



## **Amendments to Constitution and Directors & Employee Benefits Plan**

**11 November 2014, Melbourne:**

As a result of the amendments approved at its Annual General Meeting held on 11 November 2014, Praemium Limited (ASX:PPS) releases its revised Constitution and Directors & Employee Benefits Plan.

**About Praemium:** Praemium is a global leader in the provision of investment administration, Separately Managed Account (SMA) and financial planning technology platforms. Praemium administers in excess of 300,000 investor accounts covering approximately \$80 billion in funds globally, and currently provides services to approximately 700 financial institutions and intermediaries, including some of the world's largest financial institutions.

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**PRAEMIUM LIMITED ACN 098 405 826**

**A public Company limited by Shares**

## **Constitution**

Adopted by a Special Resolution of Members 21 November 2005

Amended by Special Resolution of Members 10 November 2008

Amended by Special Resolution of Members 17 October 2011

Amended by Special Resolution of Members 11 November 2014

**præmium**



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# 1 Preliminary

## 1.1 Definitions and interpretation

(a) In this Constitution:

<b>Act</b>	means the Corporations Act 2001 (Cth);
<b>Business Day</b>	has the meaning given to that term in the Listing Rules;
<b>Chair / Chairman / Chairperson etc</b>	means Chairperson or deputy Chairperson appointed under this Constitution may be referred to as Chairman or Chairwoman, or deputy Chairman or Chairwoman, or as Chair, if applicable;
<b>Change in Control</b>	means that a person or entity who Controls the Company ceases to Control the Company, or a person or entity who does not Control the Company comes to Control it (and <b>entity</b> has the meaning defined in the Corporations Act for the purposes of chapter 2E);
<b>Company</b>	Praemium Ltd ACN 098 405 826;
<b>Control</b>	means a power or control that is direct or indirect or that is, or can be, exercised as a result of, by means of or by the revocation or breach of a trust, an agreement, a practice, or any combination of them, whether or not they are enforceable. It does not matter whether the power or control is express or implied, formal or informal, exercisable alone or jointly with someone else;
<b>Controller</b>	has the meaning given in the Corporations Act and includes an analogous person;
<b>Exchange</b>	means Australian Stock Exchange Limited or such other body corporate that is declared by the directors to be the Company's primary stock exchange for the purposes of this definition;
<b>Issue Price</b>	The price at which a Share is issued;
<b>Listing Rules</b>	means the Listing Rules of the Exchange as they apply to the Company;
<b>Member</b>	a person who holds Shares in the Company;
<b>Partly Paid Share</b>	means a Share on which there is an amount unpaid;
<b>Prohibited Acquirer</b>	any of the following: <ul style="list-style-type: none"><li>(a) a person that holds an Australian financial services licence under Chapter 7 of the Corporations Act which authorises the person to do any one or more of the following:<ul style="list-style-type: none"><li>(i) operate any kind of registered managed investment scheme; or</li><li>(ii) deal in a financial product by issuing and, either on its own behalf or on behalf of another, applying for, acquiring, varying or disposing of:<ul style="list-style-type: none"><li>(A) interests in managed investment schemes, including investor directed portfolio services;</li><li>(B) interests in managed investment schemes limited to managed discretionary accounts; or</li><li>(C) miscellaneous financial investment products limited to managed discretionary accounts.</li></ul></li></ul></li></ul>

- (b) any person in respect of which a person referred to in paragraph (a) is a Controller;
- (c) any person which is a Controller of a person referred to in paragraph (a); and
- (d) any person in respect of which a person referred to in paragraph (c) is a Controller;

**Proper ASTC Transfer** has the meaning given to that term in the Corporations Regulations 2001 (Cth);

**Record Time** means:

- in the case of a meeting for which the caller of the meeting has decided, under the Act, that Shares are to be taken to be held by the persons who held them at a specified time before the meeting, that time; and
- in any other case, the time of the relevant meeting;

**Representative** in relation to a Member which is a body corporate and in relation to a meeting, means a person authorised in accordance with the Act (or a corresponding previous law) by the body corporate to Act as its Representative at the meeting;

**SCH Business Rules** means the operating rules (however described) of ASX Settlement and Transfer Corporation Pty Limited;

**Seal** means any common seal, duplicate seal or certificate seal of the Company;

**Share** A share in the capital of the Company; and

**Transmission** event means:

- for a Member who is an individual:
  - the Member's death;
  - the Member's bankruptcy; or
  - the Member becoming of unsound mind or a person who, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- for 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.

- (b) A reference in this Constitution to an **amount unpaid on a Share** includes a reference to any amount of the issue price which is unpaid.
- (c) A reference in this Constitution to a **Call** or an **Amount Called** on a Share includes a reference to a sum that, by the terms of issue of a Share, becomes payable on issue or at a fixed date.
- (d) A reference in this Constitution to a Member for the purposes of a meeting of Members for which the caller of the meeting has determined a Record Time is a reference to a registered holder of Shares as at the relevant Record Time.
- (e) A reference in this Constitution to a Member present at a general meeting is a reference to:

- (1) a Member present in person; or
  - (2) a Member present by Proxy, attorney or Representative; or
  - (3) except in any rule which specifies a quorum, a member who has duly lodged a valid vote in relation to the general meeting under rule 8.7(j).
- (e) A reference in this Constitution to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position.
- (f) Unless the contrary intention appears, in this Constitution:
- (1) words that refer to a singular number also refer to plural numbers, and the other way around;
  - (2) words that refer to a gender also refer to the other genders;
  - (3) words used to refer to persons generally or to refer to a natural person include a body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
  - (4) a reference to a person includes that person's successors and legal personal Representatives;
  - (5) a reference to a statute or regulation, or a provision of any of them includes all statutes, regulations or provisions amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
  - (6) a reference to the Listing Rules or the SCH Business Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any applicable waiver or exemption; and
  - (7) 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.
- (g) In this Constitution, headings and bold type are only for convenience and do not affect the meaning of this Constitution.

## **1.2 Application of the Act, Listing Rules and SCH Business Rules**

- (a) The rules that apply as replaceable rules to companies under the Act and any previously applicable Table A regulations under the Corporations Law do not apply to the Company except so far as they are repeated in this Constitution.
- (b) Unless the contrary intention appears:
- (1) an expression in a rule that deals with a matter dealt with by a provision of the Act, the Listing Rules or the SCH Business Rules has the same meaning as in that provision; and
  - (2) subject to rule 1.2(b)(1), an expression in a rule that is used in the Act has the same meaning in this Constitution as in the Act.

## **1.3 Exercising powers**

- (a) The Company may, in any way the Act permits:
- (1) exercise any power;
  - (2) take any action; or
  - (3) engage in any conduct or procedure,
- which, under the Act a Company limited by Shares may exercise, take or engage in.



- (b) Where this Constitution provides that a person “may” do a particular Act or thing, the act or thing may be done at the person’s discretion.
- (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 same way and subject to the same 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, the power may be exercised from time to time.
- (e) Where this Constitution confers a power to do a particular act or thing concerning particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that Act or thing as to only some of those matters or as to a particular class of those matters, and to make different provision concerning different matters or different classes of matters.
- (f) Where this Constitution confers a power to make appointments to an office or position (except the power to appoint a director under rule 9.1(b)), 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 (without prejudice to any rights or obligations under any contract between the person and the Company); and
  - (3) to appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.
- (g) Where this Constitution gives power to a person to delegate a function or power:
  - (1) the delegation may be concurrent with, or (except in the case of a delegation by the directors) to the exclusion of, the performance or exercise of that function or power by the person;
  - (2) the delegation may be either general or limited in any way provided in the terms of delegation;
  - (3) the delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
  - (4) the delegation may include the power to delegate; and
  - (5) where performing or exercising that function or power depends on that person’s opinion, belief or state of mind about a matter, that function or power may be performed or exercised by the delegate on the delegate’s opinion, belief or state of mind about that matter.

#### **1.4 Transitional provisions**

This Constitution must be interpreted in such a way that:

- (a) every director, managing director and secretary in office in that capacity immediately before this Constitution is adopted continues in office subject to, and is taken to have been appointed or elected under, this Constitution;
- (b) the directors are taken, immediately after this Constitution is adopted, to have decided under rule 9.1(a) a number which is equal to the number of the persons in office as directors immediately after this Constitution is adopted (but not being less than 3 directors);
- (c) any register maintained by the Company immediately before this Constitution is adopted is taken to be a register maintained under this Constitution;

- (d) any Seal adopted by the Company as a Seal immediately before this Constitution is adopted is taken to be a Seal which the Company has under a relevant authority given by this Constitution; and
- (e) unless a contrary intention appears in this Constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the Constitution of the Company in force before this Constitution is adopted continue to have the same status, operation and effect after this Constitution is adopted.

## **2 Provisions that apply only if the Company is not a listed Company**

Subject to this Constitution, from the date this Constitution is adopted and until the Company is admitted to the official list of an Exchange Exchange, the following rules apply:

- (a) there must be no disposal of any securities to a Prohibited Acquirer;
- (b) the Company must not register any transfer of any securities to a Prohibited Acquirer;
- (c) the Company must not grant or issue any securities to a Prohibited Acquirer, and
- (d) there must be no Change of Control of the Company which results in a Prohibited Acquirer becoming a Controller of the Company.

## **3 Provisions that apply only if the Company is a listed Company**

If the Company is admitted to the official list of an Exchange Exchange, and only in those circumstances, the following rules apply:

- (a) Notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an Act being done, the Act shall not be done.
- (b) Nothing contained in this Constitution prevents an Act being done that the Listing Rules require to be done.
- (c) 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).
- (d) 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.
- (e) 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.
- (f) 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.
- (g) Subject to the exclusions noted in Listing Rule 8.14, the company is permitted to charge a reasonable fee for any of the services listed in Listing Rule 8.14.1 (as may be amended from time to time).

## **4 Share capital**

### **4.1 Shares**

Subject to this Constitution the directors may:

- (a) issue, allot or grant options for, or otherwise dispose of, Shares in the Company; and
- (b) decide:
  - (1) the persons to whom Shares are issued or options are granted;

- (2) the terms on which Shares are issued or options are granted; and
- (3) the rights and restrictions attached to those Shares or options.

#### **4.2 Preference Shares**

The Company may issue preference Shares including preference Shares which are, or at the Company's option are, liable to be redeemed.

#### **4.3 Alteration of Share capital**

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

- (a) making cash payments;
- (b) determining that fractions may be disregarded in order to adjust the rights of all parties;
- (c) appointing a trustee to deal with any fractions on behalf of Members; and
- (d) rounding up each fractional entitlement to the nearest whole Share by capitalising any amount available for capitalisation under rule 6.2 even though only some of the Members participate in the capitalisation.

#### **4.4 Conversion or reclassification of Shares**

Subject to rule 4.5, the Company may by resolution convert or reclassify Shares from one class to another.

#### **4.5 Variation of class rights**

- (a) The rights attached to any class of Shares may, unless their terms of issue state otherwise, be varied:
  - (1) with the written consent of the holders of 75% of the Shares of the class; or
  - (2) by a special resolution passed at a separate meeting of the holders of Shares of the class.
- (b) The provisions of this Constitution relating to general meetings apply, with necessary changes, to separate class meetings as if they were general meetings except that:
  - (1) a quorum is two persons holding or representing by Proxy, attorney or Representative, at least one-third of the issued Shares of the class or, if there is one holder of Shares in a class, that person; and
  - (2) any holder of Shares of the class present in person or by Proxy, attorney or Representative, may demand a poll.
- (c) The rights conferred on the holders of any class of Shares are to be taken as not having been varied by the creation or issue of further Shares ranking equally with them.

#### **4.6 Joint holders of Shares**

Where 2 or more persons are registered as the holders of a Share, they hold it as joint tenants with rights of survivorship, on the following conditions:

- (a) they are liable individually as well as jointly for all payments, including Calls, in respect of the Share;
- (b) subject to rule 4.6(a), on the death of any one of them the survivor is the only person the Company will recognise as having any title to the Share;

- (c) any one of them may give effective receipts for any dividend, bonus, interest or other distribution or payment in respect of the Share; and
- (d) except where persons are jointly entitled to a Share because of a Transmission event, or where required by the Listing Rules or the SCH Business Rules, the Company may, but is not required to, register more than 3 persons as joint holders of the Share.

#### **4.7 Equitable and other claims**

The Company may treat the registered holder of a Share as the absolute owner of that Share and need not:

- (a) recognise a person as holding a Share on trust, even if the Company has notice of a trust; or
- (b) recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a Share by any other person, except an absolute right of ownership in the registered holder, even if the Company has notice of that claim or interest.

#### **4.8 Restricted securities**

If at any time any of the Share capital of the Company is classified by the Exchange as “restricted securities”, then despite any other provision of this Constitution:

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

## **5 Calls, forfeiture, indemnities, lien and surrender**

### **5.1 Calls**

- (a) Subject to the terms on which any Shares are issued, the directors may:
  - (1) make Calls on the Members for any amount unpaid on their Shares which is not by the terms of issue of those Shares made payable at fixed times; and
  - (2) on the issue of Shares, differentiate between Members as to the amount of Calls to be paid and the time for payment.
- (b) The directors may require a Call to be paid by instalments.
- (c) The directors must send Members notice of a Call at least 14 days (or such longer period required by the Listing Rules) before the amount Called is due, specifying the time and place of payment.
- (d) Each Member must pay to the Company by the time and at the place specified the amount Called on the Member’s Shares.
- (e) A Call is taken to have been made when the resolution of the directors authorising the Call is passed.
- (f) The directors may revoke a Call or extend the time for payment.
- (g) A Call is valid even if a Member for any reason does not receive notice of the Call.
- (h) If an amount Called on a Share is not paid in full by the time specified for payment, the person who owes the amount must pay:

- (1) interest on the unpaid part of the amount from the date payment is due to the date payment is made, at a rate determined under rule 5.9; and
  - (2) any costs, expenses or damages the Company incurs due to the failure to pay or late payment.
- (i) Any amount unpaid on a Share that, by the terms of issue of the Share, becomes payable on issue or at a fixed date:
    - (1) is treated for the purposes of this Constitution as if that amount were payable under 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.
  - (j) The directors may, to the extent the law permits, waive or compromise all or part of any payment due to the Company under the terms of issue of a Share or under this rule 5.1.

