



# CONSTITUTION

This Constitution was originally adopted by the Members/Shareholders at a General Meeting of Members and a General Meeting of Permanent Shareholders held on 9 May 2000 at 10.00am and 10.30am.

## TABLE OF CONTENTS

---

1.	PRELIMINARY .....	1
1.1	Name of Company .....	1
1.2	Liability of Members .....	1
1.3	Replaceable rules .....	1
1.4	Definitions and interpretation .....	1
1.5	Interpretation .....	2
1.6	Australian Stock Exchange Listing .....	3
2.	OBJECTS OF THE COMPANY .....	3
2.1	Objects to be Determined by the Directors .....	3
3.	CAPITAL AND SHARES .....	3
3.1	Classes of Shares .....	3
3.2	Rights attaching to Ordinary Shares .....	4
3.3	Rights attaching to Redeemable Preference Shares .....	4
3.4	Issue of Shares .....	4
3.5	Commission and brokerage .....	4
3.6	Employee Share Plans .....	4
3.7	Trusts not recognised .....	5
3.8	Joint holders .....	5
3.9	Share certificates .....	5
3.10	Variation of class rights .....	5
4.	CALLS .....	6
4.1	General .....	6
4.2	Instalments and amounts which become payable .....	6
4.3	Interest and expenses .....	7
4.4	Recovery amounts due .....	7
4.5	Differentiation .....	7
4.6	Payment of calls in advance .....	7
5.	LIEN AND FORFEITURE .....	8
5.1	Lien .....	8
5.2	Lien sale .....	9
5.3	Forfeiture notice .....	9
5.4	Forfeiture .....	9

5.5	Liability of former Member .....	10
5.6	Disposal of forfeited Shares .....	10
6.	TRANSFER OF SHARES .....	10
6.1	General .....	10
6.2	Transfer procedure .....	11
6.3	Right to refuse registration .....	12
7.	TRANSMISSION OF SHARES.....	12
7.1	Title on death .....	12
7.2	Entitlement to transmission .....	13
8.	CHANGES TO SHARE CAPITAL.....	13
8.1	Consolidation or Division.....	13
9.	REDUCTIONS IN SHARE CAPITAL .....	13
9.1	Reductions in Share Capital .....	13
10.	GENERAL MEETINGS.....	14
10.1	Convening .....	14
10.2	Notice .....	14
10.3	Business .....	14
11.	PROCEEDINGS AT GENERAL MEETINGS .....	15
11.1	Member .....	15
11.2	Quorum.....	15
11.3	Chairperson.....	16
11.4	General conduct.....	16
11.5	Adjournment.....	16
11.6	Decisions .....	16
11.7	Taking a poll .....	17
11.8	Casting vote of chairperson .....	17
11.9	Offensive material.....	17
11.10	Auditor's right to be heard.....	17
12.	VOTES OF MEMBERS.....	18
12.1	Entitlement to vote.....	18
12.2	Unpaid calls .....	18
12.3	Joint holders.....	18
12.4	Scrutineers, Objections and Listing Rules .....	19
12.5	Votes by proxy.....	19
12.6	Form and Execution of Instrument of Proxy .....	19

12.7	Directors to Issue Forms of Proxy .....	20
12.8	Lodgment of proxy .....	20
12.9	Validity.....	20
12.10	Representatives of corporations .....	21
13.	<b>APPOINTMENT AND REMOVAL OF DIRECTORS .....</b>	<b>21</b>
13.1	Number of Directors .....	21
13.2	Qualification .....	21
13.3	Power to Remove and Appoint .....	21
13.4	Additional and casual Directors .....	21
13.5	Filling vacated office.....	22
13.6	Retirement by rotation .....	22
13.7	Nomination of Director .....	22
13.8	Vacation of office.....	22
14.	<b>REMUNERATION OF DIRECTORS .....</b>	<b>23</b>
14.1	Remuneration of Non-Executive Directors .....	23
14.2	Remuneration of Executive Directors .....	24
14.3	Benefit to Retiring Directors.....	24
14.4	Superannuation contributions .....	25
15.	<b>POWERS AND DUTIES OF DIRECTORS .....</b>	<b>25</b>
15.1	Directors to manage company .....	25
16.	<b>PROCEEDINGS OF DIRECTORS.....</b>	<b>25</b>
16.1	Directors' meetings .....	25
16.2	Decisions .....	26
16.3	Directors' interests.....	26
16.4	Restrictions on Appointments to Other Entities.....	27
16.5	Alternate Directors .....	27
16.6	Remaining Directors .....	27
16.7	Chairperson.....	28
16.8	Directors' committees .....	28
16.9	Written resolutions.....	28
16.10	Validity of acts of Directors .....	29
16.11	Minutes.....	29
17.	<b>EXECUTIVE DIRECTORS .....</b>	<b>29</b>
17.1	Appointment.....	29
17.2	Powers of Executive Directors.....	30
18.	<b>SECRETARY .....</b>	<b>30</b>

18.1	Secretary .....	30
19.	DOCUMENT EXECUTION AND SEAL.....	30
19.1	Execution of Cheques, Bills, etc .....	30
19.2	Company seal is optional .....	30
19.3	Affixing the Seal .....	30
19.4	Execution of documents without a Seal .....	31
19.5	Other ways of executing documents .....	31
20.	INSPECTION OF RECORDS.....	31
20.1	Times for inspection .....	31
21.	DIVIDENDS AND RESERVES .....	31
21.1	Fix a time for payment of dividends .....	31
21.2	Amend resolution to pay Dividend .....	31
21.3	No interest.....	31
21.4	Reserves .....	32
21.5	Dividend entitlement .....	32
21.6	Restricted Securities .....	32
21.7	Deductions from dividends.....	32
21.8	Distribution of assets .....	32
21.9	Payment.....	33
21.10	Election to reinvest dividend .....	33
21.11	Election to accept Shares in lieu of dividend .....	33
21.12	Unclaimed dividends .....	34
21.13	Capitalisation of profits .....	34
22.	POWERS OF ATTORNEY .....	35
22.1	Powers of Attorney.....	35
23.	NOTICES .....	35
23.1	Service of notices .....	35
23.2	Persons entitled to notice .....	36
24.	AUDIT AND FINANCIAL RECORDS .....	37
24.1	Company to keep financial records .....	37
25.	WINDING UP .....	37
25.1	Winding up .....	37
26.	INDEMNITY .....	37
26.1	Indemnity for/in favour of Directors, Secretaries & Executive Officers .....	37
26.2	Indemnity to Employees.....	38

26.3	Insurance .....	38
27.	PARTIAL TAKEOVERS .....	38
27.1	Interpretation .....	38
27.2	Approval of Partial Takeovers Bids .....	39

# CORPORATIONS LAW - COMPANY LIMITED BY SHARES CONSTITUTION

Auswide Bank ACN 087 652 060

---

## 1. PRELIMINARY

### 1.1 Name of Company

The name of the Company is Auswide Bank Ltd.

### 1.2 Liability of Members

The liability of Members is limited.

### 1.3 Replaceable rules

The replaceable rules do not apply to the Company.

### 1.4 Definitions and interpretation

In this Constitution:

‘Alternate Director’ means a person appointed as an alternate director under rule 16.5;

‘ASX’ means the Australian Securities Exchange or ASX Limited ACN 008 624 691 as appropriate;

‘Auditor’ means the Company’s auditor;

‘Board’ means the Board of Directors of the Company;

‘Business Day’ has the same meaning as in the Listing Rules;

‘Chairperson’ means the person appointed to chair:

(a) Directors’ meetings pursuant to rule 16.8; or

(b) general meetings pursuant to rule 11.4;

‘Company’ means Auswide Bank Ltd;

‘Constitution’ means the constitution of the Company as amended from time to time;

‘Corporations Law’ means the *Corporations Act 2001* (Cth);

‘CS Facility’ has the same meaning prescribed to CS Facility in the Corporations Law;

‘CS Facility Operator’ means the operator of a CS Facility;

‘Director’ means a person appointed to and acting in the position of a director of the Company;

‘Directors’ means all or some of the Directors acting as a board;

‘Dividend’ includes bonus;

‘Executive Director’ has the meaning given by rule 17.2(a);

‘Listing Rules’ means the Listing Rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the official list of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX;

‘Managing Director’ means a Director appointed as managing director under rule 17.2(a);

‘Member’ means a person whose name is entered for the time being on the Register as the holder of one or more Shares;

‘Non-Executive Director’ means a Director who is not an Executive Director;

‘Office’ means the Company’s registered office;

‘Operating Rules’ means the operating rules of a CS Facility regulating the settlement, clearing and registration of uncertificated shares as amended, varied or waived (whether in respect of the Company or generally) from time to time;

‘Redeemable Preference Shares’ means the redeemable preference shares issued by the Directors from time to time under rule 3.4;

‘Register’ means the register of Members of the Company;

‘Registered Address’ means the last known address’ of a Member as noted in the Register;

‘Representative’ means a person authorised by a Member to act as its representative under rule 13.1(a) or under section 250D of the Corporations Law;

‘Restricted Securities’ has the same meaning as in the Listing Rules;

‘Retirement’ in rule 14.3 means the cessation of a person’s term of office as a Director;

‘Rules’ means the former rules of the Company in place before the adoption of this Constitution;

‘Seal’ means the Company’s common seal (if any);

‘Secretary’ means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries; and

‘Shares’ means shares in the Company.

