

Board Charter

Lumos Diagnostics Holdings Limited

Approved 28 April 2023 by resolution of the Board.

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1. Introduction

- (a) The board of directors (**Board**) of Lumos Diagnostics Holdings Limited ACN 630 476 970 (**Company**) has adopted this Board Charter (**Charter**) to outline the manner in which its constitutional powers and responsibilities will be exercised and discharged, having regard to principles of good corporate governance and applicable laws.
- (b) The Board is committed to, and expects the highest standards of behaviour and accountability from all Directors, Senior Executives and employees of the Company. This Charter sets out the function and responsibilities of the Board of the Company.
- (c) This Charter includes an overview of:
 - (i) the composition of the Board;
 - (ii) the roles and responsibilities of the Board;
 - (iii) the relationship and interaction between the Board and management and the Board's ability to delegate its authority to management; and
 - (iv) the Board processes.
- (d) This Board Charter and the charters adopted by the Board for its standing Committees have been prepared and adopted on the basis that strong corporate governance can add to the performance of the Company, create shareholder value and engender the confidence of the investment market.
- (e) This Charter is to be reviewed by the Board as required and at least every two years.

2. Board composition

2.1 Board composition and size

- (a) Directors are appointed by the Board and elected or re-elected by the shareholders. Non-executive Directors are engaged through a letter of appointment.
- (b) The Board, together with the Remuneration and Nomination Committee, determines the size and composition of the Board, subject to the terms of the Company's constitution.
- (c) It is intended that the Board should comprise of no less than 3 Directors and no more than 10 Directors, of which a majority are independent, non-executive Directors and comprise of Directors with a broad range of skills, expertise and experience from a diverse range of backgrounds. Noting that two directors ordinarily reside in Australia in accordance with s 201A(2) of the *Corporations Act 2001*.
- (d) Whilst shareholders ultimately appoint Directors, the Board shall select and recommend candidates to shareholders with the benefit of recommendations made by the Remuneration and Nomination Committee. Appropriate background checks will be undertaken before the person's appointment as a director (see Section 2.3).
- (e) The Board, together with the Remuneration and Nomination Committee, will review the skills, experience, expertise and diversity represented by the Directors on the Board and determine whether the composition and mix remain appropriate, having regard to the Company's strategy and subject to the limitations imposed by the Constitution.

2.2 Director independence and tenure

- (a) It is intended that the majority of the Board should be independent, Non-Executive Directors.
- (b) The Board only considers a Director to be independent where he or she is free of any interest, position, association or relationship that might influence, or might reasonably be perceived to influence, in a material respect, his or her capacity to bring independent judgment to bear on issues before the Board and to act in the best interests of the Company and its shareholders as a whole. The Board has adopted a definition of independence based on that set out in Box 2.3 of the ASX Corporate Governance Council's Principles and Recommendations (4th edition) (Refer Annexure 1).
- (c) The Board does not believe that it should establish an arbitrary limit on tenure. . While tenure limits can help to ensure that there are fresh ideas and viewpoints available to the Board, they hold the disadvantage of losing the contribution of Directors who have been able to develop, over a period of time, increasing insight into the Company and its operations. Accordingly, tenure is just one of the many factors that the Board takes into account when assessing the independence and ongoing contribution of a Director in the context of the overall Board process.
- (d) The Board regularly reviews the independence of each Non-executive Director in light of information relevant to this assessment as disclosed by each Non-executive Director to the Board.
- (e) The Board discloses the names of the directors it considers to be independent directors.
- (f) If a Director is or becomes aware of any information, facts or circumstances which will or may affect that Director's independence, the Director must immediately disclose all relevant details in writing to the Company Secretary and the Chair.
- (g) If the Board determines that a director's status as an independent director has changed, that determination should be disclosed and explained in a timely manner to the market.