## 5.2 Proceedings to recover Calls

- (a) In a proceeding to recover a Call, or an amount payable due to the failure to pay 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 on 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 complying with this Constitution,

is conclusive evidence of the obligation to pay the Call and it is not necessary to prove the appointment of the directors who made the Call or any other matter.
- (b) In rule 5.2(a), **defendant** includes a person against whom the Company alleges a set-off or counterclaim, and a **proceeding** to recover a Call or an amount is to be interpreted accordingly.

## 5.3 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 even though no part of that amount has been Called.
- (b) The directors may authorise payment by the Company of interest on an amount accepted under rule 5.3(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 any amount accepted under rule 5.3(a).

## 5.4 Forfeiting Partly Paid Shares

- (a) If a Member fails to pay the whole of a Call or an instalment of a Call by the time specified for payment, the directors may serve a notice on that Member:
  - (1) requiring payment of the unpaid part of the Call or instalment, together with any interest that has accrued and all costs, expenses or damages that the Company has incurred due to the failure to pay;
  - (2) naming a further time (at least 14 days after the date of the notice) by which, and a place at which, the amount payable under rule 5.4(a)(1) must be paid; and
  - (3) stating that if the whole of the amount payable under rule 5.4(a)(1) is not paid by the time and at the place named, the Shares on which the Call was made will be liable to be forfeited.

- (b) If a Member does not comply with a notice served under rule 5.4(a), the directors may by resolution forfeit any Share concerning 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 rule 5.4(b) includes all dividends, interest and other amounts payable by the Company on 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 of Members.
- (e) Failure to give the notice or to make the entry required under rule 5.4(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 as they think fit and, in the case of reissue or other disposal, with or without crediting as paid up any amount paid on the Share by any former holder.
- (g) A person whose Shares have been forfeited ceases to be a Member as to the forfeited Shares, but must, if the directors decide, pay to the Company:
  - (1) all Calls, instalments, interest, costs, expenses and damages owing on the Shares at the time of the forfeiture; and
  - (2) interest on the unpaid part of the amount payable under rule 5.4(g)(1), from the date of the forfeiture to the date of payment, at a rate determined under rule 5.9.
- (h) The forfeiture of a Share extinguishes all interest in, and all claims and demands against the Company relating to, the forfeited Share and, subject to rule 5.8(j), all other rights attached to the Share.
- (i) The directors may:
  - (1) exempt a Share from all or part of this rule 5.4;
  - (2) waive or compromise all or part of any payment due to the Company under this rule 5.4; and
  - (3) before a forfeited Share has been sold, reissued or otherwise disposed of, cancel the forfeiture on the conditions they decide.

## **5.5 Members' indemnity**

- (a) If the Company becomes liable for any reason under a law to make a payment:
  - (1) in respect of Shares held solely or jointly by a Member;
  - (2) in respect of a transfer or Transmission of Shares by a Member;
  - (3) in respect of dividends, bonuses or other amounts due or payable or which may become due and payable to a Member; or
  - (4) in any other way for, on account of or relating to a Member,
 rules 5.5(b) and (c) apply, in addition to any right or remedy the Company may otherwise have.
- (b) The Member or, if the Member is dead, the Member's legal personal Representative must:
  - (1) fully indemnify the Company against that liability;

- (2) on demand reimburse the Company for any payment made; and
  - (3) pay interest on the unpaid part of the amount payable to the Company under rule 5.5(b)(2), from the date of demand until the date the Company is reimbursed in full for that payment, at a rate determined under rule 5.9.
- (c) The directors may:
- (1) exempt a Share from all or part of this rule 5.5; and
  - (2) waive or compromise all or part of any payment due to the Company under this rule 5.5.

## **5.6 Lien on Shares**

- (a) The Company has a first lien on:
- (1) each Partly Paid Share for all unpaid Calls and instalments due on that Share; and
  - (2) each Share for any amounts the Company is required by law to pay and has paid in respect of that Share.
- In each case the lien extends to reasonable interest and expenses incurred because the amount is not paid.
- (b) The Company's lien on a Share extends to all dividends payable on the Share and to the proceeds of sale of the Share.
- (c) The directors may sell a Share on which the Company has a lien as they think fit where:
- (1) an amount for which a lien exists under this rule 5.6 is presently payable; and
  - (2) the Company has given the registered holder a written notice, at least 14 days before the date of the sale, stating and demanding payment of that amount.
- (d) The directors may do anything necessary or desirable under the SCH Business Rules to protect any lien, charge or other right to which the Company is entitled under this Constitution or a law.
- (e) When the Company registers a transfer of Shares on which the Company has a lien without giving the transferee notice of its claim, the Company's lien is released so far as it relates to amounts owing by the transferor or any predecessor in title.
- (f) The directors may:
- (1) exempt a Share from all or part of this rule 5.6; and
  - (2) waive or compromise all or part of any payment due to the Company under this rule 5.6.

## **5.7 Surrender of Shares**

- (a) The directors may accept a surrender of a Share by way of compromise of a claim.
- (b) Any Share so surrendered may be sold, reissued or otherwise disposed in the same manner as a forfeited Share.

## **5.8 Sale, reissue or other disposal of Shares by the Company**

- (a) A reference in this rule 5.8 to a sale of a Share by the Company is a reference to any sale, reissue or other disposal of a Share under rule 5.4(f), rule 5.6(c), rule 7.4 or rule 7.5.
- (b) When the Company sells a Share, the directors may:

- (1) receive the purchase money or consideration given for the Share;
  - (2) effect a transfer of the Share or execute or appoint a person to execute, on behalf of the former holder, a transfer of the Share; and
  - (3) register as the holder of the Share the person to whom the Share is sold.
- (c) If rule 2 applies, the Company must not sell any Share to a Prohibited Acquirer unless the sale would not result in a breach of any third party agreement which restricts a Change in Control.
- (d) A person to whom the Company sells Shares need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration on the sale is applied. That person's title to the Shares is not affected by any irregularity by the Company in relation to the sale. A sale of the Share by the Company is valid even if a Transmission event occurs to the Member before the sale.
- (e) The only remedy of a person who suffers a loss because of a sale of a Share by the Company is a claim for damages against the Company.
- (f) The proceeds of a sale of Shares by the Company must be applied in paying:
- (1) first, the expenses of the sale;
  - (2) secondly, all amounts payable (whether presently or not) by the former holder to the Company,
- and any balance must be paid to the former holder on the former holder delivering to the Company proof of title to the Shares acceptable to the directors.
- (g) The proceeds of sale under rule 7.4 must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the Company proof of title to the Shares acceptable to the directors.
- (h) Until the proceeds of a sale of a Share sold by the Company are claimed or otherwise disposed of according to law, the directors may invest or use the proceeds in any other way for the benefit of the Company.
- (i) The Company is not required to pay interest on money payable to a former holder under this rule 5.8.
- (j) On completion of a sale, reissue or other disposal of a Share under rule 5.4(f), the rights which attach to the Share which were extinguished under rule 5.4(h) revive.
- (k) A written statement by a director or secretary of the Company that a Share in the Company has been:
- (1) duly forfeited under rule 5.4(b);
  - (2) duly sold, reissued or otherwise disposed of under rule 5.4(f); or
  - (3) duly sold under rule 5.6(c), rule 7.4 or rule 7.5,
- on a date stated in the statement is conclusive evidence of the facts stated as against all persons claiming to be entitled to the Share, and of the right of the Company to forfeit, sell, reissue or otherwise dispose of the Share.

## **5.9 Interest payable by Member**

- (a) For the purposes of rules 5.1(h)(1), 5.4(g)(2) and 5.5(b)(3), the rate of interest payable to the Company is:
- (1) if the directors have fixed a rate, that rate; or
  - (2) in any other case, a rate per annum 2% higher than the rate fixed under section 2 of the Penalty Interest Rates Act 1983 (Vic).



- (b) Interest accrues daily and may be capitalised monthly or at such other intervals the directors decide.

## 6 Distribution of profits

### 6.1 Dividends

- (a) The directors may pay any interim and final dividends that, in their judgment, the financial position of the Company justifies.
- (b) The directors may rescind a decision to pay a dividend if they decide, before the payment date, that the Company's financial position no longer justifies the payment.
- (c) The directors may pay any dividend required to be paid under the terms of issue of a Share.
- (d) Paying a dividend does not require confirmation at a general meeting.
- (e) Subject to any rights or restrictions attached to any Shares or class of Shares:
  - (1) all dividends must be paid equally on all Shares, except that a Partly Paid Share confers an entitlement only to the proportion of the dividend which the amount paid (not credited) on the Share is of the total amounts paid and payable (excluding amounts credited);
  - (2) for the purposes of rule 6.1(e)(1), unless the directors decide otherwise, an amount paid on a Share in advance of a Call is to be taken as not having been paid until it becomes payable; and
  - (3) interest is not payable by the Company on any dividend.
- (f) Subject to the SCH Business Rules, the directors may fix a record date for a dividend, with or without suspending the registration of transfers from that date under rule 7.2(a) .
- (g) Subject to the SCH Business Rules, a dividend in respect of a Share must be paid to the person who is registered, or entitled under rule 7.1(c) to be registered, as the holder of the Share:
  - (1) where the directors have fixed a record date in respect of the dividend, on that date; or
  - (2) where the directors have not fixed a record date in respect of that dividend, on the date fixed for payment of the dividend,and a transfer of a Share that is not registered, or left with the Company for registration under rule 7.1(b), on or before that date is not effective, as against the Company, to transfer any right to the dividend to the transferee.
- (h) When resolving to pay a dividend, the directors 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 Members; and
  - (2) unless prevented by the Listing Rules, direct payment of the dividend to particular Members wholly or partly out of any particular fund or reserve or out of profits derived from any particular source, and to the other Members wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source.
- (i) Subject to the SCH Business Rules, where a person is entitled to a Share because of a Transmission event, the directors may, but need not, retain any dividends payable on that Share until that person becomes registered as the holder of that Share or transfers it.

- (j) The directors may retain from any dividend payable to a Member any amount presently payable by the Member to the Company and apply the amount retained to the amount owing.
- (k) The directors may decide the manner and means of the payment of any dividend or other amount in respect of a Share. Without limiting any other method of payment which the Company may adopt, any dividend or other amount payable by the Company to a Member in respect of a Share may be paid:
  - (1) by cheque sent to the address of the Member shown in the register of Members or, in the case of joint holders, to the address shown in the register of Members of any of the joint holders, or to such other address as the Member or any of the joint holders in writing direct; or
  - (2) at the Member's request or, in the case of joint holders, at the request of each holder, and at the risk of the Member or the joint holders, by such electronic or other means approved by the directors directly to an account nominated in writing by the Member or the joint holders.
- (l) The directors may adopt procedures limiting the type of accounts which are eligible to receive payment under rule 6.1(k)(2).
- (m) A cheque sent under rule 6.1(k)(1) may be made payable to bearer or to the order of the Member to whom it is sent or another person that the Member directs and is sent at the Member's risk.

## **6.2 Capitalising profits**

- (a) Subject to the Listing Rules, any rights or restrictions attached to any Shares or class of Shares and any special resolution of the Company, the directors may capitalise and distribute among those Members who would be entitled to receive dividends and in the same proportions, any amount:
  - (1) forming part of the unallocated profits of the Company;
  - (2) representing profits arising from an ascertained accretion to capital or a revaluation of the assets of the Company;
  - (3) arising from the realisation of any assets of the Company; or
  - (4) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
  - (1) in paying up in full, at an issue price decided by the resolution, any unissued Shares in 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 rule 6.2(b)(1) and partly as specified in rule 6.2(b)(2).

The Members entitled to Share in the distribution must accept that application in full satisfaction of their interest in the capitalised amount.
- (c) Rules 6.1(e), (f) and (g) apply, so far as they can and with any necessary changes, to capitalising an amount under this rule 6.2 as if references in those rules to:
  - (1) a dividend were references to capitalising an amount; and
  - (2) a record date were references to the date the directors resolve to capitalise the amount under this rule 6.2.
- (d) Where in accordance with the terms and conditions on which options to take up Shares are granted (and being options existing at the date of the passing of the resolution referred to in rule 6.2(b)) a holder of those options will be entitled to an

issue of bonus Shares under this rule 6.2, the directors may in determining the number of unissued Shares to be so issued, allow in an appropriate manner for the future issue of bonus Shares to options holders.