## 1.5 Interpretation

(a) In this Constitution, unless the contrary intention appears:

- (i) the singular includes the plural and vice versa;
- (ii) words importing a gender include other genders;
- (iii) words denoting individuals or persons include bodies corporate;
- (iv) words and expressions defined in the Corporations Law have the same meaning in this Constitution;
- (v) headings are for ease of reference only and do not affect the construction of this Constitution; and



- (vi) a reference to the Corporations Law is a reference to the Corporations Law as modified, amended or re-enacted from time to time.
- (b) Unless the contrary intention appears in this Constitution, an expression in a rule of this Constitution has the same meaning as in a provision of the Corporations Law which deals with the same matter as the rule.
- (c) For the purposes of this Constitution, if the provisions of:
  - (i) the Corporations Law and the Listing Rules; or
  - (ii) the Corporations Law and the Operating Rules, conflict on the same matter, the provisions of the Corporations Law prevail.

## 1.6 Australian Stock Exchange Listing

If the Company is admitted to the Official List of ASX, 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.

## 2. OBJECTS OF THE COMPANY

### 2.1 Objects to be Determined by the Directors

The Directors may from time to time by ordinary resolution adopt such objects of the Company as the Directors in their absolute discretion think fit. The Directors may resolve to adopt no objects of the Company.

## 3. CAPITAL AND SHARES

### 3.1 Classes of Shares

Until the Directors exercise their power under rule 3.4, the Company has the following classes of shares:

- (a) ordinary shares (previously called “Permanent Shares” under the Rules); and
- (b) Redeemable Preference Shares.

### 3.2 Rights attaching to Ordinary Shares

Ordinary shares attract the following rights, privileges and conditions:

- (a) the right to receive notice of and to attend and vote at all general meetings of the Company;
- (b) the right to receive dividends; and
- (c) the right in a winding up to participate equally in the distribution of the assets of the Company (both capital and surplus), subject only to any amounts unpaid on the ordinary share.

### 3.3 Rights attaching to Redeemable Preference Shares

Subject to the Corporations Law, the terms and conditions of the issue of the Redeemable Preference Shares will be determined by the Directors under rule 3.4.

### 3.4 Issue of Shares

- (a) Subject to the Corporations Law, the Listing Rules and this Constitution, the Directors may issue or dispose of Shares to persons:
  - (i) on terms determined by the Directors;
  - (ii) at the issue price that the Directors determine; and
  - (iii) at the time that the Directors determine.
- (b) The Directors' power under rule 3.4(a) includes the power to:
  - (i) grant options to have Shares issued;
  - (ii) issue Shares with:
    - (A) any preferential deferred or special rights, privileges or conditions; or
    - (B) any restrictions in regard to dividend, voting, return of capital or otherwise; and
  - (iii) issue preference Shares that are, or at the option of the Company are, liable to be redeemed.

### 3.5 Commission and brokerage

Any brokerage or commission which may be paid by the Company may be made in cash, by the issue of Shares, or the issue of debentures, or by a combination of any of those methods.

### 3.6 Employee Share Plans

Subject to compliance with the Listing Rules and the Corporations Law, the Directors may:

- (a) establish employee share plans (including executive share plans or executive option plans) to provide for the issue of Shares, or options to take up Shares, to employees of the Company; and
- (b) provide in any such plan, for the giving of financial assistance by the Company for the purpose of or in connection with the acquisition of fully paid Shares in the Company by participating employees.

### 3.7 Trusts not recognised

- (a) Except as required by law, the Operating Rules or as otherwise provided in this Constitution, the Company will not recognise any person as holding a Share on trust and the Company will not be bound to recognise any equitable, contingent, future or partial interest or any other right in respect of a Share except the registered holder's absolute right of ownership.
- (b) This rule 3.7 applies even if the Company has notice of the relevant trust, interest or right.

### 3.8 Joint holders

- (a) If two or more persons are registered as the holders of a Share, they are taken to hold the Share as joint tenants with benefit of survivorship and the person whose name appears first on the Register is the only joint holder entitled to receive notices from the Company.
- (b) Any one of the joint holders of a Share may give an effective receipt for any dividend or return of capital payable to the joint holders.
- (c) Except in the case of holdings (other than CHESS holdings) approved by the Directors, the Company is entitled to:
  - (i) only record the names of the first three joint holders of a Share on the Register;
  - (ii) regard the three joint holders of a Share appearing first on the Register as the registered holders of that Share to the exclusion of any other holders; and
  - (iii) disregard the entitlement of any person to be registered on the Register as a holder if the name of the person would appear on the Register after the first three holders of that Share.

### 3.9 Share certificates

- (a) The Directors may in their absolute discretion issue a certificate to a Member for all Shares registered in its name. Members have no right, however, to receive a certificate for Shares.
- (b) Any certificate for Shares must be issued and despatched in accordance with the Corporations Law, the Operating Rules and the Listing Rules.
- (c) The Directors may in their absolute discretion elect whether or not to maintain a certificated subregister for any class of Shares.
- (d) Subject to the Listing Rules and the Operating Rules, Shares may be held on any subregister maintained by or on behalf of the Company.
- (e) The Directors may order worn out or defaced certificates to be cancelled and, if necessary, replaced by new certificates.

### 3.10 Variation of class rights

- (a) The rights attached to any Shares in a class of Shares may, unless their terms of issue state otherwise, be varied or cancelled:

- (i) with the written consent of the holders of 75% of the Shares of the class; or
  - (ii) with the sanction of a special resolution passed at a separate general 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:
  - (i) a quorum is eight persons holding or representing by proxy, attorney or Representative at least one-third of the Shares of the class or, if there is one holder of Shares in a class, that person; and
  - (ii) 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 Shares which are not ordinary shares and which have preferential or other special rights will not, unless otherwise expressly provided by their respective terms of issue, be taken to be varied or abrogated by:
  - (i) the issue of more Shares; or
  - (ii) the conversion of securities to new securities, which rank equally with or in priority to those Shares.

## 4. CALLS

### 4.1 General

- (a) Subject to the terms on which partly paid Shares are issued, the Directors may make calls on the holders of the Shares for any money unpaid on them.
- (b) A call is made when the resolution of the Directors authorising it is passed. The Directors may require it to be paid by instalments, and may revoke or postpone the call after it has been made.
- (c) The Company must comply with the Listing Rules in relation to the dispatch and content of notices to Members on whom a call is made.
- (d) A Member to whom notice of a call is given in accordance with this rule 4 must pay to the Company the amount called in accordance with the notice.
- (e) Failure to send a notice of a call to any Member or the non-receipt of a notice by any Member does not invalidate the call.
- (f) Joint holders of Shares are jointly and severally liable to pay all calls in respect of their Shares.

### 4.2 Instalments and amounts which become payable

- (a) If:
  - (i) the Directors require a call to be payable by instalments; or
  - (ii) an amount becomes payable by the terms of issue of Shares on allotment, or at a time or in circumstances specified in the terms of issue,
 then:

- (iii) the amount is payable as if it were a call made by the Directors and as if they had given notice of it; and
- (iv) the consequences of late payment or non-payment of the amount are the same as the consequences of late payment or non-payment of a call.

#### 4.3 Interest and expenses

If an amount called is not paid on or before the due date, the person liable to pay the amount must also pay:

- (a) interest on the amount from the due date to the time of actual payment at a rate determined by the Directors (not exceeding 20% per annum); and
- (b) all expenses incurred by the Company as a consequence of the non-payment, but the Directors may waive payment of the interest and expenses in whole or in part.

#### 4.4 Recovery amounts due

On the hearing of any action for the recovery of money due for any call, proof that:

- (a) the name of the person sued was, when the call was made, entered in the Register as a holder or the holder of Shares in respect of which the call was made;
- (b) the resolution making the call is duly recorded in the Directors' minute book; and
- (c) notice of the call was given to the person sued, will be conclusive evidence of the debt.

#### 4.5 Differentiation

The Directors may, on the issue of Shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

#### 4.6 Payment of calls in advance

- (a) The Directors may accept from a Member the whole or part of the amount unpaid on a Share before the amount accepted has been called.
- (b) The Company may:
  - (i) pay interest on any amount accepted, until the amount is payable under a call and at a rate (not exceeding 20% per annum) agreed between the Member and the Directors; and
  - (ii) subject to any contract between the Company and the Member, repay all or any of the amount accepted in excess of the amount called on the Share.
- (c) Payment of an amount in advance of a call does not entitle the paying Member to any dividend, benefit or advantage, other than the payment of interest under this rule 4.6, to which the Member would not have been entitled if it had paid the amount when it became due.
- (d) The Directors may repay all or any of the amount accepted if they have given the Member at least 14 days written notice.

