

Constitution

Constitution

of Challenger Retirement and
Investment Services Limited

ACN 115 534 453

Adopted on 16 September 2022

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Constitution

Challenger Retirement and Investment Services Limited

ACN 115 534 453

A company limited by shares

Constitution

1 Preliminary

1.1 Definitions

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

Term	Meaning
Act	the <i>Corporations Act 2001</i> (Cth).
Board	the directors for the time being of the company or those of them who are present at a meeting at which there is a quorum.
Record Time	<ol style="list-style-type: none">1 in the case of a meeting for which the caller of the meeting has decided, under the Act, that shares are to be taken to be held by the persons who held them at a specified time before the meeting, that time; and2 in any other case, 48 hours before the relevant meeting.
Representative	in relation to a member that is a body corporate means a person authorised in accordance with the Act (or a corresponding previous law) by the body corporate to act as its representative at the meeting.
Transmission Event	<ol style="list-style-type: none">1 for a member who is an individual – the member's death, the member's bankruptcy, or a member becoming of unsound mind, or a person who, or whose estate, is liable to be dealt with in any way under the laws relating to mental health; and2 for a member who is a body corporate – the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.



Term	Meaning
URL	Uniform Resource Locator, the address that specifies the location of a file on the internet.

1.2 Interpretation

- (a) A reference in this constitution to a partly paid share is a reference to a share on which there is an amount unpaid.
- (b) A reference in this constitution to a call or an amount called in respect of a share includes a reference to an amount that, by the terms of issue of a share, becomes payable on issue or at a fixed date.
- (c) A reference in this constitution to a member present at a general meeting is a reference to a member present:
 - (1) in person or by proxy, attorney or Representative; or
 - (2) who attends the general meeting using technology or electronic participation facilities under rule 5.6(l); or
 - (3) except in any rule that specifies a quorum or except in any rule prescribed by the Board, a member who has duly lodged a valid direct vote in relation to the general meeting under rule 5.8.
- (d) A chairperson appointed under this constitution may also be referred to as chairman, chairwoman or chair, as appropriate.
- (e) A reference in this constitution to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position.
- (f) A reference to a document being 'signed' or to 'signature' includes that document being executed under hand or under seal or by any other method and, in the case of a communication in electronic form, includes the document being authenticated in accordance with the Act or any other method approved by the Board.
- (g) In this constitution, unless the contrary intention appears:
 - (1) the singular includes the plural and the plural includes the singular;
 - (2) words that refer to any gender include all genders;
 - (3) words used to refer to persons generally or to refer to a natural person include a body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (4) a reference to a person includes that person's successors and legal personal representatives;
 - (5) a reference to a statute or regulation, or a provision of any of them includes all statutes, regulations or provisions amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and



- (6) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (h) Specifying anything in this constitution after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included unless there is express wording to the contrary.
- (i) In this constitution, headings and bold type are only for convenience and do not affect the meaning of this constitution.

1.3 Application of the Act

- (a) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision of the Act.
- (b) The rules that apply as replaceable rules to companies under the Act do not apply to the company except so far as they are repeated in this constitution.

1.4 Exercising powers

- (a) The company may, in any way the Act permits:
 - (1) exercise any power;
 - (2) take any action; or
 - (3) engage in any conduct or procedure,which, under the Act, a company limited by shares may exercise, take or engage in.
- (b) Where this constitution provides that a person or body may do a particular act or thing, the act or thing may be done at the person's discretion.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the same manner and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing, the power may be exercised from time to time and may be exercised subject to conditions.
- (e) Where this constitution confers a power to do a particular thing in respect of particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that thing in respect of some only of those matters or in respect of a particular class or particular classes of those matters and to make different provision in respect of different matters or different classes of matters.
- (f) Where this constitution confers a power to make appointments to an office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (1) to appoint a person to act in the office or position until a person is formally appointed to the office or position;
 - (2) to remove or suspend any person appointed (without prejudice to any rights or obligations under any contract between the person and the company); and



- (3) to appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.
- (g) Where this constitution confers power on a person or body to delegate a function or power:
 - (1) the delegation may be concurrent with, or (except in the case of a delegation by the Board) to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of a specified office or position;
 - (4) the delegation may include the power to delegate; and
 - (5) where the performance or exercise of that function or power is dependent on the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to that matter.

1.5 Single member company

If at any time the company has only one member then, unless the contrary intention appears:

- (a) a reference in a rule to 'the members' is a reference to that member;
- (b) without limiting rule 1.5(a), a rule which confers a power or imposes an obligation on the members to do a particular thing confers that power or imposes that obligation on that member; and
- (c) the company may pass a resolution by the member recording it and signing the record.

1.6 Single director company

If at any time the company has appointed only one director then, unless the contrary intention appears:

- (a) a reference in a rule to 'the Board' is a reference to that director;
- (b) without limiting rule 1.6(a), a rule which confers a power or imposes an obligation on the Board to do a particular thing confers that power or imposes that obligation on that director;
- (c) the director may pass a resolution by the director recording it and signing the record; and
- (d) rule 6.10 does not apply.



2 Share capital

2.1 Shares

Without prejudice to any special rights conferred on the holders of any shares or class of shares, the Board may:

- (a) issue, allot or grant options for, or otherwise dispose of, shares in the company; and
- (b) decide:
 - (1) the persons to whom shares are issued or options are granted;
 - (2) the terms on which shares are issued or options are granted; and
 - (3) the rights and restrictions attached to those shares or options.

