

Corporations Act  
A company limited by shares

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MEMORANDUM OF ASSOCIATION

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OF  
SUNLAND GROUP LIMITED

1. The name of the company is SUNLAND GROUP LIMITED
2. The liability of the Members is limited.
3. The share capital of the company is \$100,000,000 divided into 500,000,000 shares of twenty cents (20c) each.
4. The full names, addresses and occupations of the subscribers to this memorandum and the number of shares in the capital of the company they respectively agree to take are:

<b>Name and address of subscriber</b>	<b>Occupation</b>	<b>Number of shares</b>
Pacific Development Corporation Pty Limited (ACN 010 504 042) as trustee for The Soheil Abedian Family Trust C/- Thompson Douglass & Co Level 8 Niecon Tower BROADBEACH QLD 4218		9998
Dovaenda Pty Limited (ACN 010 477 264) as trustee for The Foad Fathi Family Trust C/- Thompson Douglass & Co Level 8 Niecon Tower BROADBEACH QLD 4218		9998
Soheil Abedian 54/3 Tedder Avenue MAIN BEACH QLD 4217	Company Director	1

Foad Fathi 49/3 Tedder Avenue MAIN BEACH QLD 4217	Company Director	1
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Jenness Anne Dunne 36a Ashburn Place GLADESVILLE NSW 2111	Company Director	1
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John Douglas Read 3/192 Beach Street COOGEE NSW 2034	Company Director	1
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5. The subscribers wish to form a company pursuant to this memorandum and respectively agree to take the number of shares in the capital of the company set opposite their respective names.

Signature of subscriber	Number of share taken by each subscriber	Witness to signature and address
Pacific Development Corporation Pty Ltd	One	
Dvovaenda Pty Limited	One	
Soheil Abedian	One	
Foad Fathi		



Corporations Act

A company limited by Shares

**CONSTITUTION**

OF

SUNLAND GROUP LIMITED

**Part 1 Preliminary**

**1.1 Definitions and Interpretation**

(a) In this Constitution:

“**ASIC**” means Australian Securities & Investment Commission;

“**ASTC**” means ASX Settlement and Transfer Corporation Pty Limited ABN 49 008 504 532;

“**ASTC Settlement Rules**” means the operating rules of ASTC and, to the extent that they are applicable, the operating rules of ASX and of Australian Clearing House Pty Limited;

“**ASX**” means the Australian Stock Exchange;

“**business day**” has the meaning given to that term in the Listing Rules;

“**CHESS**” means the Clearing House Electronic Sub-register System operated by the ASX Settlement and Transfer Corporation Pty Limited (ABN 49 008 504 532);

“**CHESS Approved Securities**” means the securities of the Company which are approved by ASTC in accordance with the ASTC Settlement Rules;

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

“**Company**” means this company as it is from time to time named in accordance with the Corporations Act;

“**Corporations Act**” means the Corporations Act 2001;

“**Employee Incentive Scheme**” has the meaning given to that term in the Listing Rules;

“**listed company**” has the meaning given to that term in the Listing Rules;

“**Listing Rules**” means the listing rules of the ASX and any other rules of the ASX which are applicable while the Company is admitted to the Official List of the ASX, each as amended or replaced from time to time, except to the extent of any written waiver by the ASX;

**“Member”** means a person registered in the Register as the holder of one or more Shares and includes any person who is a member of the Company in accordance with or for the purposes of the Corporations Act;

**“Members present”** means Members present at a general meeting of the Company in person by appointed Representative, proxy or attorney;

**“Official List”** means the official list of entities that ASX has admitted and not removed;

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

**“Register”** means the register of members kept by the Company in accordance with section 169 of the Corporations Act;

**“Representative”**, in relation to a body corporate, means a representative of the body corporate authorised under the Corporations Act and, in relation to a general meeting of the Company, a person authorised in accordance with the Corporations Act to act at the meeting as the representative of a Member that is a body corporate;

**“Restriction Agreement”** means a restriction agreement entered into by the Company under the Listing Rules;

**“seal”** means any common seal, official seal, share seal or certificate seal of the Company;

**“Share”** means a share in the capital of the Company;

**“Takeover Bid”** has the meaning given to that term in section 9 of the Corporations Act.

**“transmission event”** means:

- (1) in respect of a Member who is an individual:
  - (A) the death of the Member;
  - (B) the bankruptcy of the Member; or
  - (C) the Member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (2) in respect of a Member who is a body corporate, the dissolution of the Member or the succession by another body corporate to the assets and liabilities of the Member; and

**“vendor securities”** has the meaning given to that term in the Listing Rules.

- (b) A reference in a clause relating to fully paid Shares to a Share or shareholder includes a reference to stock or stockholder respectively.
- (c) A reference in a clause to a partly paid Share is a reference to a Share on which there is an amount unpaid.

- (d) A reference in a clause to an amount unpaid on a Share includes a reference to an amount unpaid by way of premium.
- (e) A reference in a clause relating to partly paid Shares to a call or an amount called in respect of a Share includes a reference to a sum that, by the terms of issue of a Share, becomes payable on allotment or at a fixed date.
- (f) A Member is to be taken to be present at a general meeting if the Member is present in person or by proxy, attorney or Representative.
- (g) A director is to be taken to be present at a meeting of directors if the director is present in person or by alternate director.
- (h) Where a provision of this Constitution establishes an office of chairperson, the chairperson may be referred to as chairman or chairwoman, as the case requires.
- (i) Where a provision of this Constitution establishes an office of deputy chairperson, the deputy chairperson may be referred to as a deputy chairman or deputy chairwoman, as the case requires.
- (j) A reference in a clause 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 for the time being.
- (k) Unless the contrary intention appears, in this Constitution:
  - (1) headings and underlinings are for convenience only and do not affect the interpretation of this Constitution;
  - (2) words importing the singular include the plural and vice versa;
  - (3) words importing a gender include every other gender;
  - (4) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
  - (5) a reference to a person includes that person's success and legal personal representatives;
  - (6) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
  - (7) a reference to the Listing Rules or the ASTC Settlement Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any waiver granted by the ASX from compliance with those rules; and
  - (8) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

## 1.2 Application of the Corporations Act and Listing Rules

- (a) This Constitution is to be interpreted subject to the Corporations Act and (while the Company is a listed company) the Listing Rules.
- (b) The Company and the directors must comply with the obligations respectively imposed on them under the Corporations Act and (while the Company is a listed company) the Listing Rules.
- (c) Unless the contrary intention appears, an expression in a clause that deals with a matter dealt with by:
  - (1) a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act; or
  - (2) a provision of the Listing Rules has the same meaning as in that provision of the Listing Rules.
- (d) Subject to clause 1.2(c), unless the contrary intention appears, an expression in a clause that is defined in section 9 of the Corporations Act has the same meaning as in that section.
- (e) Unless a contrary intention appears, where a provision in this constitution :
  - (1) is qualified by the words “subject to the Listing Rules” or any similar expression;
  - (2) states that a particular thing must not be done or is not allowed unless done in accordance with or allowed by the Listing Rules; or
  - (3) requires that a particular thing be done in accordance with the Listing Rules, the qualification, statement or requirement does not operate at any time when the Company is not admitted to the Official List.
- (f) If the Company is admitted to the Official List, it must comply with the Listing Rules;
- (g) If the Company is admitted to the Official List, the following clauses apply :
  - (1) Notwithstanding anything contained in the constitution, if the Listing Rules prohibit an act being done, the act shall not be done;
  - (2) Nothing contained in this constitution prevents an act being done that the Listing Rules require be done;
  - (3) If the 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);
  - (4) If the Listing Rules require this constitution to contain a provision and it does not contain such a provision, this constitution is deemed to contain that provision;
  - (5) If the Listing Rules require this constitution not to contain a provision and it contains such a provision, this constitution is deemed not to contain that provision;

- (6) If any provision of this constitution is or becomes inconsistent with the Listing Rules, this constitution is deemed not to contain that provision to the extent of the inconsistency.

### 1.3 Exercise of powers

- (a) The Company may exercise in any manner permitted by the Corporations Act any power which under the Corporations Act a company limited by shares may exercise if authorised by its Constitution.
- (b) Where this Constitution provides that a person or body may do a particular act or thing and the word “may” is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this Constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this Constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this Constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
- (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
  - (2) to remove or suspend any person appointed; and
  - (3) appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this Constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this Constitution confers a power or impose a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this Constitution confers power on a person or body to delegate a function or power:
- (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
  - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;



- (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
- (4) the delegation may include the power to delegate;
- (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion belief or state of mind of the delegate in relation to that matter; and
- (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

## **Part 2      Share Capital**

### **2.1      Shares**

Without prejudice to any special rights conferred on the holders of any Shares or class of Shares but subject to this Constitution and (while the Company is a listed company) to the Listing Rules, the directors may:

- (a) issue, allot or grant options in respect of, or otherwise dispose of, Shares to such persons, for such price, on such conditions at such times and with such preferred, deferred or other special rights or special restrictions, whether with regard to dividend, voting, return of capital, participation in the property of the Company on a winding up or otherwise, as the directors think fit; and
- (b) differentiate between the holders of partly paid Shares as to the amount of calls to be paid and the time for payment.

### **2.2      Preference Shares**

- (a) The Company may issue preference Shares including preference Shares which are, or at the option of the Company are, liable to be redeemed.
- (b) The certificate issued by the Company for each preference Share must specify or provide for the determination of:
  - (1) the rate of dividend applicable to the Share and the times at which dividends are to be paid;
  - (2) the nominal value of the Share;
  - (3) the premium (if any) paid or payable on the issue of the Share;
  - (4) the number of votes that may be exercised by the holder in respect of the Share on a poll; and
  - (5) in the case of a redeemable preference Share, the time and place for redemption of the Share.