## 5. LIEN AND FORFEITURE

### 5.1 Lien

- (a) To the extent permitted by the Listing Rules, the Company has a first and paramount lien on every partly paid Share and dividends payable in respect of the Share for all money:
  - (i) due and unpaid to the Company at a fixed time, in respect of the Share;
  - (ii) presently payable by a holder or the holder of the Share, or the holder's estate, to the Company in respect of the Share; or
  - (iii) which the Company is required by law to pay (and has paid) in respect of the Share.
- (b) The lien extends to reasonable interest and expenses incurred because the amount is not paid.
- (c) If any law for the time being of any country, state or place imposes or purports to impose an immediate or contingent liability on the Company to make any payment or authorises a taxing authority or Government official to require the Company to make payment in respect of Shares or dividends or other moneys accruing due to the Member who holds the Shares:
  - (i) the Member or, if the Member is deceased, the Member's legal personal representative indemnifies the Company in respect of any such payment or liability;
  - (ii) subject to the Listing Rules, the Company:
    - (A) has a lien on the Shares and dividends and other moneys payable in respect of the Shares, whether the Shares are held by the Member solely or jointly with another person or by that Member's legal representative, in respect of any payment made or liability incurred by the Company, together with reasonable interest on any payment made by the Company at a rate to be fixed by the Directors not exceeding 20% per annum from the date of payment by the Company to the date of repayment by the Member;
    - (B) may set off amounts so paid by the Company against amounts payable by the Company to the Member as dividends or otherwise;
    - (C) may recover as a debt due from the Member or its legal personal representative the amount of all payments made by the Company together with interest at the rate and for the period referred to in rule 5.1(c)(ii)(A).
- (d) The Company may do all things which the Directors think it necessary or appropriate to do under the Operating Rules and the Listing Rules to enforce or protect the Company's lien.
- (e) Unless the Directors determine otherwise, the registration of a transfer of a Share operates as a waiver of the Company's lien on the Share.
- (f) The Directors may declare a Share to be exempt from a lien.

## 5.2 Lien sale

If:

- (a) the Company has a Lien on a Share for money presently payable; and
- (b) the Company has given the Member or the Member's executors or administrators (as the case may be) holding the Share written notice demanding payment of the money,

then 14 or more days after giving the notice, the Directors may, if the Listing Rules permit, sell the Share in any manner determined by them.

## 5.3 Forfeiture notice

- (a) The Directors may at any time after a call or instalment becomes payable and remains unpaid by a Member, serve a notice on the Member requiring the Member to pay:
  - (i) the unpaid amount;
  - (ii) any interest that has accrued; and
  - (iii) all expenses incurred by the Company as a consequence of the non-payment.
- (b) The notice under rule 5.3(a) must:
  - (i) specify a day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice must be made; and
  - (ii) state that if a Member does not comply with the notice, the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

## 5.4 Forfeiture

- (a) If a Member does not comply with a notice served rule 5.3(a), then any or all of the Shares in respect of which the notice was given may be forfeited pursuant to a resolution of the Directors.
- (b) Unpaid dividends in respect of forfeited Shares will also be forfeited.
- (c) On forfeiture, Shares become the property of the Company and forfeited Shares must be:
  - (i) disposed of, or cancelled (subject to the Listing Rules) on terms determined by the Directors; or
  - (ii) offered by public auction in accordance with any requirements of the Listing Rules.
- (d) The Directors may, at any time before a forfeited Share is sold, disposed of or cancelled, annul the forfeiture of the Share on conditions determined by them.
- (e) Promptly after a Share has been forfeited:
  - (i) notice of the forfeiture must be given to the Member in whose name the Share was registered immediately before its forfeiture; and
  - (ii) the forfeiture and its date must be noted in the Register.

- (f) Omission or neglect to give notice of or to note the forfeiture as specified in rule 5.4(e) will not invalidate a forfeiture.

## 5.5 Liability of former Member

- (a) The interest of a person who held Shares which are forfeited is extinguished but, subject to the Listing Rules, the former Member remains liable to pay:
  - (i) all money (including interest and expenses) that was payable by the Member to the Company at the date of forfeiture in respect of the forfeited Shares; and
  - (ii) interest from the date of forfeiture until payment at a rate determined by the Directors (not exceeding 20% per annum).
- (b) A former Member's liability to the Company ceases if and when the Company receives payment in full of all money (including interest and expenses) payable by the person in respect of the Shares. The liability may only be released or waived in accordance with the Listing Rules.

## 5.6 Disposal of forfeited Shares

- (a) The Company may:
  - (i) receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share; and
  - (ii) effect a transfer of the Share in favour of a person to whom the Share is sold or disposed of.
- (b) The purchaser of the Share:
  - (i) is not bound to check the regularity of the sale or the application of the purchase price;
  - (ii) obtains title to the Share despite any irregularity in the sale; and
  - (iii) will not be subject to complaint or remedy by the former holder of the Share in respect of the purchase.
- (c) A statement signed by a Director and the Secretary that the Share has been regularly forfeited and sold or re-allotted, or regularly sold without forfeiture to enforce a lien, is conclusive evidence of the matters stated as against all persons claiming to be entitled to the Share.
- (d) The net proceeds of any sale made to enforce a lien or on forfeiture must be applied by the Company in the following order:
  - (i) in payment of the costs of the sale;
  - (ii) in payment of all amounts secured by the lien or all money that was payable in respect of the forfeited Share; and
  - (iii) in payment of any surplus to the former Member whose Share was sold.

## 6. TRANSFER OF SHARES

### 6.1 General

- (a) Subject to this Constitution, a Member may transfer Shares held by that Member.



- (b) Subject to rule 6.1 (c), Shares may be transferred by:
  - (i) a written transfer instrument in any usual or common form; or
  - (ii) any other form approved by the Directors.
- (c)
  - (i) At the discretion of the Directors, the Company may participate in any computerised or electronic system for market settlement, securities transfer and registration conducted in accordance with the Corporations Law, the Listing Rules and the Operating Rules.
  - (ii) If the Company participates in a system of the kind described in rule 6.1(c)(i), then despite any other provision of this Constitution:
    - (A) Shares may be transferred, and transfers may be registered, in any manner required or permitted by the Listing Rules or the Operating Rules applying in relation to the system;
    - (B) the Company must comply with and give effect to those rules; and
    - (C) the Company may, in accordance with those rules, decline to issue certificates for holdings of Shares.
- (d)
  - (i) A written transfer instrument must be:
    - (A) executed by the transferor or (where the Corporations Law permits) stamped by the transferor's broker;
    - (B) unless the Directors decide otherwise in the case of a fully paid Share, executed by the transferee or (where the Corporations Law permits) stamped by the transferee's broker; and
    - (C) in the case of a transfer of partly paid Shares, endorsed or accompanied by an instrument executed by the transferee or by the transferee's broker to the effect that the transferee agrees to accept the Shares subject to the terms and conditions on which the transferor held them, to become a Member and to be bound by the Constitution.
  - (ii) Subject to the Corporations Law, the written transfer instrument may comprise two documents.
- (e) Except in the case of a proper transfer made in accordance with any applicable Operating Rules of a CS Facility:
  - (i) a transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares; and
  - (ii) a transfer of Shares does not pass the right to any dividends on the Shares until such registration.

## 6.2 Transfer procedure

- (a) For a transfer of Shares that is not a regulated transfer:
  - (i) the written transfer instrument must be left at the Office or another place acceptable to the Company;

- (ii) the instrument must be accompanied by a certificate for the Shares dealt with in the transfer where a certificate has been issued, unless the Directors waive production of the certificate on receiving satisfactory evidence of the loss or destruction of the certificate; and
  - (iii) the Directors, if the Listing Rules permit, may require other evidence of the transferor's right to transfer the Shares.
- (b) For a transfer of Shares that is a regulated transfer, a Share transfer must be effected in accordance with the applicable Listing Rules and Operating Rules.

### 6.3 Right to refuse registration

- (a) The Directors may in their absolute discretion refuse to register any transfer of Shares or other securities in any circumstances permitted by the Listing Rules.
- (b) The Directors must:
  - (i) refuse to register any transfer of Shares or other securities which are Restricted Securities during the escrow period except as permitted by the Listing Rules or ASX; and
  - (ii) refuse to register any transfer where the Company is, or the Directors are, required to do so by the Listing Rules.
- (c) Despite rules 6.3(a) and 6.3(b), the Company must not refuse or fail to register or give effect to, or delay or in any way interfere with, a proper transfer of Shares or other securities.
- (d) If a person has lodged a transfer which the Directors have refused to register, the Company must, within 5 Business Days after the date of lodgment, give to the lodging person written notice of the refusal and the reasons for it.
- (e) Subject to rule 6.3(c), Restricted Securities cannot be disposed of during the escrow period except as permitted by the Listing Rules or the ASX. The Company will refuse to acknowledge a disposal of Restricted Securities to the extent required under the Listing Rules.

## 7. TRANSMISSION OF SHARES

### 7.1 Title on death

- (a) The legal personal representative of a deceased Member who was the sole holder of Shares is the only person whom the Company will recognise as having any title to the deceased Member's Shares.
- (b) If a deceased Member was a joint holder of Shares, the other joint holder is the only person whom the Company will recognise as having any title to the deceased Member's Shares.
- (c) The estate of the deceased Member will not be released from any liability to the Company in respect of the Shares.
- (d) The Company may register or give effect to a transfer to a transferee who dies before the transfer is registered.

