

**Constitution**  
**of**  
**Premium Investors Limited**  
**A company limited by shares**

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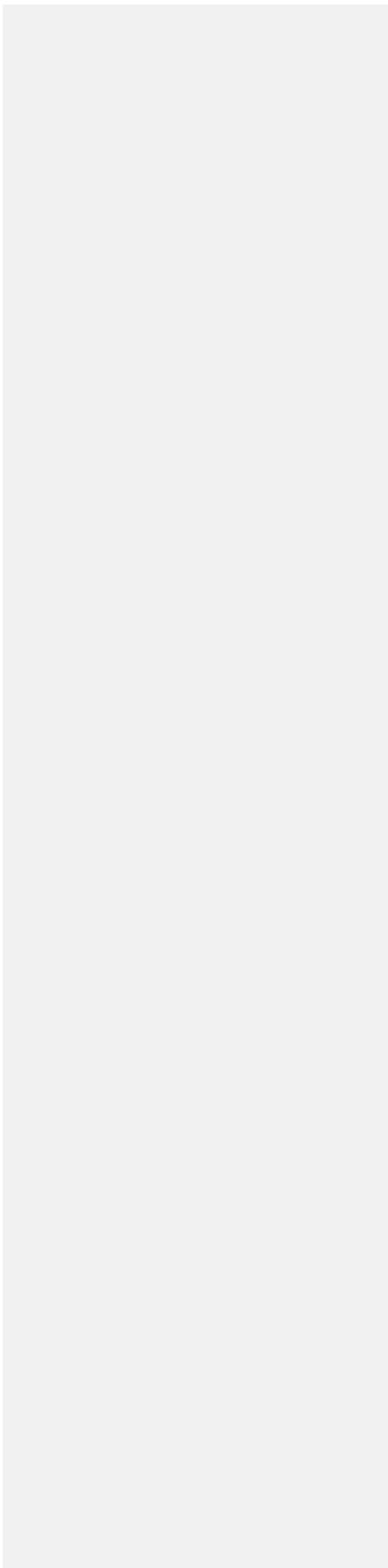
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## Premium Investors Limited

### 1. Preliminary

#### 1.1 Application of the Corporations Act

- (a) This constitution is subject to the Corporations Act.
- (b) The replaceable rules for a company under the Corporations Act do not apply to the company, except so far as they are repeated in this constitution.
- (c) In this constitution, unless the context otherwise requires:
  - (1) a term in a rule about a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act; ~~and~~
  - (2) a term in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section; and
  - (3) a term used in a rule about a matter dealing with a provision of the ASX Listing Rules has the same meaning as in that provision.

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#### 1.2 Definitions

In this constitution, unless the context otherwise requires:

~~“ASTC” means ASX Settlement and Transfer Corporation Pty Limited;~~

~~“ASX” means Australian Stock Exchange ASX Limited;~~

~~“ASX Settlement Operating Rules” the operating rules of ASX Settlement Pty Limited and, to the extent that they are applicable, the operating rules of the ASX and the operating rules of ASX Clear Pty Limited;~~

~~“ASX Listing Rules” means the listing rules (as defined in chapter 7 of the Corporations Act) of the financial market operated by ASX as they apply to the company;~~

~~“business day” has the same meaning as in the ASX Listing Rules;~~

~~“CHES” means the clearing and settlement facility (as defined in chapter 7 of the Corporations Act) operated by ASTC which is known as the Clearing House Electronic Subregister System or CHES;~~

~~“CHES Approved” has the same meaning as in the SCH Business Rules;~~

~~“Commonwealth” means the Commonwealth of Australia and its external territories;~~

~~“company” means the company specified on the front cover of this constitution;~~

~~“Corporations Act” means the Corporations Act 2001 (Cth) of the Commonwealth of Australia;~~

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**“dividend reinvestment plan”** means a plan whereby participating members, subject to the terms of the plan, elect in respect of some or all of their shares to apply the dividends payable on those shares to subscribe for additional shares in the company;

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**“dividend selection plan”** means a plan whereby participating members, subject to the terms of the plan, elect in respect of some or all of their shares:

- (a) to receive the dividends payable on those shares wholly or partly by way of a payment out of any particular fund or reserve or out of profits derived from any particular source; or
- (b) not to receive the dividends payable on those shares, and in place of those dividends to receive some other form of distribution from the company or another body corporate or a trust, including paid up shares or other securities of the company, other body corporate or trust;

**“employee share plan”** or **“employee option plan”** means a plan whereby selected directors, officers and employees of the company and its related bodies corporate, subject to the terms of the plan, may be issued shares or options over shares in the company;

**“executive director”** means a director of the company who is an officer or holds an office referred to in rule 98 or is an employee of the company or a related body corporate;

**“non-executive director”** means a director of the company who is not an executive director;

**“proper ASTC transfer”** has the meaning given to that term in the *Corporations Regulations 2001* (Cth);

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**“record time”** means:

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(c) in the case of a meeting for which the caller of the meeting has decided, under the Corporations Act, that shares are to be taken to be held by the persons who held them at a specified time before the meeting, that time; and

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(d) in any other case, the time of the relevant meeting.

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**“representative”** means, for a body corporate and in relation to a meeting, a person authorised in accordance with representative under section 250D of the Corporations Act or a corresponding previous law by the body corporate to act as its representative at the meeting;

**“restriction agreement”** has the same meaning as in the ASX Listing Rules;

**“restricted securities”** has the same meaning as in the ASX Listing Rules;

~~**“SCH Business Rules”** means the operating rules (as defined in chapter 7 of the Corporations Act) of CHESS which are known as the SCH Business Rules;~~

“**seal**” means any common seal, duplicate seal, or certificate seal ~~or share seal~~ of the company; and

“**transmission event**” means:

- (a) for an individual:
  - (1) the death of individual;
  - (2) the bankruptcy of the individual;
  - (3) the individual becoming of unsound mind; or
  - (4) the individual becoming a person, who is or whose estate is, liable to be dealt with under a law about mental health; and
- (b) for a body corporate:
  - (1) the dissolution of the body corporate; or
  - (2) the succession by another body corporate to the assets and liabilities of the body corporate.

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### 1.3 Interpretation

In this constitution headings and bold typing are included for convenience only and do not affect interpretation and, unless the context otherwise requires:

- (a) a reference to a word includes the singular and the plural of the word and vice versa;
- (b) a reference to a gender includes any gender;
- (c) a term which refers to persons generally or to a natural person include a body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
- (d) a reference to a person includes that person’s successors and legal personal representatives;
- ~~(e)~~(e) if a word or phrase is defined, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
- ~~(d)~~a term which refers to a person includes a person in any capacity, a body corporate, an unincorporated body (for example a society or association), a trust, a partnership, a sovereign state, a government or a government department or agency;
- ~~(e)~~(f) a reference to a document includes a reference to that document as amended, novated, supplemented, varied or replaced;

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~~(g)~~ a reference to a statute or regulation or a provision of a statute or regulation is a reference to that statute, regulation or provision as amended or a statute, regulation or provision replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws made or issued under that statute;

~~(h)~~ a reference to the ASX Listing Rules or the ASX Settlement Operating Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any applicable waiver or exemption;

~~(i)~~ a reference to a document is a reference to a document of any kind including but not limited to an agreement in writing, a certificate, a notice, or an instrument;

~~(j)~~ a reference to an entity, other than the company or a member, which ceases to exist or whose powers or functions are transferred to another entity, is a reference to the entity which replaces it or which substantially succeeds to its powers or functions;

~~(k)~~ a member is present at a general meeting if the member is present in person or by proxy, attorney or representative or, except in any rule that specifies a quorum or except in any rule prescribed by the directors, a member is present who has duly lodged a valid direct vote in relation to the general meeting under rule 7.7(n);

~~(l)~~ a director is present at a meeting of directors if the director is present in person or by alternate director;

~~(m)~~ a reference in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position;

~~(n)~~ a reference to a partly paid share is a reference to a share on which there is an amount unpaid;

~~(o)~~ a reference in to an amount unpaid on a share includes a reference to any amount of the issue price which is unpaid; and

~~(p)~~ a reference in a rule about partly paid shares to a call or an amount called for a share includes but is not limited to a reference to a sum, that by the terms of issue of a share, becomes payable on issue or at a fixed date.

#### 1.4 Powers under this constitution

- (a) The company may take any action, ~~or~~ exercise any power, or engage in any conduct or procedure, which under the Corporations Act a company limited by shares may do if authorised by its constitution.
- (b) The company may do these things, in any manner permitted by the Corporations Act.
- (c) If under this constitution a person may do a particular act or thing, then the person does the act or thing at that person's discretion.

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- (d) Subject to an express term to the contrary:
- (1) if this constitution confers a power, then the person may exercise the power as necessary and for the period the person holds the office; and
  - (2) if this constitution imposes a duty, then the person must perform the duty as necessary and for the period the person holds the office.
- (e) If this constitution confers power on a person to delegate a function or power then the person may:
- (1) delegate concurrently or (except in the case of a delegation by the directors) to the exclusion of that person's performance or exercise of that function or power;
  - (2) delegate generally; or
  - (3) limit the delegation in the manner that the person sets out in the delegation.
- (f) The delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of, a specified office or position.
- (g) The delegation may include the power to delegate.
- (h) If the person's action depends upon the opinion, belief or state of mind of that person, then the delegate has the same capacity to act upon the delegate's opinion, belief or state of mind.
- (i) A delegate's action is taken as the act of the person who delegated the power or function.
- (j) Subject to an express term to the contrary, if this constitution confers a power to do a particular act or thing, then the power includes but is not limited to the power to repeal, rescind, revoke, amend or vary that act or thing.
- (k) Where this constitution confers a power to do a particular act or thing, the power may be exercised from time to time and may be exercised subject to conditions.
- ~~(l)~~ Subject to an express term to the contrary, if this constitution confers a power to do a particular act or thing about a particular matter, then the power includes but is not limited to a power to do that act or thing:
- (1) for some only of those matters;
  - (2) for a particular class or particular classes of those matters; and
  - (3) to make different provision for different matters or different classes of matters.
- ~~(m)~~ Subject to an express term to the contrary, if this constitution confers a power to appoint a person to an office or position (except the power to appoint a director under rule 8.1(d)), then the power includes but is not limited to a power:

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- (1) to appoint a person to act in the office or position until another person is appointed;
- (2) subject to any contract between the company and the person and without prejudice to any rights or obligations under such contract, to remove or suspend the person appointed; and
- (3) to appoint another person temporarily in the place of:
  - (A) a person removed or suspended; or
  - (B) a sick or absent holder of an office or position.

### 1.5 Payments

- (a) A dividend, bonus, return of capital or other distribution payable by the company in respect of a share may be paid by cheque drawn in favour of the intended recipient, by electronic funds transfer to an account nominated by the intended recipient or in any other manner determined by the directors. Any such payment will be at the risk of the intended recipient. Without limiting the generality of the foregoing, a payment in respect of a share may be made to the member in whose name the share is registered despite the occurrence of a transmission event in relation to that member and whether or not the company has notice of it.
- (b) Any Ppayments in respect of a share by the company may be made in Australian dollars or any other currency determined by the directors. The directors may determine to pay in different currencies to different members and may determine the appropriate exchange rate and the time of calculation to calculate the amount payable in the relevant currency. The determinations of the directors are, in the absence of manifest error, final.

### 1.6 ASX Listing Rules compliance

If the company is admitted to the official list of ASX, the following applies:

- ~~(a) Nothing contained in this constitution prevents an act being done that the ASX Listing Rules require to be done.~~
- ~~(b) If the ASX Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).~~
- ~~(c) Where any shares in the capital of the company are at any time classified under the ASX Listing Rules or by ASX as restricted securities, then notwithstanding any other provision of this constitution or the terms of issue of the restricted securities:
 
  - ~~(1) the restricted securities may not be sold, assigned, transferred or otherwise disposed of, and the company must not acknowledge, deal with, accept or register any sale, assignment, transfer or other disposal of those securities, during the escrow period in relation to those securities except as permitted~~~~

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~~by the ASX Listing Rules, ASX or restriction agreement in relation to those securities; and~~

~~(2) in the event of a breach of the ASX Listing Rules relating to the restricted securities, or the restriction agreement in relation to the restricted securities, the member holding the restricted securities will cease to be entitled to any dividends or other distributions and to any voting rights in respect of the restricted securities for so long as the breach subsists.~~

~~(d) Each director must disclose to the company the notifiable interests of the director and changes to those notifiable interests in sufficient time to allow the company to meet its disclosure obligations under rule 3.19A of the ASX Listing Rules.~~

~~(e) In this constitution, unless the context otherwise requires, a term used in a rule about a matter dealt with by a provision of the ASX Listing Rules has the same meaning as in that provision.~~

## 2. Share capital

### 2.1 Shares

~~(a) Without prejudice to any special right conferred on a holder of a share or class of shares and subject to this constitution, the directors may:~~

~~(1) issue, allot grant options for, or otherwise dispose of, shares in the company as the directors think fit; and~~

~~(2) decide the persons to whom shares are issued or options are granted, the terms on which shares are issued or options are granted and the rights and restrictions attached to those shares or options.~~

~~(b) The directors' discretion includes but is not limited to terms on:~~

~~(1) price, conditions and timing;~~

~~(2) a special right or restriction which may be preferred or deferred; and~~

~~(3) dividends, voting, return of capital and participation in the property of the company on a winding up.~~

~~(e)(b) The directors may differentiate between each holder of a partly paid share on:~~

~~(1) the amount of a call that member must pay; and~~

~~(2) the time the member must pay that amount.~~

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## 2.2 Preference shares

- (a) The ~~directors company~~ may issue preference shares including preference shares which are, or at the option of the company or holder are, liable to be redeemed or convertible into ordinary shares.
- (b) EachA preference share confers on its holder a right to receive a preferential dividend at the rate and on the basis decided by the directors under the terms of issue.
- (c) The preferential dividend is cumulative except to the extent the directors decide under the terms of issue.
- (d) ~~A preference share confers on its holder the right to payment out of the profits of the company of the~~A preferential dividend will be paid in priority to the payment of any dividend on ordinary shares, and any other class of shares that the directors decide under the terms of issue.
- (e) EachA preference share confers on its holder the right in a winding up and on redemption to payment ~~in cash~~ of:
- (1) the amount of any dividend accrued at the date of the winding up or the date or redemption but unpaid on the share; and
  - (2) any additional amount specified in the terms of issue ~~amount paid on the share~~;
- in priority to the payment of any amount on ordinary shares, and any other class of shares that the directors decide under the terms of issue.
- (f) If and to the extent that the directors decide under the terms of issue, a preference share may confer on its holder:
- (1) in addition to the preferential dividend, a right to participate with the ordinary shares in the profits of the company; and
  - (2) a right to a bonus issue or capitalisation of profits or any other amount otherwise available for distribution to members.
- (g) A preference share does not confer on its holder any right to participate in the profits or property of the company except as set out in this rule 2.2.
- (h) The holder of a preference share has the same right as the holder of an ordinary share to receive notice of, and a copy of any document to be laid before, a general meeting of the company and to attend the general meeting.
- (i) A preference share does not entitle its holder to vote at a general meeting of the company except in the following circumstances:
- (1) During a period during which a dividend (or part of a dividend) in respect of the share is in arrears.