2.3 Appointing new Directors

- (a) When considering the appointment of a person as a Director, the Board will undertake appropriate checks before appointing the person, or putting the person forward to shareholders as a candidate for election as a Director. These checks will usually include the candidate's character, experience, education, criminal record, bankruptcy history and independence (following the guidelines in Annexure 1).
- (b) Before recommending a candidate for election as a non-executive director the Board will ask him/her to provide the Board, or the Remuneration and Nomination Committee, with the information outlined in paragraph 4 of the Schedule to the Communications Policy so as to enable shareholders to make an informed decision as to whether to elect or re-elect the candidate. The candidate will also be asked to provide details of any commitments that will be in addition to those they will undertake if elected or re-elected as a non-executive director of the Company, including a statement that they will have sufficient time to fulfil their responsibilities as a director of the Company.
- (c) The Board will then provide shareholders with:

- (i) confirmation that the checks referred to in this clause 2.3 have been undertaken and, if applicable, any information of concern revealed by the checks;
- (ii) all material information in the possession of the Company relevant to a decision on whether or not to elect or re-elect a person as a Director, including whether the person will qualify as an independent Director.

3. Board role and responsibilities

3.1 Board role

The Board's role is to:

- (a) represent and serve the interests of shareholders by overseeing and appraising the Company's strategies, policies and performance. This includes overseeing the financial and human resources the Company has in place to meet its objectives and reviewing management performance;
- (b) protect and optimise Company performance and build sustainable value for shareholders in accordance with any duties and obligations imposed on the Board by law and the Company's constitution and within a framework of prudent and effective controls that enable risk to be assessed and managed;
- (c) set, review and monitor compliance with the Company's values and governance framework (including establishing and observing high ethical standards);
- (d) ensure shareholders are kept informed of the Company's performance and major developments affecting its state of affairs.

3.2 Board responsibilities

The responsibilities of the Board include:

- (a) selecting, appointing and evaluating from time to time the performance of, determining the remuneration of, and planning succession of the CEO and his or her direct reports;
- (b) contributing to and approving management development of corporate strategy, including setting performance objectives and approving operating budgets;
- (c) reviewing, ratifying and monitoring systems of risk management, internal control and legal compliance. This includes reviewing procedures to identify the main risks associated with the Company's business and the implementation of appropriate systems to manage these risks;
- (d) monitoring corporate performance and implementation of strategy and policy;
- (e) approving major capital expenditure, acquisitions and divestitures and monitoring capital management;
- (f) monitoring and reviewing management processes aimed at ensuring the integrity of financial and other reporting systems, including the external audit;
- (g) see that an appropriate framework exists for relevant information to be reported by management to the Board, and whenever required, challenge management and hold it to account;

- (h) approving financial reports, profit forecasts and other reports required at law or under the ASX Listing Rules to be adopted by the Board;
- (i) overseeing the Company's process for making timely and balanced disclosures of all material information concerning the Company;
- (j) ensuring shareholders are kept informed of the Company's performance and major developments affecting its state of affairs;
- (k) evaluating, at least annually, the performance of the Board, its Committees and individual Directors in accordance with the process set out in Annexure 2;
- (l) developing and reviewing corporate governance policies, including the Company's Statement of Values and Code of Conduct to underpin the desired culture of the Company;
- (m) ensuring the Company's remuneration policies are aligned with the Company's purpose, values, strategic objectives and risk appetite;
- (n) ensuring the Company has in place an appropriate risk management framework (for both financial and non-financial risks) and setting the risk appetite that the Board expects management to operate within;
- (o) ensuring that an appropriate health, safety and environment framework is in place to support safe workplace practices and to comply with the Company's environmental obligations; and
- (p) performing such other functions as are prescribed by law or are assigned to the Board.

3.3 Director duties and responsibilities

- (a) Directors will at all times act with honesty and integrity and will observe the highest standards of ethical behaviour, in accordance with the general law. The general law to mean the principles and rules of the common law and equity as well as the statutory duties set out in the Corporations Act.
- (b) Directors will ensure that no decision or action is taken that has the effect of prioritising their personal interests over the Company's interests. If a matter is to be discussed at a meeting of the Board which might reasonably involve one or more of the Directors having a conflict of interest, then those Directors must fully and frankly declare that potential or actual conflict of interest.
- (c) If the Board determines that there is a material conflict of interest, the Board may require that the relevant Director:
 - (i) Not receive the relevant papers; and/or
 - (ii) not be present at the meeting when the matter is considered.
- (d) Directors will be expected to participate in all induction and orientation programs and any continuing education or training arranged for them. The need for such continuing education and professional development for existing directors will be reviewed annually to ensure all directors maintain the skills and knowledge required to perform their role effectively.
- (e) The Board collectively, and each Director individually, has the right to seek independent professional advice.