- (c) The dividend payable in respect of a preference Share:
- (1) may be at a fixed or variable rate;
  - (2) unless otherwise stated in the certificate for the Share, will be taken to accrue from day to day; and
  - (3) unless otherwise stated in the certificate for the Share, is payable in respect of the capital (both on account of the nominal value and by way of premium) for the time being paid up on the preference Share.
- (d) Each preference Share confers on its holder:
- (1) the right to payment out of the profits of the Company of a cumulative preferential dividend at the rate and at the times specified in, or determined in accordance with, the certificate for the Share in priority to the payment of any dividend on any other class of Shares; and
  - (2) the right in a winding up or reduction of capital and, in the case of a redeemable preference Share, on redemption to payment in cash in priority to any other class of Shares, of:
    - (A) the amount of any dividend accrued but unpaid on the Share (whether declared or not) at the date of winding up or reduction of capital or, in the case of a redeemable preference Share, the date of redemption;
    - (B) any amount paid in respect of the nominal value of the Share; and
    - (C) any premium paid on the Share.
- (e) A preference Share does not confer on its holder any right to participate in the profits or property of the Company, whether on a winding up, reduction of capital or otherwise, except as set out in clause 2.2(d)
- (f) The holder of a preference Share has the same right as the holder of an ordinary Share to receive notice of and to attend a general meeting and to receive a copy of any documents to be laid before that meeting.
- (g) A preference Share does not entitle its holder to vote at any general meeting of the Company except in the following circumstances:
- (1) on a proposal:
    - (A) to reduce the share capital of the Company;
    - (B) that affects rights attached to the Share;
    - (C) to wind up the Company;
    - (D) for the disposal of the whole of the property, business and undertaking of the Company; or
    - (E) to approve the terms of a buy-back agreement

- (2) during a period during which a dividend or part of a dividend on the Share is in arrears; or
- (3) during the winding up of the Company.
- (h) The holder of a preference Share who is entitled to vote in respect of that Share under clause 2.2(g) is, on a poll, entitled to the number of votes, specified in, or determined in accordance with, the certificate for the Share (provided that the certificate shall not provide for any lesser voting right than as detailed in the Listing Rules).
- (i) 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 certificate for the Share, redeem the Share and, on receiving the certificate of the Share, pay to or at the direction of the holder the amount payable on redemption of the Share.

### **2.3 Variation of class rights**

Unless otherwise provided by the terms of issue of a class of Shares:

- (a) all or any of the rights or privileges attached to the class may be varied, whether or not the Company is being wound up, only with the consent in writing of the holders of three-quarters of the issued Shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the issued Shares of that class;
- (b) the provisions of this Constitution relating to general meetings apply so far as they can and with such changes as are necessary, to each separate meeting of the holders of the issued Shares of that class; and
- (c) the rights conferred upon the holders of the Shares of that class are to be taken as not having been varied by the creation or issue of further Shares ranking equally with them.

### **2.4 Power to buy back ordinary Shares**

The Company may buy ordinary Shares in itself in any manner permitted by the Corporations Act.

### **2.5 Power to alter Share capital**

The Company may by resolution alter the provisions in its memorandum in any one or more of the following ways:

- (a) by increasing its share capital by the creation of new Shares of such amount as is specified in the resolution;
- (b) by consolidating and dividing all or any of its share capital into Shares of a larger amount than its existing Shares;
- (c) by converting, or providing for the conversion of, all or any of its fully paid Shares into stock or re-converting, or providing for the reconversion of that stock into fully paid Shares of any denomination;
- (d) by subdividing all or any of its Shares into Shares of a smaller amount than is fixed by the memorandum but so that in a subdivision of partly paid Shares the proportion

between the amount paid and the amount unpaid on each Share of a smaller amount is the same as it was for the Share from which the Share of the smaller amount is derived; and

- (e) by cancelling Shares that, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person or have been forfeited and reduce its authorised share capital by the amount of the Shares so cancelled

provided that if the Listing Rules require that Shares not be issued without the authority of the Company in general meeting, the directors' powers under this clause 2.5 do not enable them to issue Shares except in accordance with authority given by the Company in general meeting in conformity with the Listing Rules.

## **2.6 Power to reclassify Share capital**

Subject to the Listing Rules, the Company may by resolution reclassify or convert Shares from one class to another.

## **2.7 Power to reduce Share capital**

Subject to the Listing Rules, the Company may, by special resolution, reduce its share capital, any capital redemption reserve or any share premium account in any manner permitted by the Corporations Act provided that this clause does not allow anything that the Listing Rules do not allow.

## **2.8 Power to pay brokerage, commission and interest on Share capital**

- (a) The Company may make payments by way of brokerage or commission in the manner provided by the Corporations Act.
- (b) Payments by way of brokerage or commission may be satisfied by the payment of cash, by the allotment of fully paid Shares, by the allotment of the partly paid Shares or by any combination of the above.
- (c) The Company may pay interest on its share capital in the manner provided by the Corporations Act.

## **2.9 Conversion of Shares Into stock**

- (a) The Company may, by resolution, convert all or any of its fully paid Shares into stock and re convert any stock into fully paid Shares of any nominal value.
- (b) Subject to clause 2.9(c) where Shares have been converted into stock, the provisions of this Constitution relating to the transfer of Shares apply, so far as they can and with such changes as are necessary, to the transfer of the stock or of any part of the stock.
- (c) The directors may fix the minimum amount of stock transferable and restrict or forbid the transfer of fractions of that minimum, but the minimum must not exceed the aggregate of the nominal values the Shares from which the stock arose.
- (d) The holders of stock have, according to the amount of the stock held by them, the same rights, privileges and advantages as regards dividends, voting at meetings of the Company and other matters as if they held the Shares from which the stock arose.

## **2.10 Joint holders of Shares**

Where two or more persons are registered as the holders of a Share they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) they and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the Shares;
- (b) subject to clause 2.10(a), on the death of any one of them the survivor or survivors are the only person or persons the Company will recognise as having any title to the Share;
- (c) any one of them may give effectual receipts for any dividend interest or other distribution or payment in respect of the Share;
- (d) except in the case of persons jointly entitled to be registered as the holders of a Share under clause 4.5(c) the Company is not bound to register more than 3 persons as joint holders of the Share;
- (e) the Company is not bound to issue more than one certificate in respect of the Share; and
- (f) delivery of a certificate for the Share to any one of them is sufficient delivery to all of them.

## **2.11 Equitable and other claims**

- (a) Except as otherwise required by law or provided by this Constitution, the Company is entitled to treat the registered holder of a Share as the absolute owner of that Share and is not:
  - (1) compelled in any way to recognise a person as holding a Share upon any trust, even if the Company has notice of that trust; or
  - (2) compelled in any way to recognise, or 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, even if the Company has notice of that claim or interest.
- (b) With the consent of the directors, Shares held by a trustee may be marked in the Register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in clause 2.11(b) limits the operation of clause 2.11(a).

## **2.12 Currency**

The terms of issue of a Share may provide that any amount payable to the holders of the Share, whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise, is payable in the currency of a country other than Australia.

## **2.13 Employee Share plans**

The directors may:

- (a) implement an employee share plan on such terms as they think fit under which securities of the Company or of a related body corporate may be issued or otherwise provided to or for the benefit of any officer (including any director) of the Company or of a related body corporate or to a relative of that officer or to an entity in which that officer or a relative of that officer has an interest.
- (b) amend, suspend or terminate any employee share plan implemented by them; and
- (c) give financial assistance in connection with the acquisition of securities of the Company or of a related body corporate under any employee share plan in any manner permitted by the Corporations Act.

#### **2.14 Vendor securities**

Notwithstanding any other provisions of this Constitution :

- (a) the Company must refuse to acknowledge, deal with, accept or register any sale, assignment or transfer of vendor securities which is or might be in breach of the Listing Rules or any escrow agreement entered into by the Company under the Listing Rules in relation to the vendor securities;
- (b) on a winding up of the Company, the holders of Shares which are vendor securities and which are subject to escrow restrictions at the commencement of the winding up rank on a return of capital behind all other Shares; and
- (c) in the event of a breach of any escrow agreement entered into by the Company under the Listing Rules in relation to Shares which are vendor securities, the Member holding the Shares in question ceases to be entitled to any dividends and to any voting rights in respect of those Shares for so long as the breach subsists.

#### **2.15 Certificates**

The Board may determine to issue certificates for Shares or other securities of the Company, to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form it thinks fit.

#### **2.16 Computerised share transfer system**

Without limiting clause 2.15, if the Company participates, or to enable the Company to participate, in any computerised or electronic share transfer system introduced by or acceptable to the ASX, the directors may :

- (a) provide that Shares may be held in certificated or uncertificated form and make any provision it thinks fit, including for the issue or cancellation of certificates, to enable Members to hold Shares in uncertificated form and to convert between certificated and uncertificated holdings;
- (b) provide that some or all Members are not to be entitled to received a share certificate in response of some or all of the Shares which the Members hold in the Company;
- (c) accept any instrument of transfer, transfer document or other method of transfer in accordance with the requirements of the share transfer system; and

- (d) despite any other provision in this Constitution, do all things it considers necessary, required or authorised by the Corporations Act, the Listing Rules or the ASTC Settlement Rules in connection with the share transfer system.

### **Part 3        Calls, forfeiture, Indemnities and lien**

#### **3.1        Calls**

- (a) Subject to this Constitution and to the terms upon which any Shares may be issued, the directors may make calls upon the Members in respect of any money unpaid on their Shares which is not by the terms of issue of those Shares made payable at fixed times.
- (b) A call may be required by the directors to be paid by instalments.
- (c) Upon receiving at least 14 days notice specifying the time and place of payment, each Member must pay to the Company by the time and at the place so specified the amount called on the Member's Shares.
- (d) A call is to be taken as having been made when the resolution of the directors authorising the call was passed.
- (e) The directors may revoke a call.
- (f) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any Member does not invalidate the call.
- (g) If a sum called in respect of a Share is not paid in full by the day appointed for payment of the sum, the person from whom the sum is due must pay:
- (1) interest on so much of the sum as is unpaid from time to time, from the date appointed for payment of the sum to the date of actual payment, at a rate determined under clause 3.9; and
  - (2) any costs expenses or damages incurred by the Company in relation to the non-payment or late payment of the sum.
- (h) Any sum unpaid on a Share that, by the terms of issue of the Share, becomes payable on allotment or at a fixed date:
- (1) is to be treated for the purposes of this Constitution as if that sum was payable pursuant to a call duly made and notified; and
  - (2) must be paid on the date on which it is payable under the terms of issue of the Share.
- (i) The directors may, to the extent permitted by law, waive all or any part of any payment due to the Company under the terms of issue of a Share or under this clause 3.1.

#### **3.2        Proceedings for recovery of calls**

- (a) In an action or other proceedings for the recovery of a call, or interest or costs or expenses incurred in relation to the non-payment or late payment of a call, proof that:

- (1) the name of the defendant is entered in the Register as the holder or one of the holders of the Share in respect of which the call is claimed;
- (2) the resolution making the call is recorded in the minute book; and
- (3) notice of the call was given to the defendant in accordance with this Constitution,

is conclusive evidence of the debt and it is not necessary to prove the appointment of the directors who made the call or any other matter.

- (b) In clause 3.2(a), “defendant” includes a person against whom a set-off or counter-claim is alleged by the Company and “action or other proceedings for the recovery of a call” is to be construed accordingly.

