a matter:
  - (i) complies with the requirements of the Act in relation to disclosure of the nature and extent of the interest and its relation to the Company's affairs; but
  - (ii) must not be present and vote on the matter under the Act.
- (b) The Director is not in breach of duty to the Company merely because he or she does not act in relation to the matter.

- (c) The Directors may vote on matters that relate to the Director's interest in the Director's absence.
- (d) In relation to any transactions that relate to the Director's interest:
  - (i) the transactions may proceed;
  - (ii) the Company cannot avoid the transactions merely because of the Director's interest; and
  - (iii) the Director may retain benefits under the transactions despite the Director's interest.

#### 14.11. Execution of Instruments

- (a) A Director may participate in the execution of an instrument for the Company, regardless of any interest or duty that the Director may have:
  - (i) whether or not the Director has complied with the requirements of the Act in relation to disclosure of the nature and extent of the interest and its relation to the Company's affairs; and
  - (ii) whether or not the Director may be present and vote in relation to the execution of the instrument under the Act.

#### 14.12. Delegation of powers to committee

The Directors may delegate any of their powers to committees consisting of Directors or other persons as they think fit. The exercise of a power by a committee in accordance with this Constitution is to be treated as the exercise of that power by the Directors. In the exercise of any powers delegated to it, a committee formed by the Directors must conform to the directions of the Directors.

#### 14.13. Proceedings of committees

Except as provided in a direction of the Directors, the meetings and proceedings of a committee formed by the Directors must be governed by the provisions of this Constitution, in so far as they are applicable, as if meetings and proceedings of the committee are meetings and proceedings of the Directors.



## 14.14. **Validity of acts of Directors**

All acts done by a meeting of the Directors or of a committee of Directors or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

## 14.15. **Minutes**

The Directors must cause minutes of all proceedings of general meetings, of meetings of the Directors and of committees formed by the Directors to be entered in books kept for the purpose. The Directors must cause all minutes to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

## 14.16. **Resolutions in writing**

- (a) A resolution in writing signed by all Directors, excluding Directors who have been given leave of absence, is to be treated as a determination of the Directors passed at a meeting of the Directors duly convened and held.
- (b) A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.
- (c) A document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing.
- (d) A document bearing a facsimile of a signature is to be treated as signed.

## 15. **Executive Officer and Secretary**

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### 15.1 **Executive Director**

- (a) The Directors may appoint one of the Directors as Executive Director. The appointment of the Executive Director automatically terminates if he or she ceases to be a Director.
- (b) The appointment of an Executive Director may be for the period, at the remuneration, and on the conditions that the Directors think fit.

- (c) Subject to any contract between the Company and the relevant Executive Director, an Executive Director may be removed or dismissed by the Directors at any time, with or without cause.
- (d) The Directors may:
  - (i) confer on the Executive Director the powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) they think fit;
  - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an Executive Director; and
  - (iii) authorise the Executive Director to delegate or any of the powers discretions and duties conferred on him or her.

## 15.2 Secretary

The Directors must appoint and maintain one of the Directors as Secretary.

## 15.3 Validity of Acts of Executive Officers

An act done by a person acting as an Executive Officer is not invalidated merely because of;

- (a) a defect in the person's appointment as an Executive Officer; or
- (b) the person being disqualified to be an Executive Officer,

if that circumstance was not know by the person when the act was done.

## 16. Indemnity and insurance

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### 16.1. Liabilities

- (a) The Company indemnifies and will keep indemnified every person who is or has been an officer of the Company against a liability incurred by that person as an officer of the Company or a subsidiary of the Company, including legal

costs and expenses incurred in participating or being involved in or defending any Legal Proceedings, unless any of the following applies:

- (i) The liability is incurred by the person in connection with any claim made by that person against the Company (whether that claim is made solely by the person or otherwise);
  - (ii) The Company is not allowed by statute to indemnify the person against the liability or legal costs; or
  - (iii) An indemnity by the Company in favour of the person would, if given, be made void by statute.
- (b) For the purpose of clause 16.1(a), 'Legal Proceedings' means any claim, action, suit or demand, enquiry, Royal Commission or other regulatory investigation, whether civil or criminal, which relates to or arises in connection with the person being, or having been, an officer of the Company or a subsidiary of the Company, or the employment of the person with the Company.