4. Delegation of duties and powers

4.1 Delegation to Committees

- (a) The Board may, from time to time, establish Committees to streamline the discharge of its responsibilities.
- (b) The Board will adopt a formal charter for each standing Committee setting out the matters relevant to the composition, responsibilities and administration of the Committee.
- (c) The permanent Committees of the Board are:
 - (i) the Remuneration & Nomination Committee; and
 - (ii) the Audit & Risk Committee.
- (d) The Board may also delegate specification functions to ad hoc Committees on an "as needs" basis.
- (e) Each of the above Committees shall:
 - (i) Be comprised of a majority of Non-Executive Directors; and
 - (ii) be chaired by a Non-Executive Director.
- (f) The Board shall deal with matters referred to it by any Board Committee.
- (g) All Non-Executive Directors shall be entitled to attend meetings of Board Committees where there is no conflict of interest.

4.2 Delegation to Management

- (a) Although the Board retains ultimate responsibility for the strategy and performance of the Company, the day-to-day operation of the Company is conducted by, or under the supervision of, CEO as directed by the Board.
- (b) The Board approves corporate objectives for the CEO to work towards and, jointly with the CEO, develops the duties and responsibilities of the CEO.
- (c) The management team (being the CEO and other officers to whom the management function is properly delegated by the CEO):
 - (i) is responsible for implementing the strategic objectives, plans and budgets approved by the Board;
 - (ii) is accountable to the Board for matters within its delegated authority.
- (d) Management must supply the Board with information in a form, timeframe and quality that will enable the Board to discharge its duties effectively.
- (e) Directors are entitled to request additional information at any time when they consider it appropriate.

4.3 Matters reserved for the Board

Notwithstanding clauses 4.1 and 4.2, the following matters are specifically reserved for the Board (or the Board acting upon a recommendation from a Committee):

- (a) approving the Company's statement of values and defining the Company's purpose;
- (b) appointment of a Chair;
- (c) appointment of the deputy Chair and/or the 'senior independent director' (if applicable);
- (d) appointment and removal of the CEO, including approving terms of engagement and where required, termination benefits
- (e) approving the appointment, remuneration and incentive framework for Senior Executives and overseeing the remuneration framework for the Company;
- (f) appointment of Directors to fill a casual vacancy or as an additional Director;
- (g) establishment of Board Committees, their membership and delegated authorities;
- (h) approving capital management matters, including the Company's dividend policy and authorising payment of dividends;
- (i) recommendations of dividends to shareholders and approval of final dividends;
- (j) approval of major capital expenditure, acquisition and divestitures in excess of authority levels delegated to management;
- (k) calling of meetings of shareholders;
- (l) approval of formal delegations of authority and amendments to existing delegations of authority
- (m) ensuring proper and timely disclosure and reporting to shareholders and other stakeholders
- (n) reviewing, at least annually, diversity targets, initiatives and progress towards their achievement;
- (o) approving the Company's Corporate Governance Statement and financial reports upon recommendations from the Committees, and in accordance with the Corporations Act, ASX Listing Rules and any other applicable regulations;
- (p) adopting the annual budget for the financial performance of the Company and monitoring performance against it;
- (q) approving the Company's Remuneration Report for publication in the annual financial report upon recommendation from the Remuneration and Nomination Committee, and in accordance with the Corporations Act and any other applicable regulations; and
- (r) any other specific matters nominated by the Board from time to time.

5. Board process

5.1 Meetings

- (a) The Board will meet regularly and Directors will use all reasonable efforts to attend.
- (b) The Board may at any time convene an unscheduled meeting of the Board to consider urgent or other matters.
- (c) Periodically, Non-executive Directors may meet without the CEO or management present.
- (d) Senior Executives will be invited to attend meetings as required. Other Company Executives, External Auditors and Advisers, as the Chair sees fit, may be invited to attend meetings.
- (e) No Executive Director shall be present at a Board meeting during deliberations concerning their position.
- (f) Board papers shall be provided to Directors sufficiently far in advance of scheduled meetings to permit adequate preparation.
- (g) The Company's constitution governs the regulation of Board meetings and proceedings.
- (h) The Company's constitution provides that a quorum for a meeting of Directors is 2 Directors. However, the Board will aim to achieve at least a minimum of 3 Directors a majority of whom are independent at all meetings of Directors.