2.2 Preference shares

- (a) The company may issue preference shares including preference shares which are, or at the option of the company or holder are, liable to be redeemed or convertible into ordinary shares.
- (b) Each preference share confers on the holder a right to receive a preferential dividend, in priority to the payment of any dividend on the ordinary shares, at the rate and on the basis decided by the Board under the terms of issue.
- (c) In addition to the preferential dividend and rights on winding up, each preference share may participate with the ordinary shares in profits and assets of the company, including on a winding up, if and to the extent the Board decides under the terms of issue.
- (d) The preferential dividend may be cumulative only if and to the extent the Board decides under the terms of issue, and will otherwise be non-cumulative.
- (e) Each preference share confers on its holder the right in a winding up and on redemption to payment in priority to the ordinary shares of:
 - (1) the amount of any dividend accrued but unpaid on the share at the date of winding up or the date of redemption, unless otherwise provided for in the terms of issue; and
 - (2) any additional amount specified in the terms of issue.
- (f) To the extent the Board may decide under the terms of issue, a preference share may confer a right to a bonus issue or capitalisation of profits in favour of holders of those shares only.
- (g) A preference share does not confer on its holder any right to participate in the profits or assets of the company except as set out above.
- (h) A preference share does not entitle its holder to vote at any general meeting of the company except in the following circumstances:
 - (1) on any of the proposals specified in rule 2.2(i);
 - (2) on a resolution to approve the terms of a buyback agreement;
 - (3) during a period in which a dividend or part of a dividend on the share is in arrears; or
 - (4) during the winding up of the company.



- (i) The proposals referred to in rule 2.2(h)(1) are proposals:
 - (1) to reduce the share capital of the company;
 - (2) that affect rights attached to the share;
 - (3) to wind up the company; or
 - (4) for the disposal of the whole of the property, business and undertaking of the company.
- (j) The holder of a preference share who is entitled to vote in respect of that share under rule 2.2(h) is, on a poll, entitled to the greater of one vote per share or such other number of votes specified in, or determined in accordance with, the terms of issue for the share.
- (k) In the case of a redeemable preference share, the company must redeem the share, pay the amount payable on redemption of the share, or otherwise deal with the redemption, in accordance with the terms of issue.
- (l) A holder of a preference share must not transfer or purport to transfer, and the company must not register a transfer of, the share if the transfer would contravene any restrictions on the right to transfer the share set out in the terms of issue for the share.

2.3 Variation of class rights

- (a) Unless otherwise provided by the terms of issue, a class of shares may, unless their terms of issue state otherwise, be varied:
 - (1) with the written consent of the holders of 75% of the shares of the class; or
 - (2) by a special resolution passed at a separate meeting of the holders of shares of the class.
- (b) The provisions of this constitution relating to general meetings apply, with necessary changes, to separate class meetings as if they were general meetings.
- (c) The rights conferred on the holders of any class of shares are to be taken as not having been varied by the creation or issue of further shares ranking equally with them, unless the terms of issue provide otherwise.

2.4 Conversion or reclassification of shares

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

2.5 Alteration of share capital

- (a) The company may alter its share capital in any manner permitted by law.
- (b) Subject to the Act, the Board may do anything required to give effect to any resolution altering the company's share capital, including, where fractions of shares are or would otherwise be created by an alteration of share capital under rule 2.5(a), the Board may:
 - (1) make cash payments;
 - (2) decide that fractions of shares are to be disregarded or rounded down to the nearest whole share;



- (3) appoint a trustee to deal with any fractions on behalf of members; or
- (4) decide that fractions of shares are to be rounded up to the nearest whole share by capitalising any amount available for capitalisation under rule 9.2 even though only some of the members may participate in that capitalisation.

2.6 Equitable and other claims

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

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

2.7 Currency

An amount payable to the holder of a share, whether by way of or on account of dividend, return of capital, participation in the property of the company on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the share, in the currency of a country other than Australia and the Board may fix a time on or before the payment date as the time at which any applicable exchange rate will be determined for that purpose.

2.8 Joint holders of shares

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

- (a) they are liable individually as well as jointly for all payments, including calls, in respect of the share;
- (b) subject to rule 2.8(a), on the death of any one of them the survivor is the only person the company will recognise as having any title to the share;
- (c) any one of them may give effective receipts for any dividend, bonus, interest or other distribution or payment in respect of the share; and
- (d) except where persons are jointly entitled to a share because of a Transmission Event, the company may, but is not required to, register more than 3 persons as joint holders of the share.

3 Calls, forfeiture, lien and surrender

3.1 Calls

- (a) Subject to the terms on which any shares are issued, the Board may:
 - (1) make calls on the members for any amount unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times; and



- (2) on the issue of shares, differentiate between members as to the amount of calls to be paid and the time for payment.
- (b) The Board may require a call to be paid by instalments.
- (c) The Board must send members notice of a call at least 14 days before the amount called is due, specifying the amount called is due, specifying the amount of the call, the time for payment and the manner in which payment must be made.
- (d) Each member must pay to the company by the time and at the place so specified the amount called on the member's shares.
- (e) A call is taken to have been made when the resolution of the Board authorising the call is passed.
- (f) The Board may revoke a call or extend the time for payment.
- (g) A call is valid even if a member for any reason does not receive notice of the call.
- (h) If an amount called on a share is not paid in full by the time specified for payment, the person who owes the amount must pay:
 - (1) interest on the unpaid part of the amount from the date payment is due to the date payment is made, at a rate determined under rule 3.9; and
 - (2) if the share was issued after the date this constitution is adopted, any costs, expenses or damages the company incurs due to the failure to pay or late payment.
- (i) Any amount unpaid on a share that, by the terms of issue of the share, becomes payable on issue or at a fixed date:
 - (1) is treated for the purposes of this constitution as if that amount were payable under a call duly made and notified; and
 - (2) must be paid on the date on which it is payable under the terms of issue of the share.
- (j) The Board may, to the extent the law permits, waive or compromise all or part of any payment due to the company under the terms of issue of a share or under this rule 3.1.