- (2) On a proposal to reduce the company's share capital.
- (3) On a resolution to approve the terms of a buy-back agreement.
- (4) On a proposal that affects rights attached to the share.
- (5) On a proposal to wind up the company.
- (6) On a proposal for the disposal of the whole of the company's property, business and undertaking.
- (7) During the winding up of the company.
- (8) In any other circumstances in which the ASX Listing Rules require holders of preference shares to be entitled to vote.

(j) Where a preference share does confer on its holder the right to vote at a general meeting, the voting right is the same, and determined in the same way, as the voting right attached to an ordinary share.

(k) Preference shares may be convertible into ordinary shares on a basis decided by the directors under the terms of issue.

~~(l) In the case of a redeemable preference share, the company must, at the time and place for redemption specified in, or determined in accordance with, the terms of issue for the share, redeem the share and, on receiving a redemption request under the terms of issue, pay to or at the direction of the holder the amount payable on redemption of the share. A redeemable preference share may be redeemable on a basis decided by the directors under the terms of issue.~~

(m) Subject to the Corporations Act and this constitution, all rights and restrictions of a preference share issued by the company may be decided by the directors and will be governed by the terms of issue, and provided they have been disclosed to the subscriber for the share before its issue will bind the subscriber and all subsequent holders of the share.

(n) A holder of a preference share must not transfer or purport to transfer, and the directors, to the extent permitted by the ASX Listing Rules, must not register a transfer of, the share if the transfer would contravene any restrictions on the right to transfer the share set out in the terms of issue for the share.

### 2.3 Alteration of share capital

Subject to the Corporations Act, the directors may do anything required to give effect to any resolution altering the company's share capital, including, where a member becomes entitled to a fraction of a share on a consolidation:

- (a) making cash payments;
- (b) determining that fractions may be disregarded to adjust the rights of all parties;
- (c) appointing a trustee to deal with any fractions on behalf of members; and

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(d) rounding up each fractional entitlement to the nearest whole share by capitalising any amount available for capitalisation under rule 4.2 even though only some of the members participate in the capitalisation.

## **2.4 Conversion or reclassification of shares**

Subject to rule 2.5, the company may by resolution convert or reclassify shares from one class to another.

## **2.5 Variation of class rights**

(a) The rights attached to any class of shares may, unless their terms of issue state otherwise, be varied:

- (1) with the written consent of the holders of 75% of the shares of the class; or
- (2) by a special resolution passed at a separate meeting of the holders of shares of the class.

(b) The provisions of this constitution relating to general meetings apply, with necessary changes, to separate class meetings as if they were general meetings.

(c) The rights conferred on the holders of any class of shares are to be taken as not having been varied by the creation or issue of further shares ranking equally with them.

## **2.3 Issue of shares of same class**

~~Subject to any special right conferred on a holder of a share or class of shares, the directors may issue shares of the same class as an existing class of shares and such an issue is not to be considered to constitute a variation of the rights of the holders of shares in the existing class.~~

## **2.42.6 Joint holders of shares**

- (a) If 2 or more persons are registered as the holders of a share, then they hold it as joint tenants with rights of survivorship subject to this rule 2.42.6.
- (b) A joint holder of a share ~~and that person's legal personal representative~~ is liable severally as well as jointly for each payment, including a call, which ought to be made in respect of the share.
- (c) On the death of any 1 joint holder of a share, a survivor is the only person the company recognises as having any title to the share.
- (d) A dividend, bonus, return of capital or other distribution or payment in respect of a jointly held share may be made to the joint holder of the share first named in the register of members or another joint holder notified in writing to the company for this purpose by all joint holders, and any 1 joint holder may give an effective receipt for any such distribution or payment.
- ~~(e) Delivery of a certificate for a jointly held share to any 1 joint holder of the share is sufficient, and taken to be, delivery to all joint holders.~~

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~~(e)~~ The company is not bound to register more than 3 persons as joint holders of a share except in the case of persons jointly entitled to be registered as the holders of a share following a transmission event or where required by the ASX Listing Rules or the ASX Settlement Operating Rules.

## 2.52.7 Equitable and other claims

Subject to the law and an express rule in this constitution, the company is entitled to treat the registered holder of a share as the absolute owner of that share, and is not, even if the company has notice:

- (a) obliged to recognise a person as holding a share upon any trust; or
- (b) obliged to recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a share on the part of any other person, except an absolute right of ownership in the registered holder.

## 2.8 Restricted securities

If, at any time, any of the share capital of the company is classified by the ASX as 'restricted securities', then despite any other provision of this constitution:

- (a) the restricted securities must not be disposed of during the escrow period except as permitted by the ASX Listing Rules or the ASX;
- (b) the company must refuse to acknowledge a disposal (including registering a transfer) of the restricted securities during the escrow period except as permitted by the ASX Listing Rules or the ASX; and
- (c) during a breach of the ASX Listing Rules relating to restricted securities, or a breach of a restriction agreement, the holder of the restricted securities is not entitled to any dividend or distribution, or voting rights, in respect of the restricted securities.

## 2.62.9 Employee share plans and employee option plans

The directors may:

- (a) implement an employee share plan or employee option plan or both; and
- (b) amend, suspend or terminate any employee share plan or employee option plan they implement.

## 3. Calls, forfeiture, indemnities, lien and surrender

### 3.1 Calls

- (a) Subject to this constitution and to the terms of issue of a share, the directors may call upon a member for any money unpaid on a share which is not by the terms of issue, payable at a fixed time.
- (b) The directors may require a member to pay a call by instalments.

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- (c) The company must give the member at least 14 days notice to pay a call (or such longer period required by the ASX Listing Rules) before the amount called is due.
- (d) The notice must specify:
  - (1) the amount that the member must pay; and
  - (2) the time and the place of payment.
- (e) Each member must pay the amount stated in the notice in the manner set out in the notice.
- (f) A call is made when the directors pass the resolution authorising the call.
- (g) The directors may revoke or postpone a call.
- (h) The directors may extend the time for payment.
- (i) A call is valid if a member for any reason does not receive notice of the call, even if:
  - ~~(1) a member does not receive a notice of a call; or~~
  - ~~(2) the company omits to give a member a notice of a call.~~
- (j) If a person does not pay a sum called for a share in full by the due date, then the person must pay:
  - (1) interest on the sum which is unpaid, from and including the due date for payment to the date of actual payment at a rate determined under rule 3.9; and
  - (2) any costs, expenses or damages, which the company incurs for the non-payment or late payment of the sum.
- (k) If under the terms of issue, a sum unpaid on a share becomes payable on issue or at a fixed date, then:
  - (1) the sum is payable as if the company has duly made and notified a call; and
  - (2) the person must pay the sum on the date on which it is payable under the terms of issue of the share.

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### 3.2 Proceedings for recovery of calls

- (a) The following is conclusive evidence of a debt in any proceedings for the recovery of a call amount, interest, costs or expenses that the company incurs following the non-payment or late payment of a call:
  - (1) the name of the defendant is entered in the register as the holder or 1 of the holders of the share for which the call is claimed;
  - (2) the resolution making the call is recorded in the minute book; and

- (3) notice of the call was duly given to the defendant [complying with this constitution](#).
- (b) It is not necessary to prove any matter including the appointment of the directors, who made the call.
- (c) In this rule 3.2 a defendant may include but is not limited to a person against whom the company alleges a set-off or counter-claim, [and a proceeding to recover a call or an amount is to be interpreted accordingly](#).

### 3.3 Payments in advance of calls

- (a) The directors may accept from a member [the whole or part of the ~~an~~](#) amount unpaid on a share, even if the company has not called that amount.
- (b) The directors may authorise the company to pay interest upon an amount accepted under rule 3.3(a):
  - (1) until the amount becomes payable; and
  - (2) at a rate agreed between the directors and the member paying the amount.
- (c) The directors may repay to a member any of the amount accepted under rule 3.3(a).

### 3.4 Forfeiture of partly paid shares

- (a) If a member fails to pay the whole of a call or instalment of a call by the time appointed for payment, then the directors may serve a notice on that member requiring payment of:
  - (1) the amount which is unpaid;
  - (2) any interest that has accrued; and
  - (3) all costs, expenses or damages that the company has incurred because of the non-payment or late payment of the call or instalment.
- (b) In the notice, the directors may:
  - (1) name a further day and a place at which the member must pay the amount payable; and
  - (2) state, that if the member does not pay the whole of the amount as required, then the member is liable to forfeit the shares for which the company made the call.
- (c) The directors must give a member at least 14 days after the date of service to pay.
- (d) If the member does not comply with the notice, then the directors may resolve to forfeit any share for which the notice was given:
  - (1) at any time after the day named in the notice; but

- (2) before the member pays.
- (e) If a member forfeits a share, then the forfeiture includes all dividends, interest and other money payable by the company for the forfeited share which is not paid before the forfeiture.
- (f) If the company forfeits a share, then it must:
  - (1) give notice of the resolution to the member in whose name the share stood immediately before the forfeiture; and
  - (2) enter the forfeiture and the date of forfeiture in the register of members.
- (g) The forfeiture is valid even if the company fails to give the notice or to make the entry.
- (h) A forfeited share becomes the property of the company.
- (i) The directors may sell, reissue or otherwise dispose of the share as they think fit.
- (j) The directors may reissue or dispose of the share, with or without any money paid on the share by any former holder being credited as paid up.
- (k) A person whose share is forfeited:
  - (1) ceases to be a member for the forfeited share; but
  - (2) remains liable to pay and must immediately pay, to the company:
    - (A) all calls, instalments, interest, costs, expenses and damages owing ~~for~~ on the share at the time of the forfeiture; and
    - (B) interest on any amount payable which is unpaid from and including the date of the forfeiture, to the date of actual payment, at a rate determined under rule 3.9.
- (l) Subject to an express provision in this constitution, the forfeiture of a share extinguishes for that share:
  - (1) all interest in the company;
  - (2) all claims and demands against the company; and
  - (3) subject to rule 3.8(i), all other rights attached to the share.

### 3.5 Indemnity for payments by the company

If the company becomes liable under any law to make any payment:

- (a) in respect of a share held solely or jointly by a member;
- (b) in respect of a transfer or transmission of a share by a member;

- (c) in respect of dividends, bonuses or other money due or payable or which may become due and payable to a member; or
- (d) otherwise for or on account of a member, whether as a consequence of:
  - (1) the death of that member;
  - (2) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member;
  - (3) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member; or
  - (4) any other act or thing;

in addition to any right or remedy that a law may confer on the company the member or the member's legal personal representative must:

- (e) fully indemnify the company against that liability;
- (f) reimburse the company for any payment made under or as a consequence of that law immediately on demand by the company; and
- (g) pay interest on so much of the amount payable to the company under rule 3.5(f) as is unpaid from and including the date the company makes a payment under that law until the date the company is reimbursed in full for that payment, at a rate determined under rule 3.9.

### 3.6 Lien on shares

- (a) The company has a first and paramount lien on a share for:
  - (1) an amount of a call or instalment which is due but unpaid on the share;
  - (2) if the share were acquired under an employee incentive scheme, an amount which is owed to the company for acquiring it; and
  - (3) an amount that the company is required by law to pay (and has paid) in respect of the share ~~or for or on account of a holder or deceased former holder of the share and which is owed to the company.~~
- (b) The company's lien on a share extends to all dividends, reasonable interest and other money payable by the company on or in respect of the share or for ~~or on an~~ account or in respect of the holder of the share and to the proceeds of sale of the share.
- (c) The directors as they think fit may sell any share on which the company has a lien if:
  - (1) an amount for which a lien exists is presently payable; and

- (2) not less than 14 days before the date of the sale, the company has given to the registered holder of the share a notice in writing:
  - (A) setting out each amount for which the lien exists which is presently payable; and
  - (B) demanding the payment before the date of the sale of that amount.
- (d) If the company registers a transfer of shares on which the company has a lien without giving to the transferee notice of its claim then the company releases its lien in so far as it relates to sums owing by the transferor or any predecessor in title.
- (e) The directors may do anything necessary or desirable under the ASX Settlement Operating Rules to protect any lien, charge or other right to which the company is entitled under this constitution or a law.

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### 3.7 Surrender of shares

- (a) To the extent permitted by law, the directors may:
  - (1) exempt a share from all or any part of rules 3.4, 3.5 or 3.6;
  - (2) waive or compromise all or any part of any payment due to the company under the terms of issue of a share or this rule 3; and
  - (3) before a forfeited share has been sold, reissued or otherwise disposed of, annul the forfeiture upon the conditions they think fit.
- (b) The directors may accept a surrender of a share by way of compromise of a claim.
  - ~~(1) of any claim about whether or not that share has been validly issued; or~~
  - ~~(2) in any other case, if the surrender is within the powers of the company.~~
- (c) The directors may sell, reissue or otherwise dispose of a surrendered share in the same manner as they may for a forfeited share.

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### 3.8 General provisions applicable to a disposal of shares under this constitution

- (a) If a forfeited share or a share on which the company has a lien is sold, re-issued or otherwise disposed of under this constitution, then the directors may:
  - (1) receive the purchase money or consideration given for the shares on the disposal;
  - (2) effect a transfer of the shares;
  - (3) execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument to give effect to the disposal; and

- (4) register the person to whom they have transferred the shares as the holder of the shares.
- (b) A person to whom the directors transfer a share is not bound to consider:
  - (1) the regularity or validity of the sale, purchase money or consideration; or
  - (2) how the company applies the purchase money or consideration.
- (c) A person’s title to a share is not affected by any irregularity or invalidity in:
  - (1) the forfeiture or surrender of a share; or
  - (2) the exercise of the company’s lien on a share.
- (3) A sale of the share by the company is valid even if a transmission event occurs to the member before the sale.
- (d) The remedy of a person aggrieved by a disposal of shares under this constitution:
  - (1) is limited to damages only; and
  - (2) is exclusively against the company.
- (e) The company must apply the proceeds of a disposal of a share in the payment of:
  - (1) first, the expenses of the disposal;
  - (2) second, all money presently payable by the former holder whose share has been disposed of; and
  - (3) subject to any lien that exists for money not presently payable, to the former holder on the former holder delivering to the company proof of title to the shares acceptable to the directors.
- ~~(f) If the holding is uncertificated, then the company must pay as soon as practicable after the disposal.~~
- ~~(g) If the holding is certificated, then the company must pay as soon as practicable after the former holder delivers to the company the certificate for the share that has been disposed of or satisfies the company that the certificate has been lost or destroyed.~~
- (f) The proceeds of sale arising from a notice under rule 5.5(a) must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the company proof of title to the shares acceptable to the directors.
- (g) Until the proceeds of a sale of a share sold by the company are claimed or otherwise disposed of according to law, the directors may invest or use the proceeds in any other way for the benefit of the company.

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~~(h)~~ The company is not required to pay interest on money payable to a former holder under this rule 3.8.

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~~(i)~~ On completion of a sale, reissue or other disposal of a share under rule 3.4(i), the rights which attach to the share which were extinguished under rule 3.4(l) revive.

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~~(h)(j)~~ A director or secretary of the company may sign a statement stating that on the date in the statement any of the following occurred:

- (1) a share was duly forfeited;
- (2) a share was duly sold or reissued or otherwise disposed of.