5.2 The Chair

- (a) The Board will appoint one of its members to be Chair.
- (b) It is intended that the Chair should be an independent, non-executive Director. It is noted that this may not always be possible to achieve given the evolution of the Company's development and the Company's needs at a given point in time.
- (c) The Chair represents the Board to the shareholders and communicates the Board's position.
- (d) The Chair should:
 - (i) lead the Board;
 - (ii) facilitate the effective contribution of all Directors;
 - (iii) promote constructive and respectful working relationships between directors, senior management and the Board;
 - (iv) communicate the views of the Board and senior management to the Company's security holders and to the public; and
 - (v) oversee and facilitate board, committee and senior management evaluation reviews and succession planning.
- (e) Should the Chair be absent from a meeting, members of the Board present shall appoint a Chair for that particular meeting.

The Chair will also be responsible for approving board agendas and ensuring that adequate time is available for discussion of all agenda items, including strategic issues.

5.3 The Company Secretary

- (a) The Board will appoint at least one Company Secretary who is accountable to the Board on all matters to do with the proper functioning of the Board.
- (b) The Company Secretary is responsible for coordination of all Board business, including agendas, board papers, minutes, communication with regulatory bodies and ASX, and all statutory and other filings.
- (c) All Directors will have direct access to the Company Secretary.

6. Other matters

6.1 Protocols where a Director has a conflict of interest

- (a) From time to time a director may have a conflict of interest. To help Directors manage any such conflicts the Board has developed protocols setting out the structures and procedures to be followed with the aim of ensuring that the consideration of matters by the Board and any Board committees is undertaken free from any actual influence or appearance of influence from persons with conflicts of interest, and that the disclosure of the Company's confidential information is to be subject to appropriate corporate governance controls.

Those protocols are set out in Annexure 3 and should be followed where a Director or senior executive planning to provide information to the Board has identified a conflict of interest, or has reason to believe a conflict of interest may arise.

6.2 Inconsistency with the Company's constitution

To the extent that there is any conflict or inconsistency between this Charter and the Company's constitution, the constitution shall prevail.

6.3 Conduct of meetings of security holders

All substantive resolutions at meetings of security holders will be decided by a poll rather than by a show of hands.

All meetings of security holders will be held at a reasonable place and time, in order to maximise the chance of security holders being able to attend and vote at all meetings.

6.4 Conduct of meetings with Director's who do not speak English (if applicable)

Where a Director does not speak or understand English, the Company will take all reasonable measures to ensure that the Director understands the relevant documents and can contribute meaningfully to discussions. This may include:

- (a) translation of key corporate documents to director's native language (where reasonable); and
- (b) where reasonable, providing copies of any presentations, advertising and / or promotional materials in that director's native language with time to read and process those translated materials.

6.5 Adoption of Policy and Board review

This Charter was adopted by the Board on 28 April 2023, and took effect from that date and replaced any previous policy in this regard.

The Board will review this Charter every two years to ensure effective operation and assess whether any changes are necessary. The Company Secretary will communicate any amendments to employees as appropriate.

Annexure 1 – Independence of Directors

1. Independence guidelines

Without limiting the Board's discretion, the Board has adopted the following guidelines to assist in considering the independence of Directors. In general, Directors will be considered to be "independent" if they:

- (a) are not employed in an executive capacity by the Company or another group member, or, if they have been previously employed in an executive capacity by the Company or another group member, there has been a period of at least 3 years between ceasing such employment and serving on the Board;
- (b) do not receive performance-based remuneration from the Company or participate in an employee incentive scheme of the Company;
- (c) have not within the last 3 years been a partner, director or senior employee of a provider of material professional services to the Company or another group member;
- (d) have not within the last 3 years been in a material business relationship (eg as a professional advisor, consultant, supplier or customer) with the Company or other group member of an officer of or otherwise associated directly or indirectly with someone with such relationship;
- (e) are not a substantial shareholder of the Company, represented a substantial shareholder of the Company, an officer of, or otherwise associated directly or indirectly with, a substantial shareholder of the Company;
- (f) have no material contractual relationship with the Company or another group member, other than as a Director of the Company;
- (g) do not have close family ties with any person who falls within any of the categories described above;
- (h) have not been a Director of the Company for such a period that his or her independence may have been compromised; and
- (i) are free from any other interest, position, association or relationship that might influence, or reasonably be perceived to influence, in a material respect the Director's capacity to bring an independent judgement to bear on issues before the Board and to act in the best interests of the Company and its shareholders as a whole.