### **3.3 Payments In advance of calls**

- (a) The directors may accept from a Member the whole or a part of the amount unpaid on a Share although no part of that amount has been called.
- (b) The directors may authorise payment by the Company of interest upon the whole or any part of an amount accepted under clause 3.3(a), until the amount becomes payable, at a rate agreed between the directors and the Member paying the amount.
- (c) The directors may repay to a Member all or any of the amount accepted under clause 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 day appointed for payment of the call or instalment, the directors may serve a notice on that Member:
  - (1) requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs, expenses or damages may have been incurred by the Company by reason of the non-payment or late payment of the call or instalment;
  - (2) naming a further day (at least 14 days alter the date of service of the notice) by which, and a place at which, the amount payable under clause 3.4(a)(1) is to be paid; and
  - (3) stating that, in the event of non-payment of the whole of the amount payable under clause 3.4(a)(1) by the time and at the place named, the Shares in respect of which the call was made will be liable to be forfeited.
- (b) If the requirements of a notice served under clause 3.4(a) are not complied with, the directors may by resolution forfeit any Share in respect of which the notice was given at any time after the day named in the notice and before the payment required by the notice is made.
- (c) A forfeiture under clause 3.4(b) will include all dividends, interest and other money payable by the Company in respect of the forfeited Share and not actually paid before the forfeiture.



- (d) Where a Share has been forfeited:
  - (1) notice of the resolution must be given to the Member in whose name the Share stood immediately before the forfeiture; and
  - (2) an entry of the forfeiture, with the date, must be made in the Register.
- (e) Failure to give the notice or to make the entry required under clause 3.4(d) does not invalidate the forfeiture.
- (f) A forfeited Share becomes the property of the Company and the directors may sell, reissue or otherwise dispose of the Share in such manner as they think fit and, in the case of reissue or other disposal, with or without any money paid on the Share by any former holder being credited as paid up.
- (g) A person whose Shares have been forfeited ceases to be a Member in respect of the forfeited Shares, but remains liable to pay, and must immediately pay, to the Company:
  - (1) all calls, instalments, interest, costs, expenses and damages owing in respect of the Shares at the time of the forfeiture; and
  - (2) interest on so much of the amount payable under clause 3.4(g)(1) as is unpaid from time to time, from the date of the forfeiture to the date of the actual payment, at a rate determined under clause 3.9.
- (h) Except as otherwise provided by this Constitution or (while the Company is a listed company) the Listing Rules, the forfeiture of a Share extinguishes all interest in, and all claims and demands against the Company in respect of, the forfeited Share and all other rights incident to the Share.
- (i) A statement in writing declaring that the person making the statement is a director or a secretary of the Company and that a Share has been duly forfeited on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the Share and of the right of the Company to sell, reissue or otherwise dispose of the Share.
- (j) The directors may:
  - (1) exempt a Share from all or any part of this clause 3.4;
  - (2) waive all or any part of any payment due to the Company under this clause 3.4; and
  - (3) before a forfeited Share has been sold, reissued or otherwise disposed of, annul the forfeiture upon such conditions as they think fit.

### **3.5 Indemnity for taxation**

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

- (a) in respect of Shares held solely or jointly by a Member;
- (b) in respect of a transfer or transmission of Shares 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 or in respect of a Member,

whether as a consequence of:

(e) the death of that Member,

(f) 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;

(g) 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

(h) any other act or thing,

then, in addition to any right or remedy that law may confer on the Company:

(i) the Member or, if the Member is dead, the Member's legal personal representative must:

(1) fully indemnify the Company against that liability;

(2) reimburse the Company for any payment made under or as a consequence of that law immediately on demand by the Company; and

(3) pay interest on so much of the amount payable to the Company under clause 3.5(i)(2) as is unpaid from time to time, from the date the Company makes a payment under that law until the date the Company is reimbursed in full for that payment under clause 3.5(i)(2), at a rate determined under clause 3.9; and

(j) the directors may:

(1) exempt a Share from all or any part of this clause 3.5; and

(2) waive all or any part of any payment due to the Company under this clause 3.5.

### **3.6 Listing Requirements**

None of the powers conferred by this constitution in respect of calls and timetables shall be exercised otherwise than in accordance with such timetable as may be prescribed by the Listing Rules.

### **3.7 Lien on Shares**

(a) The Company has a first and paramount lien on:

(1) each partly paid Share for all unpaid calls and instalments due in respect of that Share; and

(2) each Share for such amounts (if any) as the Company may be called upon by law to pay in respect of that Share

when, and only when :

- (3) an unpaid call or instalment is due but unpaid on those Shares;
  - (4) if the Shares were acquired under an Employee Incentive Scheme, an amount is owed to the Company for acquiring those Shares; or
  - (5) the lien is in respect of an amount that the Company is required by law to pay (and has paid) in respect of the Shares of a present or deceased former shareholder.
- (b) The Company's lien on a Share extends to all dividends payable in respect of the Share, to the proceeds of sale of the Share, and to reasonable interest and expenses incurred by the Company because an amount is not paid in respect of a Share.
- (c) The directors may sell any Share on which the Company has a lien in such manner as they think fit where:
- (1) an amount in respect of which a lien exists under this clause 3.7 is presently payable; and
  - (2) the Company has, not less than 14 days before the date of the sale, given to the registered holder of the Share a notice in writing setting out, and demanding payment of, such amount in respect of which the lien exists as is presently payable

provided that if the Shares are CHESSE Approved Securities the directors must comply with the ASTC Settlement Rules in effecting the sale.

- (d) Registration by the Company of a transfer of Shares on which the Company has a lien without giving to the transferee notice of its claim releases the Company's lien in so far as it relates to sums owing by the transferor or any predecessor in title.
- (e) The directors may:
- (1) exempt a Share from all or any part of this clause 3.7 and
  - (2) waive all or any part of any payment due to the Company under this clause 3.7.

### **3.8 Sale, reissue or other disposal of forfeited Shares and sale of Shares on which the Company has a lien**

- (a) The directors may:
- (1) receive the purchase money or consideration given for the Shares on; and
  - (2) appoint a person to execute an instrument of transfer of the Shares or any other instrument for the purpose of giving effect to,
- any sale, reissue or other disposal under clause 3.4(f) or any sale under clause 3.7(c).
- (b) The Company must register as the holder of the Shares the person to whom the Shares are sold, reissued or otherwise disposed of under clause 3.4(f) or sold under clause 3.7(c).

- (c) A person to whom Shares are sold, reissued or otherwise disposed of under clause 3.4(f) or sold under clause 3.7(c) is not bound to see to the regularity or validity of, or to the application of the purchase money or consideration on, any sale, reissue or other disposal under clause 3.4(f) or any sale under clause 3.7(c) and the title of that person to the Shares is not affected by any irregularity or invalidity in the forfeiture of the Shares or the exercise of the Company's lien on the Shares (as the case may be).
- (d) The remedy of any person aggrieved by a sale, reissue or other disposal under clause 3.4(f) or a sale under clause 3.7(c) is limited to damages only and is against the Company exclusively.
- (e) The proceeds of a sale, reissue or other disposal under clause 3.4(f) or a sale under clause 3.7(c) must be applied in the payment of:
  - (1) first, the expenses of the sale, reissue or other disposal;
  - (2) second, all money presently payable by the former holder whose Shares have been sold, reissued or otherwise disposed of;

and the balance (if any) must be paid (subject to any lien that exists under clause 3.7 in respect of money not presently payable) to the former holder on the former holder delivering to the Company the certificate, for the Shares that have been sold, reissued or otherwise disposed of.

### **3.9 Interest payable by Member**

- (a) For the purposes of clauses 3.1(g)(1), 3.4(g)(2) and 3.5(i)(3), the rate of interest payable to the Company is:
  - (1) if the directors have fixed a rate, the rate so fixed; or
  - (2) in any other case, 20% per annum.
- (b) Interest payable under clauses 3.1(g)(1), 3.4(g)(2) and 3.5(i)(3) accrues daily and may be capitalised monthly or at such other intervals as the director think fit.

## **Part 4 Transfer and transmission of Shares**

### **4.1 Transfer of Shares**

- (a) Subject to this Constitution, a Member may transfer all or any of the Member's Shares:
  - (1) in the case of CHESSE Approved Securities, in accordance with the ASTC Settlement Rules and the provisions of the Corporations Act and Listing Rules; or
  - (2) in the case of non-Chess Approved Securities by:
    - (A) instrument in writing in any usual form or in any other form that the directors approve; or

- (B) any other method of transfer of securities which may be recognised by the Corporations Act, is not inconsistent with the Listing Rules and is approved by the directors.
- (b) An instrument of transfer referred to in clause 4.1(a)(2) or (3) must be:
- (1) signed by or on behalf of both the transferor and the transferee unless:
    - (A) the instrument of transfer relates only to fully paid Shares and signature by the transferee has been dispensed with by the directors; or
    - (B) the transfer of the Shares is effected by a document which is, or documents which together are, a sufficient transfer of those Shares under the Corporations Act; or
    - (C) in the case of a CHESSE Approved Security, signature is not required by the ASTC Settlement Rules;
  - (2) if required by law to be stamped, duly stamped;
  - (3) in the case of a transfer of partly paid Shares, endorsed by, or accompanied by an instrument executed by, the transferee to the effect that the transferee agrees to accept the Shares subject to the terms and conditions on which the transferor held them and to become a Member and to be bound by the Company's Constitution; and
  - (4) left for registration at the registered office of the Company or at such other place as the directors determine, accompanied by the certificate (if any) for the Shares to which it relates and such other evidence as the directors require to prove the title of the transferor or the transferor's right to the Shares and to prove the right of the transferee to be registered as the owner of the Shares.
- (c) If a CHESSE Approved Security is to be transferred, then the procedure set down by the ASTC Settlement Rules is to be observed.
- (d) Subject to the powers vested in the directors under clauses 4.2 and 4.3, where the Company receives an instrument of transfer in accordance with clause 4.1(b), the Company must register the transferee named in the instrument as the holder of the Shares to which it relates.
- (e) Except as provided by the ASTC Settlement Rules, a transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares.
- (f) The Company must not charge a fee for any matter concerning transfers, renunciations, transmissions, certificates, conversions between subregisters, holding statements and transactions statements where the charging of a fee is prohibited by the Listing Rules but, if the Listing Rules allow the charging of a reasonable fee for any such matter, the Company may charge a reasonable fee for the matter whether or not the Company is then on its own official list.
- (g) The Company must retain any registered instrument of transfer for such period as 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.
- (i) 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 that may be owned, operated or sponsored by the ASX or a related body corporate of the ASX.
- (j) The directors may, to the extent permitted by law, waive all or any of the requirements of this clause 4.1, whether for the purpose of giving effect to clause 4.1(i) or otherwise and must waive the requirement for a proper instrument of transfer in writing and in the usual and common form in the case of a proper ASTC transfer.

#### **4.2 Power to decline registration of transfers**

- (a) The directors may decline to register a transfer of Shares in any case, where transfer is not in registrable form or the refusal to register the transfer is permitted under the Listing Rules (whether or not the Company is then a listed company).
- (b) If the directors decline to register a transfer, the Company must give to the party lodging the transfer written notice of the refusal and the precise reasons therefore within five business days after the date on which the transfer was lodged with the Company.