### **6.3 Ancillary powers**

- (a) To give effect to any resolution to satisfy a dividend as set out in rule 6.1(h)(1) or to capitalise any amount under rule 6.2, the directors may:
  - (1) settle as they think expedient any difficulty that arises in making the distribution or capitalisation and, in particular:
    - (A) make cash payments in cases where Shares or other securities in the Company become issuable in fractions; and
    - (B) decide that amounts or fractions of less than a particular value decided by the directors may be disregarded in order to adjust the rights of all parties;
  - (2) fix the value for distribution of any specific assets;
  - (3) pay cash or issue Shares or other securities to any Member in order to adjust the rights of all parties;
  - (4) vest any of those specific assets, cash, Shares or other securities in a trustee on trust for the persons entitled to the dividend or capitalised amount; and
  - (5) 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 which provides, as appropriate:
    - (A) for the issue to them of those further Shares or other securities credited as fully paid up; or
    - (B) for payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares or other securities by applying their respective proportions of the amount resolved to be capitalised.

Any agreement made under an authority referred to in rule 6.3(a)(5) is effective and binds all Members concerned.

- (b) If the Company distributes to Members (either generally or to specific Members) securities in the Company or in another body corporate or trust (whether as a dividend or otherwise and whether or not for value), each of those Members appoints the Company as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a Member of that other body corporate.

### **6.4 Reserves**

- (a) The directors may set aside out of the Company's profits any reserves or provisions they decide.
- (b) The directors may appropriate to the Company's profits any amount previously set aside as a reserve or provision.
- (c) Setting aside an amount as a reserve or provision does not require the directors to keep the amount separate from the Company's other assets or prevent the amount being used in the Company's business or being invested as the directors decide.

## **6.5 Carrying forward profits**

The directors may carry forward any part of the profits remaining that they consider should not be distributed as dividends or capitalised, without transferring those profits to a reserve or provision.

## **6.6 Share investment plan**

The directors may:

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

## **6.7 Dividend selection plans**

The directors may:

- (a) implement a dividend selection plan on terms they decide, under which participants may choose:
  - (1) to receive a dividend from the Company paid wholly or partly out of any 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 a dividend selection plan.

# **7 Transfer and Transmission of Shares**

## **7.1 Transferring Shares**

- (a) Subject to this Constitution and to any restrictions attached to a Member's Shares, a Member may transfer any of the Member's Shares by:
  - (1) a Proper ASTC Transfer; or
  - (2) a written transfer in any usual form or in any other form approved by the directors.
- (b) A transfer referred to in rule 7.1(a)(2) must be:
  - (1) signed by or on behalf of both the transferor and the transferee unless:
    - (A) the transfer relates only to fully paid Shares and the directors have dispensed with signature by the transferee; 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 Act;
  - (2) if required by law to be stamped, duly stamped; and
  - (3) left for registration at the Company's registered office, or at any other place the directors decide, with such evidence the directors require to prove the transferor's title or right to the Shares and the transferee's right to be registered as the owner of the Shares.

- (c) Subject to the powers vested in the directors under rules 7.2(a) and 7.3, where the Company receives a transfer complying with rule 7.1, the Company must register the transferee named in the transfer as the holder of the Shares to which it relates.
- (d) A transferor of Shares remains the holder of the Shares until a Proper ASTC Transfer has been effected or the transferee's name is entered in the register of Members as the holder of the Shares.
- (e) The Company must not charge a fee for registering a transfer of Shares other than as may be permitted by the Listing Rules.
- (f) The Company may retain a registered transfer for any period the directors decide.
- (g) The directors may do anything that is necessary or desirable for the Company to participate in any computerised, electronic or other system for facilitating the transfer of Shares or operation of the Company's registers that may be owned, operated or sponsored by the Exchange or a related body corporate of the Exchange.
- (h) The directors may, to the extent the law permits, waive any of the requirements of this rule 7.1 and prescribe alternative requirements instead, whether to give effect to rule 7.1(g) or for another purpose.

## **7.2 Power to decline to register transfers**

- (a) The directors may decline to register, or prevent registration of, a transfer of Shares or apply a holding lock to prevent a transfer in accordance with the Act or the Listing Rules where:
  - (1) the transfer is not in registrable form;
  - (2) the Company has a lien on any of the Shares transferred;
  - (3) registration of the transfer may breach a law of Australia;
  - (4) the transfer is paper-based and registration of the transfer will create a new holding which, at the time the transfer is lodged, is less than a marketable parcel;
  - (5) the transfer is not permitted under the terms of an employee Share plan;
  - (6) the Company is otherwise permitted or required to do so under the Listing Rules or, except for a Proper ASTC Transfer, under the terms of issue of the Shares, or
  - (7) if rule 2 applies, other than in circumstances where to approve such transfer would not result in a breach the terms of any agreement with any third party.
- (b) If the directors decline to register a transfer, the Company must give notice of the refusal as required by the Act and the Listing Rules. Failure to give that notice will not invalidate the decision of the directors to decline to register the transfer.
- (c) The directors may delegate their authority under this rule 7.2 to any person.

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

The directors may suspend the registration of transfers at any times and for any periods permitted by the SCH Business Rules that they decide.

## **7.4 Procedure for sale of non-marketable parcels**

The directors may cause the Company to sell a Member's Shares if they hold less than a marketable parcel of Shares and the following procedures are observed:

- (a) the directors send a Member who on the date of the notice holds less than a marketable parcel of Shares, a notice which:

- (1) explains the effect of this rule;
  - (2) allows the Member to elect to be exempt from this rule, (a form of election for that purpose must be sent with the notice); and
  - (3) specifies a date at least 6 weeks from the date the notice is sent by which the Member can make the election in rule 7.4(a)(2).
- (b) If at 5.00pm (Melbourne time), on the date specified in the notice:
- (1) the Company has not received a notice from the Member electing to be exempt from the provisions of this rule; and
  - (2) the Member has not increased his or her parcel to a marketable parcel,
- then, the Member is taken to irrevocably appoint the Company as agent to do anything in rule 7.4(c).
- (c) The Company may:
- (1) sell the Shares which make up the less than marketable parcel as soon as practicable at a price which the directors consider to be the best price reasonably obtainable for the Shares at the time they are sold; and
  - (2) deal with the proceeds of sale under rule 5.8.
- (d) The costs and expenses of a sale under this rule 7.4, including brokerage and stamp duty, if any, are payable by the purchaser, or if the Act permits by the Company.
- (e) A notice to a Member under rule 7.4(a) may only be given once in a 12 month period and may not be given during the offer period of a takeover bid for the Company.
- (f) If a takeover bid for the Company is announced after a notice is given but before an agreement for sale of the Shares is entered into, this rule 7.4 ceases to operate for those Shares. After the offer period of the takeover bid closes, despite rule 7.4(e) a new notice under 7.4(a) may be given.
- (g) If a Member's holding becomes a marketable parcel after notice is given but before an agreement for sale of the Shares is entered into, the directors may decide that this rule no longer applies to that Member.
- (h) Before a sale is effected under this rule 7.4, the directors may revoke a notice or suspend or terminate the operation of this rule either generally or in specific cases.

## **7.5 Other sales of non-marketable parcels of Shares**

In addition to the powers of the directors in rule 7.4, the directors may cause the Company to sell a Member's Shares if they hold less than a marketable parcel of Shares, without complying with the procedures in rule 7.4 and may determine that a Member's right to vote or receive dividends in respect of those Shares is removed or changed if the following conditions are observed:

- (a) a sale effected, or a removal or change in voting or dividend rights, under this rule 7.5 only applies to Shares in a new holding created by a transfer of a parcel of Shares in a class of Shares in the Company that was less than a marketable parcel at the time the transfer document was initiated or, in the case of a paper based transfer was lodged with the Company;
- (b) the proceeds of a sale under this rule 7.5, less the cost of the sale must be sent to the Member after the sale subject to rule 5.8(f);
- (c) any dividends that have been withheld under this rule 7.5 must be sent to the Member after the sale subject to the former Member delivering to the Company proof of title acceptable to the directors.

## **7.6 Transmission of Shares**

- (a) Subject to rule 7.6(c), where a Member dies, the only persons the Company will recognise as having any title to the Member's Shares or any benefits accruing on those Shares are:
  - (1) where the deceased was a sole holder, the legal personal Representative of the deceased; and
  - (2) where the deceased was a joint holder, the survivor or survivors.
- (b) Rule 7.6(a) does not release the estate of a deceased Member from any liability on a Share, whether that Share was held by the deceased solely or jointly with other persons.
- (c) The directors may register a transfer of Shares signed by a Member before a Transmission event even though the Company has notice of the Transmission event.
- (d) A person who becomes entitled to a Share because of a Transmission event may, on producing such evidence as the directors require to prove that person's entitlement to the Share, choose:
  - (1) to be registered as the holder of the Share by signing and giving the Company a written notice stating that choice; or
  - (2) to nominate some other person to be registered as the transferee of the Share by executing or effecting in some other way a transfer of the Share to that other person.
- (e) The provisions of this Constitution concerning the right to transfer Shares and the registration of transfers of Shares apply, so far as they can and with any necessary changes, to a notice or transfer under rule 7.6(d) as if the relevant Transmission event had not occurred and the notice or transfer were executed or effected by the registered holder of the Share.
- (f) Where 2 or more persons are jointly entitled to a Share because of a Transmission event they will, on being registered as the holders of the Share, be taken to hold the Share as joint tenants and rule 4.6 will apply to them.

## **8 General meetings**

### **8.1 Calling general meetings**

- (a) A general meeting may only be called:
  - (1) by directors' resolution; or
  - (2) as otherwise provided in the Act.
- (b) The directors may, by notice to the Exchange, change the venue for, postpone or cancel a general meeting, if they consider that the meeting has become unnecessary, or the venue would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently, but:
  - (1) a meeting which is not called by directors' resolution; and
  - (2) a meeting which is called in accordance with a Members' requisition under the Act;

may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

## **8.2 Notice of general meetings**

- (a) Notice of a general meeting must be given to each person who at the time of giving the notice:
  - (1) is a Member, director or auditor of the Company; or
  - (2) is entitled to a Share because of a Transmission event and has satisfied the directors of his or her right to be registered as the holder of, or to transfer, the Shares.
- (b) Notices of general meetings must be worded in a clear, concise and effective manner. If the Company is a member of an Exchange, the notice must contain all of the information required by the Listing Rules.
- (c) The content of a notice of a general meeting called by the directors is to be decided by the directors, but it must state the general nature of the business to be transacted at the meeting and any other matters required by the Act.
- (d) Unless the Act provides otherwise:
  - (1) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
  - (2) except with the approval of the directors or the Chairperson, no person may move any amendment to a proposed resolution the terms of which are set out in the notice calling the meeting or to a document which relates to such a resolution and a copy of which has been made available to Members to inspect or obtain.
- (e) A Member:
  - (1) may nominate to be notified of meetings using electronic means;
  - (2) may waive notice of any general meeting by written notice to the Company.
- (f) Failure to give a Member or any other person notice of a general meeting or a Proxy form, does not invalidate anything done or resolution passed at the general meeting if:
  - (1) the failure occurred by accident or inadvertent error; or
  - (2) before or after the meeting, the person notifies the Company of the person's agreement to that thing or resolution.
- (g) A person's attendance at a general meeting waives any objection that person may have to:
  - (1) 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) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.
- (h) The Company must ensure that the Auditor attends the Company's annual general meeting. The Chairman must conduct the meeting so as to allow Members a reasonable opportunity to ask questions of the Auditor and for the Auditor to provide responses.

## **8.3 Admission to general meetings**

- (a) The Chairperson of a general meeting may take any Action he or she considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave and remain out of, the meeting any person:



- (1) in possession of a pictorial-recording or sound-recording device;
- (2) in possession of a placard or banner;
- (3) in possession of an article considered by the Chairperson to be dangerous, offensive or liable to cause disruption;
- (4) who refuses to produce or permit examination of any article, or the contents of any article, in the person's possession;
- (5) who behaves or threatens to behave in a dangerous, offensive or disruptive way, or
- (6) who is not entitled to receive notice of the meeting.

The Chairperson may delegate the powers conferred by this rule to any person he or she thinks fit.

- (b) A person, whether a Member or not, requested by the directors or the Chairperson to attend a general meeting is entitled to be present and, at the request of the Chairperson, to speak at the meeting.
- (c) If the Chairperson of a general meeting considers that there is not enough room for the Members who wish to attend the meeting, he or she may arrange for any person whom he or she considers cannot be seated in the main meeting room to observe or attend the general meeting in a separate room. Even if the Members present in the separate room are not able to participate in the conduct of the meeting, the meeting will nevertheless be treated as validly held in the main room.
- (d) If a separate meeting place is linked to the main place of a general meeting by an instantaneous audio-visual communication device which, by itself or in conjunction with other arrangements:
  - (1) gives the general body of Members in the separate meeting place a reasonable opportunity to participate in proceedings in the main place;
  - (2) enables the Chairperson to be aware of proceedings in the other place; and
  - (3) enables the Members in the separate meeting place to vote on a show of hands or on a poll,

a Member present at the separate meeting place is taken to be present at the general meeting and entitled to exercise all rights as if he or she was present at the main place.
- (e) Nothing in this rule 8.3 or in rule 8.6 is to be taken to limit the powers conferred on the Chairperson by law.

#### **8.4 Quorum at general meetings**

- (a) No business may be transacted at a 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 is 5 or more Members present at the meeting and entitled to vote on a resolution 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 called at the request of Members, the meeting must be dissolved; or
  - (2) in any other case:
    - (A) the meeting stands adjourned to the day, and at the time and place, the directors present decide or, if they do not make a

decision, 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.