2. Materiality thresholds

The Board will consider the materiality of the Directors' interests, position, association or relationship for the purposes of determining "independence" on a case-by-case basis, having regard to both quantitative and qualitative principles. Without limiting the Board's discretion in this regard, the Board has adopted the following guidelines:

- (a) the Board will determine the appropriate base to apply (eg revenue, equity or expenses) in the context of each situation;
- (b) in general, the Board will consider a holding of 5% or more of the Company's shares to be material;

- (c) in general, the Board will consider an affiliation with a business which accounts for less than 5% of the relevant base to be immaterial for the purposes of determining independence. However, where this threshold is exceeded, the materiality of the particular circumstance with respect to the independence of the particular Director should be reviewed by the Board; and
- (d) overriding the quantitative assessment is the qualitative assessment. Specifically, the Board will consider whether there are any factors or considerations which may mean that the Director's interest, business or relationship could, or could reasonably be perceived to, materially interfere with the Director's ability to act in the best interests of the Company.

Annexure 2 – Performance evaluation process

1. Board of Directors

1.1. This policy is to ensure individual directors (“**Directors**”) and the board of Directors of the Company (“**Board**”) as a whole work efficiently and effectively in achieving their functions.

1.2. Each year the Board will undertake the following activities:

- (a) each individual Director’s performance is considered by way of an internal review or facilitated by a third party. The process may involve the completion of confidential evaluation questionnaires or surveys;
- (b) the Chair will meet with each non-executive director separately to discuss individual performance and ideas for improvement;
- (c) evaluation results for the Chair are provided to the Board for discussion.
- (d) each individual Directors performance is appraised in a meeting that is led by the Chair that is held with another Director. In a meeting led by the CEO and held with another Director, the Chair’s performance is assessed;
- (e) the Board as a whole will discuss and analyse its own performance during the year including suggestions for change or improvement, and
- (f) disclose whether the above process has been undertaken during, or in respect of that year.

2. Executive Directors and Key Executives

2.1. Each year the Remuneration and Nomination Committee will oversee the performance evaluation of the executive team and disclose whether the performance evaluation of the executive team has been undertaken for that year. This evaluation is based on specific criteria, including the business performance of the Company and its subsidiaries, whether strategic objectives are being achieved and the development of management and personnel.

3. Board Committees

3.1. A similar review will be conducted for each Committee by the Board with the aim of assessing the performance of each Committee and identifying areas where improvements can be made.

4. Review of Board Performance Evaluation Policy

4.1. This policy will be reviewed every two years. The Company Secretary will communicate any amendments to employees as appropriate.

Annexure 3 – Board Protocols: Conflicted Directors

1. Background

- (a) **Purpose** - The purpose of these protocols is to set out the structures and procedures which have been put in place by the Board of the Company to ensure that the consideration of matters by the Board and any Board committees is undertaken free from any actual influence or appearance of influence from persons with conflicts of interest, and that the disclosure of the Company's confidential information is to be subject to appropriate corporate governance controls.
- (b) **Directors' duties** - Annexed to these protocols is:
 - (i) an outline of duties of directors in relation to the disclosure of interests and avoiding conflicts; and
 - (ii) a discussion of certain conflicts which may arise with nominee directors.

Nothing in these protocols is intended to limit in any way the duties owed to the Company by the Directors under law.

2. Disclosure of information to Directors

- (a) **Director disclosure of interests** - Directors must at all times comply with their duties and obligations as directors of the Company under statute, common law and the Company's constitution to disclose certain interests to the Board and avoid conflicts of interest. The duties of the Directors also include a duty of confidentiality owed to the Company. An outline of certain duties and obligations of Directors is set out in Annexure 4.
- (b) **Review of information before disclosure to directors** - Where a Director or senior executive planning to provide information to the Board has identified a conflict of interest, or has reason to believe a conflict of interest may arise, before any information is circulated to the Board or any Board committee, it must first be provided to the Company Secretary (Probity Officer) who will determine whether the disclosure of that information to any of the Directors may give rise to a conflict of interest or potential conflict of interest "a conflict" in relation to one or more of the Directors and in respect of which such Director or Directors is or are prohibited from voting under the constitution of the Company. Information which may require review by the Probity Officer includes any agendas or papers for Board meetings or Board committee meetings and any documents generated internally or by the Company's advisors. The Chair may, as appropriate, make certain senior executives and management of the Company aware of this requirement.
- (c) In making that determination in respect of a particular Director, the Probity Officer shall consult with the Chair of the Board or, in the event that disclosure of the information to the Chair may give rise to a conflict, the Deputy Chair of the Board. If the Chair or the Deputy Chair (as applicable) considers it appropriate, he or she may establish a committee comprising of those Directors who do not have a conflict for the purposes of making the determination (Independent Directors).
- (d) The Chair or Deputy Chair (as applicable), or any committee of Independent Directors established by the Chair or Deputy Chair, may also for the purposes of making the determination:
 - (i) request further information from the relevant Director; and/or
 - (ii) seek advice from the Company's legal or other advisors.