## 7.2 Entitlement to transmission

- (a) A person who becomes entitled to a Share in consequence of the death, mental illness or bankruptcy of a Member may, subject to rule 6.2 and to producing to the Company evidence of its entitlement which is satisfactory to the Directors, elect to:
  - (i) be registered as the holder of the Share; or
  - (ii) transfer the Share to some other person nominated by it.
- (b) If the person who has become entitled to a Share:
  - (i) elects to be registered as the holder, then the person must deliver or send to the Company a written notice of election signed by him or her; or
  - (ii) elects to transfer the Share, then the person must effect a transfer of the Share.
- (c) An election to be registered as a holder of a Share under rule 7.2(a)(i) or a transfer of a Share from a Member or deceased Member under this rule 7.2 is subject to the same limitations, restrictions and provisions of this Constitution as would apply if the election were a transfer or the transfer were made by the Member or deceased Member himself or herself.
- (d) A person who:
  - (i) has become entitled to a Share by operation of law; and
  - (ii) has produced evidence of its entitlement which is satisfactory to the Directors, is entitled to the dividends and other rights of the registered holder of the Share.
- (e) Where two or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they will be considered to be joint holders of the Share.

## 8. CHANGES TO SHARE CAPITAL

### 8.1 Consolidation or Division

- (a) The Company may convert all or any Shares into a larger or smaller number of Shares.
- (b) For the purpose of giving effect to any conversion of Shares, the Directors may, subject to the Operating Rules, settle any difficulty which arises with respect to fractions of Shares in any manner that they think expedient.

## 9. REDUCTIONS IN SHARE CAPITAL

### 9.1 Reductions in Share Capital

- (a) In any reduction of share capital under the Corporations Law that is an equal reduction, the terms of the reduction may comprise or include the transfer or distribution of specific assets (whether held in the name of the Company or in the name of any wholly owned subsidiary of the Company), including fully paid shares in, or debentures of any other corporation.

- (b) For the purposes of any transfer or distribution of shares in any other corporation under the terms of an equal reduction as referred to in rule 9.1(a), each holder of Shares:
  - (i) is deemed to have agreed to become a member of that corporation; and
  - (ii) appoints the Company or any of the Directors as its agent to execute any transfer of shares or other document required to effect the transfer or distribution of shares to that holder of Shares.

## 10. GENERAL MEETINGS

### 10.1 Convening

- (a) A Director may call a meeting of the Members.
- (b) The Directors must convene annual general meetings in accordance with the Corporations Law, to be held by the Company at times to be determined by the Directors.
- (c) Members may also request or call and arrange to hold general meetings in accordance with the procedures for member-initiated meetings set out in the Corporations Law.

### 10.2 Notice

- (a) Members must be given at least 28 days written notice (exclusive of the day on which the notice is served or taken to be served and of the day for which notice is given) of a general meeting.
- (b) General meetings may be called on less than 28 days notice in accordance with the procedures set out in the Corporations Law.
- (c) A notice convening a general meeting must:
  - (i) specify the place, date and time of the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (ii) state the general nature of the business to be transacted at the meeting;
  - (iii) specify a place and facsimile number and may specify an electronic address for the purposes of proxy appointments;
  - (iv) be accompanied by a form of proxy; and
  - (v) comply with any other requirements of the Corporations Law.

### 10.3 Business

- (a) The business of an annual general meeting will be to:
  - (i) consider the annual financial report and the reports of the Directors and Auditors required by the Corporations Law;
  - (ii) elect directors;
  - (iii) where relevant, appoint and fix the remuneration of the Auditor; and
  - (iv) transact any other business which under this Constitution may be transacted at a general meeting.

- (b) The chairperson of an annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to:
  - (i) ask questions about or make comments on the management of the Company;
  - (ii) ask the Auditor or his or her representative questions relevant to the conduct of the audit and the preparation and contents of the Auditor's report for the Company.
- (c)
  - (i) The Directors may postpone or cancel any general meeting (other than a meeting convened as the result of a requisition under rule 10.1(c)) at any time before the day of the meeting.
  - (ii) The Directors must give notice of the postponement or cancellation:
    - (A) by publishing such notice in a daily newspaper circulating in Australia;
    - (B) by an announcement given to ASX; or
    - (C) subject to the Corporations Law and the Listing Rules, in any other manner determined reasonable by the Directors.
- (d) An accidental omission to send a notice of a general meeting (including a proxy appointment form) or the postponement of a general meeting to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

## 11. PROCEEDINGS AT GENERAL MEETINGS

### 11.1 Member

In rules 11.2, 11.3, 11.6, and 12.1, 'Member' includes a Member present in person or by proxy, attorney or Representative.

### 11.2 Quorum

- (a) No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- (b) A quorum of Members is eight Members.
- (c) If a quorum is not present within 30 minutes after the time appointed for a meeting:
  - (i) if the meeting was convened by or on the requisition of Members, it is automatically dissolved; or
  - (ii) in any other case:
    - (A) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
    - (B) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting the meeting is automatically dissolved.

### 11.3 Chairperson

- (a) The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every meeting of Members.
- (b) If:
  - (i) there is no chairperson or deputy chairperson; or
  - (ii) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the meeting; or
  - (iii) the chairperson and deputy chairperson are unwilling to act as chairperson of the meeting, the Directors present may elect a chairperson.
- (c) If no chairperson is elected in accordance with rule 11.3(b), then:
  - (i) the Members may elect one of the Directors present as chairperson; or
  - (ii) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- (d) If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

### 11.4 General conduct

The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting will be determined by the chairperson, including the procedure for the conduct of the election of Directors.

### 11.5 Adjournment

The chairperson may at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting. If the chairperson exercises a right of adjournment of a meeting pursuant to this rule, the chairperson has the sole discretion to decide whether to seek the approval of the Members present to the adjournment and, unless the chairperson exercises that discretion, no vote may be taken by the Members present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

### 11.6 Decisions

- (a) Subject to the Corporations Law in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution. A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Corporations Law.
- (b) A poll may be demanded at the times permitted by the Corporations Law. Unless a poll is demanded:
  - (i) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (ii) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

- (c) A demand for a poll may be withdrawn.
- (d) A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

#### 11.7 Taking a poll

- (a) Subject to rule 11.7(e), a poll will be taken when and in the manner that the chairperson directs.
- (b) The result of the poll will determine whether the resolution on which the poll was demanded is carried or lost.
- (c) The chairperson may determine any dispute about the admission or rejection of a vote, and such determination, if made in good faith, will be final and conclusive.
- (d) A poll cannot be demanded on any resolution concerning the election of the chairperson of a meeting.
- (e) A poll demanded by the chairperson on any resolution concerning the adjournment of a meeting must be taken immediately.
- (f) After a poll has been demanded at a meeting, the meeting may continue with each transaction of business other than the question on which the poll was demanded.

#### 11.8 Casting vote of chairperson

The chairperson does not have a casting vote (in addition to the chairperson's votes as a Member, proxy, attorney or Representative) on a show of hands or on a poll.

#### 11.9 Offensive material

The chairperson may refuse a person admission to, or require the person to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
  - (i) electronic or recording device;
  - (ii) placard or banner; or
  - (iii) other article,

which the chairperson considers to be dangerous, offensive or liable to cause disruption.

#### 11.10 Auditor's right to be heard

The Auditor is entitled to:

- (a) attend any general meeting of the Company;
- (b) be heard at any general meeting of the Company on any part of the business of the meeting that concerns the Auditor in his or her capacity as auditor, even if:
  - (i) the Auditor retires at the meeting; or
  - (ii) Members pass a resolution to remove the Auditor from office; and

- (c) authorise a person in writing to attend and speak at any general meeting as the Auditor's representative.

## 12. VOTES OF MEMBERS

### 12.1 Entitlement to vote

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

- (a) every Member may vote:
- (b) subject to rule 12.5(c) and the Corporations Law, on a show of hands every Member has one vote.
- (c) on a poll every Member has:
  - (i) for each fully paid Share held by the Member, one vote; and
  - (ii) for each partly paid Share held by the Member, a fraction of a vote equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited) on the Share.
- (d) During a breach of the Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any voting rights in respect of those Restricted Securities.
- (e) If a Member is of unsound mind or is a person whose estate is liable to be dealt with in any way under the law relating to mental health, the Member's committee or trustee or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a meeting of Members as if the committee, trustee or other person were the Member.

### 12.2 Unpaid calls

A Member is entitled to:

- (a) vote; or
- (b) be counted in a quorum, only in respect of Shares on which all calls due and payable have been paid.

### 12.3 Joint holders

- (a) If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.
- (b) For the purposes of this rule 12.3, several executors or administrators of a deceased Member in whose sole name any Shares are registered will be deemed joint holders of those Shares.