3.2 Proceedings to recover calls

- (a) In a proceeding to recover a call, or an amount payable due to the failure to pay or late payment of a call, proof that:
 - (1) the name of the defendant is entered in the register as the holder or one of the holders of the share on which the call is claimed;
 - (2) the resolution making the call is recorded in the minute book; and
 - (3) notice of the call was given to the defendant complying with this constitution,is conclusive evidence of the obligation to pay the call and it is not necessary to prove the appointment of the directors who made the call or any other matter.
- (b) In rule 3.2(a), 'defendant' includes a person against whom the company alleges a set-off or counterclaim, and a 'proceeding' to recover a call or an amount is to be interpreted accordingly.



3.3 Payments in advance of calls

- (a) The Board may accept from a member the whole or a part of the amount unpaid on a share even though no part of that amount has been called.
- (b) The Board may authorise payment by the company of interest on an amount accepted under rule 3.3(a), until the amount becomes payable, at a rate agreed between the Board and the member paying the amount.
- (c) The Board may repay to a member any amount accepted under rule 3.3(a).

3.4 Forfeiting partly paid shares

- (a) If a member fails to pay the whole of a call or an instalment of a call by the time specified for payment, the Board may serve a notice on that member:
 - (1) requiring payment of the unpaid part of the call or instalment, together with any interest that has accrued and all costs, expenses or damages that the company has incurred due to the failure to pay;
 - (2) specifying a further time (at least 14 days after the date of the notice) by which, and the manner in which, the amount payable under rule 3.4(a)(1) must be paid; and
 - (3) stating that if the whole of the amount payable under rule 3.4(a)(1) is not paid by the time and in the manner specified, the shares on which the call was made will be liable to be forfeited.
- (b) If a member does not comply with a notice served under rule 3.4(a), the Board may by resolution forfeit any share concerning which the notice was given at any time after the day named in the notice and before the payment required by the notice is made.
- (c) A forfeiture under rule 3.4(b) includes all dividends, interest and other amounts payable by the company on the forfeited share and not actually paid before the forfeiture.
- (d) Where a share has been forfeited:
 - (1) notice of the resolution must be given to the member in whose name the share stood immediately before the forfeiture; and
 - (2) an entry of the forfeiture, with the date, must be made in the register of members.
- (e) Failure to give the notice or to make the entry required under rule 3.4(d) does not invalidate the forfeiture.
- (f) A forfeited share becomes the property of the company and the Board may sell, reissue or otherwise dispose of the share as they think fit and, in the case of reissue or other disposal, with or without crediting as paid up any amount paid on the share by any former holder.
- (g) A person whose shares have been forfeited ceases to be a member as to the forfeited shares, but must, unless the Board determines otherwise, pay to the company:
 - (1) all calls, instalments, interest, costs, expenses and damages owing on the shares at the time of the forfeiture; and

- (2) interest on the unpaid part of the amount payable under rule 3.4(g)(1), from the date of the forfeiture to the date of payment, at a rate determined under rule 3.4(g)(1).
- (h) The forfeiture of a share extinguishes all interest in, and all claims and demands against the company relating to, the forfeited share and, subject to rule 3.4(i) all other rights attached to the share.
- (i) The Board may:
 - (1) exempt a share from all or part of this rule 3.4;
 - (2) waive or compromise all or part of any payment due to the company under this rule 3.4; and
 - (3) before a forfeited share has been sold, reissued or otherwise disposed of, cancel the forfeiture on the conditions it decides.

3.5 Indemnity for payments by the company

- (a) If the company becomes liable under any law to make any payment:
 - (1) in respect of shares held solely or jointly by a member;
 - (2) in respect of a transfer or transmission of shares by a member;
 - (3) in respect of dividends, bonuses or other amount due or payable or which may become due and payable to a member; or
 - (4) otherwise for or on account of or in respect of a member,
 rules 3.5(b) to 3.5(e) apply, in addition to any right or remedy that the company may otherwise have.
- (b) The member or, if the member is dead, the member's legal personal representative, must:
 - (1) fully indemnify the company against that liability;
 - (2) reimburse the company for any payment made under or as a consequence of that law immediately on demand by the company; and
 - (3) pay interest on so much of the amount payable to the company under rule 3.5(b)(2) as is unpaid from time to time, from the date the company makes a payment under that law until the date the company is reimbursed in full for that payment under rule 3.5(b)(2), at a rate determined under rule 3.9;
- (c) the company has a lien over all dividends, interest and other amounts payable in respect of the shares held solely or jointly by that member or that member's legal personal representative for all amounts payable to the company under this rule 3.5;
- (d) the company may refuse to register a transfer of any shares by or to that member or that member's legal personal representative until all amounts payable to the company under this rule 3.5 have been paid; and
- (e) the Board may:
 - (1) exempt a share from all or any part of this rule 3.5; and
 - (2) waive or compromise all or any part of any payment due to the company under this rule 3.5.



3.6 Lien on shares

- (a) The company has a first lien on:
 - (1) each partly paid share for all unpaid calls and instalments due on that share; and
 - (2) each share for any amounts the company is required by law to pay and has paid in respect of that share.