3. Procedures

- (a) **Procedures to be followed before Board meeting** - Before notice of any matter to be considered by the Board or a Board committee (**Relevant Matter**) is circulated to Directors, the procedure set out in paragraph 2(b) of these protocols must be adopted for the purpose of determining whether the involvement of any of the Directors in the Board's or Board committee's consideration of that Relevant Matter would give rise to a conflict.
- (b) **Exclusion of conflicted Director** - If the Board or a Board committee is required to consider a Relevant Matter and it has been determined in accordance with paragraph 2.b of these protocols that the involvement of a Director (Conflicted Director) in the Board's consideration of the Relevant Matter, or a Board committee's consideration of the Relevant Matter, would give rise to a conflict, then the Conflicted Director:
- (i) must not receive any information about the Relevant Matter; and
 - (ii) is not entitled to participate in any discussions regarding, nor take part in any decision making process in relation to, the Relevant Matter,
- unless the Independent Directors make a determination under paragraph 3.c of these protocols.
- (c) **Inclusion of conflicted Director on limited basis** - after following the procedures set out in paragraph 2(b) of these protocols, depending on the nature of the conflict or potential conflict and the application of the particular facts, the Independent Directors may decide that the Conflicted Director can:
- (i) receive part of the information in respect of the Relevant Matter;
 - (ii) receive redacted versions of information distributed to the Board in respect of the Relevant Matter; and/or
 - (iii) participate in the discussions regarding the Relevant Matter but not to vote on resolutions covering the Relevant Matter.
- (d) **Procedures where conflicted Director excluded** - If the Relevant Matter is to be considered at a Board meeting or Board committee meeting and a determination is made under paragraph 3(b) of these protocols (and not under paragraph 3(c) of these protocols):
- (i) the Conflicted Director may only receive modified versions of the agenda and other papers circulated to Directors in respect of that meeting which exclude all information relating to the Relevant Matter;
 - (ii) the Conflicted Director may attend the meeting provided that the Conflicted Director excuses himself or herself from the meeting during any discussion of the Relevant Matter and takes no part in any decision making process in relation to the Relevant Matter;
 - (iii) the Independent Directors must not disclose to the Conflicted Director any information relating to the Relevant Matter including the content of any relevant discussions at Board meetings and any other relevant discussions, negotiations or agreements;
 - (iv) the Company Secretary will prepare minutes of all meetings of the Board and circulate those minutes to the members of the Board. However, if the Relevant Matter was considered at a meeting, the Conflicted Director will

only be provided with a modified version of the minutes of that meeting which excludes those minutes relating to the Board's consideration of the Relevant Matter;

- (v) the Probity Officer will be responsible for establishing and implementing appropriate measures to ensure that the Conflicted Director does not have access to email or any other folders where any documents or other information relating to the Relevant Matter are stored or to any relevant hard copy documents (and if requested by an Independent Director, the Probity Officer will report to the Board on the methodology employed to achieve this result);
 - (vi) if the Conflicted Director acquires any information about the Relevant Matter in his or her capacity as a Director which is not publicly available, the Conflicted Director must keep that information confidential in accordance with the duties owed by the Conflicted Director to the Company.
- (e) **Compliance with protocols** - each Director:
- (i) must use all reasonable efforts to ensure that they comply with these protocols;
 - (ii) must notify the Chair promptly if the Director becomes aware of any circumstances which, or which are likely to, result in a breach of these protocols, giving sufficient details of those circumstances to the Chair so that remedial action may be taken; and
 - (iii) acknowledges that if these protocols are breached, the Company reserves the right to, at any time, terminate the involvement of the relevant Director, or any associate or involved person, in the Relevant Matter.
 - (iv) These protocols do not limit any other rights that the Company may have against a Director in respect of any breach of any legal or contractual obligations of a Director.