~~(j)(k)~~ This statement is conclusive evidence of:

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- (1) the facts stated in the statement as against all persons claiming to be entitled to the share; and
- (2) the right of the company to forfeit, sell, reissue or otherwise dispose of the share.

### 3.9 Interest payable by member

~~(a)~~ Where interest is payable to the company by a member under this rule 3, the rate of interest is, if the directors have fixed a rate, that rate, or in any other cases a rate per annum 2% higher than the rate prescribed in respect of unpaid judgements in the Supreme Court of the state or territory in which the company is registered, 8% per annum or such other rate as the directors fix and t

~~(b)~~ The interest accrues daily and may be capitalised monthly or at such other intervals as the directors determine.

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## 4. Distribution of Profits

### 4.1 Dividends

~~(a)~~ The directors may ~~resolve that the company~~ pay any interim and final dividend as the financial position of the company justifies.

~~(b)~~ The directors may rescind a decision to pay a dividend if they decide, before the payment date, that the company's financial position no longer justifies the payment.

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~~(b)(c)~~ The directors may ~~resolve that the company~~ pay any dividend payable under the terms of issue of a share.

~~(e)(d)~~ The payment of a dividend does not require any confirmation by a general meeting.

~~(d)(e)~~ Subject to this constitution and to any rights or restrictions attached to a share or class of shares or to the terms of any dividend selection plan established by the

directors; ~~all dividends on shares are to be paid in proportion to the number of shares held by members except that:~~

(1) ~~all dividends on shares are to be paid equally on all shares, except that a partly paid share will only entitle the holder to a fraction of the dividend payable which the amount paid (not credited) on the fully paid share is equal to the proportion of the total amounts paid and payable (excluding amounts credited) on the share which have been paid; and~~

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(2) ~~for the purposes of rule 4.1(e)(1), unless the directors decide otherwise, an amount paid on a share in advance of a call is to be taken as not having been paid until it becomes payable. and~~

~~(1) —~~

(2) ~~if dividends are declared by the directors to be paid in respect of a specified period and if the directors also declare that the dividends on any shares are to be further apportioned according to when amounts are paid on those shares during the specified period, an amount which is paid on a relevant share during the specified period will only entitle the holder of the share to a fraction of the dividend that would otherwise be payable in respect of that amount equal to the proportion of the specified period remaining as at the date of payment of that amount.~~

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~~(e) For the purposes of determining the above fractions:~~

~~(1) an amount paid on a share in advance of a call or credited on a share otherwise than for value must be ignored; and~~

~~(2) if under the terms of issue of a share, the consideration for the share is or includes the provision of property or services or some other non-monetary consideration, the value of the non-monetary consideration provided or to be provided as determined by the directors will be taken to be the amount paid or payable (as the case may be) on the share.~~

~~(g)(f) The company must not pay interest on any dividend.~~

~~(h)(g) Subject to the ASX Settlement Operating Rules, the directors may fix a record date for a dividend, with or without suspending the registration of transfers from that date under rule 5.3.~~

~~(h) Subject to the ASX Settlement Operating Rules, the company must pay a dividend in respect of a share must be paid to the person who is registered, or entitled under rule 5.1(d) to be registered, as the holder of the share:~~

(1) ~~where the directors have fixed a record date in respect of the dividend, on that date; or~~

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(2) ~~where the directors have not fixed a record date in respect of that dividend, on the date fixed for payment of the dividend.~~

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(3) and a transfer of a share that is not registered, or left with the company for registration under rule 5.1(c), on or before that date is not effective, as against the company, to pass any right to the dividend.

~~(i) on the record date or, if one has not been fixed, on the date payment of the dividend is to be sent to members.~~

~~(i) The company must pay the dividend on the date fixed for payment of the dividend (if any).~~

~~(i)~~ (i) The directors when determining a dividend is payable may direct payment of the dividend from any available source permitted by law including:

(1) ~~direct payment of the dividend~~ wholly or partly by the distribution of specific assets, including paid-up shares or other securities of the company or of another body corporate, either generally or to specific shareholders; and

~~(2) direct that the dividend be paid:~~

~~(A) unless prevented by the ASX Listing Rules,~~ to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source; and

~~(B)(2)~~ (2) to the remaining shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source ~~or generally.~~

~~(j)~~ (j) The ~~company directors~~ may retain/deduct from any dividend payable to a member:

(1) ~~any amount/all sums of money~~ presently payable by the member to the company; and

(2) apply the amount ~~retained/deducted~~ in or towards satisfaction of the money owing.

~~(k)~~ (k) Subject to the ASX Settlement Operating Rules, where~~if~~ a person is entitled to a share as a result of a transmission event, then the ~~directors-company~~ may, but ~~are~~ is not obliged to, retain any dividend payable in respect of that share until that person becomes registered as the holder of the share or transfers it.

(l) The directors may decide the method of payment of any dividend or other amount in respect of a share. Different methods of payment may apply to different members or groups of members (such as overseas members). Without limiting any other method of payment which the company may adopt, payment in respect of a share may be made:

(1) by such electronic or other means approved by the directors directly to an account (of a type approved by the directors) nominated in writing by the member or the joint holders; or

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(2) by cheque sent to the address of the member shown in the register of members or, in the case of joint holders, to the address shown in the register of members of any of the joint holders, or to such other address as the member or any of the joint holders in writing direct.

(m) A cheque sent under rule 4.1(n);

(1) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs; and

(2) is sent at the member's risk.

(n) If the directors decide that payments will be made by electronic transfer into an account (of a type approved by directors) nominated by a member, but no such account is nominated by the member or an electronic transfer into a nominated account is rejected or refunded, the company may credit the amount payable to an account of the company to be held until the member nominates a valid account.

(o) Where a member does not have a registered address or the company believes that a member is not known at the member's registered address, the company may credit an amount payable in respect of the member's shares to an account of the company to be held until the member claims the amount payable or nominates an account into which a payment may be made.

(p) An amount credited to an account under rules 4.1(n) or 4.1(o) is to be treated as having been paid to the member at the time it is credited to that account. The company will not be a trustee of the money and no interest will accrue on the money.

(q) If a cheque for an amount payable under rule 4.1(l) is not presented for payment for at least 11 calendar months after issue or an amount is held in an account under rules 4.1(n) or 4.1(o) for at least 11 calendar months, the directors may reinvest the amount, after deducting reasonable expenses, into shares in the company on behalf of, and in the name of, the member concerned and may stop payment on the cheque. The shares may be acquired on market or by way of new issue at a price the directors accept is market price at the time. Any residual sum which arises from the reinvestment may be carried forward or donated to charity on behalf of the member, as the directors decide. The company's liability to provide the relevant amount is discharged by an application under this rule 4.1(q). The directors may do anything necessary or desirable (including executing any document) on behalf of the member to effect the application of an amount under this rule 4.1(q). The directors may determine other rules to regulate the operation of this rule 4.1(q) and may delegate their power under this rule to any person.

## 4.2 Capitalisation of profits

(a) Subject to the ASX Listing Rules, any rights or restrictions attached to any shares or class of shares and any special resolution of the company, ~~the~~ the directors may ~~resolve to~~ capitalise and distribute among those members who would be entitled to receive dividends and in the same proportions, ~~to members~~ any amount:

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- (1) forming part of the undivided profits of the company;
- (2) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the company;
- (3) arising from the realisation of any assets of the company; or
- (4) otherwise available for distribution as a dividend.

~~(b) Subject to any rights or restrictions attached to a share or class of shares or to the terms of any dividend selection plan established by the directors, a capitalised amount under rule 4.2(a) is to be distributed to members in the same proportions in which members would be entitled to receive the amount were it a dividend.~~

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~~(b)~~ The directors may resolve that all or part of the capitalised amount is to be applied:

- (1) to pay in full, at an issue price decided by the resolution, a share or security that the company intends to issue to a member;
- (2) to pay an amount unpaid on a share or security of the company which a member holds; or
- (3) a combination of these;

and the member must accept this application in full satisfaction of the member's interest in the capitalised amount.

~~(d) Rules 4.1(g) (1) apply to the payment of a capitalised amount as if it were a dividend.~~

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(c) Rules 4.1(e), 4.1(f), 4.1(g) and 4.1(h) apply, so far as they can and with any necessary changes, to capitalising an amount under this rule 4.2 as if references in those rules to:

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- (1) a dividend were references to capitalising an amount; and
- (2) a record date were references to the date the directors resolve to capitalise the amount under this rule 4.2.

(d) Where in accordance with the terms and conditions on which options to take up shares are granted (and being options existing at the date of the passing of the resolution referred to in 4.2(b)) a holder of those options will be entitled to an issue of bonus shares under this rule 4.2, the directors may in determining the number of unissued shares to be so issued, allow in an appropriate manner for the future issue of bonus shares to options holders.

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### 4.3 Ancillary powers

- (a) To give effect to a resolution to reduce the capital of the company, to satisfy a dividend as set out in rule 4.1(i)(1) or to capitalise any amount under rule 4.2 which determines how the director will pay a dividend or that the directors will capitalise any amount, the directors may:

- (1) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation and, in particular, make cash payments in cases where members are entitled to fractions of shares or other securities and decide that amounts or fractions of less than a particular value decided by the directors may be disregarded to adjust the rights of all parties;
- (2) fix the value for distribution of a specific asset;
- (3) pay cash or issue a share or other security to a member to adjust the rights of all parties;
- (4) vest a specific asset, cash, share or other security in any trustee upon trust for a person entitled to the distribution – a dividend or capitalised amount that seems expedient to the directors; and
- (5) authorise a person to make, on behalf of all the members entitled to any specific asset, cash, share or other further share or security following the distribution or capitalisation, an agreement with the company or another person which provides, as appropriate, for the distribution or issue to them of shares or other securities credited as fully paid up or for payment by the company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by applying their respective proportions of the amount resolved to be distributed or capitalised.~~body corporate.~~

~~(b)The authorised person may agree to:~~

- ~~(1)the issue of further shares or securities credited as fully paid up; or~~
- ~~(2)the company paying on behalf of the members an amount remaining unpaid on their existing shares or security by the application of their respective proportions of the sum distributed or capitalised.~~

~~(e)(b)Any agreement made under an authority referred to in rule 4.3(a)(5) between the directors and an authorised person is effective and binding on all members concerned.~~

(c) If a distribution, transfer or issue of specific assets, shares or securities to a particular member or members is, in the directors' discretion, considered impracticable or would give rise to parcels of securities which do not constitute a marketable parcel, the directors may make a cash payment to those members or allocate the assets, shares or securities to a trustee to be sold on behalf of, and for the benefit of, those members, instead of making the distribution, transfer or issue to those members.

(d) If the company distributes to members securities in the company or in another body corporate or trust each of those members ~~receiving a distribution~~, appoints the company as his or her~~that person's~~ agent to do anything needed to give effect to that distribution, including but not limited to becoming a member of that other body corporate.

(e) Rule 4.3(d) applies whether the distribution:

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- (1) is generally to members or to specific members;
- (2) is as a dividend or otherwise; and
- (3) is for value or not.

#### 4.4 Reserves

- (a) Subject to this constitution, the directors may set aside, out of the profits of the company, any reserves or provisions for any purpose.
- (b) The directors may appropriate to the profits of the company an amount previously set aside as a reserve or provision.
- (c) If the directors set aside an amount as a reserve or provision, they may:
  - (1) keep the amount together with other assets of the company;
  - (2) use the amount in the business of the company; and
  - (3) invest the amount in any investment.

#### 4.5 Carry forward of profits

- (a) The directors may ~~resolve to~~ carry forward any part of the profits which the company does not distribute as dividends or capitalise to members.
- (b) The directors are not required ~~to resolve~~ to transfer those profits to a reserve or provision.

#### 4.6 Dividend reinvestment plans

The directors may:

- (a) ~~establish~~implement a dividend reinvestment plan on terms they decide, under which; and
  - (1) the whole or any part of any dividend or interest due to members or holders of any convertible securities of the company who participate in the plan on their shares or any class of shares or any convertible securities; or
  - (2) any other amount payable to members.may be applied in subscribing for or purchasing securities of the company or of a related body corporate; and
- (b) amend, suspend or terminate any dividend reinvestment plan ~~they implement~~.

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#### 4.7 Dividend selection plans

The directors may:

(a) implement a dividend selection plan on terms they decide, under which participants may choose:

(1) to receive a dividend from the company paid wholly or partly out of any available source, including any particular fund or reserve or out of profits derived from any particular source; or

(2) to forego a dividend from the company in place of some other form of distribution from the company or another body corporate or a trust; and

~~;~~ and

(b) amend, suspend or terminate any dividend selection plan ~~they implement.~~

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## 5. Transfer and transmission of shares

### 5.1 Transfer of shares

(a) Subject to this constitution and to the rights or restrictions attached to any share or class of shares, a member may transfer each of the member's shares by a proper ASTC transfer, or a written transfer in any usual form or in any other form approved by the directors, an instrument in writing.

~~(b)The member must use an instrument in any usual form or in a form that the directors approve.~~

~~(e)~~(b) An instrument of transfer must be signed by or on behalf of both the transferor and the transferee, unless:

(1) the instrument of transfer relates only to fully paid shares and the directors dispense with the need for the transferee to sign; or

(2) the transfer of the shares is effected by a document or documents which together duly transfer those shares under the Corporations Act.

~~(d)~~(c) An instrument of transfer must be:

(1) if required by law to be stamped, duly stamped;

~~(+)~~(2) left for registration at the registered office of the company or at another place as the directors determine; and

~~(2)~~(3) accompanied by:

~~(A)the certificate for each share to which it relates;~~

~~(B)~~(A) any ~~other~~ evidence the directors require to prove the title of the transferor or the transferor's right to the shares; or ~~and~~

~~(C)~~(B) any other evidence the directors require to prove the right of the transferee to be registered as the owner of the shares.

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- (d) Subject to the powers vested in the directors under rules 5.2(a) and 5.3, where the company receives a transfer complying with rule 5.1, the company must register the transferee named in the transfer as the holder of the shares to which it relates.
- (e) A transferor of shares remains the holder of the shares transferred until:
- (1) the transfer is registered a proper ASTC transfer has been effected; and
  - (2) the name of the transferee is entered in the register of members as the holder of the shares.
- (f) The company must not charge a fee for the registration, unless the company is not listed on the ASX or the fee is permitted by the ASX Listing Rules.
- (g) The company may retain any registered instrument of transfer for the period that the directors think fit.
- ~~(h) Except in the case of fraud, the company must return any instrument of transfer which the directors decline to register, to the person who deposited it with the company.~~
- (h) The directors may do anything that is necessary or desirable for the company to participate in any computerised, electronic or other system for facilitating the transfer of shares or operation of the company's registers that may be owned, operated or sponsored by the ASX or a related body corporate of the ASX.
- ~~(h)(i)~~ (i) To the extent permitted by law, the directors may waive all or any of the requirements of this rule 5.1 and prescribe alternative requirement instead, to give effect to rule 5.1(h) or for another purpose.

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## 5.2 Power to decline to register transfers

- (a) The directors may decline to register, or prevent registration of, a transfer of shares or apply a holding lock to prevent a transfer in accordance with the Corporations Act or the ASX Listing Rules where:
- (1) the transfer is not in registrable form;
  - (2) the company has a lien on any of the shares transferred;
  - (3) registration of the transfer may breach a law of Australia;
  - (4) the transfer is paper-based and registration of the transfer will result in a holding which, at the time the transfer is lodged, is less than a marketable parcel;
  - (5) the transfer is not permitted under the terms of an employee share plan; or
  - (6) the company is otherwise permitted or required to do so under the ASX Listing Rules or, except for a proper ASTC transfer, under the terms of issue of the shares.