In each case the lien extends to reasonable interest and expenses incurred because the amount is not paid.
- (b) The company's lien on a share extends to all dividends payable on the share and to the proceeds of sale of the share.
- (c) The Board may sell a share on which the company has a lien as it thinks fit where:
 - (1) an amount for which a lien exists under this rule 3.6 is presently payable; and
 - (2) the company has given the registered holder a written notice, at least 14 days before the date of the sale, stating and demanding payment of that amount.
- (d) When the company registers a transfer of shares on which the company has a lien without giving the transferee notice of its claim, the company's lien is released so far as it relates to amounts owing by the transferor or any predecessor in title.
- (e) The Board may:
 - (1) exempt a share from all or part of this rule 3.6; and
 - (2) waive or compromise all or part of any payment due to the company under this rule 3.6.

3.7 Surrender of shares

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

3.8 Sale, reissue or other disposal of shares by the company

- (a) A reference in this rule 3.8 to a sale of a share by the company is a reference to any sale, reissue or other disposal of a share under rules 3.4(f), 3.6(c) or 3.7(b).
- (b) When the company sells a share, the Board may:
 - (1) receive the purchase money or consideration given for the share;
 - (2) effect a transfer of the share or execute or appoint a person to execute, on behalf of the former holder, a transfer of the share; and
 - (3) register as the holder of the share the person to whom the share is sold.
- (c) A person to whom the company sells shares need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration on the sale is applied. That person's title to the shares



is not affected by any irregularity by the company in relation to the sale. A sale of the share by the company is valid even if a Transmission Event occurs to the member before the sale.

- (d) The only remedy of a person who suffers a loss because of a sale of a share by the company is a claim for damages against the company.
- (e) The proceeds of a sale of shares by the company must be applied in paying:
 - (1) first, the expenses of the sale; and
 - (2) secondly, all amounts payable (whether presently or not) by the former holder to the company,and any balance must be paid to the former holder on the former holder delivering to the company proof of title to the shares acceptable to the Board.
- (f) A written statement by a director or secretary of the company that a share in the company has been:
 - (1) duly forfeited under rule 3.4(b);
 - (2) duly sold, reissued or otherwise disposed of under rule 3.4(f) or 3.7; or
 - (3) duly sold under rule 3.6(c),on a date stated in the statement is conclusive evidence of the facts stated as against all persons claiming to be entitled to the share, and of the right of the company to forfeit, sell, reissue or otherwise dispose of the share.

3.9 Interest payable by member

- (a) For the purposes of rules 3.1(h)(1), 3.4(g)(2) and 3.5(b)(3), the rate of interest payable to the company is:
 - (1) if the Board has fixed a rate, that rate; or
 - (2) in any other case, a rate per annum 2% higher than the rate prescribed in respect of unpaid judgments in the Supreme Court of the state or territory in which the company is registered.
- (b) Interest payable under rules 3.1(h)(1), 3.4(g)(2) and 3.5(b)(3) accrues daily and may be capitalised monthly or at such other intervals the Board determines.

4 Transfer and transmission of shares

4.1 Transfer of shares

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, a member may transfer any of the member's shares by an instrument in writing in any usual form or in any other form approved by the Board.
- (b) An instrument of transfer referred to in rule 4.1(a) must be:
 - (1) signed by or on behalf of both the transferor and the transferee unless the instrument of transfer relates only to fully paid shares and the Board has dispensed with signature by the transferee or the transfer of the shares is effected by a document which is, or documents which together are, a sufficient transfer of those shares under the Act;

- (2) if required by law to be stamped, duly stamped;
 - (3) in the case of a transfer of partly paid shares, endorsed by, or accompanied by an instrument executed by, the transferee to the effect that the transferee agrees to accept the shares subject to the terms and conditions on which the transferor held them and to become a member and to be bound by the company's constitution; and
 - (4) left for registration at the company's registered office, or at any other place the Board decides, with such evidence the Board requires to prove the transferor's title or right to the shares and the transferee's right to be registered as the owner of the shares.
- (c) Subject to the powers vested in the Board under rules 4.2 and 4.3, where the company receives an instrument of transfer complying with rule 4.1(b), the company must register the transferee named in the instrument as the holder of the shares to which it relates.
 - (d) 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 of members as the holder of the shares.
 - (e) The company may retain a registered instrument of transfer for any period the Board determines.
 - (f) Except in the case of fraud, the company must return any instrument of transfer which the Board declines to register to the person who deposited it with the company.
 - (g) The Board may, to the extent permitted by law, waive all or any part of the requirements of this rule 4.1.

4.2 Power to decline registration of transfers

Subject to any special rights conferred on the holders of any shares or class of shares, the Board may, in its absolute discretion, decline to register any transfer of shares.

4.3 Power to suspend registration of transfers

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

4.4 Transmission of shares

- (a) Where a member dies, the only persons the company will recognise as having any title to the member's shares or any benefits accruing on those shares are:
 - (1) the legal personal representative of the deceased, where the deceased was a sole holder; and
 - (2) the survivor or survivors, where the deceased was a joint holder.
- (b) Rule 4.4(a) does not release the estate of a deceased member from any liability on a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a share because of a Transmission Event may, on producing any evidence the Board requires to prove that person's entitlement to the share, choose:



- (1) to be registered as the holder of the share by signing and giving the company a written notice stating that choice; or
 - (2) to nominate some other person to be registered as the transferee of the share by executing or effecting in some other way a transfer of the share to that other person.
- (d) The provisions of this constitution concerning the right to transfer shares, and the registration of transfers of shares apply, so far as they can and with any necessary changes, to any transfer under rule 4.4(c) as if the relevant Transmission Event had not occurred and the transfer were signed by the registered holder of the share.
- (e) For the purpose of this constitution, where 2 or more persons are jointly entitled to a share because of a Transmission Event they will, on being registered as the holders of the share, be taken to hold the share as joint tenants.
- (f) Despite rule 4.4(a), the Board may register a transfer of shares signed by a member before a Transmission Event even though the company has notice of the Transmission Event.