## **8.5 Chairperson of general meetings**

- (a) The Chairperson of directors or, in the absence of the Chairperson of directors, the deputy Chairperson of directors is entitled, if present within 15 minutes after the time appointed for a general meeting and willing to Act, to preside as Chairperson at the meeting.
- (b) The directors present may choose one of their number to preside as Chairperson if, at a general meeting:
  - (1) there is no Chairperson or deputy Chairperson of directors;
  - (2) neither the Chairperson nor the deputy Chairperson of directors is present within 15 minutes after the time appointed for the meeting; or
  - (3) neither the Chairperson nor the deputy Chairperson of directors is willing to Act as Chairperson of the meeting.
- (c) If the directors do not choose a Chairperson under rule 8.5(b), the Members present must elect as Chairperson of the meeting:
  - (1) another director who is present and willing to Act; or
  - (2) if no other director willing to Act is present at the meeting, a Member who is present and willing to Act.
- (d) A Chairperson of a general meeting may, for any item of business or discrete part of the meeting, vacate the Chair in favour of another person nominated by him or her.

## **8.6 Conduct at general meetings**

- (a) Subject to the provisions of the Act, the Chairperson of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (b) The Chairperson may at any time the Chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting:
  - (1) impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present; and
  - (2) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or on a poll, including the appointment of scrutineers.
- (c) A decision by a Chairperson under rules 8.6(a) or 8.6(b) is final.
- (d) The Chairperson may postpone the meeting before it has started, whether or not a quorum is present, if, at the time and place appointed for the meeting, he or she considers that:
  - (1) there is not enough room for the number of Members who wish to attend the meeting; or
  - (2) a postponement is necessary in light of the behaviour of persons present or for any other reason so that the business of the meeting can be properly carried out.

- (e) A postponement under rule 8.6(d) will be to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place will be taken to be the time and place for the meeting as if specified in the notice which called the meeting originally).
- (f) The Chairperson may at any time during the course of the meeting:
  - (1) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting; and
  - (2) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period or periods as he or she decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the Chairperson otherwise allows.
- (g) The Chairperson's rights under rules 8.6(d) and 8.6(f) are exclusive and, unless the Chairperson requires otherwise, no vote may be taken or demanded by the Members present concerning any postponement, adjournment or suspension of proceedings.
- (h) Only unfinished business may be transacted at a meeting resumed after an adjournment.
- (i) Where a meeting is postponed or adjourned under this rule 8.6, notice of the postponed or adjourned meeting must be given to the Exchange, but need not be given to any other person.
- (j) Where a meeting is postponed or adjourned, the directors may, by notice to the Exchange, postpone, cancel or change the place of the postponed or adjourned meeting.

## **8.7 Decisions at general meetings**

- (a) Except where a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the Members present at the meeting. A decision made in this way is for all purposes a decision of the Members.
- (b) If the votes are equal on a proposed resolution, the Chairperson of the meeting has a casting vote, in addition to any deliberative 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:
  - (1) before the show of hands is taken;
  - (2) before the result of the show of hands is declared; or
  - (3) immediately after the result of the show of hands is declared.
- (d) A poll may be demanded by:
  - (1) the Chairperson of the meeting;
  - (2) at least five Members entitled to vote on the resolution; or
  - (3) Members with at least 5% of the total issued Shares.
- (e) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll is demanded.
- (f) 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, 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 for or against the resolution.

- (g) If a poll is duly demanded at a general meeting, it must be taken in the way and either at once or after an interval or adjournment as the Chairperson of the meeting directs. The result of the poll as declared by the Chairperson is the resolution of the meeting at which the poll was demanded.
- (h) A poll cannot be demanded at a general meeting on the election of a Chairperson of the meeting.
- (i) The demand for a poll may be withdrawn with the Chairperson's consent.
- (j) The directors may determine that at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the Company by post, fax, email or other electronic means as approved by the directors. The directors may from time to time prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

## **8.8 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 as at the Record Time by the Member entitling the Member to vote, except for Partly Paid Shares, each of which confers on a poll only the fraction of one vote which the amount paid (not credited) on the Share bears to the total amounts paid and payable (excluding amounts credited) on the Share. An amount paid in advance of a call is disregarded for this purpose.
- (b) If a person present at a general meeting represents personally or by Proxy, attorney or Representative more than one Member, on a show of hands the person is entitled to one vote only even though he or she represents more than one Member.
- (c) A joint holder may vote at a meeting either personally or by Proxy, attorney or Representative as if that person was the sole holder. If more than one joint holder tenders a vote in respect of the relevant Shares, the vote of the holder named first in the register 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.
- (d) 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 so tendered by a parent or guardian of an infant Member must be accepted to the exclusion of the vote of the infant Member.
- (e) A person entitled to a Share because of a Transmission event may vote at a general meeting in respect of that Share in the same way as if that person were the registered holder of the Share if, at least 48 hours before the meeting (or such shorter time as the directors determine), the directors:
  - (1) admitted that person's right to vote at that meeting in respect of the Share; or
  - (2) were satisfied of that person's right to be registered as the holder of, or to transfer, the Share.

Any vote duly tendered by that person must be accepted and the vote of the registered holder of those Shares must not be counted.

- (f) Where a Member holds a Share on which a call or other amount payable to the Company has not been duly paid:
  - (1) that Member is only entitled to be present at a general meeting and vote if that Member holds, as at the Record Time, other Shares on which no money is then due and payable; and
  - (2) on a poll, that Member is not entitled to vote in respect of that Share but may vote in respect of any Shares that Member holds, as at the Record Time, on which no money is then due and payable.
- (g) A Member is not entitled to vote on a resolution if, under the Act or the Listing Rules, the notice which called the meeting specified that:
  - (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 any purposes.

If the Member or a person Acting as Proxy, attorney or Representative of the Member does tender a vote on that resolution, his or her vote must not be counted.
- (h) An objection to the validity of a vote tendered at a general meeting must be:
  - (1) raised before or immediately after the result of the vote is declared; and
  - (2) referred to the Chairperson of the meeting, whose decision is final.
- (i) A vote tendered, but not disallowed by the Chairperson of a meeting under rule 8.8(h), is valid for all purposes, even if it would not otherwise have been valid.
- (j) The Chairperson may decide any difficulty or dispute which arises as to the number of votes which may be cast by or on behalf of any Member and the decision of the Chairperson is final.

### **8.9 Representation at general meetings**

- (a) Subject to this Constitution, each Member entitled to vote at a general meeting may vote:
  - (1) in person or, where a Member is a body corporate, by its Representative;
  - (2) by not more than 2 proxies; or
  - (3) by not more than 2 attorneys.
- (b) A Proxy, attorney or Representative may, but need not, be a Member of the Company.
- (c) An instrument appointing a Proxy is valid if it is in accordance with the Act or in any form approved by the directors.
- (d) For the purposes of this rule 8.9 a Proxy appointment received at an electronic address specified in the notice of general meeting for the receipt of Proxy appointment is taken to have been signed or executed if the appointment:
  - (1) includes or is accompanied by a personal identification code allocated by the Company to the Member making the appointment; or
  - (2) has been authorised by the Member in another manner approved by the directors and specified in or with the notice of meeting.
- (e) A vote given in accordance with 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 received under rule 8.9(i).

- (f) Unless the instrument or resolution appointing him or her provides differently, the appointment of a Proxy, attorney or Representative is taken to give the relevant person the same rights to speak, demand a poll, join in demanding a poll or Act generally at the meeting as the Member would have had if he or she was present.
- (g) Unless otherwise provided in the appointment of a Proxy, attorney or Representative, an appointment will be taken to confer authority:
  - (1) 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;
    - (B) to vote on any procedural motion, including any motion to elect the Chairperson, to vacate the Chair or to adjourn the meeting; and
    - (C) to Act generally at the meeting; and
  - (2) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (h) A Proxy form issued by the Company must allow for the insertion of the name of the person to be primarily appointed as Proxy and may provide that, in circumstances and on conditions specified in the form that are not inconsistent with this Constitution, the Chairperson of the relevant meeting (or another person specified in the form) is appointed as Proxy.
- (i) A Proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the Proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are received by the Company at least 48 hours (or, in the case of an adjournment or postponement of a meeting, including an adjourned meeting, any lesser time that the directors or the Chairperson of the meeting decides) before the time for holding the meeting or adjourned meeting or taking the poll, as applicable. An instrument is received by the Company under this rule 8.9(i) when it is received in accordance with the Act, and to the extent permitted by the Act, if the instrument is produced or the Transmission of the instrument is otherwise verified to the Company in the way specified in the notice.
- (j) The appointment of a Proxy or attorney is not revoked by the appointor attending and taking part in the general meeting, but if the appointor votes on a resolution, the Proxy or attorney is not entitled to vote, and must not vote, as the appointor's Proxy or attorney on the resolution.
- (k) Where a Member appoints 2 proxies or attorneys to vote at the same general meeting:
  - (1) if the appointment does not specify the proportion or number of the Member's votes each Proxy or attorney may exercise, each Proxy or attorney may exercise half the Member's votes;
  - (2) on a show of hands, neither Proxy or attorney may vote if more than one Proxy or attorney attends; and
  - (3) on a poll, each Proxy or attorney may only exercise votes in respect of those Shares or voting rights the Proxy represents.

- (l) Unless written notice of the matter has been received at the Company's registered office (or at another place specified for lodging an appointment of a Proxy or attorney for the meeting) at least 48 hours (or, in the case of an adjournment or postponement of a meeting, any lesser time that the directors or the Chairperson of the meeting decide) before the time for holding a meeting, adjourned meeting or poll, a vote cast by a Proxy or attorney is valid even if, before the vote is cast:
  - (1) a Transmission event occurs to the Member; or
  - (2) the Member revokes the appointment of the Proxy or attorney or revokes the authority under which a third party appointed the Proxy or attorney.
- (m) Where authority is given to a Proxy, attorney or Representative concerning a meeting to be held on or before a specified date or at a specified place and that meeting is postponed to a later date or the meeting place is changed, the authority is taken to include authority to Act at the re-scheduled meeting unless the Member granting the authority gives the Company notice to the contrary under rule 8.9(i).
- (n) The Chairperson of a meeting may:
  - (1) permit a person claiming to be a Representative to exercise the powers of a Representative, even if the person is unable to establish to the Chairperson's satisfaction that he or she has been validly appointed; or
  - (2) permit the person to exercise those powers on the condition that, if required by the Company, he or she produce evidence of the appointment within the time set by the Chairperson.
- (o) The Chairperson of a meeting may require a person Acting as a Proxy, attorney or Representative to establish to the Chairperson's satisfaction that the person is the person duly appointed to Act. If the person fails to satisfy the requirement, the Chairperson may exclude the person from attending or voting at the meeting.
- (p) The Chairperson may delegate his or her powers under paragraph 8.9(n) and 8.9(o) to any person.

## 9 Directors

### 9.1 Appointment and retirement of directors

- (a) The minimum number of directors is 3. The maximum number of directors is to be fixed by the directors, but may not be more than 7 unless the Company in general meeting resolves otherwise. The directors must not determine a maximum which is less than the number of directors in office at the time the determination takes effect.
- (b) The directors may appoint any natural person to be a director, either as an addition to the existing directors or to fill a casual vacancy, but so that the total number of directors does not exceed the maximum number fixed under this Constitution.
- (c) A director appointed by the directors under rule 9.1(b), who is not a managing director, holds office only until the next AGM following his or her appointment.
- (d) At each AGM of the Company, subject to ASX Listing Rule 14.4, at least one director must retire from office, excluding:
  - 1) a director who is a managing director; and
  - 2) a director appointed by the directors under rule 9.1 (b) and standing for election.
- (e) No director who is not the managing director may hold office without re-election beyond the third AGM following the meeting at which the director was last elected or re-elected.

- (f) If there is more than one managing director, only one of them, nominated by the directors, is entitled not to be subject to vacation of office under rule 9.1(c) or retirement under rule 9.1(d).
- (g) The directors to retire under rule 9.1(d) are those directors who wish to retire and not offer themselves for re-election and, so far as is necessary to obtain the number required, those who have been longest in office since their last election or appointment. As between directors who were last elected or appointed on the same day, those to retire must, unless they can agree among themselves, be decided by lot.
- (h) The directors to retire under rule 9.1(d) (both as to number and identity) is decided having regard to the composition of the board of directors at the date of the notice calling the AGM. A director is not required to retire and is not relieved from retiring because of a change in the number or identity of the directors after the date of the notice but before the meeting closes.
- (i) The Company may by resolution at an AGM fill an office vacated by a director under rules 9.1(c) or 9.1(d) by electing or re-electing an eligible person to that office.
- (j) The retirement of a director from office under this Constitution 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.
- (k) A person is eligible for election to the office of a director at a general meeting only if:
  - (1) the person is in office as a director immediately before that meeting;
  - (2) the person has been nominated by the directors for election at that meeting;
  - (3) where the person is a Member, he or she has at least 35 Business Days and, in the case of a general meeting the directors have been duly requested by Members under the Act to call, at least 30 Business Days (or, in each case, such longer period as may be permitted under the Listing Rules) but, in each case, subject to the Listing Rules, no more than 90 Business Days before the meeting, to give the Company a notice signed by him or her stating the Member's desire to be a candidate for election at that meeting; or
  - (4) where the person is not a Member, a Member intending to nominate the person for election at that meeting has, at least 35 Business Days and, in the case of a general meeting the directors have been duly requested by Members under the Act to call, at least 30 Business Days (or, in each case, such longer period as may be permitted under the Listing Rules) but, in each case, no more than 90 Business Days before the meeting, to give the Company a notice signed by the Member stating the Member's intention to nominate the person for election, and a notice signed by the person stating his or her consent to the nomination.
- (l) A partner, employer or employee of an auditor of the Company may not be appointed or elected as a director.