(b) If the directors decline to register a transfer, the company must give notice of the refusal as required by the Corporations Act and the ASX Listing Rules. Failure to give that notice will not invalidate the decision of the directors to decline to register the transfer.

(c) The directors may delegate their authority under this rule 5.2 to any person.

### **5.2 Registration of transfers**

~~Subject to this constitution and to the rights and restrictions attached to any share or class of shares, the directors may decline to register a transfer of a share and, without limiting the generality of this, may also decline to register a transfer of a share on which the company has a lien.~~

### **5.3 Power to suspend registration of transfers**

The directors may ~~at any time~~ suspend the registration of a transfer at any time, and ~~for any periods, permitted by the ASX Settlement Operating Rules that they decide. not exceeding 30 days in a year.~~

### **5.4 Transmission of shares**

(a) Subject to rule 5.4(g), ~~If~~ a member dies, the only persons the company recognises as having any title to the member's shares or any benefits accruing for those shares are:

- (1) the legal personal representative of the deceased, if the deceased was a sole holder; and
- (2) the survivor or survivors, if the deceased was a joint holder.

(b) Nothing in rule 5.4(a) releases the estate of a deceased member from any liability on ~~for~~ a share, whether the deceased held that share solely or jointly with other persons.

(c) A person who becomes entitled to a share because of a transmission event may:

- (1) sign a written notice stating that the person wishes to register as a shareholder and giving ~~serve~~ it to ~~on~~ the company; or
- (2) nominate some other person to be registered as the transferee of the share by ~~executing or effecting in some other way~~ a transfer of the share to that other ~~another~~ person.

(d) Before making the election, the person must prove that person's entitlement by producing the certificate for the share or any others ~~such~~ evidence that the directors require.

(e) The rules about the right to transfer and register a share apply with the necessary changes to a transfer under rule 5.4(c) ~~(2)~~ as if:

- (1) the relevant transmission event had not occurred; and

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- (2) the registered holder of the share ~~executed or effected~~~~signed~~ the notice or transfer.
- (f) If 2 or more persons are jointly entitled to a share because of a transmission event, then upon being registered, they:
  - (1) hold the share as joint tenants; and
  - (2) rule 2.64 applies.
- (g) ~~Despite rule 5.4(a),~~ The directors may register a transfer of shares which a member signs prior to a transmission event, even though the company has notice of the transmission event.

### 5.5 Listed company

- ~~(a) This rule 5.5 only applies whilst the company is admitted to the official list of ASX and rules 5.1—5.4 do not apply to the extent that they are inconsistent with this rule 5.5.~~
- ~~(b) Subject to this constitution, a member may transfer a share:
 
  - ~~(1) if the share is, or is in a class of securities that is, CHESS Approved, through CHESS in accordance with the SCH Business Rules;~~
  - ~~(2) if another prescribed CS facility is approved by the directors to deal with the transfer of shares of the same class as the member's share, through that facility in accordance with its operating rules; or~~
  - ~~(3) if another method of transfer is approved by the directors to deal with the transfer of shares of the same class as the member's share and under the Corporations Act or otherwise at law that method is valid and effective to transfer the share, in accordance with that method.~~~~
- ~~(c) The directors may only decline to register a transfer of shares (including by requesting that a holding lock be applied to prevent a transfer of the shares) if permitted to do so by the ASX Listing Rules.~~
- ~~(d) The directors must:
 
  - ~~(1) decline to register a transfer of shares; or~~
  - ~~(2) request that a holding lock be applied to prevent a transfer of the shares;~~
 if:
 
  - ~~(3) the ASX Listing Rules require the company to do so; or~~
  - ~~(4) the transfer is in breach of the ASX Listing Rules or a restriction agreement.~~~~
- ~~(e) If in the exercise of their rights under this rule 5.5 the directors refuse to register a transfer of shares (including by requesting that a holding lock be applied to~~

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~~prevent a transfer of the shares) they must give written notice to the holder of the securities of the refusal and the broker lodging the transfer, if any. Failure to give such notice does not invalidate the decision of the directors.~~

~~(f)The directors may at any time suspend the registration of a transfer for any period not exceeding 30 days in a year, subject to the Corporations Act and any CS facility operating rules binding on the company.~~

### 5.65.5 **Small holdings<sup>1</sup>**

(a) The directors may sell shares which constitute less than a marketable parcel by following the procedures in this rule 5.5.

~~(b)~~Subject to rule 5.5(d)~~b~~, if:

- (1) a member holds less than a marketable parcel of shares in a class of shares of the company on the date decided by the directors;
- (2) the company notifies the member in writing that it intends to sell the member's shares after a date ("**Relevant Date**") which is at least 6 weeks from the date the notice of intention to sell is sent, unless the member before the Relevant Date tells the company in writing that the member wishes to retain the shares;
- (3) the member does not before 5.00pm [insert name of city] time on the Relevant Date tell the company in writing that the member wishes to retain the shares; and
- (4) on the Relevant Date the member has not acquired more shares or otherwise increased the member's holding to a marketable parcel;
- (5) the company may, and the member will be taken to have irrevocably appointed the company as his or her agent to do anything in rule 5.5(c) for and on behalf of the member to;

(c) The company may:

- (1) sell the member's shares constituting less than a marketable parcel as soon as reasonably practicable after the Relevant Date at a price which the directors consider to be the best price reasonably available obtainable for the shares at the time they are sold;
- (2) deal with the proceeds of sale under rule 3.8; and
- ~~(3)~~receive any disclosure document, including a financial services guide, as agent for the member.

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<sup>1</sup>Rule 8.13 of the SCH Business Rules requires shares in a CHESS Holding to be moved to an Issuer Sponsored or Certificated Holding before divestment.

~~(d)~~(d) In relation to the procedure under rule 5.5(b)~~5.6(a)~~:

- (1) the company must not notify a member of its intention to sell the member's shares more than once in any 12 month period;
- (2) following the announcement of a takeover bid ~~for the shares in the company until the end of the offer period under the takeover bid or the date there is an announcement that the takeover bid will not proceed, the company's power to sell a member's shares lapses or ceases where the announcement is made~~but before an agreement for the sale of the shares is entered into, rule 5.5 ceases to have effect. However, ~~but~~ after the offer period under the takeover bid closes, a new notice of intention to sell may be given despite rule 5.5(d)(1)~~5.6(b)(1)~~;
- (3) the costs and expenses of any sale including, without limitation, brokerage and any stamp duty, must be payable by the buyer of the shares or, subject to the Corporations Act, the company~~;~~ ~~and~~
- (4) ~~the proceeds of sale must not be sent to the member until the company has received any certificate relating to the shares (or is satisfied that the certificate has been lost or destroyed).~~

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~~(e)~~(e) In addition to the power of the company to sell a member's shares in rule 5.5(b)~~5.6(a)~~ (and without complying with the procedure under that rule), if:

- (1) a member holds shares in a new holding that is less than a marketable parcel of shares; and
- (2) that holding was created by the transfer of a parcel of shares that was less than a marketable parcel at the time the transfer document was initiated or, in the case of a paper based transfer document, was lodged with the company;
- (3) the company may, and the member will be taken to have appointed the company as agent for and on behalf of the member, to sell the shares in that holding at a price which the directors consider to be the best price reasonably obtainable for the shares at the time they are sold.

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~~(f)~~(f) Where the company has the power to sell a member's shares under rule 5.5(e)~~6e~~:

- (1) the proceeds of sale may be applied to pay the costs of sale including, without limitation, brokerage and any stamp duty; and
- (2) the member's right to vote or to receive dividends in respect of those shares may be removed or changed to the extent determined by the directors **provided that** any dividends that are withheld from payment to the member must be paid to the member when the balance of the proceeds of the sale of the shares are paid to the member.

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~~(g)~~(g) Where the company has the power to sell a member's shares under this rule 5.5~~6~~, the member will be taken to have appointed the company and each officer of the company jointly and severally as the member's attorney in the member's name

and on the member’s behalf to execute and deliver all deeds, instruments and other documents and do all other acts and things which the company considers necessary or appropriate to effect the sale or transfer of the shares.

(h) The directors may, before a sale is effected under this rule 5.5, revoke a notice given or suspend or terminate the operation of this rule either generally or in specific cases.

(i) If a member is registered in respect of more than one parcel of shares, the directors may treat the member as a separate member in respect of each of those parcels so that this rule 5.5 will operate as if each parcel was held by different persons.

~~(j)~~(i) The company is not bound to sell any shares which it is entitled to sell under this rule 5.5.

~~(q) Subject to the ASX Listing Rules, rule 3.8 will apply (and with all necessary changes) so far as it is:~~

~~(1) consistent with; and~~

~~(2) capable of application to:~~

~~the sale of shares under this rule 5.6.~~

**5.76. Proportional takeover approval**

**6.1 Definitions**

The meanings of the terms used in this rule 6 are set out below.

“Approving Resolution” means in relation to a Proportional Takeover Bid: a resolution to approve the Proportional Takeover Bid passed in accordance with rule 6.3.

“Approving Resolution Deadline” means in relation to a Proportional Takeover Bid: the day that is 14 days before the last day of the bid period, during which the offers under the Proportional Takeover Bid remain open or a later day allowed by the Australian Securities and Investments Commission.

“Proportional Takeover Bid” means a takeover bid that is made or purports to be made under section 618(1)(b) of the Corporations Act in respect of securities included in a class of securities in the company.

“Relevant Class” means in relation to a Proportional Takeover Bid, means the class of securities in the company in respect of which offers are made under the Proportional Takeover Bid.

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**6.2 Transfers not to be registered**

Despite rules 5.1(d) and 5.2, a transfer giving effect to a contract resulting from the acceptance of an offer made under a Proportional Takeover Bid must not be registered unless an Approving Resolution to approve the Proportional Takeover Bid has been passed or is taken to have been passed in accordance with rule 6.3.

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**6.3 Approving Resolution**

(a) Where offers have been made under a Proportional Takeover Bid, the directors must:

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(1) convene a meeting of the persons entitled to vote on the Approving Resolution for the purpose of considering and, if thought fit, passing a resolution to approve the Proportional Takeover Bid; and

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(2) ensure that the resolution is voted on in accordance with this rule 6.3, before the Approving Resolution Deadline.

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(b) The provisions of this constitution relating to general meetings apply, with such modification as the circumstances require, to a meeting that is convened under rule 6.3(a), as if that meeting were a general meeting of the company.

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(c) The bidder under a Proportional Takeover Bid and any associates of the bidder are not entitled to vote on the Approving Resolution and if they do vote, their votes must not be counted.

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(d) Subject to rule 6.3(c), a person who, as at the end of the day on which the first offer under the Proportional Takeover Bid was made, held securities of the relevant class, is entitled to vote on the Approving Resolution relating to the Proportional Takeover Bid.

(e) An Approving Resolution that has been voted on is taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than 50%, and otherwise is taken to have been rejected.

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(f) If an Approving Resolution has not been voted on in accordance with this rule 6.3 as at the end of the day before the Approving Resolution Deadline, an Approving Resolution will be taken to have been passed in accordance with this rule 6.3 on the Approving Resolution Deadline.

**6.4 Sunset**

Rules 6.1, 6.2 and 6.3, cease to have effect at the end of 3 years beginning:

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(a) where those rules have not been renewed in accordance with the Corporations Act, on the date that those rules were adopted by the company; or

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(b) where those rules have been renewed in accordance with the Corporations Act, on the date those rules were last renewed.

~~(a) If offers are made under a proportional takeover bid for shares in the company the registration of a transfer giving effect to a takeover contract for the bid is prohibited unless and until a resolution (“**approving resolution**”) to approve the bid is passed in accordance with the provisions of this rule 5.7.~~

~~(b) A person (other than the bidder or an associate of the bidder) who, as at the end of the day on which the first offer under the bid was made, held bid class securities is entitled to vote on an approving resolution.~~

~~(c) An approving resolution is to be voted on at a meeting, convened and conducted by the company, of the persons entitled to vote on the resolution.~~

~~(d) An approving resolution that has been voted on is taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than 50%, and otherwise is taken to have been rejected.~~

~~(e) The provisions of this constitution that apply to a general meeting of the company apply, with such modifications as the circumstances require, to a meeting convened under this rule 5.7 as if it were a general meeting of the company.~~

~~(f) This rule 5.7 will cease to have effect on the third anniversary of the date of insertion or last renewal of the rule.~~

## **6.7. General meetings**

### **6.7.1 Calling general meetings**

(a) A general meeting may only be called:

(1) by a directors’ resolution; or

(2) as otherwise provided in the Corporations Act.

~~(a) The directors may call and arrange to hold a general meeting whenever they wish.~~

~~(b) A general meeting may be called and arranged only as provided:~~

~~(1) by this rule 6.1; or~~

~~(2) under sections 249D, 249E, 249F or 249G of the Corporations Act.~~

~~(e)(b) The directors may, by notice to the ASX, change the venue for, postpone or cancel a general meeting, if they consider that the meeting has become unnecessary, or the venue would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently.~~

~~(d)(c) Rule 7.1(b)6.1(e) does not apply to a meeting which is called by a directors’ resolution or a meeting which is called in accordance with the members’~~

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requisition or the court under the Corporations Act call and arrange the meeting, without prior written consent of the person who called or requested the meeting.

(e) ~~If a general meeting is called and arranged under section 249D of the Corporations Act the directors:~~

~~(1) must hold it on or before the date by which section 249D requires it to be held; and~~

~~(2) may cancel it only with the consent of the requisitioning member or members.~~

### 6.27.2 Notice of general meetings

~~(a) Subject to this constitution and to the rights or restrictions attached to a share or class of shares, the company must give notice of a general meeting:~~

~~(1) within the time limits prescribed by the Corporations Act; and~~

~~(2) in the manner authorised by rule 13.1.~~

~~(b)(a) The company must give a notice of a general meeting to each person, who is at the date of the notice a member, a director or an auditor of the company, or is entitled to a share because of a transmission event and has satisfied the directors of his or her rights to be registered as the holder of, or to transfer, the shares.~~

~~(b) The content of a notice of meeting called by the directors is to be decided by the directors, but it must state A notice of a general meeting must:~~

~~(1) specify the date, time and place of the meeting; and~~

~~(2) state the general nature of the business to be transacted at the meeting;~~

~~(3) and any other matters required by the Corporations Act.~~

~~(c) Unless the Corporations Act provides otherwise:~~

~~(1) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and~~

~~(2) except with the approval of the directors or the chair, no person may move any amendment to a proposed resolution the terms of which are set out in the notice calling the meeting or to a document which relates to such a resolution and a copy of which has been made available to members to inspect or obtain.~~

(d) A person may waive notice of any general meeting by a written notice to the company.