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

The directors may suspend the registration of transfers at such times and for such periods, not exceeding in total 30 days in any year, as they think fit.

#### **4.4 Proper ASTC transfers**

A proper ASTC transfer is taken to be recorded in the appropriate register, and the name of the transferee to be registered as the holder of the securities comprised in the proper ASTC transfer, at the time when, under the ASTC Settlement Rules, the proper ASTC transfer takes effect.

#### **4.5 Transmission of Shares**

- (a) In the case of the death of a Member, the only persons the Company will recognise as having any title to the Member's Shares or any benefits accruing in respect of those Shares are:
  - (1) the legal personal representative of the deceased where the deceased was a sole holder; and
  - (2) the survivor or survivors where the deceased was joint holder.
- (b) Nothing contained in clause 4.5(a) releases the estate of a deceased Member from any liability in respect of a Share, whether that Share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a Share in consequence of a transmission event may, upon producing the certificate for the Share and such other evidence as the directors may require to prove that person's entitlement to the Share, elect:

- (1) to be registered as the holder of the Share by signing and serving on the Company a notice in writing stating that election; or
  - (2) to have some other person nominated by that person registered as the transferee of the Share by executing a transfer of the Share to that other person.
- (d) The provisions of this Constitution relating to the right to transfer and the registration of transfers of Shares apply, so far as they can and with such changes as are necessary, to any notice or transfer under clause 4.5(c) as if the relevant transmission event had not occurred and the notice or transfer were a transfer signed by the registered holder of the Share.
- (e) For the purpose of this Constitution, where 2 or more persons are jointly entitled to any Share in consequence of a transmission event they will, upon being registered as the holders of the Share, be taken to hold the Share as joint tenants and clause 2.10 will apply to them.

## **Part 5      General Meetings**

### **5.1      Convening of general meetings**

- (a) The directors:
- (1) may, whenever they think fit, convene a general meeting;
  - (2) must, on the requisition in writing of a director, immediately convene a general meeting to be held as soon as practicable but, in any case, not later than 2 months after the date of the deposit of the requisition; and
  - (3) must convene a meeting when requested by Members in accordance with the Corporations Act;
- (b) If the directors do not, within 21 days after the date of the deposit of a requisition under clause 5.1(a)(2), proceed to convene a general meeting, the requisitioning director may convene a general meeting to be held not later than three months after the date of the deposit of the requisition.
- (c) A general meeting may be convened only as provided by this clause 5.1 or as provided by the Corporations Act.
- (d) The directors may postpone or cancel a general meeting whenever they think fit, other than a meeting convened following a requisition of Members in accordance with the Corporations Act or convened following the requisition in writing of a director.

### **5.2      Notice of general meeting**

- (a) Subject to:
- (1) this Constitution;
  - (2) provisions of the Corporations Act relating to special notice, special resolutions and agreements for shorter notice;

- (3) (while the Company is a listed company) the Listing Rules; and
- (4) the rights or restrictions attached to any Shares or class of Shares,

at least 14 days' notice of a general meeting (exclusive of the day on which the notice is served or deemed to be served and of the day appointed for the meeting) must be given in the manner authorised by clause 13.1 to the, persons referred to in clause 5.2(b).

- (b) Notice of a general meeting must be given to each person who is at the time of giving the notice:
  - (1) a Member;
  - (2) entitled under clause 4.5(c) to be registered as the holder of, or to transfer, any Shares and who has satisfied the directors of his or her right to be registered as the holder of or to transfer, the Shares;
  - (3) a director; or
  - (4) an auditor of the Company,

and, while the Company is a listed company, to the ASX.
- (c) A notice of a general meeting must specify the time and place of the meeting and, except as provided in clause 5.2(d), state the general nature of the business to be transacted at the meeting.
- (d) It is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of accounts and the reports of the directors and auditor, the election of directors in place of those retiring, the appointment and fixing of the remuneration of the auditor of the Company or any other business which under the Corporations Act ought to be transacted at the annual general meeting.
- (e) A person may waive notice of any general meeting by notice in writing to the Company.
- (f) Failure to give notice of a general meeting or a proxy form to any person entitled to receive notice of a general meeting under this clause 5.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
  - (1) the failure occurred by accident or error; or
  - (2) before or after the meeting, the person:
    - (A) has waived or waives notice of that meeting under article 5.2(e); or
    - (B) has notified or notifies the company of the person's agreement to that act matter, thing or resolution by notice in writing to the Company.
- (g) A person's attendance at a general meeting:



- (1) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
  - (2) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in clause 5.2(d) unless the person objects to considering the matter when it is presented.
- (h) The notice of meeting must be accompanied by a proxy form and include a statement:
- (1) that a Member entitled to attend and cast a vote at the meeting may appoint a person as the Member's proxy to attend and vote for the Member at the meeting;
  - (2) that the appointment may specify the proportion or number of votes that the proxy may exercise; and
  - (3) that if the Member is entitled to cast 2 or more votes at the meeting, the Member may appoint 2 proxies and if 2 proxies are appointed and the appointment does not specify the proportion or number of the Member's votes, each proxy may exercise half of the Member's votes.

### **5.3 Admission to general meetings**

The chairman of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) in possession of a pictorial-recording or sound-recording device;
- (b) in possession of a placard or banner;
- (c) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) who is not a Member, director or auditor of the Company or a person referred to in clause 5.2(b)(2).

### **5.4 Quorum at general meetings**

- (a) No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of Members is present when the meeting proceeds to business.
- (b) 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 one Member is entitled to vote - that Member,

present at the meeting.

- (c) If a quorum is not present within 30 minutes after the time appointed for the general meeting:
- (1) where the meeting was convened upon the requisition of Members, the meeting must be dissolved; or
  - (2) in any other case;
    - (A) the meeting stands adjourned to such day, and at such time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
    - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

### **5.5 Chairperson of general meetings**

- (a) The chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting:
- (b) If at a general meeting:
- (1) there is no chairperson of directors;
  - (2) the chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or
  - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,

then if the directors have elected a deputy chairperson of directors, the deputy chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at the meeting.

- (c) Subject to clause 5.5(a), if at a general meeting:
- (1) there is no deputy chairperson or directors;
  - (2) the deputy chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or
  - (3) the deputy chairperson of directors is present, within that time but is not willing to act as chairperson of the meeting:

the Members present thus elect as chairperson of the meeting:

- (4) another director who is present and willing to act; or
- (5) if no other director willing to act is present at the meeting, a Member who is present and willing to act.

- (d) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.

## **5.6 Adjournment of general meeting**

- (a) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (c) Except as provided by clause 5.6(b) it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## **5.7 Suspension of proceedings**

The chairman of a general meeting may, for the purpose of allowing any poll to be taken or determined, suspend the proceedings of a meeting for such period or periods as he or she thinks fit without effecting an adjournment. No business shall be transacted and no discussion shall take place during any suspension of proceedings.

## **5.8 Decisions at general meetings**

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the Members present and any such decision is for all purposes a decision of the Members.
- (b) In the case of an equality of votes upon any proposed resolution the chairperson of the meeting, in addition to his or her deliberative vote, has a casting vote.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before or immediately after the declaration of the result of the show of hands:
  - (1) by the chairperson of the meeting;
  - (2) by at least five Members present and having the right to vote on the resolution;
  - (3) by a Member or Members present and representing not less than one-tenth of the total voting rights of all the Members having the right to vote on the resolution; or
  - (4) by a Member or Members present holding Shares conferring a right to vote on the resolution, being Shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all Shares conferring that right.

- (d) 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.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken in such manner and (subject to clause 5.8(g)) either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.

## **5.9 Voting rights**

- (a) Subject to this Constitution and to any rights or restrictions attached to any Shares or class of Shares, at a general meeting:
  - (1) on a show of hands, every Member present has one vote; and
  - (2) on a poll, every Member present has one vote for each Share held by the Member and in respect of which the Member is entitled to vote except in respect of partly paid Shares, each of which will confer on a poll only that fraction of one vote which the amount paid up on the Share bears to the total issue price of Shares.
- (b) Where a person present at a general meeting represents personally or by proxy, attorney or representative more than one Member:
  - (1) on a show of hands the person is entitled to one vote only despite the number of Members the person represents;
  - (2) that vote will be taken as having been 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 accordance with clause 5.10(g) in any instrument appointing the person as a proxy or attorney.
- (c) Where a Member appoints two proxies or attorneys to vote in respect of Shares held by the Member and both are in attendance:
  - (1) on a show of hands, only the first person named in the instrument appointing the proxies or attorneys or, if they are named in separate instruments, the person whose name is earlier in alphabetical sequence, may vote; and

- (2) on a poll, each proxy or attorney may only exercise votes in respect of those Shares for which the proxy or attorney has been validly appointed proxy or attorney.
- (d) In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy; attorney or representative, must be accepted to the exclusion of the votes of the other joint holders and , for this purpose, seniority is to be determined by the order in which the names stand in the Register (the Member whose name appears first in the Register being taken to be the senior to the other or others of them).
- (e) The parent or guardian of an infant Member may vote at any general meeting upon such evidence being produced of the relationship or of the appointment of the guardian as the directors may require and any vote tendered by a parent or guardian of an infant Member accordance with this clause 5.9(e) must be accepted to the exclusion of the vote of the infant Member.
- (f) If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health then the Member's committee or trustee or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.
- (g) A person entitled under clause 4.5(c) to be registered as the holder of, or to transfer, any Shares may vote at any general meeting in respect of those Shares in the same manner as if that person were the registered holder of those Shares if, before the meeting, the directors have:
- (1) admitted that person's right to vote at that meeting in respect of those Shares; or
  - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, those Shares,
- and any vote tendered by such a person in accordance with this clause 5.9(g) must be accepted to the exclusion of the vote of the registered holder of those Shares.
- (h) A Member is not entitled to vote at a general meeting unless all calls and other sums presently payable by that Member in respect of Shares in the Company have been paid.
- (i) A Member is not entitled to vote on any resolution for the purposes of the Listing Rules if the Listing Rules provide:
- (1) the Member must not vote or must abstain from voting on the resolution; or
  - (2) a vote on the resolution by the Member must be disregarded for the purposes of the Listing Rules;
- and if the Member does vote on such a resolution, his or her vote must not be counted.
- (j) An objection to the qualification of a person to vote at a general meeting:
- (1) must be raised before or at the meeting at which the vote objected to is given or tendered; and

- (2) must be referred to the chairperson of the meeting, whose decision is final.
- (k) A vote not disallowed by the chairperson of a meeting under clause 5.9(I and j) is valid for all purposes.