## **9.2 Vacating office**

In addition to the circumstances prescribed by the Act and this Constitution, 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 on indictment of an offence and the directors do not within 1 month after 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 months without leave of absence from the directors; or
- (e) resigns by written notice to the Company.

### **9.3 Remuneration**

- (a) Each director is entitled to such remuneration from the Company for his services as a director as the directors decide but the total amount provided to all directors for their services as directors must not exceed in aggregate in any financial year the amount fixed by the Company in general meeting.
- (b) Remuneration under rule 9.3(a) may be provided in such manner that the directors decide, including by way of non cash benefit, such as a contribution to a superannuation fund.
- (c) The remuneration is taken to accrue from day to day.
- (d) The remuneration of a director (who is not a managing director or an executive director) must not include a commission on, or a percentage of, profits or operating revenue.
- (e) The directors are entitled to be paid all travelling and other expenses they incur in attending to the Company's affairs, including attending and returning from general meetings of the Company or meetings of the directors or of committees of the directors.
- (f) If a director, with the concurrence of the directors, performs extra services or makes any special exertions for the benefit of the Company, the directors may cause that director to be paid out of the funds of the Company such special and additional remuneration as the directors decide is appropriate having regard to the value to the Company of the extra services or special exertions.
- (g) 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 instead of that director's remuneration under rule 9.3(a).
- (h) The directors may:
  - (1) at any time after a director dies or ceases to hold office as a director for any other reason, pay or provide to the director or a legal personal Representative, spouse, relative or dependant of the director, in addition to the remuneration of that director under rule 9.3(a), a pension or benefit for past services rendered by that director; and
  - (2) cause the Company to enter into a contract with the director or a legal personal Representative, spouse, relative or dependant of the director to give effect to such a payment or provide for such a benefit.
- (i) 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 or in respect of the directors or former directors and grant pensions and allowances to those persons or their dependants either by periodic payment or lump sum.

- (j) For the purposes of this Constitution the amount fixed by the Company as remuneration for a director, will not include any amount paid by the Company or related body corporate:
  - (1) to a superannuation, retirement or pension fund for a director so that the Company is not liable to pay the superannuation guarantee charge or similar statutory charge; or
  - (2) for any insurance premium paid or agreed to be paid for a director under rule 11.5.

#### **9.4 Director need not be a Member**

- (a) A director is not required to hold any Shares in the Company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings and at meetings of the holders of a class of Shares, even if he or she is not a Member or a holder of Shares in the relevant class.

#### **9.5 Directors may contract with the Company and hold other offices**

- (a) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the Company or a related body corporate. Any regulations made under this Constitution bind all directors.
- (b) No Act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any regulation made under rule 9.5(a).
- (c) A director is not disqualified from contracting or entering into an arrangement with the Company as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (d) A contract or arrangement entered into by or on behalf of the Company in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (e) A director who is interested in any arrangement involving the Company is not liable to account to the Company for any profit realised under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with the disclosure requirements applicable to the director under rule 9.5(a) and under the Act regarding that interest.
- (f) A director may hold any other office or position (except auditor) in the Company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or position on terms (including remuneration and tenure) the directors decide.
- (g) A director may be or become a director or other officer of, or interested in, any related body corporate or any other body corporate, and need not account to the Company for any remuneration or other benefits the director receives as a director or officer of, or from having an interest in, that body corporate.
- (h) A director who has an interest in a matter that is being considered at a meeting of directors may, despite that interest, vote, be present and be counted in a quorum at the meeting, unless that is prohibited by the Act. No Act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a director fails to comply with that prohibition.

- (i) The directors may exercise the voting rights given by Shares in any corporation held or owned by the Company in any way the directors decide. This includes voting for any resolution appointing a director as a director or other officer of that corporation or voting for the payment of remuneration to the directors or other officers of that corporation. A director may, if the law permits, vote for the exercise of those voting rights even though he or she is, or may be about to be appointed, a director or other officer of that other corporation and, in that capacity, may be interested in the exercise of those voting rights.
- (j) A director who is interested in any contract or arrangement may, despite that interest, witness the fixing of the Seal to any document evidencing or otherwise connected with that contract or arrangement.

## **9.6 Powers and duties of directors**

- (a) The directors are responsible for managing the business of the Company and may exercise all powers and do all things that are within the Company's power and are not expressly required by the Act or this Constitution to be exercised by the Company in general meeting.
- (b) The directors may exercise all the powers of the Company:
  - (1) to borrow or raise money in any other way;
  - (2) to charge any of the Company's property or business or any of its uncalled capital; and
  - (3) to issue debentures or give any security for a debt, liability or obligation of the Company or of any other person.
- (c) Debentures or other securities may be issued on the terms and at prices decided by the directors, including bearing interest or not, with rights to subscribe for, or exchange into, Shares or other securities in the Company or a related body corporate or with special privileges as to redemption, participating in Share issues, attending and voting at general meetings and appointing directors.
- (d) The directors may decide how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as applicable, by or on behalf of the Company.
- (e) The directors may:
  - (1) appoint or employ any person as an officer, agent or attorney of the Company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for any period and on any other conditions they decide;
  - (2) authorise an officer, agent or attorney to delegate any of the powers, discretions and duties vested in the officer, agent or attorney; and
  - (3) 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 any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the directors decide.
- (g) Nothing in this rule 9.6 limits the general nature of rule 9.6(a).

## **9.7 Proceedings of directors**

- (a) The directors may meet together to attend to business and adjourn and otherwise regulate their meetings as they decide.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of directors to constitute a quorum, constitutes a meeting of the directors. All the provisions in this Constitution relating to meetings of the directors

apply, as far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.

- (c) A meeting by telephone or other electronic means is to be taken to be held at the place where the Chairperson of the meeting is or at such other place the Chairperson of the meeting decides on, as long as at least one of the directors involved was at that place for the duration of the meeting.
- (d) A director taking part in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs whereby one or more directors cease to participate, the Chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

#### **9.8 Calling meetings of directors**

- (a) A director may, whenever the director thinks fit, call a meeting of the directors.
- (b) A secretary must, if requested by a director, call a meeting of the directors.

#### **9.9 Notice of meetings of directors**

- (a) Notice of a meeting of directors must be given to each person who is at the time the notice is given:
  - (1) a director, except a director on leave of absence approved by the directors; or
  - (2) an alternate director appointed under rule 9.14 by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
  - (1) must specify the time and place of the meeting;
  - (2) need not state the nature of the business to be transacted at the meeting;
  - (3) may, if necessary, be given immediately before the meeting;
  - (4) may be given in person or by post or by telephone, fax or other electronic means; 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 a meeting of directors by giving notice to that effect in person or by post or by telephone, fax or other electronic means.
- (d) Failure to give a director or alternate director notice of a meeting of directors does not invalidate anything done or any resolution passed at the meeting if:
  - (1) the failure occurred by accident or inadvertent error; or
  - (2) the director or alternate director attended the meeting or waived notice of the meeting (whether before or after the meeting).
- (e) A person who attends a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

#### **9.10 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) Unless the directors decide differently, 2 directors constitute a quorum.

- (c) If there is a vacancy in the office of a director, the remaining directors may Act. But, if their number is not sufficient to constitute a quorum, they may Act only in an emergency or to increase the number of directors to a number sufficient to constitute a quorum or to call a general meeting of the Company.

#### **9.11 Chairperson and deputy Chairperson of directors**

- (a) The directors may elect a director to the office of Chairperson of directors and may elect one or more directors to the office of deputy Chairperson of directors. The directors may decide the period for which those offices will be held.
- (b) The Chairperson of directors is entitled (if present within 10 minutes after the time appointed for the meeting and willing to Act) to preside as Chairperson at a meeting of directors.
- (c) 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 or declines to Act as Chairperson of the meeting,

the deputy Chairperson if any, if then present and willing to Act, is entitled to be Chairperson of the meeting or if the deputy Chairperson is not present or is unwilling or declines to Act as Chairperson of the meeting, the directors present must elect one of themselves to Chair the meeting.

#### **9.12 Decisions of directors**

- (a) The directors, at a meeting at which a quorum is present, may exercise any authorities, powers and discretions vested in or exercisable by the directors under this Constitution.
- (b) Questions arising at a meeting of directors must be decided by a majority of votes cast by the directors present entitled to vote on the matter.
- (c) Subject to rule 9.12(d), if the votes are equal on a proposed resolution, the Chairperson of the meeting has a casting vote, in addition to his or her deliberative vote.
- (d) Where only 2 directors are present or entitled to vote at a meeting of directors and the votes are equal on a proposed resolution:
  - (1) the Chairperson of the meeting does not have a second or casting vote; and
  - (2) the proposed resolution is taken as lost.

#### **9.13 Written resolutions**

- (a) If:
  - (1) all of the directors, other than:
    - (A) any director on leave of absence approved by the directors;
    - (B) any director who disqualifies himself or herself from considering the resolution in question; and
    - (C) any director who would be prohibited by the Act from voting on the resolution in question,sign or consent to a written resolution; and

- (2) the directors who sign or consent to the resolution would have constituted a quorum at a meeting of directors held to consider that resolution, then the resolution is taken to have been passed by a meeting of the directors.
- (b) A director may consent to a resolution by:
- (1) signing the document containing the resolution (or a copy of that document);
  - (2) giving to the Company at its registered office a written notice (including by fax or other electronic means) addressed to the secretary or to the Chairperson of directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
  - (3) telephoning the secretary or the Chairperson of directors and signifying assent to the resolution and clearly identifying its terms.

#### **9.14 Alternate directors**

- (a) A director may, with the approval of a majority of the other directors, appoint a person to be the director's alternate director for such period as the director decides.
- (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 1 director.
- (d) In the absence of the appointer, an alternate director may exercise any powers (except the power to appoint an alternate director) that the appointer may exercise.
- (e) 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.
- (f) 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.
- (g) An alternate director, when Acting as a director, is responsible to the Company for his or her own Acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.
- (h) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (i) The appointment of an alternate director may be terminated or suspended at any time by the appointer or by a majority of the other directors.
- (j) An appointment, or the termination or suspension of an appointment of an alternate director, must be in writing and signed and takes effect only when the Company has received notice in writing of the appointment, termination or suspension.
- (k) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed or the rotation of directors under this Constitution.
- (l) 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.
- (m) An alternate director is not entitled to receive any remuneration as a director from the Company otherwise than out of the remuneration of the director appointing the alternate director but is entitled to travelling, hotel and other expenses reasonably incurred for the purpose of attending any meeting of directors at which the appointer is not present.

#### **9.15 Committees of directors**

- (a) The directors may delegate any powers to a committee of directors.

- (b) A committee to which any powers have been 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 any necessary changes, to meetings and resolutions of a committee of directors, except to the extent they are contrary to any direction given under rule 9.15(b).
- (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 directors for the purposes of rule 9.3(f).

#### **9.16 Delegation to a director**

- (a) The directors may delegate any of their powers to 1 director.
- (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) The acceptance of a delegation of powers by a director may, if the directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of rule 9.3(f).

#### **9.17 Validity of Acts**

An Act done by a meeting of directors, a committee of directors or a person Acting as a director is not invalidated by:

- (a) a defect in the appointment of a person as a director or a Member of a committee; or
- (b) a person so appointed being disqualified or not being entitled to vote,

if that circumstance was not known by the directors, committee or person when the Act was done.

## **10 Executive officers**

### **10.1 Managing directors and executive directors**

- (a) The directors may appoint one or more of the directors to the office of managing director or other executive director.
- (b) A managing director's or other executive director's appointment automatically terminates if the managing director or other executive director ceases to be a director.
- (c) A managing director or other executive director may be referred to by any title the directors decide on.

### **10.2 Secretary**

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

### **10.3 Provisions applicable to all executive officers**

- (a) A reference in this rule 10.3 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 rule 10.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors decide.

- (c) The remuneration payable by the Company to an executive officer must not include a commission on, or percentage of, operating revenue.
- (d) The directors may:
  - (1) delegate to or give an executive officer any powers, discretions and duties they decide;
  - (2) withdraw, suspend or vary any of the powers, discretions and duties given to an executive officer; and
  - (3) authorise the executive officer to delegate any of the powers, discretions and duties given to the executive officer.
- (e) Unless the directors decide differently, the office of a director who is employed by the Company or by a subsidiary of the Company automatically becomes vacant if the director ceases to be so employed.
- (f) An act done by a person acting as an executive officer is not invalidated by:
  - (1) a defect in the person's appointment as an executive officer;
  - (2) the person being disqualified to be an executive officer; or
  - (3) the person having vacated office,
 if the person did not know that circumstance when the act was done.

## 11 Indemnity and insurance

### 11.1 Persons to whom rules 11.2 and 11.5 apply

Rules 11.2 and 11.5 apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 10.3(a)) of the Company; and
- (b) to such other officers or former officers of the Company or of its related bodies corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the Company or of its related bodies corporate,

(each an **Officer** for the purposes of this rule).

### 11.2 Indemnity

The Company must indemnify each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses (**Liabilities**) incurred by the Officer as an officer of the Company or of a related body corporate but will not be required to indemnify a director in respect of any such liability where it arises from the fraudulent or wilful misconduct of that Officer.

### 11.3 Limit on indemnity

The indemnity in rule 11.2 does not operate in respect of any Liability of the Officer to the extent that Liability is covered by insurance.

### 11.4 Extent of indemnity

The indemnity in rule 11.2:

- (a) is enforceable without the Officer having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the Company or its related bodies corporate; and



- (c) applies to Liabilities incurred both before and after the adoption of this Constitution.