(e) A valid action and a valid resolution remain valid, even if a person entitled to receive a notice or proxy for a general meeting does not receive or is not sent one or both of them, and

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- (1) the failure occurred by accident or error; or
- (2) before or after the meeting, the person:
  - (A) waives notice of that meeting under rule 7.2(d)6; or
  - (B) gives written notice of the person’s agreement to that action or resolution.
- (f) Subject to rules 7.2(g)6 and 7.2(h), a person’s attendance at a general meeting waives any objection that person may have:
  - (1) to a failure to give notice or to a defective notice; and
  - (2) to the consideration of a matter which is not stated in the notice of the meeting.
- (g) Rule 7.2(f)(1)6 does not apply if the person at the beginning of the meeting objects to the holding of the meeting.
- (h) Rule 7.2(f)(2)6 does not apply if the person objects to considering the matter when it is presented.

**6.37.3 Admission to general meetings**

- (a) The chair of a general meeting may take any action he or she considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may expel or refuse admission to a person who:
  - ~~(a)~~(1) has a pictorial-recording or sound-recording device;
  - ~~(b)~~(2) has a placard or banner;
  - ~~(c)~~(3) has an article considered by the chair to be dangerous, offensive or liable to cause disruption;
  - ~~(d)~~(4) refuses to produce or to permit examination of any article or the contents of any article, in the person’s possession;
  - ~~(e)~~(5) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
  - ~~(f)~~(6) is not:
    - ~~(1)~~(7)(A) a member or proxy, attorney or representative of a member; or
    - ~~(2)~~(8)(B) a director, secretary or auditor of the company.
  - (9) The chair may delegate the powers conferred by this rule to any person he or she thinks fit.

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(b) A person, whether a member or not, requested by the directors or the chair to attend a general meeting is entitled to be present and, at the request of the chair, to speak at the meeting.

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(c) If the chair of a general meeting considers that there is not enough room for the members who wish to attend the meeting, he or she may arrange for any person whom he or she considers cannot be seated in the main meeting room to observe or attend the general meeting in a separate room. Even if the members present in the separate room are not able to participate in the conduct of the meeting, the meeting will nevertheless be treated as validly held in the main room.

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(d) If a separate meeting place is linked to the main place of a general meeting by an instantaneous audio-visual communication device which, by itself or in conjunction with other arrangements:

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(1) gives the general body of members in the separate meeting place a reasonable opportunity to participate in proceedings in the main place;

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(2) enables the chair to be aware of proceedings in the other place; and

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(3) enables the members in the separate meeting place to vote on a show of hands or on a poll.

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a member present at the separate meeting place is taken to be present at the general meeting and entitled to exercise all rights as if he or she was present at the main place.

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(e) Nothing in this rule 7.3 or in rule 7.6 is to be taken to limit the powers conferred on the chair by law.

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**6.47.4 Quorum at general meetings**

(a) Subject to rule 7.4(b)6 business may only be transacted at any general meeting if a quorum of members is present when the meeting proceeds to business.

(b) Even if there is no quorum, the meeting may elect a chair and adjourn a meeting.

(c) A quorum consists of:

(1) if the number of members entitled to vote is 2 or more - 2 of those members; or

(2) if only 1 member is entitled to vote - that member, present at the meeting.

(d) If a quorum is not present within 30 minutes after the time appointed for a general meeting and the meeting was convened upon the requisition of members, then the meeting is dissolved.

(e) If a quorum is not present within 30 minutes after the time appointed for a general meeting in any other case, then the meeting stands adjourned:

(1) to the day, the time and place, that the directors determine; or

(2) if no determination is made by the directors, to the same day in the next week and at the same time and place.

(f) If, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, then the meeting is dissolved.

**6.57.5 Chair of general meetings**

(a) The chair of directors, if present within 15 minutes after the time appointed for the holding of a general meeting and willing to act, must preside as chair of the meeting.

(b) If the directors have elected a deputy chair of directors, then the deputy chair of directors, if present within 15 minutes after the time appointed for the holding of a general meeting and willing to act, must preside as chair of the meeting if:

- (1) there is no chair of directors; or
- (2) the chair of directors is not present within 15 minutes after the time appointed for the holding of the meeting; or
- (3)            is not willing to act as chair of the meeting.

(c) The directors present may choose one of their members to preside as chair if, at a general meeting:

- (1) there is no chair or deputy chair of directors;
- (2) neither the chair nor the deputy chair of directors is present within 15 minutes after the time appointed for the meeting; or
- (3) neither the chair nor the deputy chair of directors is willing to act as chair of the meeting.

(e)(d) The members present at a general meeting must elect as chair of the meeting another director who is present and willing to act or, if no other director is present and willing to act, a member who is present and willing to act if:

- (1) there is no chair or deputy chair of directors; or
- (2) the chair or deputy chair of directors is not present within 15 minutes after the time appointed for the holding of the meeting or
- (3)            is not willing to act as chair of the meeting.

(3)(e) A chair of a general meeting may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by him or her (“acting chair”). Where an instrument of proxy appoints the chair as proxy for part of the proceedings for which an acting chair has been nominated, the instrument of proxy is taken to be in favour of the acting chair for the relevant part of the proceedings.

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**6.67.6 Conduct of general meetings**

(a) The general conduct of a general meeting and the procedures to be adopted at the meeting will be as determined by the chair either before or during the meeting. At any time the chair considers it necessary or desirable for the proper and orderly conduct of the meeting, the chair may impose a limit on the time that a person may speak on each motion or other item of business, demand the cessation of debate or discussion on any matter and ~~may~~ require any business, question, motion or resolution being considered by the meeting to be put to a vote. A person must refer any question arising at a general meeting about the order of business, procedure or conduct of the meeting to the chair.

~~(b)~~ The chair may adopt any procedures for casting or recording votes at the meeting whether on a show of hands or on a poll, including the appointment of scrutineers.

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~~(c)~~ The chair may postpone the meeting before it has started, whether or not a quorum is present, if, at the time and place appointed for the meeting, he or she considers that:

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(1) there is not enough room for the number of members who wish to attend the meeting; or

(2) a postponement is necessary in light of the behaviour of persons present or for any other reason so that the business of the meeting can be properly carried out.

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~~(d)~~ A postponement under rule 7.6(c) will be to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place will be taken to be the time and place for the meeting as if specified in the notice which called the meeting originally).

~~(b)(e)~~ Any decision by the chair under this rule 7.66 is final.

~~(e)(f)~~ The chair may at any time during the course of the meeting:

(1) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting; and

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(2) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period/s as he or she decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chair otherwise allows.

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adjourn the meeting from time to time and from place to place.

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~~(d)~~ The meeting may direct the chair to adjourn a meeting.

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~~(e)(g)~~ An adjourned meeting may only transact business unfinished at the meeting from which the adjournment took place.

(h) Where a meeting is postponed or adjourned under this rule 7.6, notice of the postponed or adjourned meeting must be given to the ASX, but, except as provided by rule 7.6(i), need not be given to any other person.

(f)(i) If a meeting is postponed or adjourned for 30 days or more, then the company must give notice of the postponed or adjourned meeting as if it is an original meeting.

~~(k) Subject to rule 6.6(f), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.~~

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### 6.7.7 Decisions at general meetings

- (a) Subject to a resolution which as a matter of law requires a special majority:
- (1) a question arising at a general meeting is decided by a majority of votes cast by the members present; and
  - (2) a majority vote is for all purposes, a decision of the members.
- (b) In the case of an equality of votes upon any proposed resolution the chair of the meeting has a second or casting vote, in addition to any deliberative vote.
- (c) Subject to rule 7.7(d)~~6~~, a resolution put to the vote of a general meeting must be decided on a show of hands.
- (d) Either the chair or a member who is present and can vote on the resolution, may demand a poll:
- (1) before the vote is taken; or
  - (2) before or immediately after the declaration of the result of the show of hands.

(e) A poll may be demanded by:

- (1) the chair of the meeting;
- (2) at least 5 members entitled to vote on the resolution; or
- (3) members with at least 5% of the votes that may be cast on the resolution on a poll.

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~~(e)(f)~~ A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.

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~~(f)(g)~~ The chair may declare the result of a vote decided on a show of hands.

~~(g)(h)~~ Unless a poll is duly demanded:

- (1) the chair's declaration and an entry to that effect into the minute book is conclusive evidence of the result; and

- (2) further proof of the number or proportion of the votes recorded in favour of or against the resolution is not required.

~~(h)(i)~~ If a poll is duly demanded at a general meeting, the meeting must conduct the poll as the chair directs.

~~(i)(j)~~ Subject to rule 7.7(k)~~6.7(j)~~, the chair may direct that the poll be taken in any manner and either at once or after an interval or adjournment.

~~(j)(k)~~ A poll cannot be demanded at a general meeting on the election of a chair of the meeting ~~or on a question of adjournment must be taken immediately.~~

~~(k)(l)~~ The result of the poll is a resolution of the meeting at which the poll was demanded.

~~(l)(m)~~ The demand for a poll may be withdrawn with the chair's consent.

~~(n)~~ Despite anything to the contrary in this constitution, the directors may decide that, at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A 'direct vote' includes a vote delivered to the company by post, fax or other electronic means approved by the directors. The directors may prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

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## ~~6.87.8~~ Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to a share or class of shares, at a general meeting:
- (1) on a show of hands, every person present who is a member or a proxy, attorney or representative of a member has 1 vote; and
  - (2) on a poll, every person present who is a member or a proxy, attorney or representative of a member has 1 vote for each share the member holds and which entitles the member to vote, except for partly paid shares, each of which confers on a poll only a fraction of 1 vote which the amount paid (not credited) on the share bears to equal to the proportion of the total amounts paid and payable (excluding amounts credited) on the share ~~which have been paid~~.
- (b) For the purposes of determining the above fraction:
- (1) an amount paid on a share in advance of a call ~~or credited on a share otherwise than for value~~ must be ignored; and
  - (2) if under the terms of issue of a share, the consideration for the share is or includes the provision of property or services or some other non-monetary consideration, the value of the non-monetary consideration provided or to be provided as determined by the directors will be taken to be the amount paid or payable (as the case may be) on the share.

- (c) If a person present at a general meeting represents more than 1 member:
  - (1) on a show of hands, the person is entitled to 1 vote only despite the number of members the person represents;
  - (2) that vote is cast for all the members the person represents; and
  - (3) the person must not exercise that vote in a way which would contravene any directions given to the person in any instrument appointing the person as a proxy or attorney.
- (d) A joint holder may vote at any meeting in person or by proxy, attorney or representative as if that person was the sole holder.
- (e) If more than 1 joint holder tenders a vote in respect of the relevant shares, then the vote of the holder named first in the register who tenders a vote, whether in person, or by proxy, attorney or representative, is accepted to the exclusion of any other joint holders.
- (f) The parent or guardian of an infant member may vote at any general meeting upon producing evidence of the relationship or of the appointment as the directors may require.
- (g) A vote by a parent or guardian of an infant member is accepted to the exclusion of the vote of the infant member.
- (h) A person entitled to a share as a result of a transmission event may vote at a general meeting in respect of that share as if that person were the registered holder of the share if, at least 48 hours before the meeting (or such shorter time as the directors determine), before the meeting, the directors:
  - (1) admit that person’s right to vote at that meeting for the share; or
  - (2) are satisfied that person has a right to be registered as the holder of, or to transfer, the share under rule 5.4(e).
- (i) A vote tendered by a person under rule 7.8(h)<sup>6</sup> is accepted to the exclusion of the vote of the registered holder of the share.
- (j) Where a member holds a share on which a call or other amount payable to the company has not been duly paid:
  - (1) that member is only entitled to be present at a general meeting and vote if that member holds, as at the record time, other shares on which no money is then due and payable; and
  - (2) on a poll, that member is not entitled to vote in respect of that share but may vote in respect of any shares that member holds, as at the record time, on which no money is then due and payable.

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~~(j)~~ A member is entitled to vote at a general meeting only if all calls and other sums of money, presently payable by that member for shares in the company, are paid.

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~~(k)~~ A member is not entitled to vote on a resolution if, under the Corporations Act or the ASX Listing Rules, the notice which called the meeting specified that:

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(1) the member must not vote or must abstain from voting on the resolution; or

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(2) a vote on the resolution by the member must be disregarded for any purposes.

If the member or a person acting as proxy, attorney or representative of the member does tender a vote on that resolution, their vote must not be counted.

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~~(l)~~(1) A person must raise an objection to the qualification of a person to vote at a general meeting:

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(1) before or immediately after the result of the vote is declared at the meeting at which the vote is given; and

(2) by referring it to the chair of the meeting.

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~~(m)~~(n) The chair's decision about a person's qualification to vote is final.

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~~(m)~~(n) A vote the chair allows under rule 7.8(m)7.8(h)6 is valid for all purposes.

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(o) A vote tendered, but not disallowed by the chair of a meeting under rule 7.8(m), is valid for all purposes, even if it would not otherwise have been valid.

(p) The chair may decide any difficulty or dispute which arises as to the number of votes which may be cast by or on behalf of any member and the decision of the chair is final.

**6.97.9 Representation at general meeting**

(a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:

(1) in person or if a member is a body corporate by its representative;

(2) by not more than 2 proxies; or

(3) by not more than 2 attorneys.

(b) A proxy, attorney or representative may, but need not be a member of the company.

(c) An instrument appointing a proxy is valid if it is in accordance with the Act or in any form approved by the directors.

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~~(e)~~A proxy, attorney or representative may be appointed for:

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- ~~(1) all or any number of general meetings; or~~
- ~~(2) a particular general meeting.~~
- (d) Subject to the Corporations Act and to the terms of an appointment, an appointment confers authority on a proxy, attorney or representative:
- (1) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this constitution;
  - (2) to speak to any proposed resolution on which the person may vote;
  - ~~(3)~~ to demand or join in demanding a poll on any resolution on which the person may vote;
  - ~~(3)(4)~~ to act generally at the meeting as the member would have had if the member was present.
- (e) Subject to the Corporations Act and to the terms of appointment, if the instrument refers to specific resolutions and directs the proxy, attorney or representative on how to vote on those resolutions, then the appointment confers authority:
- (1) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - (2) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
  - (3) to act generally at the meeting.
- (f) Subject to the Corporations Act and to the terms of appointment, if the instrument refers to a specific meeting to be held at a specified time or venue and the meeting is rescheduled or adjourned or changed to another venue, then the appointment confers authority to attend and vote:
- (1) at the rescheduled or adjourned meeting; or
  - (2) at the new venue.
- (g) If a member appoints 2 proxies or attorneys to vote at the same general meeting:
- (1) and the appointment does not specify the proportion or number of the member's votes each proxy or attorney may exercise, each proxy or attorney may exercise half of the member's voting rights; and
  - (2) neither person may vote on a show of hands; and-
  - ~~(3)~~ on a poll, each proxy or attorney may only exercise votes in respect of those shares or voting rights the proxy or attorney represents.
- (h) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote for a particular resolution.

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- (i) If an instrument directs the proxy or attorney, then the person must vote as directed.