#### **5.10 Representation at general meetings -**

- (a) Subject to this Constitution, each Member entitled to vote at a meeting of Members may vote:
  - (1) in person:
  - (2) by not more than two proxies:
  - (3) by not more than two attorneys; or
  - (4) where the Member is a body corporate, by its representative.
- (b) A proxy, attorney or representative may, but need not, be a Member of the Company.
- (c) A proxy, attorney or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Subject to the Listing Rules, an instrument appointing a proxy, attorney or representative may be in any usual form or any other form that the directors approve (but must include details required in the Listing Rules) and no instrument of proxy is to be treated as invalid merely because it does not contain the address of the appointor or of a proxy or is not dated or does not contain in relation to any or all resolutions an indication of the manner in which the proxy is to vote, however, the form of proxy issued in respect of any meeting is to be blank as to the first proxy but may include the name of any suggested alternative or other proxy.
- (e) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative will be taken to confer authority:
  - (1) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
  - (2) to agree to a resolution being proposed and passed as a special resolution at a meeting of which less than 21 days notice has been given;
  - (3) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:
    - (A) 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; and
    - (B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting;
  - (4) to speak to any proposed resolution on which the proxy, attorney or representative may vote; and

- (5) to demand or join in demanding a poll on any resolution on which the proxy, attorney or representative may vote.
- (f) Where a Member appoints two proxies or attorneys to vote in respect of the Member's Shares at the same general meeting, the appointment is of no effect and neither or them may vote unless each proxy or attorney, as the case may be is appointed to represent a specified proportion of the Member's voting rights.
- (g) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument and, subject to clause 5.8(e), any vote tendered by the proxy which is not a vote that way must be disregarded.
- (h) An appointment of a proxy or attorney must be in writing and:
  - (1) in the case of a natural person, signed by the appointor; or
  - (2) in the case of a body corporate, executed under the seal of the appointer.
- (i) A proxy or attorney may not vote at a general meeting unless the instrument appointing the proxy or attorney, and a copy of the power of attorney or other authority (if any) under which the instrument is signed, are deposited at the registered office of the Company or share registry or at such other place specified for that purpose in the notice convening the meeting:
  - (1) in the case of a meeting or an adjourned meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - (2) in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll.
- (j) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:
  - (1) the previous death, unsoundness of mind or bankruptcy of the appointer; or
  - (2) the revocation of the instrument or of the authority under which the instrument was executed,

if no notice in writing of the death, unsoundness of mind, bankruptcy or revocation has been received by the Company by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be deposited under clause 5.10(i).
- (k) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the Share in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be deposited under clause 5.10(i).
- (l) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the person or persons acting as proxy or attorney for the appointer are not entitled to vote,

and must not vote, as the appointer's proxy or attorney on the resolution and, subject to clause 5.8(e), any vote tendered by the proxy or attorney on any resolution voted upon by the appointer as contemplated in this clause 5.10(1) is not valid.

## **Part 6 Directors**

### **6.1 Appointment and removal of directors**

- (a) The number of directors must be not less than three and not more than ten or such other minimum and maximum number as the Company may resolve but the number so fixed by the Company at a particular time must not be less than the number of directors in office at that time.
- (b) Subject to clauses 6.1(a) and (k) and the Listing Rules, the Company may by resolution elect any natural person to be a director either as an addition to the existing directors or as otherwise provided in this Constitution.
- (c) Subject to clauses 6.1(a) and (d) and the Listing Rules, the directors may appoint any natural person to be a director, either as an addition to the existing director or to fill a casual vacancy (including any casual vacancy arising where a director is removed from office under clause 6.1(i)(1) and no person is appointed in place of that director under clause 6.1(i)(2)).
- (d) Subject to clause 7.1(c), a director, other than a managing director, appointed under clause 6.1(c) and any director required to retire under the Listing Rules must retire from office at the next annual general meeting following his appointment.
- (e) An election of directors must take place at each annual general meeting of the Company and at that meeting:
  - (1) excluding any director who is required to retire at that meeting under clause 6.1(d) or the Listing Rules and (subject to clause 7.1(c)) any managing director:
    - (A) one-third of the remaining directors (rounded down, if necessary, to the nearest whole number); and
    - (B) any other director who, if he does not retire will at the conclusion of the meeting have been in office for three or more years and for three or more annual general meetings since he or she was last elected to office,

must retire from office as directors; and

  - (2) if no director is required to retire from office under clause 6.1(e)(1), at least one director excluding a managing director but including a director appointed under clause 6.1(c) who is required to retire at that meeting under clause 6.1(d) must retire from office as a director.
- (f) The director or directors who must retire at an annual general meeting in accordance with clause 6.1(e)(1)(A) or (e)(2) (as the case may be) is the director who has, or are the directors who have, been longest in office since their last election but, as between persons who were last elected as directors on the same day, the director or directors to



retire must be determined by agreement among themselves or in the absence of agreement, by lot.

- (g) Subject to clause 6.1(1), the Company may by resolution fill the office vacated by a director under clause 6.1(d) or (e) by electing a person to that office.
- (h) A director retiring from office under clause 6.1(d) or (e) is eligible for re-election and if the office vacated by that director is not filled by a resolution of the Company under clause 6.1(g), that director (if offering himself or herself for re-election) is to be taken as having been re-elected to that office unless:
  - (1) it is expressly resolved not to fill the vacated office; or
  - (2) a resolution for the re-election of that director is put and lost.
- (i) The retirement of a director from office under clause 6.1(d) or (e) and the re-election of the 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.
- (j) The Company may:
  - (1) by resolution in accordance with the Corporations Act remove a director from office; and
  - (2) subject to clause 6.1(1), by resolution fill the office vacated by a director who is removed under clause 6.1(j)(1) by electing another person to that office.
- (k) A person elected as a director under clause 6.1(j)(2) must retire under clause 6.1(d) or (e) (as the case may be) on the same day that the director in whose place he or she was appointed would have had to retire under clause 6.1(d) or (e) if that director had not been removed from office under clause 6.1(j)(1).
- (l) A person may only be elected to the office of a director at a general meeting if:
  - (1) he or she is a director retiring from office under clause 6.1(d) or (e) and standing for re-election at that meeting;
  - (2) he or she has been nominated by the director for election at that meeting;
  - (3) if the person is a Member, he or she has at least 30 business days before the meeting served on the Company a notice signed by him or her signifying his or her desire to be a candidate for election at that meeting; or
  - (4) whether or not the person is a Member, some Member intending to nominate him or her for election at that meeting has at least 30 business days before the meeting served on the Company a notice signed by the Member and signifying the Member's intention to nominate the person for election, which is accompanied by a notice signed by the person and signifying his or her consent to the nomination.

## **6.2 Vacation of office**

In addition to the circumstances prescribed by the Corporations Act, the office of a director becomes vacant if the director:

- (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally;
- (c) is convicted of a felony and the directors do not within one month of that conviction resolve to confirm the director's appointment or election (as the case may be) to the office of director;
- (d) fails to attend meetings of the directors for more than 3 consecutive meetings without leave of absence from the directors; or
- (e) resigns by notice in writing to the Company.

### **6.3 Remuneration of directors**

- (a) The directors are entitled to be paid such remuneration as is determined by the Company in general meeting.
- (b) The remuneration of directors:
  - (1) may be a stated salary or a fixed sum for attendance at each meeting of directors or both; or
  - (2) may be a share of a fixed sum determined by the Company in general meeting to be the remuneration payable to all directors which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally,

and if it is a stated salary under clause 6.3(b)(1) or a share of fixed sum under clause 6.3(b)(2), will be taken to accrue from day to day.

- (c) The remuneration payable by the Company to a director (other than a managing director, deputy managing director or executive director) must not include a commission on, or percentage of, profits or operating revenue.
- (d) The directors are entitled to be paid all travelling and other expenses properly incurred by them in connection with the affairs of the Company including attending and returning from general meetings of the Company or meetings of the directors or of committees of the directors.
- (e) If a director renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of the Company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under clause 6.3(a).
- (f) If a director is also an officer of the Company or of a related body corporate in a capacity other than director, any remuneration that director may receive for acting as that officer may be either in addition to or in substitution for that director's remuneration under clause 6.3(a).
- (g) Subject to the Listing Rules, the directors may:

- (1) at any time after a director dies or otherwise ceases to hold office as a director, pay to the director or a legal personal representative, spouse, relative or dependent of the director, in addition to the remuneration of that director under clause 6.3(a), a pension or lump sum payment in respect of past services rendered by that director but not exceeding the amount permitted to be paid by the Corporations Act; and
  - (2) cause the Company to enter into a contract with the director for the purpose of providing for or giving effect to such a payment.
- (h) The directors may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to the directors.

#### **6.4 Share qualification**

- (a) A director is not required to hold any Shares by way of qualification.
- (b) A director who is not a Member is nevertheless entitled to attend and speak at general meetings.

#### **6.5 Interested directors**

- (a) A director may hold any other office or place of profit (other than auditor) in the Company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or place upon such terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the Company may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the director as a director or officer of, or from having an interest in that body corporate.
- (c) A director is not disqualified merely because of being a director from contracting with the Company in any respect including, without limitation:
  - (1) selling any property to, or purchasing any property from, the Company;
  - (2) lending any money to, or borrowing any money from, the Company with or without interest and with or without security;
  - (3) guaranteeing the repayment of any money borrowed by the Company for a commission or profit;
  - (4) underwriting or guaranteeing the subscription for securities in the Company or in any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a shareholder or otherwise, for a commission or profit; or
  - (5) being employed by the Company or acting in any professional capacity (other than auditor) on behalf of the Company and earning fees in the normal course of business.

- (d) No contract made by a director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any director may be in any way interested is avoided or rendered voidable merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (e) No director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (f) A director must not vote in respect of any contract or arrangement or proposed contract or arrangement in which the director has, directly or indirectly, a material interest and if a director does so vote, the directors vote must not be counted:
- (g) A director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
  - (1) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
  - (2) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement to which the seal is affixed and
  - (3) provided the director's interest is not, directly or indirectly, a material interest, vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

## **6.6 Powers and duties of directors**

- (a) The directors are responsible for managing the business of the Company and may exercise to the exclusion of the Company in general meeting all the powers or the Company which are not required, by the Corporations Act, this Constitution or (while the Company is a listed company) the Listing Rules, to be exercised by the Company in general meeting.
- (b) Without limiting the generality of clause 6.6(a), the directors may exercise all the powers of the Company to borrow or otherwise raise money to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.
- (d) The directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (e) The directors may:
  - (1) appoint or employ any person to be an officer, agent or attorney the Company for such purposes with such powers, discretions and duties (including powers,

discretions and duties vested in or exercisable by the directors), for such period and upon such conditions as they think fit;

- (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
  - (3) subject to any agreement entered into with the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the Company at any time, with or without cause.
- (f) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

### **6.7 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 method of audio or audio visual communication of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this Constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors by telephone or audio or audio visual communication.
- (c) A director participating in a meeting by telephone or radio or audio visual communication is to be taken to be present in person at the meeting.