#### 12.4 Scrutineers, Objections and Listing Rules

- (a) The Directors may appoint as scrutineer the Auditor or if he is unable or unwilling to act then some other independent person approved (where approval is required under the Listing Rules) by ASX:
  - (i) to determine the validity of votes cast a general meeting; and
  - (ii) to check the validity of all instruments in appointing proxies deposited or transmitted to the Company for the purpose of the meeting.
- (b) The Directors will require the scrutineer to report in writing to the chairperson identifying those instruments that may be invalid for failure to comply with this Constitution or otherwise. The chairperson must rule on the validity or invalidity of the instruments and inform the meeting of his ruling.
- (c) No instrument may be ruled invalid by reason only that it is undated or fails accurately or at all to identify the date of the meeting at which it is be used or is otherwise incomplete provided that it is signed by the person appointing the proxy or is a facsimile or electronic copy of such signing and the identity of the person in whose favour it is given is clearly ascertainable.
- (d) An objection to the qualification of a voter may only be raised at the meeting or adjourned meeting at which the voter tendered its vote.
- (e) An objection must be referred to the chairperson of the meeting, whose decision made in good faith is final.
- (f) Subject to rule 12.4(g), a vote which the chairperson does not disallow pursuant to an objection is valid for all purposes.
- (g) A vote which the Listing Rules require the Company to disregard is not valid.

#### 12.5 Votes by proxy

- (a) A Member who is entitled to attend and cast a vote at a general meeting of the Company may appoint not more than two other persons as that Member's proxy or proxies to attend and vote at the meeting on that Member's behalf.
- (b) If a Member appoints one proxy, that proxy may vote on a show of hands.
- (c) If a Member appoints two proxies neither proxy may vote on a show of hands.
- (d) A proxy may demand or join in demanding a poll.

#### 12.6 Form and Execution of Instrument of Proxy

- (a) An instrument appointing a proxy is required to be in writing signed by the appointor or the attorney of the appointor or, if the appointor is a corporation, under its common seal or signed by a duly authorised officer and in the form which the Directors may from time to time prescribe to accept. The instrument of proxy is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the person giving the proxy.
- (b) An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting, as well as for the meeting to which it relates. Any

duly signed proxy which is incomplete may be completed by the Secretary on authority from the Directors and the Directors may authorise completion of the proxy by the insertion of the name of any of the Directors as the person in whose favour the proxy is given.

## 12.7 Directors to Issue Forms of Proxy

The Directors may issue with any notice of general meeting of Members or any class of shareholders forms of proxy for use by the Members. Each form shall make provision for the Member to write in the name of the person or persons to be appointed as proxy and may provide that, if the Member does not so write in one or more names, the proxy shall be one or more persons named on the form. The form may include the names of any of the Directors or of any other persons as suggested proxies. The forms are to be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

## 12.8 Lodgment of proxy

- (a) The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
  - (i) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or
  - (ii) the taking of a poll on which the appointee proposes to vote.
- (b) The written appointment of a proxy or attorney is received by the Company if it is received at any of the following:
  - (i) the Company's registered office;
  - (ii) a fax number at the Company's registered office; or
  - (iii) a place, fax number or electronic address specific for the purpose in the notice of meeting.
- (c) If the appointment purports to be executed under a power of attorney or other authority, the original document or a notarially certified copy of it must be either:
  - (i) forwarded with the appointment; or
  - (ii) produced at the meeting or adjourned meeting at which the appointee is authorised to vote.

## 12.9 Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became of unsound mind;
- (c) revoked the proxy or power; or
- (d) transferred the Shares in respect of which the vote was cast,

unless any written notification of the death, unsoundness of mind revocation or transfer was received by the Company before the relevant meeting or adjourned meeting.

## 12.10 Representatives of corporations

- (a) Any Member which is a body corporate may appoint an individual as its representative in relation to meetings of the Members or otherwise as permitted by the Corporations Law.
- (b) The chairperson of a general meeting may permit a person claiming to be a Representative to exercise his or her powers even if he or she has not produced a certificate evidencing his or her appointment.
- (c) The appointment of a representative may set out restrictions on the representative's powers.

## 13. APPOINTMENT AND REMOVAL OF DIRECTORS

### 13.1 Number of Directors

- (a) The Company may from time to time by resolution passed at a general meeting increase or reduce the number of Directors.
- (b) Unless and until the Company resolves otherwise, there will be:
  - (i) a minimum of five Directors; and
  - (ii) a maximum of ten Directors.
- (c) The Directors and the Secretary in office as at the date this Constitution is adopted by the Company continue in office subject to this Constitution.
- (d) All Directors are required to be natural persons.

### 13.2 Qualification

Neither a Director nor an Alternate Director has to hold any Shares, but a Director (and an Alternate Director when acting as a Director) is entitled to be given notice of and to attend and speak at all general meetings and at every meeting of the holders of Shares of any class of Shares.

### 13.3 Power to Remove and Appoint

- (a) The Company may, subject to the Corporations Law, by resolution passed in general meeting:
  - (i) remove any Director before the end of the Director's period of office; and
  - (ii) appoint another person in the Director's place.
- (b) A person appointed under rule 13.3(a)(ii) will hold office for the period for which the Director replaced would have held office if the Director had not been removed.
- (c) Subject to the provisions of this Constitution, the Company may appoint a person as a Director by resolution passed in general meeting.

### 13.4 Additional and casual Directors

- (a) Subject to rule 13.1, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the number of existing Directors.

- (b) A Director appointed under rule 13.4(a) will hold office until the next annual general meeting of the Company when the Director may be re-elected but will not be taken into account in determining the number of Directors who must retire by rotation.

### 13.5 Filling vacated office

- (a) If a Director retires at a general meeting, the Company may by ordinary resolution elect a person to fill the vacated office.
- (b) If the vacated office is not filled and the retiring Director has offered himself or herself for re-election, the retiring Director will be considered to have been re-elected unless, at the meeting at which he or she retires:
  - (i) it is resolved not to fill the vacated office; or
  - (ii) a resolution for the re-election of the Director is put and lost.

### 13.6 Retirement by rotation

- (a) Subject to the Listing Rules and rule 17.1(g), at each annual general meeting one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors must retire from office.
- (b) The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election or appointment.
- (c) Directors elected or appointed on the same day may agree among themselves or determine by lot which of them must retire.
- (d) Subject to rule 17.1(g), a Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected, even if his or her retirement results in more than one-third of all Directors retiring from office.
- (e) A retiring Director will be eligible for re-election.

### 13.7 Nomination of Director

- (a) A person other than a Director retiring by rotation or seeking re-election is not eligible for election as a Director at a general meeting unless the person, or a Member who intends to propose the person, has left at the Office a written notice signed by the person (or the Member, as the case may be):
  - (i) giving the person's consent to the nomination; and
  - (ii) stating either that the person is a candidate for the office of Director or that the Member intends to propose the person for election.
- (b) A notice given in accordance with rule 13.7(a) must be left at the Office not less than 30 Business Days before the relevant general meeting unless the candidate was recommended for election by the Directors, in which case the notice must be left at the Office no less than 28 days before the relevant general meeting.

### 13.8 Vacation of office

- (a) The office of a Director immediately becomes vacant if the Director:
  - (i) ceases to be a Director by virtue of the Corporations Law;

- (ii) is prohibited by the Corporations Law from holding office or continuing as a Director;
  - (iii) is prohibited from holding or is removed from the office of Director by an order made under the Corporations Law;
  - (iv) becomes bankrupt or makes any general arrangement or composition with his or her creditors;
  - (v) becomes of unsound mind or is a person whose estate is liable to be dealt with in any way under the law relating to mental health;
  - (vi) resigns from his or her office of Director by notice in writing to the Company;
  - (vii) is removed by a resolution of the Company; or
  - (viii) not being engaged abroad on the business of the Company, is absent from Directors' meetings for three consecutive meetings without leave of absence from the Directors.
- (b) A Director who holds any executive office in the Company ceases to be a Director when he or she ceases to hold the executive office.
- (c) A person ceasing to be a Director by virtue of the provisions of rule 13.8(b) will not thereby be rendered ineligible for appointment or election as a Director under any rule other than rule 17.1.

## 14. REMUNERATION OF DIRECTORS

### 14.1 Remuneration of Non-Executive Directors

- (a) Subject to the Listing Rules, the Directors (other than an Executive Director) may collectively be paid as remuneration for their services a fixed sum not exceeding the aggregate maximum sum from time to time determined by the Company in general meeting.
- (b) The notice convening a general meeting at which it is proposed that members approve an increase of the aggregate maximum sum must state the amount of the increase and the aggregate maximum sum, and any other matters required by the Listing Rules.
- (c) Subject to the Listing Rules, the aggregate maximum sum will be divided among the Non-Executive Directors in such proportion and manner as the Directors agree and, in default of agreement, equally.
- (d) Non-Executive Directors may not be paid a commission on or a percentage of profits or operating revenue.
- (e) If a Non-Executive Director is required to perform services for the Company which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, the Company may pay the Director a fixed sum determined by the Directors in addition to or instead of the Director's remuneration under rule 14.1(a). No payment may be made under this rule 14.1(e) if the effect of the payment would be to exceed the aggregate amount of Directors' fees determined by the Company in general meeting in breach of Listing Rule 10.17.