~~(j) An instrument appointing a proxy or attorney:~~

~~(1) must be in writing, legally valid and signed by the appointor or the appointor's attorney;~~

~~(2) is not required to be in a particular format;~~

~~unless the directors otherwise determine.~~

- (j) A proxy or attorney may vote at a general meeting or adjourned or postponed meeting or on a poll only if the instrument appointing the person and any authority under which the instrument is signed or a certified copy of the authority are received by the company:

~~(k)(1) at least 48 hours, or such lesser time as specified by the directors and notified in the notice of meeting, (or in the case of an adjournment or postponement of a meeting, including an adjourned meeting, any lesser time that the directors or the chair of the meeting decides) before the time for holding the meeting, or adjourned or postponed meeting or taking the poll, as applicable; or any lesser period provided in the notice of meeting, unless the directors otherwise determine.~~

~~(2) where rule 7.9(q) applies, such shorter period before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable, as the company determines in its discretion.~~

A document is received by the company under this rule 7.9(k) when it is received in accordance with the Corporations Act, and to the extent permitted by the Corporations Act, if the document is produced or the transmission of the document is otherwise verified to the company in the way specified in the notice of meeting.

- ~~(l) The instrument and the authority may be delivered either to the registered office of the company or to an address stated on the notice of meeting by:~~

~~(1) hand delivery (including through the post);~~

~~(2) fax using the number on the notice; or~~

~~(3) any electronic means using the electronic address (if any) stated in the notice.~~

- ~~(m) The directors may accept upon the production of other evidence:~~

~~(1) an oral appointment of a proxy or attorney;~~

~~(2) an appointment of a proxy or attorney which is not signed by the appointor or the appointor's attorney; and~~

~~(3) a copy of any document, including a copy sent by fax.~~

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(k) For the purposes of this rule 7.9 a proxy appointment received at an electronic address specified in the notice of general meeting for the receipt of proxy appointment or otherwise received by the company in accordance with the Corporations Act is taken to have been signed or executed if the appointment:

- (1) includes or is accompanied by a personal identification code allocated by the company to the member making the appointment;
- (2) has been authorised by the member in another manner approved by the directors and specified in or with the notice of meeting; or
- (3) is otherwise authenticated in accordance with the Corporations Act.

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~~(l)~~ A vote given in accordance with an instrument appointing at a meeting by a proxy or attorney is valid despite a transmission event having occurred in relation to the appointor;

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~~(2)~~ the appointor revoking the instrument of appointment or the authority under which the instrument was executed; or

~~(3)~~ (1) the transfer of the share for which the instrument was given not having been registered by the time at which the instrument appointing the proxy or attorney is required to be received under rule 7.9(j);

- ~~(1)~~ provided the company does not receive written notice of such an event before the meeting commenced.

(m) Unless written notice of the matter has been received at the company's registered office (or at another place specified for lodging an appointment of a proxy or attorney for the meeting) at least 48 hours (or, in the case of an adjournment or postponement of a meeting, any lesser time that the directors or the chair of the meeting decide) before the time for holding a meeting, adjourned meeting or poll, a vote cast by a proxy or attorney is valid even if, before the vote is cast:

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- (1) a Transmission Event occurs to the member;
- (2) the member revokes the appointment of the proxy or attorney or revokes the authority under which a third party appointed the proxy or attorney; or
- (3) the member has issued a clarifying instruction under rule 7.9(o).

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(n) A proxy form issued by the company must allow for the insertion of the name of the person to be primarily appointed as proxy and may provide that, in circumstances and on conditions specified in the form that are not inconsistent with this constitution, the chair of the relevant meeting (or another person specified in the form) is appointed as proxy.

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(o) The company is entitled to clarify with a member any instruction on an appointment of proxy or attorney which is received by the company within a period referred to in rule 7.9(j)(1) or 7.9(j)(2) as applicable by written or verbal communication. The company, at its discretion, is entitled to amend the contents of any appointment of proxy or attorney to reflect any clarification in instruction

and the member at that time is taken to have appointed the company as its attorney for this purpose.

(p) Where an instrument appointing a proxy or attorney has been received by the company within the period specified in rule 7.9(j)(1) and the company considers that the instrument has not been duly executed, the company, in its discretion, may:

- (1) return the instrument appointing the proxy or attorney to the appointing member; and
- (2) request that the member duly execute the appointment and return it to the company within the period determined by the company under rule 7.9(j)(2) and notified to the member.

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(q) An instrument appointing a proxy or attorney which is received by the company in accordance with rule 7.9(p) is taken to have been validly received by the company.

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~~(r)~~ The appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the general meeting.

~~(s)~~ The proxy or attorney must not vote, as the appointor's proxy or attorney, if the appointor votes on a resolution.

~~(t)~~ Where an instrument intended for the appointment of a proxy does not specify the name of a proxy the instrument is not for that reason invalid and is to be taken to be given in favour of the chair of the meeting.

(u) Where authority is given to a proxy, attorney or representative concerning a meeting to be held on or before a specified date or at a specified place and that meeting is postponed to a later date or the meeting place is changed, the authority is taken to include authority to act at the rescheduled meeting unless the member granting the authority gives the company notice to the contrary under rule 7.9(j).

(v) The chair of a meeting may:

- (1) permit a person claiming to be a representative to exercise the powers of a representative, even if the person is unable to establish to the chair's satisfaction that he or she has been validly appointed; or
- (2) permit the person to exercise those powers on the condition that, if required by the company, he or she produce evidence of the appointment within the time set by the chair.

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(w) The chair of a meeting may require a person acting as a proxy, attorney or representative to establish to the chair's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy the requirement, the chair may exclude the person from attending or voting at the meeting.

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(x) The chair may delegate his or her powers under rules 7.9(v) and 7.9(w) to any person.

### **6.107.10 Separate class meetings**

If at any time a meeting of a class of members of the company is required or proposed, rules 7.1 to 7.9 will apply so far as they are capable of application (and with all necessary changes) to that meeting.

## **7.8. Directors**

### **7.18.1 Appointment and removal of directors**

(a) Subject to the Corporations Act, there must be at least 3 directors and not more than 9 directors or such other minimum or maximum number of directors as the company by resolution determines. The directors must not determine a maximum which is less than the number of directors in office at the time the determination takes effect.

~~(b)~~ The first directors are the persons who are specified with their consent as proposed directors in the application for registration of the company.

~~(e)~~(b) Directors in office on the date that the company adopted this constitution continue in office on the terms and conditions set out in this constitution.

~~(d)~~(c) The company may by resolution appoint or remove a director.

~~(e)~~(d) The directors may appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors. Any director so appointed only holds office until the next annual general meeting and must then retire from office. The managing director (but if there is more than 1 managing director, only 1) is exempted from this requirement to retire.

~~(f)~~(e) The total number of directors must not at any time exceed the maximum number allowed under this constitution.

~~(g)~~(f) At each annual general meeting one third of the directors or, if their number is not 3 or a multiple of 3, then the number nearest one third, and any other director not in such one third who has held office for 3 years or more since their last election, must retire from office. The directors to retire at the annual general meeting under this rule 8.1(f)7 must be those who have been longest in office since their last election, but, as between persons who were elected as directors on the same day, those to retire must be determined by lot, unless they otherwise agree between themselves. Unless re-elected, a director due to retire at an annual general meeting retains office until the conclusion of the meeting.

~~(h)~~(g) In determining the number of directors to retire at an annual general meeting, no account is to be taken of:

- (1) a director appointed by the directors to fill a casual vacancy or as an addition to the existing directors and who only holds office until the meeting; or

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(2) the managing director who is exempted from retirement by rotation (but if there is more than 1 managing director, only 1 is exempted from retirement by rotation).

(3) A director is not required to retire and is not relieved from retiring because of a change in the number or identity of the directors after the date of the notice but before the meeting closes.

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(h) A retiring director is eligible for re-election.

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(i) The retirement of a director from office under this constitution and the re-election of a director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.

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(j) The company may, at a general meeting at which a director retires, by resolution fill the vacated office by electing a person to that office.

(k) A person is eligible for election as a director at a general meeting of the company only if:

(1) the person is in office as a director immediately before that meeting;

(2) the person has been nominated by the directors for election at that meeting;  
or

(3) where the person is a member, he or she has at least 3540 business days or, in the case of a general meeting the directors have been duly requested by members under the Corporations Act to call, at least 30 business days but, in each case, no more than 90 business days before the meeting, given the company a notice signed by him or her stating the member's desire to be a candidate for election at that meeting; or

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(4) where the person is not a member, a member intending to nominate the person for election at that meeting has, at least 3540 business days and, in the case of a general meeting the directors have been duly requested by members under the Corporations Act to call, at least 30 business days but, in each case, no more than 90 business days before the meeting, given the company a notice signed by the member stating the member's intention to nominate the person for election, and a notice signed by the person stating his or her consent to the nomination.

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~~(3)8.1(1)(3) a nomination for election of the person as a director signed by a member (including the person) and a consent to nomination signed by the person has been lodged at the registered office of the company at least 30 business days before the general meeting.~~

~~(l) A person who has turned 72 years of age may not be appointed a director. If a director turns 72 in office he or she may continue in office and act as a director until the end of the next annual general meeting of the company after his or her 72<sup>nd</sup> birthday, and at that time the director will cease to be, and hold office as, a director of the company.~~

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(l) A partner, employer or employee of an auditor of the company may not be appointed or elected as a director.

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### 7.28.2 Vacation of office

In addition to any circumstance provided for elsewhere in this constitution, a director ceases to be, and to hold office as, a director of the company:

- (a) in the circumstances prescribed by the Corporations Act;
- (b) if the director dies, on his or her death;
- (c) if the director becomes of unsound mind or a person who, or whose estate is, liable to be dealt with in any way under the law relating to mental health, when he or she becomes so mentally incapacitated;
- (d) if the director resigns by notice in writing to the company, when the resignation is stated to become effective in the notice or, if not so stated, on the date the company receives the notice; or
- (e) if the director is absent (and not represented by an alternate director) from meetings of directors for at least 9 consecutive months and the directors do not resolve to grant the director leave of absence from those meetings at or before the next meeting of directors after written notice of the absence has been given to the directors by the secretary, at the end of that meeting.

### 7.38.3 Remuneration and expenses

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- (a) Each director is entitled to such remuneration out of the funds of the company (accruing from day to day if periodic) as the directors determine provided that:
  - (1) the director's remuneration (who is not a managing director or an executive director) must not include a commission on, or percentage of, operating revenue; and
  - (2) if the director is a non-executive director, the director's remuneration paid must be a fixed sum.
- (b) The aggregate remuneration paid to or for the benefit of the directors must not exceed in aggregate in any a financial year of the company \$200,000 or such other sum as the amount fixed by the company in general meeting may approve. This limitation does not apply to:
  - (1) any amount paid or payable under rule 8.3(e) or 8.3(f) 7.3(d) or (e);
  - (2) any amount paid or payable under or in respect of any indemnification or insurance provided or procured in accordance with rule 910; or
  - (3) the remuneration to which a director may be entitled as an employee of the company or a related body corporate or in a capacity other than as a director of the company.

(c) Any amount paid by the company or related body corporate to a superannuation, retirement or pension fund for a director so that the company is not liable to pay the superannuation guarantee charge or similar statutory charge is to be included when calculating a director's remuneration for the purposes of rule 8.3(b).

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(d) Remuneration under rule 8.3(b) may be provided in such manner that the directors decide, including by way of non cash benefit, such as a contribution to a superannuation fund.

~~(e) If the directors determine an aggregate annual remuneration to which they are entitled, they must divide it:~~

~~(1) in the amounts or proportions agreed between them; or~~

~~(2) failing agreement, equally among the non-executive directors only.~~

~~(e)~~ (e) A director is entitled to be paid all reasonable travel, accommodation and other expenses properly incurred by the director in attending meetings of, or relating to, the company or while engaged on the business or affairs of the company.

(f) If a director, with the concurrence of the directors, performs an extra service or makes special exertion for the benefit of the company, the directors may cause that director to be paid out of the funds of the company such special and additional remuneration as the directors decide is appropriate having regard to the value to the company of the extra services or special exertions.

~~(e) arrange for a special remuneration.~~

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~~(g)~~ (g) Subject to rule 7.3(b), the directors may resolve that the company:

- (1) at any time after a director dies, retires or otherwise ceases to hold office as a director or a director or former director ceases to be gainfully employed, pay to the director or former director or a legal personal representative, spouse, relative or dependant of the director or former director a pension, lump sum, superannuation amount or other benefit;
- (2) establish, pay contributions or other amounts to, or otherwise support, a fund or other entity providing for any such benefit; and
- (3) enter into a contract with the director to provide for any of these benefits.

#### 7.48.4 Share qualification

A director is not required to hold any shares in the company to qualify for appointment and is entitled to attend and speak at general meetings even if that director is not a member.

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#### 7.58.5 Interested directors Directors may contract with the company and hold other offices

(a) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated

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with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this constitution bind all directors.

(b) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any regulation made under rule 8.5(a).

(a)(c) Subject to the Corporations Act, a director:

- (1) may, in conjunction with his or her directorship, hold any other office, place of profit, position (except auditor) or interest in the company, any related body corporate or any body corporate the company promotes or holds an interest in;
- (2) may do so on the terms that the director and the relevant body corporate agree (including remuneration and tenure); and
- (3) is not accountable to the company for any remuneration or other benefit the director receives in connection with that office, place, position or interest.

(b)(d) A director may exercise the voting rights conferred by shares in any body corporate that the company holds or owns in any manner the director decides including, but not limited to, voting for a resolution:

- (1) which provides for the appointment or remuneration of the director, or any other person, as a director or officer of that body corporate; or
- (2) in which the director is otherwise interested, if permitted to do so by law.

(e)(e) Subject to the Corporations Act, a director is not disqualified, merely because that person is a director or because of the fiduciary obligations arising from that office, from contracting or entering into an arrangement with the company for any reason including, but not limited to:

- (1) selling or purchasing property to or from the company;
- (2) lending or borrowing money to or from, the company with or without interest or security;
- (3) guaranteeing for a commission or profit money that the company borrows;
- (4) underwriting or guaranteeing for a commission or profit the subscription for securities in the company, a related body corporate or a body corporate the company promotes or holds an interest in;
- (5) being employed by the company; or
- (6) acting in a professional capacity for the company.

(d)(f) A contract or arrangement entered into by or on behalf of the company with a director or in which a director is or may be in any way interested is not void invalid or voidable merely because the director is a director or because of the

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fiduciary obligations arising out of that office, and the director is not liable to account to the company for any profit realised by or under such a contract or arrangement.

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~~(e)~~(g) Subject to the Corporations Act, a director is not excluded from being present, counted in a quorum or voting at a meeting of directors :

(1) being present, counted in a quorum or voting at a meeting of directors; or

(2) signing any document;

for or in relation to a contract or arrangement or proposed contract or arrangement in which the director is interested. No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a director fails to comply with that prohibition.

(h) A director who is interested in any contract or arrangement may, despite that interest, witness the fixing of the seal to any document evidencing or otherwise connected with that contract or arrangement.

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#### 7.68.6 Powers and duties of directors

(a) The directors are responsible for managing the business and affairs of the company. The directors may exercise to the exclusion of the company in general meeting all the powers of the company and do all things that are within the company's power which are not required, by the Corporations Act or by this constitution, to be exercised by the company in general meeting.

(b) Without limiting the generality of rule 8.6(a)7, the directors may exercise all the powers of the company:

- (1) to borrow or otherwise raise money;
- (2) to charge any property or business of the company or all or any of its uncalled capital; and
- (3) to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.

(c) Debentures or other securities may be issued on the terms and at prices decided by the directors, including bearing interest or not, with rights to subscribe for, or exchange into, shares or other securities in the company or a related body corporate or with special privileges as to redemption, participating in share issues, attending and voting at general meetings and appointing directors.