5 General meetings

5.1 Calling general meetings

- (a) A general meeting may only be called:
 - (1) by a Board resolution; or
 - (2) as otherwise provided in the Act.
- (b) Subject to rule 5.1(c), the Board may postpone, cancel or change the venue for a general meeting.
- (c) A general meeting called in accordance with a members' requisition under the Act and any other meeting that is not called by a Board resolution may not be postponed beyond the date by which the Act requires it to be held and may not be cancelled without the consent of the persons who called or requisitioned the meeting.

5.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Act.
- (b) The content of a notice of a general meeting called by the Board is to be decided by the Board, but must state the general nature of the business to be transacted at the meeting and any other matters required by the Act.
- (c) A person may waive notice of any general meeting by written notice to the company.
- (d) Failure to give a member or any other person notice of a general meeting or a proxy form, does not invalidate anything done or any resolution passed at the general meeting if:
 - (1) the failure occurred by accident or inadvertent error; or



- (2) before or after the meeting, the person notifies the company of the person's agreement to that thing or resolution.
- (e) A person's attendance at a general meeting waives any objection that person may have to:
 - (1) a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (2) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

5.3 Admission to general meetings

The chairperson of a general meeting may take any action they consider appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) in possession of a pictorial-recording or sound-recording device;
- (b) in possession of a placard or banner;
- (c) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who refuses to comply with a request to turn off a mobile telephone, personal communication device or similar device;
- (f) who behaves or threatens to behave or who the chairperson has reasonable grounds to believe may behave in a dangerous, offensive or disruptive way; or
- (g) who is not entitled to receive notice of the meeting.

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

5.4 Quorum at general meetings

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of:
 - (1) if the number of members entitled to vote is 2 or more – 2 members; or
 - (2) if only one member is entitled to vote – that member,present at the meeting and entitled to vote on a resolution at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for the general meeting:
 - (1) where the meeting was called at the request of members, the meeting must be dissolved; or
 - (2) in any other case, the meeting stands adjourned to the day, time and place the directors present decide or, if they do not make a decision,

to the same day in the next week at the same time and place and if a quorum is not present at the adjourned meeting within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

5.5 Chairperson of general meetings

- (a) The chairperson of the Board must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting there is no chairperson of the Board or the chairperson of the Board is not present or not willing to act as chairperson of the meeting, the other directors present must select a director to act as chairperson.
- (c) A chairperson of a general meeting may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by him or her (**Acting Chairperson**). Where an instrument of proxy appoints the chairperson as proxy for part of the proceedings for which an Acting Chairperson has been nominated, the instrument of proxy is taken to be in favour of the Acting Chairperson for the relevant part of the proceedings.
- (d) Wherever the term 'chairperson' is used in this rule and elsewhere in rule 5, it is to be read as a reference to the chairperson of the general meeting, unless the context indicates otherwise.

5.6 Conduct at general meetings

- (a) Subject to the provisions of the Act, the chairperson is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (b) The chairperson may, at any time the chairperson considers it necessary or desirable for the efficient and orderly conduct of the meeting:
 - (1) impose a limit on the time that a person may speak on a motion or other item of business before the meeting;
 - (2) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the members present;
 - (3) decide not to put to the meeting any resolution proposed in the notice convening the meeting (other than a resolution proposed by members in accordance with section 249N of the Act or required by the Act to be put to the meeting); and
 - (4) adopt any procedures for casting or recording votes at the meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- (c) A decision by a chairperson under rules 5.6(a) and 5.6(b) is final.
- (d) Whether or not a quorum is present, the chairperson may postpone the meeting before it has started if, at the time and place appointed for the meeting, he or she considers that:
 - (1) there is not enough room for the number of members who wish to attend the meeting;



- (2) a postponement is necessary in light of the behaviour of persons present or for any other reason so that the business of the meeting can be properly carried out; or
 - (3) the technology or electronic participation facility being utilised for a meeting under rule 5.6(l) is not operating effectively.
- (e) A postponement under rule 5.6(d) will be to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place will be taken to be the time and place for the meeting as if specified in the notice that called the meeting originally).
- (f) The chairperson may at any time during the course of the meeting:
 - (1) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question or resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting; and
 - (2) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period or periods as he or she decides without effect an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chairperson otherwise allows.
- (g) The chairperson's rights under rules 5.6(d) and 5.6(f) are exclusive and, unless the chairperson requires otherwise, no vote may be taken or demanded by the members present concerning any postponement, adjournment or suspension of proceedings.
- (h) Only unfinished business may be transacted at a meeting resumed after an adjournment.
- (i) Where a meeting is postponed or adjourned under this rule 5.6, notice of the postponed or adjourned meeting need not be given to any person unless the meeting is adjourned or postponed for more than 30 days.
- (j) Where a meeting is postponed or adjourned, the Board may postpone, cancel or change the venue of the adjourned or postponed meeting.
- (k) Where a meeting is postponed or adjourned for 30 days or more, notice of the postponed or adjourned meeting must be given as in the case of the original meeting.
- (l) The Board may determine to hold a general meeting of members using or with the assistance of any technology that gives the members as a whole a reasonable opportunity to participate, including but not limited to, electronic participation facilities (with or without members being able to attend a physical meeting) or linking separate meeting places together by technology.
- (m) If a general meeting is to be held in accordance with 5.6(l), the Board may prescribe the regulations, rules and procedures in relation to the manner in which the meeting is to be conducted.
- (n) If, before or during the meeting, any technical difficulty occurs which may materially impact the participation of members who are not present in the same location as the chairperson, the chairperson may:
 - (1) adjourn the meeting until the difficulty is remedied; or