### **11.5 Insurance**

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Officer against any Liability incurred by the Officer as an officer or auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

### **11.6 Savings**

Nothing in rule 11.2 or 11.5:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules;
- (b) limits the capacity of the Company to indemnify or provide or pay for insurance for any person to whom those rules do not apply; or
- (c) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into prior to the adoption of this Constitution.

### **11.7 Deed – Indemnity & Insurance**

The Company may enter into a deed with any Officer to give effect to the rights conferred by this rule 11 or the exercise of a discretion under this rule 11 on such terms as the directors think fit which are not inconsistent with this rule 11.

## **12 Winding up**

### **12.1 Distributing surplus**

Subject to this Constitution and 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 to pay:
  - (1) all the debts and liabilities of the Company; and
  - (2) the costs, charges and expenses of the winding up,the excess must be divided among the Members in proportion to the number of Shares held by them, irrespective of the amounts paid or credited as paid on the Shares;
- (b) for the purpose of calculating the excess referred to in rule 12.1(a), any amount unpaid on a Share is to be treated as property of the Company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a Partly Paid Share under rule 12.1(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 rule 12.1(c) would 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.

### **12.2 Dividing 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 Company's property; and
  - (2) decide how the division is to be carried out as between the Members or different classes of Members.
- (b) A division under rule 12.2(a) need not accord 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 rule 12.2(a) does not accord with the legal rights of the Members, a Member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Act.
  - (d) If any of the property to be divided under rule 12.2(a) includes securities with a liability to Calls, any person entitled under the division to any of the securities may, within 10 days after the passing of the special resolution referred to in rule 12.2(a), by written notice direct the liquidator to sell the person's proportion of the securities and account for the net proceeds. The liquidator must, if practicable, Act accordingly.
  - (e) Nothing in this rule 12.2 takes away from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
  - (f) Rule 6.3 applies, so far as it can and with any necessary changes, to a division by a liquidator under rule 12.2(a) as if references in rule 6.3 to:
    - (1) the directors were references to the liquidator; and
    - (2) a distribution or capitalisation were references to the division under rule 12.2(a).

## **13 Inspection of and access to records**

- (a) A person who is not a director does not have the right to inspect any of the board papers, books, records or documents of the Company, except as provided by law, this Constitution or as authorised by the directors or by resolution of the Members.
- (b) The Company may enter into contracts with its directors or former directors agreeing to provide continuing access for a specified period after the director ceases to be a director to board papers, books, records and documents of the Company which relate to the period during which the director or former director was a director on such terms and conditions as the directors think fit and which are not inconsistent with this rule 13.
- (c) The Company may procure that its subsidiaries provide similar access to board papers, books, records or documents as that set out in rules 13(a) and 13(b).
- (d) This rule 13 does not limit any right the directors or former directors otherwise have.

## **14 Seals**

### **14.1 Manner of execution**

Without limiting the ways in which the Company can execute documents under the Act and subject to this Constitution, the Company may execute a document if the document is signed by:

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

## **14.2 Common Seal**

The Company may have a common Seal. If the Company has a common Seal, rules 14.3 to 14.7 apply.

## **14.3 Safe custody of Seal**

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

## **14.4 Using the Seal**

Subject to rule 14.7 and unless a different procedure is decided by the directors, if the Company has a common Seal, any document to which it is affixed must be signed by:

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

## **14.5 Seal register**

- (a) The Company must keep a Seal register and, on affixing the Seal to any document (other than a certificate for securities of the Company) must enter in the register particulars of the document, including a short description of the document.
- (b) The register, or any details from it that the directors require, must be produced at meetings of directors for noting the use of the Seal since the previous meeting of directors.
- (c) Failure to comply with rules 14.5(a) or 14.5(b) does not invalidate any document to which the Seal is properly affixed.

## **14.6 Duplicate Seals and certificate Seals**

- (a) The Company may have 1 or more duplicate Seals for use in place of its common Seal outside the state or territory where its common Seal is kept. Each duplicate Seal must be a facsimile of the common Seal of the Company with the addition on its face of the words "duplicate Seal" and the name of the place where it is to be used.
- (b) A document Sealed with a duplicate Seal, or a certificate Seal as provided in rule 14.7, is to be taken to have been Sealed with the common Seal of the Company.

## **14.7 Sealing and signing certificates**

The directors may decide 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.

# **15 Notices**

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

- (a) Without limiting any other way in which notice may be given to a Member under this Constitution, the Act or the Listing Rules, the Company may give a notice to a Member by:
  - (1) delivering it personally to the Member;
  - (2) sending it by prepaid post to the Member's address in the register of Members or any other address the Member supplies to the Company for giving notices; or

- (3) sending it by fax or other electronic means to the fax number or electronic address the Member has supplied to the Company for giving notices.
- (b) The Company may give a notice to the joint holders of a Share by giving the notice in the way authorised by rule 15.1(a) to the joint holder who is named first in the register of Members for the Share.
- (c) The Company may give a notice to a person entitled to a Share as a result of a Transmission event by delivering it or sending it in the manner authorised by rule 15.1(a) addressed to the name or title of the person, to:
  - (1) the address, fax number or electronic address that person has supplied to the Company for giving notices to that person; or
  - (2) if that person has not supplied an address, fax number or electronic address, to the address, fax number or electronic address to which the notice might have been sent if that Transmission event had not occurred.
- (d) A notice given to a Member under rules 15.1(a) or 15.1(b) is, even if a Transmission event has occurred and whether or not the Company has notice of that occurrence:
  - (1) duly given for any Shares registered in that person's name, whether solely or jointly with another person; and
  - (2) sufficiently served on any person entitled to the Shares because of the Transmission event.
- (e) A notice given to a person who is entitled to a Share because of a Transmission event is sufficiently served on the Member in whose name the Share is registered.
- (f) A person who, because of a transfer of Shares, becomes entitled to any Shares registered in the name of a Member, is taken to have received every notice which, before that person's name and address is entered in the register of Members for those Shares, is given to the Member complying with this rule 15.1.
- (g) A signature to any notice given by the Company to a Member under this rule 15.1 may be printed or affixed by some mechanical or other means.
- (h) Where a Member does not have a registered address or where the Company believes that Member is not known at the Member's registered address, all notices are taken to be:
  - (1) given to the Member if the notice is exhibited in the Company's registered office for a period of 48 hours; and
  - (2) served at the commencement of that period,
 unless and until the Member informs the Company of the Member's address.

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

The Company may give a notice to a director or alternate director by:

- (a) delivering it personally to him or her;
- (b) sending it by prepaid post to his or her usual residential or business address, or any other address he or she has supplied to the Company for giving notices; or
- (c) sending it by fax or other electronic means to the fax number or electronic address he or she has supplied to the Company for giving notices.

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

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

- (a) delivering it to the Company's registered office;
- (b) sending it by prepaid post to the Company's registered office; or

- (c) sending it by fax or other electronic means to the principal fax number or electronic address at the Company's registered office.

#### **15.4 Time of service**

- (a) A notice from the Company properly addressed and posted is taken to be served:
  - (1) if it is a notice concerning a general meeting, at 10.00am on the day after the date it is posted; or
  - (2) in any other case, at the time the letter would be delivered in the ordinary course of post.
- (b) A certificate signed by a secretary or officer of the Company to the effect that a notice was duly posted under this Constitution is conclusive evidence of that fact.
- (c) Where the Company sends a notice by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the facsimile Transmission report produced by the sender's fax machine.
- (d) Where the Company sends a notice by electronic Transmission, the notice is taken as served at the time when confirmation is notified on the computer from which the electronic Transmission was sent that Transmission occurred.
- (e) where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

#### **15.5 Other communications and documents**

Rules 15.1 to 15.4 (inclusive) apply, so far as they can and with any necessary changes, to serving any communication or document.

#### **15.6 Written notices**

A reference in this Constitution to a written notice includes a notice given by fax or other electronic means.

## **16 General**

### **16.1 Submission to jurisdiction**

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the Company is taken to be registered for the purposes of the Act, the Federal Court of Australia and the courts which may hear appeals from those courts.

### **16.2 Prohibition and enforceability**

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

#### **DATED:**

21 November 2005

Amended by special resolution of the members 10 November 2008

Amended by special resolution of the members 17 October 2011

Amended by special resolution of the members 11 November 2014

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## **Praemium Director & Employee Benefits Plan**

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Praemium Limited  
ACN 098 405 826

*Approved by the Members of Praemium Limited  
at the Company's Annual General Meeting  
held on 11 November 2014*

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## 1. General Nature of the Plan

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### Description

- 1.1. This is a plan under which employees and others may become holders of Shares, Options and Performance Rights in the Company. This Plan is called the **Praemium Director and Employee Benefits Plan**.

### Object of this Plan

- 1.2. The object of this Plan is to help the Company recruit, reward, retain and motivate its employees and directors.

### Commencement of Plan

- 1.3. This Plan starts on the Starting Date.

## 2. Eligibility and Restrictions

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### Eligibility

- 2.1. A person is eligible (**Eligible Person**) to receive an Invitation under this Plan if he or she is:
- (a) a director or secretary of a Group Company;
  - (b) an employee in permanent full-time or permanent part time employment of a Group Company; or
  - (c) a contractor to a Group Company,
- who is selected by the Board to participate in this Plan.

### Voluntary participation

- 2.2. Participation in this Plan by Eligible Persons is voluntary and no Eligible Person is required to participate in this Plan.

### Overriding restrictions on grant and exercise

- 2.3. No Option or Performance Right may be granted or exercised if to do so would contravene the Constitution of the Company, the *Corporations Act 2001* or any other applicable law of a jurisdiction in which the Company is incorporated or a Participant resides. Any purported grant or exercise in breach of the foregoing is invalid.

## 3. Invitations to Participate

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### Invitations to Participate

- 3.1. Subject to these Rules, the Board may make Invitations to any Eligible Persons at any time.

### Form of Invitation

- 3.2. The Invitation will specify if the offer of Performance Rights, Options and/or Plan Shares to Eligible Employees is in accordance with the tax deferral provisions as may be permitted under the Tax Act. An Invitation

shall be in such form and content and subject to such conditions and Rules as the Board determines, which may include:

- (a) the name and address of the Eligible Person to whom the Invitation is made and, where the Board so decides, that the application may be made in the name of an Associate of the Eligible Person;
- (b) the total number of Shares, Options or Performance Rights (as the case may be) being made available to the Eligible Person;
- (c) the closing date for applications and the last date for acceptances by the Company;
- (d) in the case of Options, the Exercise Period, the Exercise Price (if any) and the Exercise Conditions (if any) attaching to the Options;
- (e) in the case of Shares, the issue price payable on acceptance of the application by the Company (if any) and issue of the Shares (if any) and any other specific terms and conditions of issue of the Shares;
- (f) in the case of Performance Rights, the Performance Criteria and the Performance Period in which those Performance Criteria must be satisfied (if any);
- (g) an application form;
- (h) a summary, or a copy of, this Plan;
- (i) any restrictions on the Participant's rights to deal with the Shares acquired under the Plan in addition to those Restrictions set out in Rule 9.2.
- (j) the procedure to be followed by an Eligible Person to apply to participate in this Plan and to apply for Shares, Options or Performance Rights (as the case may be); and
- (k) any other information or documents required to be included in the Invitation by any applicable law or the ASX Listing Rules.

### **Right to reject applications**

- 3.3. The Board is entitled to reject any application by an Eligible Person to participate in this Plan without assigning any reason.

### **Effect of acceptance of Invitation**

- 3.4. If the Board resolves to accept an application by an Eligible Person to participate in this Plan and to be allocated Shares, granted Options or Performance Rights (as the case may be) the Board must notify the Eligible Person accordingly.
- 3.5. Once notice is given, a contract is formed between the Eligible Person and the Company under which:
- (a) an Eligible Person:
    - (i) becomes bound by the terms and conditions of the Invitation and this Plan; and
    - (ii) in the case of an allocation of Shares, agrees to be bound by the Constitution of the Company;

- (iii) agrees to the allocation of the Shares or grant of the Options or Performance Rights made available to the Eligible Person in accordance with the terms and conditions of the Eligible Person's application which is accepted by the Board; and
  - (iv) becomes a Participant in this Plan.
- (b) the Company must, subject to this Plan, issue a holding statement in the form determined by the Board (and containing such information as required by all applicable laws) to evidence the allocation of the Shares or the grant of the Options or Performance Rights to the Participant.

## **4. Risk Lies with Eligible Person**

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- 4.1. If an Eligible Person is allocated Shares or granted Options or Performance Rights and participates in this Plan, the risk of loss to that Eligible Person as the holder of Shares, Options or Performance Rights (as the case may be) arising for any reason whatsoever, including from the Shares or Options falling in value, lies with the Eligible Person. Neither the Group, nor the Board, nor officer or employee of the Company represents that either the Shares or Options will maintain their value or increase in value. None of them is responsible to an Eligible Person if the Eligible Person suffers any loss.
- 4.2. Neither the Group nor any adviser to the Group nor the Board represents or warrants that this Plan will have any particular taxation consequences or that any Participant will gain any taxation advantage by participating in this Plan and they are not liable for, or as a consequence of, any taxes imposed upon or duties assessed against a Participant.

## **5. Option Terms**

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### **Entitlement to Shares**

- 5.1. Subject to Rule 12, each Option confers an entitlement to subscribe for and be allocated one Share, credited as fully paid, at the Exercise Price.

### **Obligation of the Company to deliver Shares**

- 5.2. Subject to this Plan, the Company must deliver to the Participant a Share on exercise of an Option.

### **Options subject to this Plan**

- 5.3. Options will be governed by this Plan until the Options:
- (a) lapse in accordance with Rule 0; or
  - (b) are exercised and Shares have been allocated as a result of that exercise.