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~~(e)~~(d) The directors may determine how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments, including but not limited to cheques, may be signed, drawn, accepted, endorsed or otherwise executed, as applicable, by or on behalf of the company.

~~(d)~~(e) The directors may pay out of the company's funds all expenses of:

- (1) the promotion, formation and registration of the company; and
- (2) the vesting in it of the assets it requires.

~~(e)~~(f) The directors may appoint or employ any person to be an officer, agent or attorney of the company:

- (1) for any purpose and for any period;
- (2) with any powers, discretions and duties, including but not limited to those vested in the directors; and
- (3) upon any conditions.

~~(f)~~(g) The directors may authorise an officer, agent or attorney to delegate any powers, discretions and duties vested in that person.

~~(g)~~(h) Subject to any contract between the company and the relevant officer, agent or attorney, the directors may remove or dismiss that person at any time, with or without cause.

~~(h)~~(i) A power of attorney may contain any provision for the protection and convenience of the attorney or a person dealing with the attorney that the directors decide.

(j) Nothing in this rule 8.6 limits the general nature of rule 8.6(a).

#### 7.78.7 Proceedings of directors

- (a) The directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors.
- (c) The rules relating to meetings of the directors apply with the necessary changes, to meetings of the directors by telephone or other electronic means.
- (d) A director participating in a meeting by telephone or other electronic means is considered present in person at the meeting.
- (e) A meeting by telephone or other electronic means is to be taken to be held at the place where the chair of the meeting is or at such other place the chair of the meetings decides on. ~~held at the place determined by the chair of the meeting.~~
- (f) At least 1 of the directors involved in a telephone or electronic meeting must have been at the place the chair determines as the meeting place, for the duration of the meeting.
- (g) If, before or during the meeting, any technical difficulty occurs where one or more directors cease to participate, the chair may adjourn the meeting until the

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difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

### **7.88.8** Convening of meetings of directors

- (a) A director may convene a meeting of the directors at any time.
- (b) On the requisition of a director, a secretary must convene a meeting of the directors.

### **7.98.9** Notice of meetings of directors

- (a) Subject to this constitution, ~~the secretary must give a~~ notice of a meeting of directors must be given to each director, other than a director on leave of absence approved by the directors, or to an alternate director appointed under rule 8.14 by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
  - (1) must specify the time and place of the meeting;
  - (2) need not state the nature of the business to be transacted at the meeting;
  - (3) may, if necessary, be given immediately before the meeting; ~~and~~
  - (4)** may be given in person or by post, telephone, fax or other electronic means **and;**
  - ~~(4)(5)~~ will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director].
- (c) A director or alternate director may ~~waives~~ notice of a meeting of directors if the director:
  - (1) gives written notice to that effect in person or by post or by telephone, fax and other electronic means of waiver ~~to the company before, at or after the meeting; or~~
  - (2) attends the meeting.
- (d) A resolution passed, or other act done, at a meeting of directors will not be invalid merely because a person to whom notice of the meeting is required to be given does not receive or is not given notice of the meeting if:
  - (1) the failure occurred by accident or error; or
  - (2) the person attended the meeting, or waived notice of the meeting (whether before or after the meeting). ~~waives notice of the meeting.~~
- (e)** A person who attends a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

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### **7.108.10 Quorum at meetings of directors**

- (a) The directors may transact business at a meeting of directors only if a quorum of directors is present at the time the business is dealt with.
- (b) A quorum of directors consists of:
  - (1) if the directors have fixed a number for the quorum, that number of directors; and
  - (2) in any other case 2 directors.
- (c) If there is a vacancy in the office of a director, the remaining directors may act. ~~But, if~~ if the number of directors in office at any time is not sufficient to constitute a quorum at a meeting of directors or is less than the minimum number of directors fixed under this constitution, then the remaining director or directors may act as soon as possible:
  - (1) to increase the number of directors to a number sufficient to constitute a quorum and to satisfy the minimum number of directors required under this constitution; or
  - (2) to convene a general meeting of the company for that purpose.
- (d) Until the directors have complied with rule 8.10(c)~~7~~, they must only act if and to the extent that there is an emergency requiring them to act.

### **7.118.11 Chair and deputy chair of directors**

- (a) The directors may:
  - (1) elect 1 of the directors as chair of directors; and
  - (2) determine the period for which that director is to be chair of directors.
- (b) The directors may:
  - (1) elect 1 of the directors as deputy chair of directors; and
  - (2) determine the period for which that director is to be deputy chair of directors.

~~(c) The directors may resolve that the office of chair or deputy chair of directors is an extra service or special exertion performed by the director holding that office for the purposes of rule 8.3(f)7.3(e).~~

~~(d)~~(c) The chair of directors, if present within 10 minutes after the time appointed for the holding of a meeting of directors and willing to act, must preside as chair of the meeting.

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~~(e)~~(d) If the directors have elected a deputy chair of directors, then the deputy chair of directors, if present within 10 minutes after the time appointed for the holding of a meeting of directors and willing to act, must preside as chair of the meeting if:

- (1) there is no chair of directors; or
- (2) the chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting or is not willing to act as chair of the meeting.

~~(f)~~(e) The directors present must elect 1 of their number to be chair of the meeting if at a meeting of directors:

- (1) there is no chair or deputy chair of directors; or
- ~~(2)~~the chair or deputy chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting or
- ~~(3)~~(2) is not willing to act as chair of the meeting.

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#### 7.128.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise each authority, power and discretion vested in or exercisable by the directors under this constitution.
- (b) The directors must decide questions arising at a meeting of directors by a majority of votes cast by the directors present entitled to vote on the matter.
- (c) A decision under rule 8.12(b)~~7~~ is for all purposes a determination of the directors.
- (d) In the case of an equality of votes upon any proposed resolution the chair of the meeting does not have a second or casting vote and the proposed resolution is taken as lost.

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#### 7.138.13 Written resolutions

- (a) A written resolution signed or consented to, by:
  - (1) ~~at least a majority of~~ directors (other than any director on leave of absence approved by the directors, any director who disqualifies himself or herself from considering the resolution in question and any director who would be prohibited by the Corporations Act from voting on the resolution in question); and ~~entitled to vote on the resolution; or~~
  - (2) ~~a majority of the directors entitled to vote on the resolution where notice of the resolution was given in the same way it would have been required to have been given if it were a notice of a meeting of directors to consider the resolution, and~~ the directors who signed or consented to the resolution would have constituted a quorum at such a meeting of directors held to consider that resolution;

is ~~taken to have been passed by a meeting of directors, as valid as if passed at a duly convened and held meeting of directors and is effective when signed by the last of all the directors or the last of the directors constituting the majority, as the case may be.~~

(b) A director may consent to a resolution by:

- (1) signing the document containing the resolution (or a copy of that document);
- (2) giving to the company at its registered office a written notice (including by fax or other electronic means) addressed to the secretary or to the chair of directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
- (3) telephoning the secretary or the chair of directors and signifying assent to the resolution and clearly identifying its terms.

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~~(b)The resolution may consist of several documents in the same terms, each of which is signed by 1 or more directors.~~

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~~(c)A facsimile transmission or other document produced or transmitted electronically in the name, and with the authority of, a director will be taken to be a document in writing signed by the director.~~

#### 7.148.14 Alternate directors

(a) A director may appoint another director, or with approval of a majority of the other directors, any other person, to be the director's alternate director to act in his or her place at any meeting of directors or for any period where the director is unable to attend to his or her duties or exercise his or her powers as a director.

(b) An alternate director may, but need not, be a member or a director of the company.

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~~(b)(c)~~ An alternate director may, subject to his or her terms of appointment, exercise all the powers (except the power to appoint an alternate director) and perform all the duties of the director who has appointed the alternate director to the extent the director has not exercised or performed them. Without limiting the foregoing, an alternate director may attend and vote at a meeting of directors if his or her appointor is not present. An alternate director is otherwise not entitled, and has no other power, to act as a director of the company.

~~(c)An alternate director is not entitled to notice of meetings of directors unless his or her appointor is on leave of absence approved by the directors. In that case, the alternate director must be given notice of meetings of directors during the leave of absence.~~

~~(d)An alternate director waives notice of a meeting of directors for the alternate director and his or her appointor if the alternate director:~~

~~(1) gives written notice of waiver to the company before, at or after the meeting;~~  
or

~~(2)(1) attends the meeting.~~

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~~(e)(d)~~ A person may act as alternate director to more than 1 director and is entitled to a separate vote for each director the alternate director represents, in addition to any vote the alternate director may have as a director in that person's own right.

~~(f)(e)~~ The office of an alternate director is vacated if and when the appointor vacates the office as a director.

~~(g)(f)~~ The appointor or the majority of the other directors may terminate or suspend the appointment of an alternate director at any time, even if the period of the appointment of the alternate director has not expired.

~~(h)(g)~~ The appointor must appoint suspend and terminate an appointment of an alternate director by a written, signed statement.

~~(i)(h)~~ An appointment suspension and termination of an alternate director are only effective after the company receives the appointor's written, signed statement and, in the case of an appointment requiring the approval of a majority of the directors of the company, after that approval has been given.

~~(j)(i)~~ An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed or the rotation of directors under this constitution.

~~(k)(j)~~ In determining whether a quorum is present at a meeting of directors, an alternate director, who attends the meeting is counted as a director for each director on whose behalf the alternate director is attending.

~~(l) An alternate director is not to be taken into account in determining the number of directors or rotation of directors.~~

~~(m)(k)~~ An alternate director is only entitled to be paid the remuneration that the directors think fit for his or her services as an alternate director, and any such remuneration must be in reduction of the remuneration payable to the director for whom the alternate director acts as alternate unless the directors otherwise determine.

~~(n)(l)~~ An alternate director is entitled to be paid all reasonable travel, accommodation and other expenses properly incurred by the alternate director in attending meetings of, or relating to, the company or while engaged on the business or affairs of the company, at which the appointor is not present.

~~(o)(m)~~ An alternate director, while acting as a director:

- (1) is responsible to the company for his or her~~that person's~~ own acts and defaults; and

- (2) is not taken to be the agent of the director by whom he or she was ~~who~~ appointed ~~the alternate director~~.

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#### **7.158.15 Committees of directors**

- (a) The directors may delegate any of their powers to a committee or committees of directors.
- (b) A committee to which a power is delegated, when exercising the power, must comply with any directions of the directors.
- (c) The rules applying to meetings and resolutions of directors with the changes necessary, apply to meetings and resolutions of a committee of directors, except to the extent that they are contrary to any direction given under rule 8.15(b).

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#### **7.168.16 Delegation to individual directors**

- (a) The directors may delegate any of their powers to 1 director.
- (b) A director to whom any powers are delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The directors may resolve to treat the acceptance of a delegation as an extra service or special exertion performed by the delegate for rule 8.3(f) 7.3(e).

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#### **7.178.17 Validity of acts**

An act done by a person acting as a director, by a meeting of directors or by a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director or a member of a committee;
- (b) the person being disqualified to be a director ~~or having vacated office~~; or
- (c) the person not being entitled to vote;  
if that circumstance was not known by the directors, committee or person when the act was done.

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### **8.9. Executive officers**

#### **8.19.1 Managing directors, deputy managing directors and executive directors**

- (a) The directors may appoint 1 or more of the directors to be:
- (1) a managing director;
  - (2) a deputy managing director; or

- (3) an executive director employed by the company or a related body corporate in any other capacity.
- (b) The directors may confer on a managing director, deputy managing director or other executive director any title.
- (c) A person appointed to be an officer under rule 9.1(a) automatically ceases to hold that office if he or she ceases to be a director but, subject to any contract between the company and the person, he or she does not cease to be employed or otherwise engaged by the company by reason only of the person ceasing to be a director.
- (d) Unless the directors otherwise determine, a person appointed to be an officer under rule 9.1(a) automatically ceases to be a director if he or she ceases to be employed or otherwise employed/engaged by the company or by a subsidiary of the company to serve in that office.

#### 8.29.2 Associate directors

- (a) The directors may appoint 1 or more associate directors.
- (b) The directors may confer on an associate director any title.
- (c) Even though the word “director” may appear in an associate director’s title an associate director is not a director of the company, and is not entitled:
  - (1) to attend a meeting of directors except by the invitation and with the consent of the directors; or
  - (2) to vote at any meeting of directors.

#### 8.39.3 Secretaries

The directors:

- (a) must appoint at least 1 secretary;
- (b) may appoint additional secretaries; and
- (c) may appoint 1 or more assistant secretaries.

#### 8.49.4 Terms of office

- (a) The appointment of a person to be an officer or to hold an office referred to in this rule 98 may be for a period, at a remuneration and on other terms to be decided by the directors.

~~(b) Subject to any contract between the company and a person appointed to be an officer or to hold an office referred to in this rule 98, the directors may remove or dismiss the person from office at any time, with or without cause.~~

~~(e)~~(b) The directors may:

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- (1) ~~delegate or give~~confer on a person appointed to be an officer or to hold an office referred to in this rule 98 any power, discretion and duty, including but not limited to any power, discretion and duty vested in or exercisable by the directors;
- (2) withdraw, suspend or vary any power, discretion and duty conferred on the person; and
- (3) authorise the person to delegate any power, discretion and duty conferred on him or her.

~~(d)~~(c) An act done by a person appointed to be an officer or to hold an office referred to in this rule 98 is not invalidated by ~~reason only of~~:

- (1) a defect in the person's appointment; or
- (2) the person being disqualified to hold that office, or
- (3) the person having vacated office.

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

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## **9.10 Indemnity and insurance**

### **9.10.1 Indemnity**

- (a) Subject to this rule 10.19, the company indemnifies:
  - (1) each person who is or has been an officer of the company against all liabilities incurred by the person as such an officer; and
  - (2) each person who is or has been an officer of a related body corporate of the company against those liabilities incurred by the person as such an officer which the directors determine to be indemnified under this rule 10.19.
- (b) The following liabilities of a person, except for a liability for legal costs, are excluded from the indemnities in rule 09:
  - (1) A liability owed to the company or a related body corporate.
  - (2) A liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H of the Corporations Act.
  - (3) A liability owed to someone other than the company or a related body corporate and did not arise out of conduct in good faith.
  - (4) Any other liability against which the company is precluded by law from indemnifying the person.
- (c) The following legal costs of a person are excluded from the indemnities in rule 09:

- (1) Legal costs incurred in defending or resisting a proceeding in which the person is found to have a liability for which he or she could not be indemnified.
  - (2) Legal costs incurred in defending or resisting a criminal proceeding in which the person is found guilty.
  - (3) Legal costs incurred in defending or resisting a proceeding brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established except for costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing the proceeding for the court order.
  - (4) Legal costs incurred in connection with a proceeding for relief to the person under the Corporations Act in which the court denies relief.
  - (5) Any other legal costs against which the company is precluded by law from indemnifying the person.
- (d) An indemnity in rule 099:
- (1) is a continuing obligation and is enforceable by a person even though that person may have ceased to be an officer of the company or a related body corporate;
  - (2) applies to liabilities incurred both before and after the date of adoption of this rule 10.19;
  - (3) operates only to the extent and for the amount that the person is not otherwise entitled to be indemnified and is not actually indemnified by an insurer under an insurance policy or another person that is not a related body corporate of the company;
  - (4) in respect of a liability incurred by a person as an officer of a related body corporate of the company, operates only to the extent and for the amount that the person is not actually indemnified by that related body corporate; and
  - (5) is enforceable by a person only if the person notifies the company of any claim against the person that may give rise to the right to be indemnified as soon as reasonably practicable after becoming aware of the claim, takes such action as the company reasonably requests in respect of the claim, does not make any admission of liability in respect of or settle the claim without the prior written consent of the company, provides the company with all reasonable assistance and cooperation in defending, resisting or otherwise dealing with the claim and does anything reasonably requested by the company in order to enable the company to be subrogated to and enjoy the benefits of the person's rights in relation to the claim against any third party.