### **6.8 Convening of meetings of directors**

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

### **6.9 Notice of meetings of directors**

- (a) Subject to this Constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
  - (1) a director, other than a director on leave of absence approved by the directors; or
  - (2) an alternate director appointed under clause 6.14.
- (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 be given immediately before the meeting;
  - (4) may be given in person or by post, facsimile transmission, telephone or other method of written, audio or audio visual communication; and

- (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 waive notice of any meeting of directors by notifying the Company to that effect in person or by post, facsimile transmission, telephone or other method of written, audio or audio visual communication.
- (d) Failure to give notice of a meeting of directors to a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (1) the failure occurred by accident or error;
  - (2) before or after the meeting, the director or an alternate director appointed by the director:
    - (A) has waived or waives notice of that meeting under clause 6.9(c); or
    - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, facsimile transmission, telephone or other method of written, audio or audio visual communications; or
  - (3) the director or an alternate director appointed by the director attended the meeting.
- (e) Failure to give notice of a meeting of directors to an alternate director of a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (1) the failure occurred by accident or error;
  - (2) before or after the meeting, the alternate director or the director who appointed the alternate director:
    - (A) has waived or waives notice of that meeting under clause 6.9(c); or
    - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, facsimile transmission, telephone or other method of written, audio or audio visual communications; or
  - (3) the alternate director or an alternate director appointed by the alternate director attended the meeting.
- (f) Attendance by a person at a meeting of directors waives any objection of that person and:
- (1) if the person is a director, an alternate director appointed by that person; or
  - (2) if the person is an alternate director, the director who appointed that person as alternate director,
- may have to a failure to give notice of the meeting.

### **6.10 Quorum at meetings of directors**

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of:
  - (1) if the directors have fixed a number for the quorum, that number of directors; and
  - (2) in any other case, two directors, present at the meeting of directors.
- (c) In the event of a vacancy in the office of a director or vacancy in the offices of directors, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or of convening a general meeting of the Company.

### **6.11 Chairperson and deputy chairperson of directors**

- (a) The directors may elect one of the directors to the office of chairperson of directors and may determine the period for which that director is to be chairperson of directors.
- (b) The directors may elect one of the directors to the office of deputy chairperson of directors and may determine the period for which that director is to be deputy chairperson of directors.
- (c) The office of chairperson of directors or deputy chairperson of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the director holding that office for the purposes of clause 6.3(e)
- (d) The chairperson of directors must (if present within ten minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at each meeting at directors.
- (e) If at a meeting of directors:
  - (1) there is no chairperson of directors;
  - (2) the chairperson of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
  - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,

then if the directors have elected a deputy chairperson of directors the deputy chairperson of directors must (if present within ten minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at that meeting.
- (f) Subject to clause 6.11(d) if at a meeting of directors:
  - (1) there is no deputy chairperson of directors;

- (2) the deputy chairperson of directors is not present within ten minutes after the time appointed for the holding of the meeting; or
- (3) the deputy chairperson of directors is present within that time but is not willing to act as chairperson of the meeting, the directors present must elect one of themselves to be chairperson of the meeting.

## **6.12 Decision of directors**

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this Constitution.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and any such decision is for all purposes a determination of the directors.
- (c) Subject to clause 6.12(d), in the case of an equality of votes upon any proposed resolution the chairperson of the meeting, in addition to his or her deliberative vote has a casting vote.
- (d) Where only two directors are present or qualified to vote at a meeting of directors and there is an equality of votes upon any proposed resolution:
  - (1) the chairperson of the meeting will not have a second or casting vote; and
  - (2) the proposed resolution is to be taken as having been lost.

## **6.13 Written resolutions**

- (a) If a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed, is assented to by the greater of:
  - (1) a majority of directors; and
  - (2) the number of directors necessary to constitute quorum at a meeting of directors,

that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the directors.
- (b) For the purposes of clause 6.13(a):
  - (1) the meeting is to be taken as having been held:
    - (A) if the directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to by a director; or
    - (B) if the directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to by a director;
  - (2) two or more separate documents in identical terms each of which is assented to by one or more directors are to be taken as constituting one document; and



- (3) a director may signify assent to a document by signing the document or by notifying the Company of the director's assent in person or by post, facsimile transmission, telephone or other method of written, audio or audio visual communication.
- (c) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (d) Where a document is assented to in accordance with clause 6.13(a), the document is to be taken as a minute of a meeting of directors.

#### **6.14 Alternate directors**

- (a) A director may, with the approval of the directors, appoint a person to be the director's alternate director for such period as the director thinks fit.
- (b) An alternate director may, but need not, be a Member or a director of the Company.
- (c) One person may act as alternate director to more than one director.
- (d) An alternate director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer,
- (e) An alternate director 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 his or her own right.
- (f) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of any such power by the alternate director is to be taken to be the exercise of the power by the appointer.
- (g) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (h) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
- (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect unless and until the Company has received notice in writing of the appointment or termination.
- (j) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this Constitution.
- (k) In determining whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is to be counted as a director for each director on whose behalf the alternate director is attending the meeting.

- (l) An alternate director is entitled to be paid such remuneration as the directors think fit, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate.
- (m) An alternate director is not entitled to be remunerated by the Company for his or her services as alternate director except as provided in clause 6.14(l).

### **6.15 Committees of Directors**

- (a) The directors may delegate any of their powers to a committee or committees consisting of such number of directors as they think fit other than powers required by law to be dealt with by directors as a board.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this Constitution applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Membership of a committee of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the Members for the purposes of clause 6.3(e).

### **6.16 Delegation to individual directors**

- (a) The directors may delegate any of their powers to one director other than powers required by law to be dealt with by directors as a board.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) Acceptance of such a delegation may, if the directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of clause 6.3(e).

### **6.17 Validity of acts**

- (a) All acts done by any person acting as a director are, even if it is discovered afterwards that there was a defect in the person's appointment as a director or that the person was disqualified to be a director, as valid as if the person had been duly appointed as, and was qualified to be, a director.
- (b) All acts done by a meeting of directors or a committee of directors are, even if it is discovered afterwards that there was a defect in the appointment of a person as a director or that a person appointed as a director was disqualified to be a director, as valid as if the person had been duly appointed as, and was qualified to be, a director.

## **Part 7 Executive Officers**

### **7.1 Managing directors**

- (a) The directors may appoint one or more of the directors to the office of managing director.

- (b) A managing director's appointment as managing director automatically terminates if the managing director ceases to be a director.
- (c) Where there is more than one director appointed to the office of managing director at any one time, the managing director who has served as managing director for the shortest amount of time in respect of the then current period of service is not exempt from the requirements of retirement and election as detailed at clauses 6.1(d) and (e) respectively.

## **7.2 Deputy managing directors**

- (a) The directors may appoint one or more of the directors to the office of deputy managing director.
- (b) A deputy managing director's appointment as deputy managing director automatically terminates if the deputy managing director ceases to be a director.

## **7.3 Executive directors**

- (a) A reference in this clause 7.3 to an executive director is a reference to a director who is also an officer of the Company or of a related body corporate in a capacity other than director.
- (b) The directors may confer on an executive director such title as they think fit.
- (c) An executive director may be appointed on the basis that the executive director's appointment:
  - (1) as a director automatically terminates if the executive director ceases to be an officer of the Company or of a related body corporate in a capacity other than director; or
  - (2) as an officer of the Company or of a related body corporate in a capacity other than director automatically terminates if the executive director ceases to be a director.

## **7.4 Associate directors**

- (a) The directors may appoint one or more associate directors.
- (b) The directors may confer on an associate director such title as they think fit.
- (c) Even though the word "director" may appear in an associate director's title, an associate director is not to be taken to be a director of the Company and is not entitled:
  - (1) to attend any meeting of directors except by the invitation and with the consent of the directors; or
  - (2) to vote at any meeting of directors.

## 7.5 Secretaries

- (a) The directors must appoint at least one secretary and may appoint additional secretaries.
- (b) The directors may appoint one or more assistant secretaries.
- (c) The directors may suspend or remove a secretary.
- (d) The directors may vest in a secretary such powers, duties and authorities as they may from time to time determine and the secretary must exercise all such powers and authorities subject at all times to the control of the Directors.
- (e) A secretary is entitled to attend all meetings of the directors and all general meetings of the Company and may be heard on any matter.

## 7.6 Provisions applicable to all executive officers

- (a) A reference in this clause 7.6 to an executive officer is a reference to a managing director, deputy managing director, executive director, associate director, secretary or assistant secretary appointed under this part 7;
- (b) The appointment of an executive officer will be for such period, at such remuneration and upon such conditions as the directors think fit.
- (c) The remuneration payable by the Company to an executive officer who is also a director must not include a commission on, or percentage of, operating revenue.
- (d) Subject to the terms of any agreement entered into between the Company and the relevant executive officer, any executive officer of the Company may be removed or dismissed by the directors at any time, with or without cause
- (e) The directors may:
  - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the directors but excluding powers required by law to be dealt with by directors as a board) as they think fit;
  - (2) withdraw suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
  - (3) authorise the executive officer to delegate all or any of the powers discretions and duties conferred on the executive officer.
- (f) An executive officer is not required to hold any Shares to qualify for appointment.
- (g) All acts done by any person acting as an executive officer are, even if it is discovered afterwards that there was a defect in the person's appointment as an executive officer or that the person was disqualified to be an executive officer, as valid as if the person had been duly appointed as, and was qualified to be, an executive officer.

## **Part 8      Seals**

### **8.1      Safe custody of seal**

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

### **8.2      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 authority to use the seal may be given before or after the seal is used.
- (c)      Subject to clause 8.6, every document to which the seal is affixed must be signed by a director and countersigned by another director, a secretary or another person appointed by the directors to countersign that document or a class of documents in which that document is included.

### **8.3      Seal register**

- (a)      The Company must keep a seal register and, upon the affixing of the seal to any document (other than a certificate for securities of the Company), enter in the register particulars of the document, giving in each case the date of the document, the names of the parties to the document, a short description of the document and the names of the persons signing and countersigning the document under clause 8.2(c).
- (b)      The register must be produced at meetings of directors for confirmation of the use of the seal since confirmation was last given under this clause 8.3.

### **8.4      Official 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 one or more official seals each of which must be a facsimile of the common seal of the Company with the addition on its face of the name of the place where it is to be used.
- (b)      A document sealed with an official seal is to be taken as having been sealed with the common seal of the Company.