### **Options personal to Participant**

- 5.4. Options are personal to the Participant and may not be transferred or exercised by any other person or body corporate except to the extent necessary to enable a Participant's Legal Personal Representative to exercise the Options in accordance with Rule 6.

## **6. Exercise of Options**

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### **Procedure for exercise**

- 6.1. Subject to the satisfaction of the Exercise Conditions and this Plan, an Option which has not lapsed in accordance with Rule 0 may be exercised during the Exercise Period by the Participant lodging at the address as nominated in the Invitation:
- (a) a Notice of Exercise signed by the Participant (which may include execution via an electronic exercise facility as determined by the Board from time to time);
  - (b) any other documentation as may be specified in the Invitation; and
  - (c) payment of the Exercise Price (with all funds having cleared) in respect of the Options exercised in accordance with Rule 6.2.

### **Form of payments**

- 6.2. All payments made under Rule 6.1 must, unless otherwise determined by the Board, be made:
- (a) in the manner specified in the Invitation; and
  - (b) denoted in Australian dollars.

### **Exercise in minimum parcels**

- 6.3. A Participant may exercise some or all of the Options he or she holds, but must exercise Options in such minimum parcels as may be prescribed by the Board from time to time and notified from time to time to the Participants in writing.

### **Partial exercise – release of new holding statement**

- 6.4. Where a Participant submits a Notice of Exercise in respect of only some of the Options covered by a certificate, the Company must provide an updated holding statement containing all information required by all applicable laws.

### **Timing of delivery of Shares**

- 6.5. The Company must use its reasonable endeavours as soon as practicable following the exercise of the Options, to deliver that number of Shares in respect of which Options have been validly exercised pursuant to this Rule 6.

## **7. Terms of Performance Rights Eligibility and Restrictions**

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### **Offer of Performance Rights**

- 7.1. The Board may offer Performance Rights to any Eligible Person at its sole discretion. Each Performance Right confers an entitlement to be provided with one Share, credited as fully paid, at no cost upon the full satisfaction of the Performance Criteria specified in the Invitation in relation to that Performance Right.

### **Board may add to or vary Performance Rights**

- 7.2. The Board may add to or vary any Participant's Performance Rights, in a manner that increases the overall benefit to the Participant, if the Participant is promoted, receives an increase in remuneration, or if the Participant's professional circumstances change such that the Board considers the previous Performance Rights to be no longer appropriate.

### **Performance Rights subject to this Plan**

- 7.3. Performance Rights will be governed by this Plan until the Performance Rights:
- (a) lapse in accordance with Rule 11; or
  - (b) the Performance Criteria to which the Performance Rights relate have been fully satisfied in accordance with this Plan and consequently Shares have been allocated in respect of those vested Performance Rights.

### **Performance Rights not property**

- 7.4. Performance Rights are personal contractual rights granted to the Participant only and do not constitute any form of property. Performance Rights cannot be transferred to or vest in any person or body corporate other than the Participant except to a Participant's Legal Personal Representative when Performance Rights have vested in accordance with Rule 8 and Shares are yet to be allocated accordingly.

### **Economic Risk**

- 7.5. Participants of this Plan are not permitted to enter into transactions (whether through the use of derivatives, hedging or otherwise) which limit the economic risk of participating in this Plan.

## **8. Performance Criteria**

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### **Board may determine Performance Criteria**

- 8.1. The Group CEO with Board's approval will determine the Performance Criteria which set individually for the Participant and will apply to any Shares, Options or Performance Rights granted under this Plan. The Performance Criteria, including the Performance Period, will be set out in the Invitation and will specify the criteria which the Participant is required to meet in the specified Performance Period in order to become entitled to receive Shares under this Plan.
- 8.2. The Board may, consistently with the terms of the plan and the Company's remuneration policy, further determine the terms on which Shares, Options or Performance Rights may vest and the number of shares to be issued on vesting or the Restrictions imposed on such shares.
- 8.3. In respect of a particular grant of Shares, Options or Performance Rights, the Board may not vary the Performance Criteria or the Performance Period after the grant of those Shares, Options or Performance Rights.
- 8.4. At the end of the Performance Period the Board will determine (or will commission an independent scrutineer to determine) whether (and, where



applicable, to what extent) the Participant has satisfied the Performance Criteria applicable to the Performance Period. As soon as possible after making that determination the Board must inform the Participant of that determination, and of the number of Shares to be provided to the Participant in respect of the vested Shares, Options or Performance Rights to which those Performance Criteria relate.

- 8.5. The number of Shares calculated in accordance with Rule Part C8.4 may be provided to the Participant subject to the Restrictions. Where the number of Shares provided to the Participant in respect of a Performance Period is less than the number of Performance Rights granted to the Participant for that Performance Period, then any Shares, Options or Performance Rights that have not vested will immediately lapse.

## **9. Delivery of Shares**

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### **Delivery of Shares directly to Participant**

- 9.1. Shares to be acquired by a Participant under the Plan may be delivered to a Participant by, at the absolute discretion of the Board, the issue, transfer or purchase of Shares on behalf of the Participant.

### **Restrictions on Shares**

- 9.2. Participants may not dispose of, or grant any Security Interest over, any Shares held by the Participant under this Plan during a Restriction Period. The Company may place a holding lock or similar arrangement to give effect to the Restrictions.
- 9.3. A Participant (and any person claiming through a Participant) will forfeit any right or entitlement in any Shares under the Plan, if during the Restriction Period, that Participant has:
- (a) been dismissed or removed from office for a reason which entitles a company in the Group to dismiss the Participant without notice or has committed any act of fraud, defalcation or gross misconduct in relation to the affairs of that company (whether or not charged with an offence);
  - (b) committed any act which brings the Group into disrepute; or
  - (c) ceases to be employed by the Group and the Board directs that such Shares are to be forfeited.
- 9.4. Upon the allocation of Shares to a Participant, the Company may require from the Participant a signed blank transfer in relation to those Shares or any other documentation required to give effect to Rule Part C9.3, including, but not limited to, a power of attorney. The Participant must provide such a transfer or such other documentation.

### **Removal of Restrictions**

- 9.5. The circumstances surrounding the removal of the Restrictions will be set out in the Invitation.

## 10. Quotation

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- 10.1. The Company will not seek official quotation of any Options or Performance Rights.
- 10.2. Subject to the Company being satisfied in all respects that there are no trading restrictions on the holder of any Shares delivered under this Plan, or any Shares allocated on exercise of Options or Performance Rights under this Plan, which have been imposed under
- (a) this Plan;
  - (b) the Listing Rules ; or
  - (c) the Corporations Act,
- the Company must use all reasonable endeavours to obtain the grant of quotation of those Shares on ASX no later than 10 business days (or such shorter period as may be required by ASIC or ASX) after the later of either:
- (a) the date of issue and allotment of the Shares; or
  - (b) the date that the Company is satisfied as to the absence of any trading restriction.

## 11. Lapse of Options and Performance Rights

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### When do Options and Performance Rights lapse

- 11.1. Subject to Rules 8.5 and 11.2, Options and Performance Rights will lapse on the earliest of:
- (a) (in the case of Options only) the Last Exercise Date;
  - (b) (in the case of Performance Rights only) a determination in accordance with Rule Part C8.4 that the Participant has not satisfied the Performance Criteria specified by the Board in respect of those Performance Rights (in which case all such Performance Rights will immediately lapse); or
  - (c) a determination of the Board that the Participant has, in the Board's opinion:
    - (i) been dismissed or removed from office for a reason which entitles a company in the Group to dismiss the Participant without notice or has committed any act of fraud, defalcation or gross misconduct in relation to the affairs of that company (whether or not charged with an offence);
    - (ii) committed any act which brings the Group into disrepute;
    - (iii) the date on which the Participant ceases to be employed by any member of the Group (other than due to the occurrence of a Special Circumstance); or
  - (d) the receipt by the Company of notice from the Participant (after a Special Circumstance has arisen with respect to the Participant) that the Participant has elected to surrender the Option or Performance Right.

## Discretion of Board

- 11.2. Rule 11.1 is subject to the Board, in its discretion and having regard to these matters set out in Rule 11.3, allowing a Participant to:
- (a) exercise any or all of their Options, whether or not the Exercise Conditions have been satisfied, and whether or not the Options would otherwise have lapsed, provided that no Options will be capable of exercise later than the Last Exercise Date; and
  - (b) retain any Performance Rights regardless of:
    - (i) the expiry of the Performance Period to which those Performance Rights relate; or
    - (ii) any failure by the Participant to satisfy in part or in full the Performance Criteria specified by the Board in respect of those Performance Rights;
    - (iii) in which case, the Board may:
      - A. determine that any or all of those retained Performance Rights shall vest and the corresponding Shares shall be provided to the Participant; or
      - B. determine a new Performance Period for those retained Performance Rights and notify the Participant of that Period as soon as practicable.

## Determination whether to exercise discretion

- 11.3. If, within 30 days of the earlier to occur of:
- (a) a person who was a Participant, ceasing to be an Eligible Person; or
  - (b) the giving of notice of termination by the Eligible Person, the Company or other member of the Group which employs the Eligible Person,
- a person who was a Participant requests the Board in writing to do so, then the Board must determine whether or not to exercise its discretion under Rule 11.2 in relation to that person, having regard to (among other matters) the following factors:
- (a) the reason for the cessation of employment within the Group;
  - (b) (in the case of Options only) the length of time between the date of cessation of employment and the Last Exercise Date;
  - (c) (in the case of Performance Rights only), the Participant's reasons for any failure to satisfy any Performance Criteria;
  - (d) the total length of service of the person as an employee within the Group;
  - (e) if the cessation of employment is related to the person's performance, then the extent to which the person has been given warning of their performance inadequacies;
  - (f) information provided by the person to the Board to support any claim to exercise the discretion in the person's favour; and
  - (g) any applicable law.

### Effect of lapse

- 11.4. Subject to Rule 11.2, upon an Option or Performance Right lapsing, all rights of a Participant under this Plan in respect of the Option or Performance Right cease and no consideration or compensation will be payable for or in relation to that lapse.

## 12. Pro rata issues, reconstructions of capital and take overs

### Participation in new issues

- 12.1. A Participant may participate in new issues of securities to holders of Shares only if:
- (a) the Option has been exercised or Performance Right has vested; and
  - (b) a Share has been delivered in respect of the Option or Performance Right before the record date for determining entitlements to the new issue.
- 12.2. The Company must give notice to Participants of any new issue not less than 10 Business Days before the record date for determining entitlements to the issue.

### Adjustment for bonus issues of Shares

- 12.3. If the Company makes a bonus issue of Shares or other securities to existing Shareholders (other than an issue in lieu or in satisfaction, of dividends or by way of dividend reinvestment):
- (a) the number of Shares which will be issued on the exercise of the Option or vesting of the Performance Right will be increased by the number of Shares which the Participant would have received if the Participant had exercised the Option or the Performance Right had vested before the record date for the bonus issue; and
  - (b) no change will be made to the Exercise Price.

### Adjustment for rights issue

- 12.4. If the Company makes an issue of Shares pro rata to existing Shareholders (other than an issue in satisfaction of dividends or by way of dividend reinvestment) the Exercise Price of the Option will be reduced according to the following formula:

$$\text{New exercise price} = \frac{O - E[P-(S+D)]}{N + 1}$$

O = the old exercise price of the Option.

E = the number of underlying Shares into which one Option is exercisable.

P = the average market price per Share (weighted by reference to volume) of the underlying Shares during

- the 5 trading days ending on the day before the ex rights date or ex entitlements date.
- S = the subscription price of a Share under the pro rata issue.
- D = the dividend due but not yet paid on the existing underlying Shares (except those to be issued under the pro rata issue).
- N = the number of Shares with rights or entitlements that must be held to receive a right to one new Share.

### Reconstructions

- 12.5. If there is any reconstruction of the issued share capital of the Company, then
- (a) the number of Performance Rights which each Participant has been granted; and/or
  - (b) the number of Options to which each Participant is entitled and/or the Exercise Price,
- must be reconstructed in a manner which will not result in any benefits being conferred on the Participants which are not conferred on Shareholders (subject to the provisions with respect to rounding of entitlements as sanctioned by the meeting of Shareholders approving the reconstruction of capital), but in all other respects, the terms of all Options and Performance Rights will remain unchanged.

### Takeovers

- 12.6. If a takeover bid or other offer is made to acquire some or all of the issued Shares of the Company, the Board must give written notice to Participants of the takeover bid or other offer (**Takeover Notice**).

### Compromise and arrangements

- 12.7. If, under Part 5.1 of the Corporations Act, the Court sanctions a compromise or arrangement proposed for the purpose of, or in connection with, a scheme for the reconstruction of the Company or its amalgamation with any other company or companies which, if implemented, would result in a change in the Control of the Company, the Board must give written notice to Participants of the compromise or arrangement (**Reconstruction Notice**).
- 12.8. Upon receipt of a Takeover Notice or Reconstruction Notice, Participants will be entitled:
- (a) in the offer period referred to in the Takeover Notice or the notice period for the shareholders' meeting the subject of the Reconstruction Notice, to exercise all or any of their Options; and/or
  - (b) make a request to the Board to determine that all existing Performance Rights vest immediately and that Shares in respect of all such Performance Rights be provided to the Participant, in which

case:

- (i) the Board must process such a request as soon as possible (but no later than 30 days from receiving the request) with reference to the Performance Criteria relating to those Performance Rights; and
- (ii) the Board may determine at its discretion the number (if any) of Performance Rights which shall vest in the Participant; and must provide that number of Shares to the Participant at soon as possible but not later than 30 days from making its determination under this sub-rule.