## 16.2. Insurance premiums

The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company to the fullest extent permitted by law.

## 17. Notices

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### 17.1. Notices by Company

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered personally;

- (ii) sent by prepaid mail (by airmail, if the addressee is overseas) to that person's address; or
- (iii) sent by fax to the fax number (if any) nominated by that person; or
- (iv) sent by electronic message to the electronic address (if any) nominated by that person.

## 17.2. Overseas members

A Member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

## 17.3. When notice is given

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally or sent by fax or electronic message:
  - (i) by 5.00pm (local time in the place of receipt) on a business day – on that day; or
  - (ii) after 5.00pm (local time in the place of receipt) on a business day, or on a day that is not a business day – on the next business day; and
- (b) if it is sent by mail:
  - (i) within Australia – 3 business days after posting; or
  - (ii) to a place outside Australia – 10 business days after posting.

A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

## 17.4. Notices to 'lost' members

If:

- (a) on two (2) or more consecutive occasions a notice served on a Member in accordance with this clause is returned unclaimed or with an indication that the Member is not known at the address to which it was sent; or
- (b) the Board believes on other reasonable grounds that a Member is not at the address shown in the Register or notified to the Company under rule 17.2,

the Company may give effective notice to that Member by exhibiting the notice at the Company's Office for at least 48 hours. This clause ceases to apply if the Member gives the Company notice of a new address.

## 18. Amendment to Constitution

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### 18.1. Amendment

This Constitution cannot be amended, varied or replaced without a special resolution of the Members.

### 18.2. Notice to ATO

If the Constitution is amended in accordance with the conditions under rule 20.1, the Company must notify the ATO of the amendment or amendments to the Constitution.

### 18.3. Replaceable Rules

Each of the provisions of the Act which would but for this clause apply to the Company as a replaceable rule within the meaning of the Act are displaced and do not apply to the Company.

## 19. Definitions & Interpretation

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### 19.1. Definitions

In this Constitution, unless it is inconsistent with the subject or context in which it is used:

- (a) *Act* means the *Corporations Act 2001* (Cth) as modified or amended from time to time;
- (b) *ATO* means the Australian Taxation Office;
- (c) *Auditor* means the auditor for the time being of the Company;
- (d) *Board* means the board of Directors of the Company;
- (e) *Company* means VICSEG New Futures Limited (ACN 005 924 381);
- (f) *Constitution* means this constitution of the Company and any supplementary, substituted or amended constitution for the time being in force;
- (g) *Director* means any person formally and lawfully appointed as a director of the Company;
- (h) *Executive Director* means any person appointed as the executive director of the Company under the terms of the Constitution;
- (i) *ITAA* means the *Income Tax Assessment Act 1997* (Cth), as modified or amended from time to time;
- (j) *Material Personal Interest* has the same meaning as given in section 191 of the Act;
- (k) *Members* means the individuals who for the time being are members of the Company and whose names are entered in the Register as members, *Member* means any one of them and *Membership* has a corresponding meaning
- (l) *Office* means the registered office from time to time of the Company;
- (m) *Register* means the register of Members of the Company to be kept in accordance with the Act; and
- (n) *Secretary* means any person appointed to perform the duties of a secretary of the Company.

## 19.2. Interpretation

In this Constitution, unless the context otherwise requires:

- (a) A reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this Constitution;
- (b) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time;
- (c) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Constitution;
- (d) Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (e) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders;
- (f) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or public authority;
- (g) A reference to dollars or \$ means Australian dollars;
- (h) References to the word 'include' or 'including' are to be construed without limitation;
- (i) A reference to a time of day means that time of day in the place where the Office is located;
- (j) A reference to a business day means a day other than a Saturday or Sunday or public holiday on which all banks are open for business generally in Melbourne, Victoria;
- (k) Where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day;

- (l) A term of this Constitution which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.