Annexure 4 – Disclosures of interests and conflicts of interest

1. Statutory duty to disclose material personal interest

Subject to certain exceptions, a director of a company who has a material personal interest in a matter that relates to the affairs of the company must give the other directors notice of the interest (refer to section 191 of the *Corporations Act 2001* (Cth) (**Corporations Act**)).

2. Restrictions on attendance and voting

Unless the other directors approve, a director of a public company who has a material personal interest in a matter that is being considered at a directors' meeting must not be present while the matter is being considered at the meeting or vote on the matter (refer to section 195 of the *Corporations Act*).

3. Standing notice

A director who has an interest in a matter may give the other directors standing notice of the nature and extent of the interest in the matter (refer to section 192 of the *Corporations Act*). The standing notice may be given at any time and whether or not the matter relates to the affairs of the company at the time the notice is given. The standing notice may be given before the interest becomes a material personal interest. Each director is responsible for promptly updating the information contained in a standing notice it provides to the company.

4. General law – Conflicts of interest

- (a) At general law, directors have a fiduciary duty to avoid conflicts of interest. It is an established principle that directors of a company must not, in any matter falling within the scope of their office, have a personal interest or inconsistent engagement with a third party, except with the company's fully informed consent (often referred to as the Conflict Rule).
- (b) Amongst many of the general principles that have been developed by the Courts in respect of the Conflict Rule, in certain circumstances, mere disclosure of a conflict between interest and duty and abstaining from voting on the matter is insufficient to satisfy a director's fiduciary obligations. Disclosure is generally the minimum requirement, however, in certain circumstances, a positive duty to protect the interests of the company by, for instance, taking steps to prevent a transaction from going ahead, may lie with the directors.

5. Common form of conflict - use of information by nominee directors

- (a) A common situation in which a conflict may arise is where a nominee director acquires information as a result of the nominee's position as a director that the nominee knows will be of interest to the nominating company. The conflict in this situation includes:
 - (i) a duty of confidentiality owed to the company of which it is a director; and
 - (ii) a commercial desire to communicate knowledge acquired to the nominating company as a result of his or her position as a nominee.
- (b) As a basic principle, the duty of confidentiality owed to the company in paragraph 5(a)(i) of this annexure is greater than any duty owed to the nominating company.
- (c) Consequently, as a general rule, if a director acquires any information in his or her capacity as director of a company (which is not otherwise publicly available), the director cannot communicate that information to the nominating company. To do so

would potentially breach a number of directors' duties, including the common law duties to act honestly and to avoid conflicts of interest, and the statutory duties to act in good faith, not to misuse position, and not to misuse information (refer to sections 181 to 184 of the Corporations Act).

6. Nominee Directors

- (a) From time to time there may be Directors on the Board who are nominated representatives of shareholders of the Company. If the Board is required to consider a matter which involves, or affects the interests of, a shareholder, any involvement in the Board's consideration of that matter by a Director who is the nominated representative of that shareholder may give rise to a conflict for that Director (for instance, as contemplated in paragraph 5 of this annexure).
- (b) In those circumstances, the procedure set out in paragraph 2.b of the protocols must be adopted for the purposes of making a determination as to whether the Director's involvement in the Board's consideration of the matter would give rise to a conflict.
- (c) If it is determined that the Director's involvement in the Board's consideration of the matter would give rise to such a conflict, that Director must not:
 - (i) be provided with any information relating to that matter;
 - (ii) participate in any discussions regarding that matter; and
 - (iii) take part in any decision making process in relation to that matter.
- (d) In addition, if that Director acquires any information about the matter, he or she must not, without the consent of the Board, disclose any of that information to the shareholder he or she represents nor attend any discussions or negotiations in relation to the matter between the Company on the one hand and that shareholder.

7. Exception to the conflict rule

The conflict rule prohibits directors placing themselves in a position of conflict where a personal interest or duty conflicts with their duty to the company. Pursuant to the Shareholders Agreement (Amended and Restated) and Company Constitution, there is provision that allows a director to have a conflict of interest provided the director discloses that interest.