- (2) continue to hold the meeting in the main place (and any other place which is linked under rule 5.6(l)) and transact business, and no member may object to the meeting being held or continuing.
- (o) In no circumstances shall the inability of one or more members to access, or to continue to access, technology or an electronic participation facility or facilities affect the validity of a general meeting or any business conducted at a general meeting, provided that a quorum of members are able to participate in the meeting.
- (p) Nothing in this rule 5.6 or rule 5.3 is to be taken to limit the powers conferred on the chairperson by law.

5.7 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the members present at the meeting. A decision made in this way is for all purposes a decision of the members.
- (b) If votes are equal on a proposed resolution, the chairperson has a casting vote, in addition to any deliberative vote.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands, unless a poll is demanded by:
 - (1) the chairperson; or
 - (2) any member present and having the right to vote at the meeting,before a show of hands is held or before the result of the show of hands is declared or immediately after the result of the show of hands is declared.
- (d) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll is demanded.
- (e) A poll may be demanded by members in accordance with the Act (and not otherwise) or by the chairperson.
- (f) Unless a poll is duly demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.
- (g) A poll at a general meeting must be taken in the way and at the time the chairperson directs. The result of the poll as declared by the chairperson is the resolution of the meeting at which the poll was demanded.
- (h) A poll cannot be demanded at a general meeting on the election of a chairperson.
- (i) The demand for a poll may be withdrawn with the chairperson's consent.

5.8 Direct voting

- (a) Despite anything to the contrary in this constitution, the Board may decide that, at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of



that resolution. A 'direct vote' includes a vote delivered to the company by post, or other electronic means approved by the Board.

- (b) The Board may prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

5.9 Voting rights

- (a) Subject to this constitution and the Act and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (1) on a show of hands, every member present has one vote; and
 - (2) on a poll, every member present has one vote for each share held as at the Record Time by the member entitling the member to vote, except for partly paid shares, each of which confers on a poll only the fraction of one vote which the amount paid (not credited) on the share bears to the total amounts paid and payable (excluding amounts credited) on the share. An amount paid in advance of a call is disregarded for this purpose.
- (b) If a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member, then on a show of hands the person is, subject to the Act, entitled to one vote only, even though he or she represents more than one member.
- (c) A joint holder may vote at a meeting personally or by proxy, attorney or Representative as if that person were the sole holder. If more than one joint holder tenders a vote in respect of the relevant shares, the vote of the holder named first in the register who tenders a vote, whether in person or by proxy, attorney or Representative, must be accepted to the exclusion of the other joint holders.
- (d) A person entitled to a share because of a Transmission Event may vote at any general meeting in respect of that share in the same way as if that person were the registered holder of the share if, at least 48 hours before the meeting (or such shorter time as the Board determines), the Board has:
 - (1) admitted that person's right to vote at that meeting in respect of the share; or
 - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, the share.

Any vote tendered by that person must be accepted and the vote of the registered holder of those shares must not be counted.
- (e) The parent or guardian of an infant member may vote at any general meeting on such evidence being produced of the relationship or of the appointment of the guardian as the Board may require and any vote so tendered by a parent or guardian of an infant member must be accepted to the exclusion of the vote of the infant member.
- (f) Where a member holds a share on which a call or other amount payable to the company has not been duly paid:
 - (1) that member is only entitled to be present at a general meeting and vote if that member holds, as at the Record Time, other shares on which no money is then due and payable; and



- (2) on a poll, that member is not entitled to vote in respect of that share but may vote in respect of any shares that member holds, as at the Record Time, on which no money is then due and payable.
- (g) A member is not entitled to vote on a resolution if under the Act:
 - (1) the member must not vote or must abstain from voting on the resolution; or
 - (2) a vote on the resolution by the member must be disregarded for any purposes.

If the member or a person acting as proxy, attorney or Representative of the member does tender a vote on that resolution, their vote must not be counted.
- (h) An objection to the validity of a person to vote at a general meeting must be:
 - (1) raised before or immediately after the result of the vote is declared; and
 - (2) referred to the chairperson, whose decision is final.
- (i) A vote tendered but not disallowed by the chairperson under rule 5.9(h) is valid for all purposes, even if it would otherwise not have been valid.

5.10 Decisions without general meetings

- (a) When the company has more than one member, the company may pass a resolution (except a resolution to remove an auditor) without a general meeting being held:
 - (1) if all of the members entitled to vote on the resolution sign a document containing a statement that they are in favour of a resolution set out in the document; and
 - (2) otherwise in accordance with the Act.
- (b) If a share is held jointly, each of the joint members must sign the document.
- (c) For the purposes of rule 5.10(a):
 - (1) the resolution is passed when the last person signs the document; and
 - (2) separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- (d) The passage of the resolution satisfies any requirement in the Act, or in this constitution, that the resolution be passed at a general meeting.

5.11 Resolution of single member

When the company has only one member, rule 1.5(c) applies to the passing of a resolution by the member.