### **8.5      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 one or more share seals or certificate seals, each of which 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".
- (b)      A certificate for securities of the Company sealed with a share seal or certificate seal is to be taken as having been sealed with the common seal of the Company.

### **8.6      Sealing and signing 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.

## **Part 9      Distribution of profits**

### **9.1      Dividends**

- (a) Subject to the rights of persons (if any) entitled to Shares with special rights to dividend, the directors may declare and pay such interim and final dividends as, in their judgment, the financial position of the Company justifies.
- (b) The directors may pay any dividend required to be paid under the terms of issue of a Share.
- (c) The payment of a dividend does not require any confirmation by a general meeting.
- (d) Subject to any rights or restrictions attached to any Shares or class of Shares:
  - (1) all dividends in respect of Shares must be declared and paid in proportion to the amounts paid or credited as paid on the Shares: -
  - (2) all dividends must be apportioned and paid proportionately to the amounts so paid or credited during any portion or portions of the period in respect of which the dividend is paid;
  - (3) for the purposes of clauses 9.1(d)(1) and (2), an amount paid or credited as paid on a Share in advance of a call is to be taken as not having been credited as paid on the Share; and
  - (4) interest is not payable by the Company in respect of any dividend.
- (e) The directors may fix a books closing date in respect of a dividend, with or without suspending the registration of transfers from that date under clause 4.3.
- (f) A transfer of Shares does not pass the right to any dividend declared on the Shares unless the transfer is registered or left with the Company for registration in accordance with clause 4.1(b) on or before:
  - (1) where the directors have fixed a books closing date in respect of the dividend, that date; or
  - (2) where the directors have not fixed a books closing date in respect of that dividend the date the dividend is declared.
- (g) The directors when declaring a dividend may:
  - (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 to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and 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.

- (h) The directors may deduct from any dividend payable to a Member all sums of money (if any) presently payable by the Member to the Company in relation to Shares, whether on account of calls or otherwise.
- (i) Where a person is entitled under clause 4.5(c) to be registered as the holder of, or to transfer, Shares, the directors may, but are not obliged to, retain any dividends payable in respect of those Shares until that person becomes registered as the holder of those Shares or transfers them.
- (j) Without prejudice to any other method of payment the director may adopt, any dividend, interest or other money payable in cash in respect of Shares may be paid by cheque sent by post directed:
  - (1) to the address of the holder as shown in the Register, or in the case of joint holders, to the address shown in the Register as the address of the joint holder first named in that Register; or
  - (2) to such other address as the holder or joint holders in writing directs or direct.
- (k) A cheque sent under clause 9.1(j) may be made payable to bearer or to the order of the Member to whom it is sent or such other person as the Member may direct.

## **9.2 Capitalisation of profits**

- (a) Subject to any rights or restrictions attached to any Shares or class of Shares, the directors may capitalise and distribute among such of the Members as would be entitled to receive dividends and in the same proportions, any amount:
  - (1) forming part of the undivided profits the Company;
  - (2) forming part of any share premium account or capital redemption reserve;
  - (3) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the Company;
  - (4) arising from the realisation of any assets of the Company; or
  - (5) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
  - (1) in paying up in full, either at a par or at a premium determined by the resolution, any unissued or other securities of the Company;
  - (2) in paying up any amounts unpaid on Shares or other securities held by the Members; or
  - (3) partly as specified in clause 9.2(b)(1) and partly as specified in clause 9.2(b)(2),

(provided that no sum shall be applied in any way which is inconsistent with the Listing Rules) and such an application must be accepted by the Members entitled to share in the distribution in full satisfaction of their interests in the capitalised amount.

- (c) Clauses 9.1(e) and (f) apply, so far as they can and with such changes as are necessary, to a capitalisation of an amount under this clause 9.2 as if references in those clauses to a dividend and to the date a dividend is declared were references to a capitalisation of an amount and to the date the directors resolve to capitalise the amount under this clause 9.2 respectively.
- (d) Nothing in clause 9.2 limits any power to capitalise profits conferred by the Corporations Act.

### **9.3 Ancillary powers**

For the purpose of giving effect to any resolution for the satisfaction of a dividend in the manner set out in clause 9.1(g)(1) or by the capitalisation of any amount under clause 9.2, the directors may:

- (a) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation and in particular:
  - (1) make cash payments in cases where Shares or other securities in the Company become issuable in fractions; and
  - (2) determine that amounts or fractions of less than a particular value determined by the directors may be disregarded in order to adjust the rights of all parties;
- (b) fix the value for distribution of any specific assets;
- (c) pay cash or issue Shares or other securities to any Members in order to adjust the rights of all parties;
- (d) vest any such specific assets, cash, Shares or other securities in any trustee upon such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the directors; and
- (e) authorise any person to make, on behalf of all the Members entitled to any further Shares or other securities as a result of the distribution or capitalisation, an agreement with the Company or another body corporate providing, as appropriate:
  - (1) for the issue to them of such further Shares or other securities credited as fully paid up; or
  - (2) for the 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 the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in this art 9.3(e) is effective and binding on all Members concerned.

### **9.4 Reserves**

- (a) Subject to this Constitution, the directors may set aside out of the profits of the Company such reserves or provisions for such purposes as they think fit.
- (b) The directors may appropriate to the profits of the Company any amount previously set aside as a reserve or provision.



- (c) The setting aside of any amount as a reserve or provision does not require the directors to keep the amount separate from the other assets of the Company or prevent the amount being used in the business of the Company or being invested in such investments as the directors think fit.

### **9.5 Carry forward of profits**

The directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends or capitalised without transferring those profits to a reserve or provision.

### **9.6 Dividend reinvestment plans**

The directors may:

- (a) implement a dividend reinvestment plan on such terms as they think fit under which the whole or any part of any dividend due to Members who participate in the plan on their Shares or any class of Shares may be applied in subscribing for securities of the Company or of a related body corporate; and
- (b) amend, suspend or terminate any dividend reinvestment plan implemented by them.

### **9.7 Dividend selection plans**

The directors may:

- (a) implement a dividend selection plan on such terms as they think fit under which participants may elect:
  - (1) to receive a dividend from the Company paid wholly or partly out of 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
- (b) amend, suspend or terminate any dividend selection plan implemented by them.

## **Part 10 Winding up**

### **10.1 Distribution of surplus**

Subject to this Constitution and to the rights or restrictions attached to any Shares or class of Shares:

- (a) if the Company is wound up and the property of the Company available for distribution among the Members is more than sufficient:
  - (1) to pay all of 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 Shares held by them, irrespective of the amounts paid or credited as paid on the Shares

- (b) for the purpose of calculating the excess referred to in clause 10.1(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 clause 10.1(a) must be reduced by the amount unpaid on that Share at the date of the distribution; and
- (d) if the effect of the reduction under clause 10.1(c) be to reduce the distribution to the holder of a partly paid Share to a negative amount, the holder must contribute that amount to the Company.

## **10.2 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) Any division under clause 10.2(a) may be otherwise than in accordance with the legal rights of the Members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under clause 10.2(a) is otherwise than 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 the Corporations Act.
- (d) If any of the property to be divided under clause 10.2 includes securities with a liability to calls, any person entitled under the division to any of the securities may within ten days after the passing of the special resolution referred to in that clause, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this clause 10.2 derogates from or affects any right to exercise any statutory or other power which would have existed if this clause were omitted.
- (f) Clause 9.3 applies, so far as it can and with such changes as are necessary, to a division by a liquidator under clause 10.2(a) as if references in clause 9.3 to the directors and to a distribution or capitalisation were references to the liquidator and to the division under clause 10.2(a) respectively.

## **Part 11 Minutes and records**

### **11.1 Minutes**

The directors must cause minutes of all proceedings of general meetings and of meetings of the directors and of committees of the directors to be entered, within one month after the relevant meeting is held, in books kept for that purpose.

**11.2 Signing of minutes**

Except in the case of documents which are taken to be minutes under clause 6.13(d), minutes must be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

**11.3 Minutes as evidence**

Any minutes of a meeting purporting to be signed by the chairperson of the meeting or of the next succeeding meeting are (in the absence of proof to the contrary) sufficient evidence of:

- (a) the matters stated in the minutes of the meeting
- (b) the meeting having been duly convened and held; and
- (c) the validity of all proceedings at the meeting.

**11.4 Inspection of records**

- (a) Subject to the requirements of the Corporations Act, 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 will be open to the inspection of Members other than directors.
- (b) A Member other than a director does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the directors.

## **Part 12 Protection of certain officers**

**12.1 Officers to whom part 12 applies**

This part 12 applies:

- (a) to each director, alternate director and executive officer (within the meaning of clause 7.6(a)) of the Company; and
- (b) to such other officers of the Company as the directors determine.

**12.2 Indemnity**

Each officer to whom this part 12 applies is entitled to be indemnified out of the assets of the Company against:

- (a) subject to clause 12.4, all losses or liabilities incurred in relation to the execution of the officer's duties; and
- (b) any liability incurred by the officer in that capacity:
  - (1) in defending any proceedings, whether civil or criminal, in which judgment is given in the officer's favour or in which the officer is acquitted; or
  - (2) in connection with any application in relation to any such proceedings in which relief is granted under the Corporations Act to the officer by the court,

### **12.3 Relief from liability**

Subject to clause 12.4, no officer to whom this part 12 applies is liable for:

- (a) any loss, damage or misfortune which may happen to or be incurred by the Company in relation to the execution of the officers duties;
- (b) the acts, receipts, neglects or defaults of any other person, including an officer or the auditor of the Company;
- (c) joining in any receipt or other act for conformity;
- (d) any loss or expense incurred by the Company through the insufficiency or deficiency of title to any properly acquired for or on behalf of the Company;
- (e) the insufficiency or deficiency of any security in or upon which any money of the Company is invested;
- (f) any loss or damage arising from the bankruptcy, insolvency or fraudulent or tortious act of any person with whom any money, securities or effects are deposited;
- (g) any loss occasioned by any error of judgment or any omission or oversight on the part of the officer; or
- (h) any other loss, damage or misfortune whatever which may happen in relation to the execution of the officers duties.

### **12.4 Breach of duty**

Nothing in clauses 12.2(a) or 12.3 exempts any officer from, or indemnifies any officer against, any liability that by law would otherwise attach to the officer in respect of any negligence, default, breach of duty or breach of trust of which the officer may be guilty in relation to the Company.

### **12.5 Security**

If any officer to whom this part 12 applies becomes or is about to become personally liable for the payment of any sum primarily due from the Company or any of its related bodies corporate, the directors may execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the officer from any loss in respect of such liability.

## **Part 13 Notices**

### **13.1 Notices by the Company to Members**

- (a) A notice may be given by the Company to a Member by serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the Register or such other address, or by facsimile transmission to such facsimile number, or by email to such electronic mailing address as the Member has supplied to the Company for the giving of notices.