- (f) The Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the Company's business.
- (g) The Company may also pay a premium in respect of a contract insuring a person who is or has been a Non-Executive Director against liability incurred by the person as a Director, except in circumstances prohibited by the Corporations Law.

#### 14.2 Remuneration of Executive Directors

- (a) The remuneration of an Executive Director may from time to time be fixed by the Directors. The remuneration may be by way of salary or commission or participation in profits or by all or any of these modes but may not be by commission on, or a percentage of, operating revenue.
- (b) The Company may also pay a premium in respect of a contract insuring a person who is or has been an Executive Director against liability incurred by the person as a Director, except in circumstances prohibited by the Corporations Law.

#### 14.3 Benefit to Retiring Directors

- (a) Subject to this rule 14.3 and the Corporations Law, the Company may pay a retiring Director or the legal personal representative of a deceased Director, a retirement allowance equal to the total remuneration of the Director during the period of three years ending on the date of Retirement.
- (b) Any amount payable under rule 14.3(a) must be paid in addition to and is not affected by any amount payable under the rules of a superannuation fund including payments related to any superannuation contributions made by the Company.
- (c) The Company must not pay a retirement allowance under rule 14.3(a) unless the retiring Director has served continuously as a Director of the Company for a period of at least five years ending on the date of Retirement.
- (d) Without limiting rules 14.3(a) to 14.3(c) the Directors may:
  - (i) pay a gratuity, pension or allowance, on retirement or other vacation of office, to or for the benefit of a Director or to his widow or dependants; and
  - (ii) make contributions to any fund and pay any premiums for the purchase or provision of any such gratuity, pension or allowance,
 in the circumstances provided in, and subject to the approval of Members if so required by, the Corporations Law.
- (e) The Directors may enter into a contract or arrangement with a prospective, present or former Director for the payment of benefits or the making of contributions of the kinds referred to in rule 14.3(d).
- (f) The Directors may establish or support or assist in the establishment or support of funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to the Directors.

#### 14.4 Superannuation contributions

- (a) If required by law, the Company may make contributions to a fund for the purpose of making provision for or obtaining superannuation benefits for a Director.
- (b) Contributions made under 14.4(a) will be included in determining the amount of the Directors' remuneration under this rule 14.

### 15. POWERS AND DUTIES OF DIRECTORS

#### 15.1 Directors to manage company

- (a) The business of the Company is managed by or under the direction of the Directors who may exercise all powers of the Company that this Constitution, the Corporations Law or the Listing Rules do not require to be exercised by the Company in general meeting.
- (b) Without limiting the generality of rule 15.1(a), the Directors may exercise all the powers of the Company to:
  - (i) borrow money;
  - (ii) charge any property or business of the Company or all or any of its uncalled capital;
  - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
  - (iv) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

### 16. PROCEEDINGS OF DIRECTORS

#### 16.1 Directors' meetings

- (a) The chairperson, the deputy chairperson, or any two Directors may at any time, and the Secretary must on the request of the chairperson, the deputy chairperson, or any two Directors call a meeting of the Directors.
- (b) An accidental omission to send a notice of a meeting of Directors to any Director or the non-receipt of such a notice by any Director does not invalidate the proceedings at or any resolution passed at the meeting.
- (c) The Directors may meet either in person or by telephone or by other means of communication consented to by all Directors subject to the right of a Director to withdraw their consent within a reasonable period before a meeting. All persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least one of the Directors present at the meeting is at that place for the duration of the meeting.
- (d) Rule 16.1(c) applies to meetings of Directors' committees as if all committee members were Directors.

- (e) The Directors may meet together, adjourn and regulate their meetings as they think fit.
- (f) Subject to the Corporations Law, a quorum for meetings of Directors may be fixed by the Directors and unless so fixed, is three or at least half the directors, whichever is the greater number.
- (g) Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson or the Managing Director may convene a general meeting of Members to deal with the matter.
- (h) Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.
- (i) At least 48 hours' notice of a meeting of Directors must be given to all Directors unless all of them agree to the convening of a meeting at shorter notice.

## 16.2 Decisions

- (a) Questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to rule 16.3, each Director has one vote.
- (b) The chairperson of a meeting has a casting vote in addition to his or her deliberative vote, except where only two Directors are present and entitled to vote.
- (c)
  - (i) An Alternate Director has one vote for each Director for whom he or she is an alternate.
  - (ii) If the Alternate Director is a Director, he or she also has a vote as a Director.

## 16.3 Directors' interests

- (a) A Director who has a material personal interest in a matter that is to be considered at a meeting of Directors must not:
  - (i) vote on the matter or be present while the matter is being considered at the meeting; and
  - (ii) be counted in the quorum in relation to that matter, if to do so would be contrary to the Corporations Law.
- (b) Each Director must disclose to the Company particulars of:
  - (i) any material contract in which the Director is interested, including the names of the parties to the contract, particulars of the contract, and the Director's interest in the contract, and
  - (ii) any material personal interest in a matter that is being considered at a meeting of the board or of Directors.
- (c) Voting by a Director contrary to this rule 16.3, or failure by a Director to make disclosure under this rule 16.3, does not render void or voidable a contract in which the Director has an interest.
- (d) A Director and any firm, body or entity in which a Director has a direct or indirect interest may in any capacity:



- (i) enter into any contract or arrangement with the Company;
  - (ii) be appointed to and hold any office or place of profit under the Company, other than the office of auditor; and
  - (iii) act in a professional capacity, other than as auditor, for the Company,
- and provided that he or she makes disclosure as required by this rule 16.3, may receive and retain for his or her own benefit any remuneration, profits or benefits as if he or she were not a Director.

#### 16.4 Restrictions on Appointments to Other Entities

A Director must not, without the prior approval of a simple majority of all Directors accept, hold or retain the office of director of any other financial institution or any bank.

#### 16.5 Alternate Directors

- (a) A Director may with the approval of the chairperson or the Managing Director, appoint any person as his or her alternate.
- (b) An Alternate Director is entitled to be given notice of Directors' meetings while he or she is acting in that capacity and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum (only once, regardless of any other capacity in which he or she is present) and vote as a Director.
- (c) An Alternate Director is an officer of the Company and is not an agent of the appointor.
- (d) The provisions of this Constitution which apply to Directors also apply to Alternate Directors, except that Alternate Directors are not entitled in that capacity to any remuneration from the Company.
- (e) The appointment of an Alternate Director may be revoked at any time by the appointor or by the other Directors.
- (f) An Alternate Director's appointment ends automatically when his or her appointor ceases to be a Director.
- (g) Any appointment or revocation under this rule must be effected by written notice delivered to the Secretary.
- (h) For the purposes of rule 16.3, an Alternate Director does not have an interest in a contract or arrangement or a material personal interest in a matter by reason only of the fact that his or her appointor has such an interest.

#### 16.6 Remaining Directors

- (a) The Directors may act even if there are vacancies on the board.
- (b) If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Director or Directors may act only to:
  - (i) appoint a Director; or
  - (ii) convene a general meeting.

## 16.7 Chairperson

- (a) The Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office. An employee of the Company is not eligible to be the chairperson for so long as that prohibition is required by law.
- (b) If no chairperson is elected, or if the chairperson (or any deputy chairperson able and willing to act as chairperson) is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- (c) The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.
- (d) The chairperson may be removed at any time by a resolution of which notice has been given to all Directors for the time being in Australia not less than 14 days before the meeting of Directors at which the resolution is proposed.

## 16.8 Directors' committees

- (a)
  - (i) The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees.
  - (ii) The Directors may at any time revoke any delegation of power to a committee.
- (b) At least one member of each committee must be a Non-Executive Director.
- (c) A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- (d) A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- (e) Meetings of any committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors.

## 16.9 Written resolutions

A resolution in writing of which notice has been given to all Directors and which is signed by all of the Directors entitled to vote on the resolution is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted and may consist of several documents in the same form each signed by one or more of the Directors. For the purposes of this rule the references to 'Directors' include any Alternate Director for the time being present in Australia who is appointed by a Director not for the time being present in Australia but do not include any other Alternate Director. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is deemed to be a document in writing signed by the Director.

## 16.10 Validity of acts of Directors

If it is discovered that there was a defect in the appointment of a person as a Director, Alternate Director or member of a Directors' committee, or a person appointed to one of those positions was disqualified, all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## 16.11 Minutes

- (a) The Directors must cause minutes to be made of:
  - (i) the names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
  - (ii) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
  - (iii) all resolutions passed by Directors in accordance with rule 16.11;
  - (iv) appointments of officers, but only if the Directors resolve that a minute of the appointment should be made; and
  - (v) all disclosures of interests made pursuant to rule 16.3.
- (b) Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body, and if so signed will as between the Members be conclusive evidence of the matters stated in such minutes.