5.12 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a general meeting may vote:
 - (1) in person or, where a member is a body corporate, by its Representative;



- (2) by not more than 2 proxies; or
 - (3) by not more than 2 attorneys.
- (b) A proxy, attorney or Representative may, but need not, be a member of the company.
- (c) An instrument appointing a proxy is valid if it is in accordance with the Act or in any form approved by the Board.
- (d) For the purposes of this rule, a proxy appointment received at an electronic address specified in the notice of general meeting for the receipt of proxy appointments or otherwise received by the company in accordance with the Act is taken to have been signed or executed if the appointment:
 - (1) includes or is accompanied by a personal identification code allocated by the company to the member making the appointment;
 - (2) has been authorised by the member in another manner approved by the Board and specified in or with the notice of meeting; or
 - (3) is otherwise authenticated in accordance with the Act.
- (e) A proxy form issued by the company must allow for the insertion of the name of the person to be primarily appointed as proxy and may provide that, in circumstances and on conditions specified in the form that are not inconsistent with this constitution, the chairperson (or another person specified in the form) is appointed as proxy.
- (f) A proxy, attorney or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (g) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or Representative will be taken to confer authority:
 - (1) to agree to a meeting being convened by shorter notice than is required by the Act or by this constitution;
 - (2) to agree to a resolution being proposed and passed as a special resolution at a meeting of which less than the period of notice required by the Act has been given;
 - (3) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions to do any of the acts specified in rule 5.12(h); and
 - (4) even though the appointment may refer to a specific meeting to be held at a specified time or venue or using specific technology, where the meeting is rescheduled, adjourned or postponed to another time or changed to another venue or technology, to attend and vote at the rescheduled, adjourned or postponed meeting or at the new venue or using such technology.
- (h) The acts referred to in rule 5.12(g)(3) are:
 - (1) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (2) to vote on any motion before the meeting, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting, whether or not the motion is referred to in the appointment; and



- (3) to act generally at the meeting (including to speak, demand a poll, join in demanding a poll and to move motions).
- (i) Where a member appoints 2 proxies or attorneys to vote at the same general meeting, the following rules apply:
 - (1) if the appointment does not specify the proportion or number of votes that each may exercise, each person appointed may exercise half the member's votes;
 - (2) on a show of hands, neither proxy or attorney may vote if more than one proxy or attorney attends;
 - (3) on a poll, each proxy or attorney may only exercise in respect of those shares or voting rights the proxy or attorney represents; and
 - (4) if both appointments cannot be validly exercised at the meeting, the later appointment revokes the earlier appointment of a proxy or attorney.
- (j) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (k) Subject to rule 5.12(l), an instrument appointing a proxy or attorney need not be in any particular form as long as it is in writing, legally valid and signed by or on behalf of the appointer or the appointer's attorney.
- (l) Subject to the Act, a proxy or attorney may not vote at a general meeting or adjourned or postponed meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are received by the company:
 - (1) at least 48 hours, or such lesser time as specified by the Board in the notice of meeting, (or in the case of an adjournment or postponement of a meeting, any lesser time that the Board or the chairperson decides) before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable; or
 - (2) where rule 5.12(q)(2) applies, such shorter period before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable, as the company determines in its discretion.
- (m) A document is received by the company under this rule when it is received in accordance with the Act, and to the extent permitted by the Act, if the document is produced or the transmission of the document is otherwise verified to the company in the way specified in the notice of meeting.
- (n) The Board may waive all or any of the requirements of rules 5.12(k) and 5.12(l) and in particular may, on the production of such other evidence as the Board requires to prove the validity of the appointment of a proxy or attorney, accept:
 - (1) an oral appointment of a proxy or attorney;
 - (2) an appointment of a proxy or attorney which is not signed in the manner required by the Board under rule 5.12(k); and
 - (3) the receipt of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.



- (o) Unless written notice of the matter has been received at the company's registered office (or at another place specified for lodging an appointment of a proxy, attorney or Representative for the meeting) within the time period specified under rules 5.12(l) or 5.12(q) (as applicable), a vote cast by a proxy, attorney or Representative is valid even if, before the vote is cast:
 - (1) a Transmission Event occurs in relation to the member; or
 - (2) the member revokes the appointment of the proxy, attorney or Representative or revokes the authority under which a third party appointed the proxy, attorney or Representative.
- (p) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the share in respect of which the instrument was given, if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be received under rule 5.12(l).
- (q) Where the company receives an instrument appointing a proxy or attorney in accordance with rule 5.12 and within the time period specified in rule 5.12(l)(1) the company is entitled to:
 - (1) clarify with the appointing member any instruction in relation to that instrument by written or verbal communication and make any amendments to the instrument required to reflect any clarification; and
 - (2) where the company considers that the instrument has not been duly executed, return the instrument to the appointing member and request that the member duly execute the instrument and return it to the company within the period determined by the company under rule 5.12(l)(2) and notified to the member.
- (r) The member is taken to have appointed the company as its attorney for the purpose of any amendments made to an instrument appointing a proxy in accordance with rule 5.12(q). An instrument appointing a proxy or attorney which is received by the company in accordance with rule 5.12(q) is taken to have been validly received by the company
- (s) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the person acting as proxy or attorney for the appointer is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

6 Directors

6.1 Appointment and removal of directors

- (a) There must be:
 - (1) at least three directors or such higher minimum number as may be required from time to time by any law, regulation or standard applicable to the company; and
 - (2) unless the company resolves otherwise, not more than 12 directors.
- (b) The company may by resolution appoint or remove a director.



