



MEMO

To: Board of Directors
From: Company Secretary
Subject: **AUDITOR CHANGE ON INCORPORATION**

BDO Kendalls (“BDOK”) have advised that the firm has decided to register companies in each state to carry out audits in future rather than the accounting firm/partnership itself. Details have been provided to the Company in correspondence received which sets out the process to be followed to change to BDO Kendalls Audit & Assurance (QLD) Pty Ltd (“BDOAA”).

The incorporation of auditors is seen as one means of overcoming the liability problems associated with partnerships, whereby each of the partners in a firm is jointly and severally liable with all the other partners in the firm in the event of a successful damages claim being made against any of the partners.

The arrangements now allowed under the Corporations Act provide that the accounting bodies responsible for the administration of the scheme (‘prescribed accounting bodies’) will approve the bodies incorporate that are authorised to act as auditors (known as ‘authorised audit companies’). In addition, the prescribed accounting bodies have been required to provide a framework against which participants in the industry can be assessed and against which their conduct can be judged.

From a practical point of view there is a change in legal form but not in substance, with the same individuals continuing to provide the audit services. Other arrangements such as the terms of engagement and professional indemnity insurance are unchanged.

Change Process

The process to change from an audit firm to an incorporated authorised audit company is basically the same as an ‘ordinary’ change of auditor. That is, the firm must seek ASIC’s approval to resign and the Company’s shareholders must approve the new audit entity.

The specific process involves:

- a) The BDOK partnership must lodge Form 342 “Application for Consent to Resign as an Auditor” with ASIC requesting approval to resign and stating the reasons therefor, to be effective at the next Annual General Meeting of the Company (ASIC will not normally agree to any other changeover date).
- b) A shareholder must nominate in by written notice BDOAA as auditor not less than 21 days before the AGM (which, in practice, must be at least 28 days beforehand as



the Company is stock exchange listed) and a copy of that notice must be given to BDOK not less than 7 days before the AGM. Suggested wording of the notice:

“We, _____ Pty Ltd, being a shareholder of _____ Corporation Limited (‘the Company’), hereby give written notice pursuant to Section 328B(1) of the Corporations Act of the nomination of BDO Kendalls Audit & Assurance (QLD) Pty Ltd for appointment as Auditor of the Company at the next Annual General Meeting.”

c) BDOAA must provide the Company its consent in writing to be the new auditor with wording such as:

“Pursuant to the provisions of Section 328A(1) of the Corporations Act we, BDOAA consent to act as auditors of your Company.”

d) An ordinary resolution for shareholder consideration must be on the AGM Notice; for example:

“That, subject to the consent of the Australian Securities & Investments Commission to the current auditor resigning, to appoint BDO Kendalls Audit & Assurance (QLD) Pty Ltd, having consented in writing and been duly nominated in accordance with Section 328B(1) of the Corporations Act 2001, as Auditor of the Company.”

and must be accompanied by the auditor nomination notice referred to above.

e) BDOK will advise the Company when they receive ASIC consent.

f) Within 14 days of receipt of the advice from BDOK the Company must lodge a Form 315 “Notification of Resignation, Removal or Cessation of Auditor” with ASIC.

g) Subject to the shareholders agreeing at the AGM, the Company can then notify BDOAA of their appointment, and the change process is complete.

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.