- (b) A notice may be given by the Company to the joint holders of a Share by giving the notice in the manner authorised by clause 13.1 to the joint holder first named in the Register respect of the Share.
- (c) A notice may be given by the Company to a person referred to in clause 5.2(b)(2) by serving it or sending it in the manner authorised by clause 13.1(a) addressed to the name or title of the person, at or to such address or facsimile number or electronic mailing address supplied to the Company for the giving of notices to that person, or if no address or facsimile number or electronic mailing address has been supplied, at or to the address or facsimile number or electronic mailing address to which the notice might have been sent if the relevant transmission event had not occurred.
- (d) The fact that a Member or a person referred to in clause 5.2(b)(2) has supplied a facsimile number or electronic mailing address for the giving of notices does not require the Company to give any notice to that Member or person by facsimile or electronic mail.
- (e) A notice given to a Member in accordance with clauses 13.1(a) or (b) is, despite the occurrence of a transmission event and whether or not, the Company has notice of that occurrence:
  - (1) duly given in respect of any Shares registered in that person's name, whether solely or jointly with another person; and
  - (2) sufficient service on any person entitled to the Shares in consequence of the transmission event.
- (f) A notice given to a person who is entitled under clause 4.5(d) to be registered as the holder of, or to transfer, any Shares is sufficient service on the Member in whose name the Shares are registered.
- (g) Any person who, because of a transfer of Shares, becomes entitled to any Shares registered in the name of a Member is bound by every notice which, before that person's name and address is entered in the Register in respect to those Shares, is given to the Member in accordance with this clause 13.1.
- (h) A signature to any notice given by the Company to a Member under this clause 13.1 may be in writing or a facsimile printed or affixed by some mechanical, electronic or other means.

### **13.2 Notices by the Company to directors**

Subject to this Constitution, a notice may be given by the Company to any director or alternate director either by serving it personally at, or by sending it by post or a prepaid envelope to, the director's or alternate director's usual residential or business address, or such other address (electronic or otherwise), or by facsimile transmission to such facsimile number, as the director or alternate director has supplied to the Company for the giving of notices.

### **13.3 Notices by Members or directors to the Company**

Subject to this Constitution, a notice may be given by a Member, director or alternate director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by facsimile transmission to the principal facsimile number at the registered office of the Company.

### 13.4 Notices posted to addresses outside the Commonwealth

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

### 13.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
- (1) in the case of a notice of a general meeting, 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 a notice is sent by facsimile transmission or electronic mail, service of the notice is to be taken to be effected if the correct facsimile number or electronic mailing address (as the case may be) appears on the facsimile transmission report generated by the sender facsimile machine or the receipt notice generated by the sender computer (as the case may be) and to have been effected at the time the facsimile transmission or electronic mail (as the case may be) is sent.

### 13.6 Other communications and documents

Clauses 13.1 to 13.5 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

### 13.7 Notices in writing

A reference in this Constitution to a notice in writing includes a notice given by facsimile transmission or any other form of written or electronic communication.

### 13.8 Listing Rules and ASTC Settlement Rules

Any notice given under the Listing Rules or ASTC Settlement Rules must contain everything those rules require it to contain.

## Part 14 Plebiscite to approve proportional takeover schemes

### 14.1 Definitions

In this part 14:

- (a) **“associate”** has the meaning given to that term in the Corporations Act;
- (b) **“prescribed resolution”**, in relation to a proportional takeover scheme, means a resolution to approve the proportional takeover scheme passed in accordance with clause 14.3;
- (c) **“proportional takeover scheme”** means a takeover scheme that is made or purports to be made under Pt 6.5 of the Corporations Act in respect of Shares included in a class of Shares in the Company:

- (d) **“relevant class”**, in relation to a proportional takeover scheme, means the class of Shares in respect of which offers are made under the proportional takeover scheme; and
- (e) **“relevant date”**, in relation to a proportional takeover scheme, means the day that is 14 days before the end of the period during which the offers under the proportional takeover scheme remain open.

## 14.2 Transfers not to be registered

Notwithstanding clauses 4.1(d) and 4.2, a transfer giving effect to a contract resulting from the acceptance of an offer made under a proportional takeover scheme must not be registered unless and until a prescribed resolution to approve the proportional takeover scheme has been passed or is taken to have been passed in accordance with clause 14.3.

## 14.3 Resolution

- (a) Where offers have been made under a proportional takeover scheme, the directors must:
  - (1) convene a meeting of the persons entitled to vote on the prescribed resolution for the purpose of considering and, if thought fit, passing a prescribed resolution to approve the proportional takeover scheme; and
  - (2) ensure that such a resolution is voted on in accordance with this clause 14.3, before the relevant day in relation to that proportional takeover scheme.
- (b) The provisions of this Constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to a meeting that is convened pursuant to clause 14.3(a)
- (c) The offerer under a proportional takeover scheme and any associates of the offerer are not entitled to vote on the prescribed resolution relating to that proportional takeover scheme and if they do vote, their votes must not be counted.
- (d) Subject to clause 14.3(c), a person who, as at the end of the day on which the first offer under the proportional takeover scheme was made, held Shares of the relevant class is entitled to vote on the prescribed resolution relating to the proportional takeover scheme and, for the purposes of so voting, is entitled to one Vote for each such Share held at that time.
- (e) A prescribed resolution is to be 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 one half, and otherwise is to be taken to have been rejected.
- (f) If a prescribed resolution to approve a proportional takeover scheme has not been voted on in accordance with this clause 14.3 before the relevant day, a prescribed resolution to approve the proportional takeover scheme will be taken to have been passed in accordance with this clause 14.3 on the relevant day.

## 14.4 Sunset

Clauses 14.1, 14.2 and 14.3 cease to have effect at the end of three years beginning:

- (a) where those clauses have not been renewed in accordance with the Corporations Act, on the date that those clauses were not adopted by the Company; or.
- (b) where those clauses have been renewed in accordance with the Corporations Act, on the date those clauses were last renewed.

## **Part 15      Restricted securities**

### **15.1      Disposal**

Securities classified as restricted securities under a current Restriction Agreement cannot be disposed of during the escrow period except as permitted by the Listing Rules or ASIC.

### **15.2      Acknowledgment of disposal**

The Company must refuse to acknowledge a disposal (including registering a transfer) of securities so classified as restricted securities during the escrow period except as permitted by the Listing Rules or ASIC;

### **15.3      Other rights**

During a breach of the Listing Rules relating to securities so classified as 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.

## **Part 16      Divestment of small shareholdings**

### **16.1      Power to sell**

Subject to the Listing Rules and compliance with clause 16.2 of this document, if at any time a Member's shareholding is less than a Marketable Parcel (**Unmarketable Parcel**), the Directors may sell the Shares of that Member (**Affected Member**).

### **16.2      Sale procedure**

- (a) In order to effect the sale of an Unmarketable Parcel, the Directors must serve a written notice on the Affected Member (**Sale Notice**).
- (b) The Sale Notice shall :
  - (1) indicate to the Affected Member the Directors' intention to effect the sale of the Unmarketable Parcel;
  - (2) give the Affected Member a period of at least six (6) weeks from the date the Sale Notice is sent (**Notice Period**) in which to advise the Company that the Affected Member wishes to retain the Unmarketable Parcel (**Retention Advice**).
- (c) Where no Retention Notice is received by the Company within the Retention Period, the Directors may, at their sole discretion, sell the Unmarketable Parcel, which sale



shall include any rights attaching the shares comprised in the Unmarketable Parcel and unpaid dividends in respect of those shares.

- (d) Subject to compliance with the Listing Rules, the Corporations Act and subparagraphs **16.2(a) to (c)** inclusive and clause **16.5** of this document, the Directors may effect the sale of an Unmarketable Parcel in such manner as the directors think fit.
- (e) Each Member irrevocably appoints the Directors severally as its attorney to complete and sign any documents under hand or under seal, on its behalf which the attorney requires to give effect to a transaction under this **clauses 16**.
- (f) Subject to the Listing Rules and the Corporations Act, each attorney may exercise or concur in exercising its powers as contemplated by this **clause 16** even if the attorney has a conflict of duty in exercising powers or has a direct or personal interest in the means or result of that exercise of powers.
- (g) Each appointor :
  - (1) agrees to ratify and confirm whatever the attorney lawfully does under the appointment at **clause 16.2(e)** or causes to be done under that appointment.
  - (2) agrees to indemnify the attorney against any claim, arising directly or indirectly from the attorney's lawful exercise of a power under the appointment at **clause 16.2(e)**.
  - (3) must give to the Company on demand by the Company any power of attorney, instrument of transfer or other instruments as the Company requires for the purposes of any of the transactions contemplated by this **clauses 16**.
- (h) Any transferee to the transfer of shares a part of an Unmarketable Parcel shall have indefeasible title to those shares upon the transferee's name being entered at the request of the Directors or any of them into the Company's register of members in respect of the shares so transferred.
- (i) A notice in writing executed by the Company in respect of an Unmarketable Parcel shall be sufficient evidence of the facts stated in that notice against all persons claiming an entitlement to shares a part of an Unmarketable Parcel and in respect of the Company's right and title to dispose of such shares.

### **16.3 Cost of sale**

Notwithstanding any other provision of this document, but subject to compliance with the Listing Rules and the Corporations Act, the costs of and incidental to the sale of shares pursuant to this **clause 16** shall be borne by the Company or the Affected Member(s), as the Directors think fit.

### **16.4 Proceeds of sale**

Subject to any lawful deduction to the sale price, the proceeds of any sale made pursuant to this **clause 16** shall be forwarded to the relevant Affected Member(s) upon receipt by the Company of :

- (a) the sale proceeds; and

- (b) the share certificate (if any) issued in respect of the shares the subject of the Sale Notice (or evidence satisfactory to the Directors that any such share certificate has been lost or destroyed).

#### **16.5 Prohibition on sale**

- (a) Where the Company receives a Retention Advice within the Notice Period, it shall not attempt to effect or perfect a sale of the Unmarketable Parcel for a period of twelve (12) months following receipt of the Retention Advice.
- (b) The power to sell contained in this **clause 16** lapses immediately upon the announcement of a Takeover Bid or a bid of a similar kind made under a jurisdiction not being governed by the Corporations Act.
- (c) The restriction detailed in **clause 16.5(b)** ceases to have effect immediately upon the earlier of :
  - (1) the close of offers under the Takeover Bid; and
  - (2) with the approval of the Exchange, the valid withdrawal of the offers made under the Takeover Bid.

## **Part 17 General**

#### **17.1 Submission to jurisdiction**

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the registered office of the Company is located, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

#### **17.2 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.

We the several persons whose signatures appears hereunder being the subscribers to the Memorandum of Association, hereby agree to the foregoing Constitution.