## 17. EXECUTIVE DIRECTORS

### 17.1 Appointment

- (a) Subject to compliance with any prudential standard relating to the entry by the Company into service contracts:
  - (i) the Directors may appoint a Director to the office of Managing Director on such terms as they think fit;
  - (ii) the Directors may appoint a Director to any other full-time or substantially full-time executive position in the Company on such terms as they think fit; and
  - (iii) a Director appointed under rule 17.1(a) or (b), and a Director (however appointed) occupying for the time being a full-time or substantially full-time executive position in the Company or a related body corporate, is referred to in this Constitution as an Executive Director.
- (b) The position of chairperson of Directors may be a full-time executive position if the Directors so resolve.
- (c) If the appointment of an Executive Director is for a fixed term, the term must not be for life.
- (d) The Directors may, subject to the terms of the Executive Director's employment contract, suspend, remove or dismiss him or her from executive office and appoint another Director in that place.

- (e) If the Managing Director or the chairperson (if appointed to a full-time executive position) ceases to be a Director, his or her executive office terminates automatically.
- (f) If an Executive Director is suspended from executive office he or she will be entitled to attend and be heard, but not vote (unless the Directors otherwise determine), at any meeting of Directors.
- (g) The Managing Director is not subject to retirement by rotation and is not to be taken into account in determining the rotation of retirement of Directors. Any other Executive Director is subject to retirement by rotation.

## 17.2 Powers of Executive Directors

- (a) The Directors may confer on an Executive Director any powers exercisable by the Directors, subject to any terms and restrictions determined by the Directors.
- (b) The Directors may authorise an Executive Director to sub-delegate all or any of the powers vested in him or her.
- (c) Any power conferred pursuant to this rule 17.2 may be concurrent with but not to the exclusion of the Directors' powers.
- (d) The Directors may at any time withdraw or vary any of the powers conferred on an Executive Director.

## 18. SECRETARY

### 18.1 Secretary

- (a) There must be at least one secretary of the Company appointed by the Directors on conditions determined by them.
- (b) The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

## 19. DOCUMENT EXECUTION AND SEAL

### 19.1 Execution of Cheques, Bills, etc

All cheques, bills of exchange and promissory notes are to be signed, drawn, made, accepted or endorsed (as the case may be) for and on behalf of the Company by 2 directors, or by one Director and the Secretary or some other officer authorised by the board, or in such other manner as the board may from time to time determine.

### 19.2 Company seal is optional

The Company may have a Seal.

### 19.3 Affixing the Seal

If the Company has a Seal, the board is to provide for its safety and it should only be used by the authority of the board. Every instrument to which the Seal is affixed is to be signed by a Director and countersigned by the Secretary or by a second Director or by another

person appointed by the board for the purpose. The board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

#### 19.4 Execution of documents without a Seal

The Company may execute a document, including a deed, by having the document signed by:

- (a) 2 directors;
- (b) a director and the Secretary; and

if the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in rule 19.3 or this rule.

#### 19.5 Other ways of executing documents

Notwithstanding the provisions of rules 19.3 and 19.4, any document including a deed, may also be executed by the Company in any other manner permitted by law.

### 20. INSPECTION OF RECORDS

#### 20.1 Times for inspection

- (a) Except as otherwise required by the Corporations Law, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

### 21. DIVIDENDS AND RESERVES

#### 21.1 Fix a time for payment of dividends

Subject to the Corporations Law, the Directors may determine that a dividend is payable and fix the amount, the time for payment and the method of payment. Subject to this Constitution, a declaration by the Directors as to the payment of dividends is conclusive and binding on all Members.

#### 21.2 Amend resolution to pay Dividend

The Directors may amend or revoke a resolution to pay a dividend before the date which is nine Business Days before the record date which has been notified to ASX for determining entitlements to that dividend.

#### 21.3 No interest

The Company must not pay interest on a dividend.

## 21.4 Reserves

Subject to the Corporations Law, the Directors may:

- (a) set aside such amounts by way of reserves as they think appropriate to pay a dividend;
- (b) apply the reserves for any purpose for which such amounts may be properly applied;
- (c) pending any application of the reserves, invest or use the reserves in the business of the Company or in other investments as they think fit; and
- (d) carry forward any undistributed profits that are not included in the sums set aside under rules 21.4(a) to (c), without transferring them to a reserve.

## 21.5 Dividend entitlement

- (a) The dividend to be paid to the holder of a partly paid Share must not exceed that proportion of the dividend to be paid to the holder of a fully paid Share that the amount paid up on the Share (not credited as paid up) bears to the total issue price of the Share (excluding amounts credited as paid up).
- (b) Unless otherwise determined by the Directors, Shares rank for dividend from their date of allotment.
- (c) Subject to this Constitution, the Corporations Law and the Operating Rules, a transfer of Shares registered after the record date notified to ASX for determining entitlements to a dividend paid or payable in respect of the transferred Shares, does not pass the right to that dividend.
- (d) An amount paid on a Share in advance of a call is not to be taken to be paid on the Share so as to confer a right to participate in profits.

## 21.6 Restricted Securities

During a breach of the Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any dividend in respect of those Restricted Securities.

## 21.7 Deductions from dividends

The Directors may deduct from a dividend payable to a Member all sums presently payable by the Member to the Company on account of calls or otherwise in relation to Shares in the Company.

## 21.8 Distribution of assets

- (a) The Directors may resolve that the method of payment of a dividend will be wholly or partly by the transfer or distribution of specific assets, including fully paid shares in, or debentures of, any other corporation.
- (b) If a difficulty arises in making a transfer or distribution of specific assets, the Directors may:
  - (i) deal with the difficulty as they consider expedient;

- (ii) fix the value of all or any part of the specific assets for the purposes of the distribution;
  - (iii) determine that cash will be paid to any Members on the basis of the fixed value in order to adjust the rights of all the Members: and
  - (iv) vest any such specific assets in trustees as the Directors consider expedient.
- (c) If a transfer or distribution of specific assets to a particular Member or Members is illegal or, in the Directors' opinion, impracticable, the Directors may make a cash payment to the Member or Members on the basis of the cash amount of the dividend instead of the transfer or distribution of specific assets.

## 21.9 Payment

- (a) Any dividend or other money payable in respect of Shares may be paid by cheque sent through the mail directed to:
- (i) the address of the Member shown in the Register or to the address of the joint holder of Shares shown first in the Register; or
  - (ii) an address which the Member or joint holders has in writing notified the Company as the address to which dividends should be sent, or
- by some other method of direct credit determined by the Directors to the holder or holders shown on the Register or to such person or place directed by them.
- (b) Any joint holder may give an effectual receipt for any dividend or other money paid in respect of Shares held by holders jointly.

## 21.10 Election to reinvest dividend

If and to the extent authorised by resolution of the Company in general meeting, the Directors may subject to the Listing Rules:

- (a) establish a plan whereby Members or any class of Members may elect to reinvest cash dividends paid by the Company by subscribing for Shares; and
- (b) vary, suspend or terminate the arrangements established under rule 21.10(a).

## 21.11 Election to accept Shares in lieu of dividend

- (a) If and to the extent authorised by resolution of the Company in general meeting, the Directors may resolve subject to the Listing Rules, in respect of any dividend which it is proposed to pay on any Shares, that holders of those Shares may elect to:
- (i) forego their right to share in the proposed dividend or part of the proposed dividend; and
  - (ii) instead receive an issue of Shares credited as fully paid.
- (b) If the Directors resolve to allow the election provided for in rule 21.11((a)), each holder of Shares conferring a right to share in the proposed dividend may, by notice in writing to the Company given in such form and within such period as the Directors may from time to time decide, elect to:

- (i) forego the dividend which otherwise would have been paid to the holder on such of the holder's Shares conferring a right to Share in the proposed dividend as the holder specifies in the notice of election; and
  - (ii) receive instead Shares to be issued to the holder credited as fully paid, on and subject to such terms and conditions as the Directors may determine.
- (c) Following the receipt of duly completed notices of election under rule 21.11((b)), the Directors must:
  - (i) appropriate from the Company's profits or any reserve established for the purpose an amount equal to the aggregate issue price of the Shares to be issued credited as fully paid to those holders of Shares who have given such notices of election; and
  - (ii) apply the amount in paying up in full the number of Shares required to be so issued.
- (d) The Directors may not exercise the power conferred on them by this rule 21.11 unless the Company has sufficient sums to give effect to any elections which could be made under the terms of this rule.
- (e) If and to the extent authorised by resolution of the Company in general meeting, the Directors may rescind, vary or suspend a resolution of the Directors made pursuant to rule 21.11((a)) and the arrangements implemented pursuant to the resolution.
- (f) The powers given to the Directors by this rule 21.11 are additional to the provisions for capitalisation of amounts provided for by this Constitution. If the Directors exercise their power to capitalise amounts under rule 21.13 then any Member who has elected to participate in arrangements established under this rule 21.11 is deemed, for the purpose of determining the Member's entitlement to share in the capitalised sum, not to have so elected.

#### 21.12 Unclaimed dividends

All dividends unclaimed for one year after the time for payment has passed may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed money.

#### 21.13 Capitalisation of profits

- (a) The Directors may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members.
- (b) If the capitalisation is to be accompanied by the issue of Shares or debentures, the Directors may apply the sum capitalised:
  - (i) in the proportions in which the Members would be entitled if the sum was distributed by way of dividend;
  - (ii) in connection with an employee share plan adopted by the Company and by applying the sum in paying up in part or in full unissued Shares or debentures to be issued to persons as fully paid; or
  - (iii) in paying up any amounts unpaid on shares held by Members.



