



MEMO

To: Board of Directors
From: Company Secretary
Subject: **CONSTITUTION – CONTENTS**

The Constitution of a company is a document which formalises the division of power between shareholders, directors and officers of a company and provides the operational framework/rules for the control, governance and management of the company.

In lieu of a Constitution a company may adopt the “Replaceable Rules” in the Corporations Act (section 135) or use a combination of both (section 134).

The original Constitution is ‘signed-off’ by the founding shareholders of a company and any changes require a special resolution to be passed by at least 75% of the company’s shareholders voting in favour.

Typical contents of a Constitution:

1. **INTERPRETATION**.....
2. **POWERS**.....
3. **LIABILITY OF MEMBERS**.....
4. **SHARE CAPITAL**.....
5. **UNISSUED CAPITAL**.....
6. **PREFERENCE SHARES**.....
7. **CLASSES OF SHARES**.....
8. **SHARES HELD ON TRUST**.....
9. **SHARE CERTIFICATES**.....
10. **LIEN**.....
11. **SALE OF SHARES SUBJECT TO LIEN**.....
12. **CALLS ON SHARES**.....
13. **TRANSFER OF SHARES**.....
14. **TRANSMISSION OF SHARES**.....



15.	FORFEITURE OF SHARES.....
16.	ALTERATION OF CAPITAL.....
17.	GENERAL MEETINGS.....
18.	GENERAL MEETING PROCEDURE.....
19.	CHAIRMAN.....
20.	VOTING RIGHTS AND POLL.....
21.	CASTING VOTE.....
22.	PROXIES AND POWERS OF ATTORNEY.....
23.	RESTRICTIONS ON VOTING.....
24.	NUMBER OF DIRECTORS.....
25.	RETIREMENT OF DIRECTORS.....
26.	APPOINTMENT AND REMOVAL OF DIRECTORS.....
27.	REMUNERATION OF DIRECTORS.....
28.	VACATION OF OFFICE OF DIRECTOR.....
29.	OFFICES OF PROFIT IN COMPANY.....
30.	POWERS AND DUTIES OF DIRECTORS.....
31.	DIRECTORS' MEETINGS.....
32.	ALTERNATE DIRECTORS.....
33.	CHAIRMAN OF DIRECTORS.....
34.	DELEGATION OF COMMITTEE DIRECTORS.....
35.	MANAGING DIRECTOR.....
36.	ASSOCIATE DIRECTORS.....
37.	COMPANY SECRETARY.....
38.	EXECUTION OF DOCUMENTATION.....
39.	INSPECTION OF RECORDS.....
40.	DIVIDENDS AND RESERVES.....
41.	CAPITALISATION OF PROFITS.....



- 42. **NOTICES**
- 43. **WINDING UP**
- 44. **DIRECTORS' INDEMNITIES, INSURANCE & ACCESS**

A proforma Constitution is available from any lawyer or shelf-company provider, and may also be found by searching the internet although in such case the currency and legal validity of such document may have to be checked.

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.