### 9.210.2 Insurance

The company may purchase and maintain insurance or pay or agree to pay a premium for insurance in respect of any liability incurred by a person who is or has been an officer of the company or a related body corporate except to the extent that the company is precluded by law from doing so.

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### 9.310.3 Savings

Nothing in rules 10.19 and 10.29:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any liability referred to in those rules; or
- (b) limits the capacity of the company to indemnify any person or provide or pay for insurance in respect of any person to whom those rules do not apply;
- ~~(c) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into prior to the adoption of this constitution, whether or not those rules already apply to the person and whether by way of deed executed by the company or otherwise.~~

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### 10.4 Deed

The company may enter into a deed with any officer to give effect to the rights conferred by this rule 10 or the exercise of a discretion under this rule 10 on such terms as the directors think fit which are not inconsistent with this rule 10.

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### 9.410.5 Officer

In this rule 109, a reference to an officer of a body corporate is a reference to:

- (a) each person who is or has been a director, alternate director or secretary of the body corporate;
- (b) to such other officers or former officers of the company or of its related bodies corporate as the directors in each case determine; and
- ~~(b) an executive officer of the body corporate as defined in section 9 of the Corporations Act; and~~
- (c) in the case of the company, a person appointed to be an officer or to hold an office referred to in rule 98.

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### 10.11. Winding-up

#### 10.11.1 Distribution of surplus

- (a) Subject to this constitution and any rights or restrictions attached to a share or class of shares, if the company is wound up and the property of the company is more than sufficient to pay all of:

- (1) the debts and liabilities of the company; and
- (2) the costs, charges and expenses of the winding up;

the excess must be divided among the members in proportion to the number of shares held by each of them, irrespective of the amounts paid or credited as paid on the shares.

- (b) To calculate the excess [referred to in rule 11.1\(a\)](#), any amount unpaid on a share is to be treated as property of the company.
- (c) The amount of the excess that would otherwise be distributed to the holder of a partly paid share [under rule 11.1\(a\)](#) must be reduced by the amount unpaid on that share at the date of the distribution.
- (d) If the effect of the reduction under rule 11.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, then the holder must contribute that amount to the company.

#### **10.211.2 Division of property**

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:
  - (1) divide among the members the whole or any part of the property of the company; and
  - (2) determine how the division is to be carried out as between the members or different classes of members.
- (b) A division [under rule 11.2\(a\)](#) may be otherwise than in accordance with the legal rights of the members.
- (c) In a division, any class may be:
  - (1) given preferential or special rights; or
  - (2) excluded altogether or in part.
- (d) If a division [under rule 11.2\(a\)](#) is not in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under [section 507 of the Corporations Act](#).
- (e) If any of the property to be divided [under rule 11.2\(a\)](#) includes a security with a liability to calls, a person entitled under the division to a security may by notice in writing direct the liquidator to:
  - (1) sell the person's proportion of the security; and
  - (2) account for the net proceeds.

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- (f) The liquidator if practicable, must act accordingly.
- (g) The person must act within 10 days after the passing of the special resolution referred to in rule 11.2(a)~~40~~.
- (h) Nothing in this rule 11.2~~40~~ derogates from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (i) Rule 4.3 applies with the necessary changes to a division by a liquidator under rule 11.2(a)~~40~~ as if the references in rule 4.3 to the directors and to a distribution or capitalisation were references to the liquidator and to the division under rule 11.2(a)~~40~~.

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## 12. Inspection of and access to records

- (a) A person who is not a director does not have the right to inspect any of the board papers, books, records or documents of the company, except as provided by law, or this constitution, or as authorised by the directors, or by resolution of the members.
- (b) The company may enter into contracts with its directors or former directors agreeing to provide continuing access for a specified period after the director ceases to be a director to board papers, books, records and documents of the company which relate to the period during which the director or former director was a director on such terms and conditions as the directors think fit and which are not inconsistent with this rule 12.
- (c) The company may procure that its subsidiaries provide similar access to board papers, books, records or documents as that set out in rules 12(a) and 12(b).
- (d) This rule 12 does not limit any right the directors or former directors otherwise have.

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## ~~11.Minutes and records~~

### ~~11.1Minutes of meetings~~

~~The directors must ensure that minutes of proceedings and resolutions of general meetings and of meeting of directors, including committees of directors, are recorded in books kept for the purpose.~~

### ~~11.2Minutes of resolutions passed without a meeting~~

~~The directors must ensure that minutes of resolutions passed by members and resolutions passed and declarations made by directors and committees of directors without a meeting are recorded in books kept for the purpose.~~

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### **11.3 Signing of minutes**

- (a) ~~The chair of the meeting or the chair of the next meeting must sign the minutes of a meeting within a reasonable time.~~
- (b) ~~A director must sign the minutes of the passing of a resolution or the making of a declaration without a meeting, within a reasonable time after the resolution is passed or the declaration is made.~~

### **11.4 Minutes as evidence**

~~Subject to proof to the contrary, a minute that is recorded and signed under rules 11.1–11.3 is evidence of the proceeding, resolution or declaration to which it relates.~~

### **11.5 Inspection of records**

- (a) ~~The directors must ensure the minute books for general meetings are open for inspection by members free of charge.~~
- (b) ~~Subject to rule 11.5(a), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them are open to the inspection of members, who are not directors.~~
- (c) ~~Subject to the law and authorisation by the directors, a member, who is not a director, has no right to inspect any books, records or documents of the company.~~

## **12.13. Execution of documents**

### **12.13.1 Manner of execution**

Without limiting the ways in which the company can execute documents under the Corporations Act and subject to this constitution, ~~T~~the company may execute a document if the document is signed by:

- (a) 2 directors; or
- (b) a director and a secretary; ~~for~~
- ~~(b)(c) any other person or persons authorised by the directors for that purpose.~~

### **12.13.2 Common seal**

- (a) The company may have a common seal.
- (b) If the company has a common seal, rules 13.3~~42.3~~ to 13.7~~2.8~~ apply.

### **12.13.3 Safe custody of seal**

The directors must provide for the safe custody of the seal.

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#### 12.413.4 Use of seal

~~(a) The seal must be used only by the authority of the directors or of a committee of the directors authorised by the directors to authorise the use of the seal.~~

~~(b) The directors may give the authority to use the seal before or after the seal is used.~~

~~(c)~~(a) Subject to rule 13.7~~12.8~~, until the directors otherwise determine, every document to which the seal is fixed must be signed by:

- (1) 2 directors;
- (2) a director and a secretary; or
- (3) a director and another person appointed by the directors to countersign that document or a class of documents in which that document is included.

#### 12.513.5 Seal register

- (a) The company may keep a seal register.
- (b) If the company does keep a seal register, then it must enter in the register particulars of each document on which the seal is fixed giving in each case:
  - (1) the date of the document;
  - (2) the names of the parties to the document;
  - (3) a short description of the document; and
  - (4) the names of the persons signing the document under rule 13.4(a)~~12.4(c)~~.
- (c) The register must be produced at meetings of directors for confirmation of the use of the seal since confirmation was last given under this rule 13.5~~12~~.
- (d) Failure to comply with rule 13.5(b)~~12~~ or 13.5(c) does not invalidate any document to which the seal is properly affixed.

~~(e) Rules 12.5(b) and (c) do not apply to a certificate for securities of the company.~~

#### 12.613.6 Duplicate seal

- (a) The company may have for use in place of its common seal outside the state or territory where its common seal is kept, 1 or more duplicate seals.
- (b) A duplicate seal must be a facsimile of the common seal of the company with the addition on its face:
  - (1) of the words “duplicate seal”; and
  - (2) the name of the place where it is to be used.

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- (c) A document sealed with a duplicate seal or a certificate seal as provided in rule 13.7 is considered to be sealed with the common seal of the company.

#### 12.7 ~~Share seal or certificate seal~~

- ~~(a) The company may have for use on certificates for securities of the company in place of its common seal, 1 or more share seals or certificate seals.~~
- ~~(b) A share seal or certificate seal must be a facsimile of the common seal of the company with the addition on its face of the words "share seal" or "certificate seal".~~
- ~~(c) A certificate for securities of the company sealed with a share seal or certificate seal is considered to be sealed with the common seal of the company.~~

#### 12.813.7 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the seal and the signature of any director, secretary or other person is to be printed on or affixed to any certificates for securities in the company by some mechanical or other means.

#### 13.14. Notices

##### 13.14.1 Notices by the company to members

- (a) Without limiting any other way in which notice may be given to a member under this constitution, the Corporations Act or the ASX Listing Rules, ~~The~~ company may give a notice to a member by:
- (1) ~~servicing~~ delivering it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or another address the member has supplied to the company for giving notices;  
or
  - (2) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or other electronic address the member has supplied to the company for the giving of notices.
- (b) The company may give a notice to joint holders of a share by serving it or sending it in the manner authorised by rule 14.1(a) ~~13.1(a)~~ to the joint holder first named in the register of members or another joint holder notified in writing to the company for this purpose by all joint holders.
- (c) The company may give a notice to a person entitled to a share as a result of a transmission event by servicing ~~delivering~~ it or sending it in the manner authorised by rule 14.1(a) ~~13.1(a)~~ ~~13.1(a)~~ and:
- (1) addressed to the name or title of the person, at or to the address, fax number ~~of~~ that person has supplied to the company for the giving of notices to that person; or

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- (2) if no address, fax number or electronic address has been supplied, then ~~at or~~ to the address, fax number or electronic address to which the notice would have been sent if the relevant transmission event had not occurred.
- (d) Despite the occurrence of a transmission event and whether or not the company has notice of it, a notice given in accordance with this rule 14.1~~13.1~~ to a member is taken to be given to any person entitled to the member's share as a result of the transmission event.
- (e) A notice given in accordance with this rule 14.1~~13.1~~ to a person who is, even if a entitled to a share as a result of a transmission event has occurred and whether or not the company has notice of that occurrence: is taken to be given to the member in whose name the share is registered.
- (1) duly given for any shares registered in that person's name, whether solely or jointly with another person; and
- (2) sufficiently served on any person entitled to the shares because of the transmission event.
- (f) The fact that a person has supplied a fax number or an electronic address for the giving of notice does not require the company to give any notice to that person by fax or electronic means.
- (g) A person who because of a transfer of shares becomes entitled to a share registered in the name of a member is ~~taken to have received bound by~~ every notice which, before that person's name and address is entered in the register of members for those shares, is given to the member under this rule ~~14.13~~.
- (h) The company may sign any notice given under this rule 14.1~~3~~ in writing or as a facsimile printed or affixed by some mechanical or other means.
- (i) A certificate signed by a director or secretary of the company stating that the company has given notice under this constitution is conclusive evidence of that fact.
- (j) Where a member does not have a registered address or where the company believes that member is not known at the member's registered address, all notices are taken to be:
- (1) given to the member if the notice is exhibited in the company's registered office for a period of 48 hours; and
- (2) served at the commencement of that period.
- unless and until the member informs the company of the member's address.

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#### 13.2~~14.2~~ Notices by the company to the directors

Subject to this constitution, the company may give a notice to a director or alternate director either by:

- (a) ~~servicing~~ delivering it personally to him or her ~~at~~, or by sending it by post in a prepaid envelope to, the director’s or alternate director’s usual residential or business address or to another address the director or alternate director has supplied to the company for the giving of notices; or
- (b) by sending it by fax or other electronic means to the fax number or electronic address which the director or alternate director has supplied to the company for the giving of notices.

**14.3 Notices by directors to the company**

A director or alternate director may give a notice to the company by:

- (a) delivering it to the company’s registered office;
- (b) sending it by prepaid post to the company’s registered office; or
- (c) sending it by fax or other electronic means to the principal fax number or electronic address at the company’s registered office.

**13.3 Notices posted to addresses outside the Commonwealth**

A notice sent by post to an address outside the Commonwealth must be sent by airmail.

**13.414.4 Time of service**

- (a) If a notice is sent by post, then it is served if a prepaid envelope containing the notice is properly addressed and placed in the post:
  - (1) in the case of a notice of a general meeting, at 10.00am on the day after the date of its posting; or
  - (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where the company sends a notice by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the facsimile transmission report produced by the sender’s fax machine.
- (c) Where the company sends a notice by electronic transmission, the notice is taken as served at the time the electronic transmission is sent [if a message indicating receipt has been received by the company].
- (d) Where the company gives a notice to a member by any other means permitted by the Corporations Act relating to the giving of notices and electronic means of access to them, the notice is taken as given at 10.00am on the day after the date on which the member is notified that the notice is available.
- (e) Where a given number of days’ notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

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~~(b) If a notice is sent by fax or electronic means, then it is served on the day it is sent.~~

**13.5 14.5 Other communications and documents**

Rules 14.1-14.4~~13.1-13.4~~ apply, with the necessary changes, to the service of any communication or document.

**13.6 14.6 Notices in writing**

A reference in this constitution to a notice in writing includes a notice given by fax or electronic means. A signature to a written notice need not be handwritten.

**14.15. Continuation of the Business**

~~(a) 14.1(a)~~ — For the purposes of rule 15(b)~~this 14.1~~:

(1) **“Monthly VWAP”** means, for a month, the volume weighted average price for the company’s ordinary shares sold on the securities market of ASX ~~Limited~~ during the month.

(2) **“NTA per share”** means, for a month, the value of the net tangible assets of the company (after tax has been paid or provided for on all realised and unrealised capital gains for that period) as at the end of the month by the number of ordinary shares on issue.

~~(b) 14.1(b)~~ — If for each of 12 consecutive calendar months the Monthly VWAP is less than 90% of the NTA per share the directors must ensure that ~~members~~shareholders are provided with the opportunity to vote by way of an ordinary resolution at the next ~~A~~annual ~~g~~General Mmeeting on the continuation of the company’s business in its present form or otherwise.

~~(a)(c) 14.2~~ — The first ~~A~~annual ~~G~~general Mmeeting at which a resolution concerning the continuation of the company may be considered is the ~~a~~Annual Mmeeting held during 2007.

~~(b)(d) 14.3~~ ~~in~~ In the event that ~~shareholders~~ members resolve not to continue the company as a listed entity, the directors must provide the ~~shareholders~~ members with one or more alternative proposals on the management of the future of the company at an ~~E~~extraordinary ~~G~~general Mmeeting within 3 months of the date of that meeting.

~~(e)(e) 14.4~~ — Nothing herein shall affect the rights of any third party under contract with the ~~C~~company.

**16. General**

**16.1 Submission to jurisdiction**

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the state or territory in which the company is taken to be registered for the purposes of the

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Act, the Federal Court of Australia and the courts which may hear appeals from those courts.

## **16.2 Prohibition and enforceability**

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

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