- (c) To the extent necessary to adjust the rights of the Members among themselves where rule 21.13(b) applies or is intended to apply, the Directors may adopt a rounding policy or make cash payments in cases where Shares or debentures become issuable in fractions.

## 22. POWERS OF ATTORNEY

### 22.1 Powers of Attorney

- (a) If a Member executes or proposes to execute any document or do any act by or through an attorney in relation to the Company or the Shares held by the Member, that Member must deliver the instrument appointing the attorney to the Company for notation.
- (b) The Company may require the Member to lodge a certified copy of the instrument for retention by the Company and ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.
- (c) Any power of attorney granted by a Member will, as between the Company and the Member who granted the power of attorney:
  - (i) continue in force; and
  - (ii) may be acted upon,unless express notice in writing of its revocation or of the death of the Member who granted it is lodged with the Company.
- (d) Where a Member proposed that an attorney represent the Member at a general meeting or adjourned meeting, the Member must comply with rule 12.8(c) of this Constitution.

## 23. NOTICES

### 23.1 Service of notices

- (a) Notice may be given by the Company to any person who is entitled to notice under this Constitution by:
  - (i) serving it on the person;
  - (ii) sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person; or
  - (iii) (except in the case of a notice of a meeting of the Members which is required to be given individually to each Member entitled to vote at the meeting and to each Director), advertising in one or more of the newspapers published in each capital city in Australia if in the opinion of the Directors extreme or unusual circumstances make it appropriate to do so.
- (b) A notice sent by post is taken to be served:

- (i) by properly addressing, prepaying and posting a letter containing the notice; and
  - (ii) the day after the day on which it was posted.
- (c) A notice sent by facsimile transmission or electronic notification is taken to be served:
  - (i) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (ii) on the day of its transmission except if transmitted after 5.00pm in which case is taken to be served on the next day.
- (d) A notice given by advertisement is taken to be served on the date on which the advertisement first appears in a newspaper.
- (e) A notice may be served by the Company on joint holders under rule 23.1(a)(i) or (ii) by giving the notice to the joint holder whose name appears first in the Register.
- (f) Every person who is entitled to a Share by operation of any law and who is not registered as the holder of the Share is taken to receive any notice served in accordance with this rule by advertisement or on the person from whom it derives title.
- (g) A Share certificate, cheque, warrant or other document may be delivered by the Company either personally or by sending it:
  - (i) in the case of a Member who does not have a Registered Address in Australia, by airmail post, by facsimile transmission or by electronic notification (as appropriate) or in another way that ensures that it will be received quickly; and
  - (ii) in any other case by ordinary post.
- (h) A Member whose Registered Address is not in Australia may specify in writing an address in Australia as the Member's Registered Address within the meaning of this rule.
- (i) A certificate in writing signed by a Director, Secretary or other officer of the Company, or by any person that the Company has engaged to maintain the Register, that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- (j) Subject to the Corporations Law the signature to a written notice given by the Company may be written or printed.
- (k) All notices sent by post outside Australia must be sent by prepaid airmail post.

## 23.2 Persons entitled to notice

- (a) Notice of every general meeting must be given to:
  - (i) every Member;
  - (ii) every Director and Alternate Director;
  - (iii) ASX; and
  - (iv) the Auditor.

- (b) No other person is entitled to receive notice of a general meeting.

## 24. AUDIT AND FINANCIAL RECORDS

### 24.1 Company to keep financial records

- (a) The Directors must cause the Company to keep written financial records and to prepare financial documents and reports in accordance with the requirements of the Corporations Law and the Listing Rules.
- (b) The Directors must cause the financial records and financial documents of the Company to be audited in accordance with the requirements of the Corporations Law and the Listing Rules.

## 25. WINDING UP

### 25.1 Winding up

- (a) Nothing in this rule prejudices the rights of the holders of Shares issued on special terms and conditions.
- (b) If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company:
  - (i) divide among the Members in kind all or any of the Company's assets; and
  - (ii) for that purpose, determine how he or she will carry out the division between the different classes of Members,but may not require a Member to accept any Shares or other securities in respect of which there is any liability.
- (c) The liquidator may, with the sanction of a special resolution of the Company, vest all or any of the Company's assets in a trustee on trusts determined by the liquidator for the benefit of the contributories.

## 26. INDEMNITY

### 26.1 Indemnity for/in favour of Directors, Secretaries & Executive Officers

Subject to the law, the Company must indemnify every person who is or has been a Director, Secretary or executive officer of the Company against a liability:

- (a) incurred by the person acting in their capacity as a Director, Secretary or executive officer to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith;
- (b) for the costs and expenses incurred by the person:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the law.

## 26.2 Indemnity to Employees

Every employee who is not a Director, Secretary or executive officer of the Company may be indemnified out of the property of the Company against a liability:

- (a) incurred by the employee acting in that capacity;
- (b) for the costs and expenses incurred by an employee:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the law.

## 26.3 Insurance

- (a) Subject to the law, the Company may pay insurance premiums in respect of insurance for the benefit of every person who is or has been a Director, Secretary or executive officer acting in that capacity against:
  - (i) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
  - (ii) a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Corporations Law dealing with improper use of inside information or position.
- (b) The Company may pay insurance premiums in respect of insurance for the benefit of the Auditor or an employee of the Company who is not a Director, Secretary or executive officer concerned in the management of the Company.

## 27. PARTIAL TAKEOVERS

### 27.1 Interpretation

For the purposes of this rule:

‘Proportional Takeover Scheme’ has the same meaning as given to that term by section 603 of the Corporations Law;

‘Relevant Day’ in relation to a Proportional Takeover Scheme, means the day that is 14 days before the end of the period during which the offers under the Proportional Takeover Scheme remain open;

a reference to a ‘person associated with’ another person has the meaning given to that expression by Division 2 of Part 1.2 of the Corporations Law.

## 27.2 Approval of Partial Takeovers Bids

- (a) Subject to the Listing Rules, where offers have been made under a Proportional Takeover Scheme in respect of shares in a class of shares in the Company, the registration of a transfer giving effect to a contract resulting from the acceptance of an offer made under the takeover scheme is prohibited unless and until a resolution (in this rule referred to as an 'Approving Resolution') to approve the Proportional Takeover Scheme is passed in accordance with the provisions of this rule.
- (b) Where offers have been made under a Proportional Takeover Scheme in respect of shares in a class of shares in the Company:
  - (i) a person (other than the offeror or an associate of the offeror) who, as at the end of the day of which the first offer under the Proportional Takeover Scheme was made, held shares in that class is entitled to vote on an Approving Resolution and, for the purpose of so voting, is entitled to one vote for each of the shares held in that class; and
  - (ii) an offeror or an associate of the offeror is not entitled to vote on an Approving Resolution.
- (c) An Approving Resolution is to be voted on at a meeting, convened and conducted by the Company, of the persons entitled to vote on the Approving Resolution.
- (d) The provisions of these rules that apply in relation to a general meeting of the Company, with such modifications as the circumstances require, apply in relation to a meeting that is convened to vote on an Approving Resolution as if such a meeting was a general meeting of the Company.
- (e) An Approving Resolution that has been voted on in accordance with this rule, is taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is taken to have been rejected.
- (f) Where offers have been made under a Proportional Takeover Scheme then the board must ensure that a resolution to approve the Proportional Takeover Scheme is voted on in accordance with this rule before the Relevant Day.
- (g) Where a resolution to approve a Proportional Takeover Scheme is voted on, in accordance with this rule, before the Relevant Day, the Company must, on or before the Relevant Day:
  - (i) give to the offeror; and
  - (ii) serve on each notifiable securities exchange in relation to the Company, a notice in writing stating that a resolution to approve the Proportional Takeover Scheme has been voted on and that the resolution has been passed, or has been rejected, as the case requires.
- (h) Where, at the end of the day before the Relevant Day no resolution to approve the Proportional Takeover Scheme has been voted on in accordance with this rule, a resolution to approve the takeover scheme is to be, for the purpose of this rule, deemed to have been passed in accordance with this rule.
- (i) Where a resolution under this rule is rejected, then:

- (i) notwithstanding section 653 of the Corporations Law, all offers under the Proportional Takeover Scheme that have not, as at the end of the relevant day, been accepted, and all offers (in this paragraph referred to as the **'accepted offers'**) under the Proportional Takeover Scheme that have been accepted and from whose acceptance binding contracts have not, at the end of the Relevant Day, resulted, are deemed to be withdrawn at the end of the Relevant Day;
  - (ii) the offeror is, forthwith after the end of the Relevant Day, to return to each person who has accepted any of the accepted offers any documents that were sent by the person to the offeror with the acceptance of the offer;
  - (iii) the offeror is entitled to rescind, and is required, forthwith after the end of the Relevant Day, to rescind, each contract resulting from the acceptance of an offer made under the Proportional Takeover Scheme; and
  - (iv) a person who has accepted an offer made under the Proportional Takeover Scheme is entitled to rescind the contract (if any) resulting from that acceptance.
- (j) This rule ceases to have effect on the third anniversary of the later of the date of adoption or last renewal of this rule.