12.9. Upon receipt of a Takeover Notice or Reconstruction Notice, all Restrictions under this Plan are deemed to have been removed and the Participant shall be entitled to receive the consideration payable on acceptance of the takeover bid or offer.

### **Ability to exercise Options**

12.10. The Participant may exercise all or any of their Options in accordance with Rule 12.8(a), regardless of whether or not:

- (a) the Exercise Conditions have been satisfied; or
- (b) the first Exercise Date has arrived,

provided that no Option will be capable of exercise later than the Last Exercise Date.

### **Aggregation**

12.11. For the purposes of this Rule 12, if a number of Options are exercised simultaneously, or a number of Shares vest simultaneously, the number of Shares or fractions of Shares which are to be issued as a consequence, may be aggregated. Any fraction in that aggregate number only will be disregarded in determining the total entitlement of a Participant.

### **Calculations and adjustments**

12.12. Any calculations or adjustments which are required to be made under this Rule 12 will be made by the Board and will, in the absence of manifest error, be final and conclusive and binding on the Participants.

### **Advice to Participants**

12.13. The Board must give notice to each Participant of any adjustment to:

- (a) the number of Shares for which the Participant is entitled to subscribe upon exercise of an Option; and
- (b) the Exercise Price per Share under an Option.

## **13. Share delivered under the Plan**

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### **Shares to rank equally**

13.1. For the avoidance of doubt, Shares delivered under this Plan will rank equally with all existing Shares on and from the date of allocation in

respect of all securities issues, rights issues, bonus share issues and dividends which have a record date for determining entitlements on or after the date of allocation of those Shares.

- 13.2. Rule 13.1 applies whether in relation to Shares allocated on the exercise of Options or the vesting of Performance Rights, or whether allocated directly to a Participant.

## **14. Operation of Plan**

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- 14.1. This Plan is administered by the Board who has power to:
- (a) make additional Rules for the operation of the Plan;
  - (b) determine appropriate procedures for administration of this Plan consistent with this Plan;
  - (c) resolve conclusively all questions of fact or interpretation in connection with this Plan; and
  - (d) delegate to any persons (including a committee of the Board) for such period and on such terms as they see fit the exercise of any of their powers or discretions under this Plan;
  - (e) take and rely on independent professional or expert advice in or in relation to the exercise of any of its powers or discretions under this Plan.
- 14.2. Where this Plan provides for a determination, decision, approval or opinion of the Board or the Company, that may be made or given by the Board or the Company in its absolute discretion.
- 14.3. Any power or discretion which is conferred on the Company by this Plan may be exercised by the Board in the interests, or for the benefit, of the Company and the Board is not, in exercising any such power or discretion, under any fiduciary or other obligation to any other person.

## **15. Amendments to this Plan**

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### **Board may amend Plan**

- 15.1. Subject to clauses 15.2 and 15.3, the Board may at any time by written instrument amend all or any part of this Plan including this provision.

### **No reduction of existing rights**

- 15.2. Any amendment to this Plan must not materially reduce the rights of any Eligible Person in respect of their Shares, Options or Performance Rights held at the date of the amendment (as the case may be), unless the amendment is introduced primarily:
- (a) for the purpose of complying with or conforming to present or future applicable laws governing or regulating the maintenance or operation of this Plan or similar plans;
  - (b) to correct any manifest error or mistake;
  - (c) to enable a Group Company to qualify for an income tax deduction for that Group Company or another Group Company;

- (d) to enable a Group Company to reduce the amount of fringe benefits tax under the Fringe Benefits Tax Assessment Act 1986 (Cth), the amount of tax under the Tax Act, or the amount of any other tax or impost that would otherwise be payable by a Group Company in relation to this Plan;
- (e) for the purpose of enabling the Eligible Persons generally (but not necessarily each Eligible Person) to receive a more favourable taxation treatment in respect of their participation in this Plan; or
- (f) to enable this Plan or any Eligible Person of the Group to comply with the constitution of a Group Company, the Corporations Act or the Listing Rules.

### **Retrospective amendment possible**

- 15.3. Subject to clause 15.2, any amendment may be given retrospective effect as specified in the written instrument by which the amendment is made.

## **16. Rights of Participants**

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16.1. This Plan:

- (a) does not confer on any Eligible Person the right to be offered or to receive any Shares, Options or Performance Rights, apart from those rights to receive Shares delivered pursuant to an exercise of Options or Performance Rights vesting in accordance with these Rules;
- (b) does not confer on any Eligible Person the right to continue as an employee or director;
- (c) does not affect a Participant's terms of engagement by the Company;
- (d) does not affect any rights which the Company may have to terminate any terms of engagement or to remove the Participant from office as a director; and
- (e) may not be used to increase damages in any action brought against the Company in respect of the termination of any engagement or removal of the Participant as a director from office.

16.2. Notwithstanding anything else in this Plan, the entitlements of Participants under this Plan are subject to the Company's constitution, the Listing Rules and the Corporations Act. Notwithstanding anything in this Plan, no Shares may be acquired, assigned or dealt with in contravention of the Corporations Act, the Listing Rules or any other applicable law.

## **17. Termination and suspension of this Plan**

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### **Board has discretion**

- 17.1. The Board has the discretion to terminate or suspend the operation of this Plan.



### **Notice of termination or suspension**

- 17.2. The Board must give written notice to any Eligible Person affected by termination or suspension of this Plan, as soon as reasonably practicable after such termination or suspension.

## **18. Connection with other schemes**

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### **Company may approve other schemes**

- 18.1. The Board is not restricted to using this Plan as the only method of providing incentive rewards to employees. The Board may approve other incentive schemes.

### **Participation in other schemes**

- 18.2. Participation in this Plan does not affect, and is not affected by participation in any other incentive or other scheme, unless the terms of that incentive or scheme provide otherwise.

## **19. General**

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### **Agreement to benefit and bind successors**

- 19.1. This document continues for the benefit of, and binds, a successor in title of a Participant.

### **Waiver**

- 19.2. The fact that the Company fails to do, or delays in doing, something the Company is entitled to do under this document, does not amount to a waiver of any obligation of, or breach of obligation by the Company. A waiver by the Company is only effective if it is in writing. A written waiver by the Company is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

### **Governing law and jurisdiction**

- 19.3. This document is governed by the laws of Victoria. Each Participant and the Company submits to the non-exclusive jurisdiction of the courts of Victoria and will not object to the exercise of jurisdiction by those courts, either for forum non-conveniens or on any other basis.

### **Cost and expenses**

- 19.4. The Company must pay all expenses, costs and charges incurred in operating this Plan, except that the Company is not responsible for any taxes which may become payable in connection with the allocation of Shares pursuant to an exercise of the Options or any other dealing with the Options of Shares.

## 20. Interpretation

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- 20.1. In this document, unless the contrary intention appears:
- (a) headings are for ease of reference only and do not affect the meaning of this document;
  - (b) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (c) other grammatical forms of defined words or expressions have corresponding meanings;
  - (d) a reference to a rule, paragraph, schedule, annexure or attachment is a reference to a rule or paragraph of or schedule, annexure or attachment to this document, and a reference to this document includes its schedules, annexure and attachments;
  - (e) a reference to a document or agreement, including this document, includes a reference to that document or agreement as novated, altered or replaced from time to time;
  - (f) a reference to 'A\$', '\$A', 'dollar' or '\$' is a reference to Australian currency;
  - (g) a reference to a specific time for the performance of an obligation is a reference to that time in Melbourne even if the obligation is to be performed elsewhere;
  - (h) words and expressions importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies, and vice versa;
  - (i) a reference to any legislation or statutory instrument or regulation is construed in accordance with the Acts Interpretation Act 1901 (Cth) or the equivalent State legislation, as applicable;
  - (j) if a day for the payment under this document falls on a day which is not a Business Day, payment is due on the next Business Day;
  - (k) if a provision of this document binds two or more parties, that provision binds those parties jointly and severally; and
  - (l) words and expressions used in this document and which are also used in the Corporations Act have the meaning given to them in the Corporations Act.

## 21. Definitions

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- 21.1. **ASX** means Australian Securities Exchange Limited, or the market conducted by it.
- 21.2. **Associate** means a spouse or child of an employee of, director of or contractor to a Group Company, or a company that is controlled by such an employee, director or contractor or which is the trustee of any family trust in respect to which the employee, director or contractor is eligible to be a beneficiary.
- 21.3. **ATSC Settlement Rules** means the operating rules of ASX Settlement and Transfer Corporation Pty Limited (ABN 49 008 504 532).

- 21.4. **Board** means the Board of directors of the Company from time to time.
- 21.5. **Business Day** means a day on which banks (as defined in the *Banking Act 1959* (Cth)) are open for general banking business in Melbourne, excluding Saturdays and Sundays.
- 21.6. **Control** has the same meaning as is given to that term in Section 50AA of the Corporations Act.
- 21.7. **Company** means Praemium Limited (ACN 098 405 826).
- 21.8. **Corporations Act** means the *Corporations Act (Cth)* 2001.
- 21.9. **Date of Grant** means, with respect to an Option, the date on which the Board grants the Option to an Eligible Person.
- 21.10. **Directors** means the directors of the Company from time to time.
- 21.11. **Eligible Person** means a person who is eligible to participate in this Plan under Rule 2.1 and includes an Associate of a person referred to in Rule 2.1 where the context of this Plan so permits.
- 21.12. **Exercise Conditions** means the performance, vesting or other conditions determined by the Board from time to time which are required to be satisfied before an Option can be exercised.
- 21.13. **Exercise Period** means the period commencing on the First Exercise Date and ending on the Last Exercise Date.
- 21.14. **Exercise Price** means the amount payable by the holder of an Option on the exercise of the Option.
- 21.15. **First Exercise Date** means, unless otherwise specified in the Invitation, the earlier of:
- (a) the date which is 3 years from the Date of Grant; and
  - (b) the date on which Special Circumstances arise in respect of a Participant.
- 21.16. **Group** means the Company and any body corporate of which the Company is a holding company in terms of section 9 and Division 6 of Part 1.2 of the Corporations Act.
- 21.17. **Invitation** means an invitation to participate in this Plan and to apply for Shares, Options or Performance Rights (as the case may be) made under Rule 3.2 and for the avoidance of doubt, the terms of the Invitation constitute additional Rules made in accordance with Rule 14.1(a).
- 21.18. **Last Exercise Date** means, unless otherwise specified in the Invitation, the earlier of:
- (a) the date which is 7 years from the Date of Grant; or
  - (b) if Special Circumstances arise in respect of a Participant - 12 months after such Special Circumstances arise.
- 21.19. **Legal Personal Representative** means the executor of the will or an administrator of the estate of a deceased person or the trustee of the estate of a person under a legal disability.
- 21.20. **Listing Rules** means the official listing rules of ASX except to the extent of any express waiver by ASX.

- 21.21. **Notice of Exercise** means a duly completed and executed notice of exercise of an Option by a Participant, in the form prescribed and otherwise as required by the Board from time to time.
- 21.22. **Option** means an option to subscribe for Shares granted to an Eligible Person under this Plan.
- 21.23. **Participant** means a person who holds Shares, Options or Performance Rights allocated or granted under this Plan and means (a) if the Participant dies or becomes subject to a legal disability, the Legal Personal Representative of the Participant, and (b) where Participant is an Associate of an employee of, director of or contractor to a Group Company, and the context may require, that employee, director or contractor.
- 21.24. **Performance Criteria** means the criteria determined by the Board from time to time for assessing the performance of the Company and/or a Participant in accordance with Rule 8.1.
- 21.25. **Performance Period** means the period in which a Participant is required to satisfy the Performance Criteria in order for Performance Rights in respect of those Performance Criteria to vest.
- 21.26. **Performance Rights** mean the conditional entitlements to Shares granted to Eligible Persons under this Plan.
- 21.27. **Plan** means the Praemium Directors & Employee Benefits Plan established and operated in accordance with this document.
- 21.28. **Plan Shares** means shares delivered to Participant as a result of the exercise of an Option or the vesting of a Performance Condition.
- 21.29. **Restrictions** means the restriction during the Restriction Period on Participant's dealings with Shares allocated under this Plan as set out in Rule 9.2.
- 21.30. **Restriction Period** means the period commencing on the date that the Shares are provided to the Participant and ending 1 year from that date (or any other such period as the Board may determine at its absolute discretion and set out in the Invitation).
- 21.31. **Rules** means the rules governing the operation of this Plan set out in this document, as amended from time to time.
- 21.32. **Shares** means ordinary shares in the capital of the Company.
- 21.33. **Shareholder** means a holder of shares in the Company.
- 21.34. **Special Circumstances** means with respect to a Participant:
- (a) Total and Permanent Disablement;
  - (b) the death of the Participant;
  - (c) the redundancy of the Participant; or
  - (d) such other circumstances as the Board may at any time determine (whether before or after the Date of Grant).
- 21.35. **Starting Date** means the date on which this Plan is first adopted by the Board.
- 21.36. **Tax Act** means the Income Tax Assessment Act (1936) (Cth) or the

Income Tax Assessment Act (1997) (Cth) including any amendments, as the case may be.

- 21.37. **Total and Permanent Disablement** means, in relation to a Participant, that the Participant has, in the reasonable opinion of the Board, become permanently incapacitated to such an extent as to render the Participant unlikely to engage in the Participant's usual occupation again.
- 21.38. **Transfer** includes sell, transfer, assign, encumber, dispose or otherwise deal with in any way.