- (c) Where the company is the wholly owned subsidiary of another company (**Holding Company**), the Holding Company may by written notice served on the company appoint or remove a director.
- (d) The Board may appoint any natural person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but the total number of directors must not at any time exceed the maximum number allowed under this constitution.
- (e) Despite anything else in this rule 6.1, a person is not eligible to be appointed, or elected, as a director unless they are also eligible to hold that office under any Australian legislation or any regulatory requirement or standard made in accordance with such legislation applicable to the company.
- (f) Subject to rule 6.2 and to the terms of any agreement entered into between the company and the relevant director, a director holds office until the director dies or is removed from office under this rule 6.1.

6.2 Vacation of office

The office of a director becomes vacant:

- (a) in the circumstances prescribed by the Act;
- (b) if the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (c) if the director is removed from office under rule 6.1(c);
- (d) is disqualified from holding office as a director of the company on the grounds of not being 'fit and proper' within the meaning of any Australian legislation or any regulatory requirement or standard made in accordance with such legislation applicable to the company;
- (e) fails to attend meetings of the Board for more than 3 consecutive months without leave of absence from the Board and a majority of the other directors have not, within 14 days of having been given a notice by the secretary giving details of the absence, resolved that leave of absence be granted; or
- (f) if the director resigns by written notice to the company.

6.3 Remuneration of directors

- (a) Each director is entitled to such remuneration out of the funds of the company as the Board determines, but if the company in general meeting has fixed a limit on the amount of remuneration payable to the directors, the total remuneration of the directors under this rule 6.3(a) must not exceed that limit.
- (b) The remuneration of directors may be provided in such manner that the Board decides, including by way of non-cash benefit, such as a contribution to a superannuation fund, and may be:
 - (1) a stated salary or a fixed sum for attendance at each meeting of directors, or both; or
 - (2) a share of a fixed sum decided by the company in general meeting to be the remuneration payable to all directors which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally.
- (c) The remuneration is taken to accrue from day to day.



- (d) In addition to their remuneration under rule 6.3(a), the directors are entitled to be paid all travelling and other expenses they incur in attending to the company's affairs, including attending and returning from general meetings of the company or meetings of the Board or of committees of the Board.
- (e) Any director who performs extra services, makes any special exertions for the benefit of the company or who otherwise performs services which, in the opinion of the Board are outside the scope of the ordinary duties of a non-executive director, may be remunerated for the services (as determined by the Board) out of the funds of the company. Any amount paid under this rule 6.3(e) will be in addition to that director's remuneration under rule 6.3(a).
- (f) If a director is also an officer or an executive of the company or of a related body corporate, any remuneration that director may receive for acting in their capacity as that officer or executive, which may be either in addition to or in substitution for that director's remuneration under rule 6.3(a).
- (g) If a limit is fixed by the company on the amount of remuneration payable to the directors under rule 6.3(a), the maximum amount fixed does not include any amount paid by the company or related body corporate:
 - (1) to a superannuation, retirement or pension fund for a director so that the company is not liable to pay the superannuation guarantee charge or similar statutory charge; or
 - (2) for any insurance premium paid or agreed to be paid for a director under rule 11.4.
- (h) The Board may:
 - (1) at any time after a director dies or ceases to hold office as a director for any other reason, pay or provide to the director or a legal personal representative, spouse, relative or dependant of the director, in addition to the remuneration of that director under rule 6.3(a), a pension or lump sum payment in respect of past services rendered by that director; and
 - (2) cause the company to enter into a contract with the director or a legal representative, spouse, relative or dependent of the director to give effect to such a payment or provide for such a benefit.
- (i) Any director may be paid a retirement benefit, as determined by the Board, in accordance with the Act. The Board may make arrangements with any director with respect to the payment of retirement benefits in accordance with this rule 6.3(i).
- (j) The Board may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors and grant pensions and allowances to those persons or their dependants either by periodic payment or a lump sum.

6.4 No share qualification

- (a) A director need not hold any shares in the company as a qualification.
- (b) A director who is not a member of the company is entitled to attend and speak at general meetings and at meetings of the holders of a class of shares.



6.5 Interested directors

- (a) A director may hold any other office or place of profit (other than auditor) in the company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or place on such terms as to remuneration, tenure of office and otherwise as the Board determines.
- (b) A director of the company may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise, and, with the consent of the Board, need not account to the company for any remuneration or other benefits received by the director as a director or officer of, or from having an interest in, that body corporate.
- (c) The Board may exercise the voting rights conferred by shares in any body corporate held or owned by the company in such manner in all respects as the Board determines (including voting in favour of any resolution appointing a director as a director or other officer of that body corporate or voting for the payment of remuneration to the directors or other officers of that body corporate) and a director may, if permitted by law, vote in favour of the exercise of those voting rights even though he or she is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A director is not disqualified merely because of being a director from contracting with the company.
- (e) No contract made by a director with the company, and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested, is avoided or rendered voidable merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under any contract or arrangement merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (g) A director who has an interest in a matter that is being considered at a meeting of the Board may, despite that interest, vote, be present and be counted in a quorum at the meeting, unless that is prohibited by the Act. No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a director fails to comply with that prohibition.
- (h) A director who is interested in any contract or arrangement may, despite that interest, participate in the execution of any document by or on behalf of the company evidencing or otherwise connected with that contract or arrangement.
- (i) The Board may make regulations requiring the disclosure of interests that a director, and any person deemed by the Board to be related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this constitution bind all directors.
- (j) While the company is a wholly owned subsidiary its directors may, subject to the Act and any other Australia legislation or any regulatory requirement or standard made in accordance with such legislation applicable to the company, act in the best interests of the company's holding company or ultimate holding company.



6.6 Powers and duties of directors

- (a) The business and affairs of the company are to be managed by, or under the direction of, the Board, which (in addition to the powers and authorities conferred on it by this constitution) may exercise all powers and do all things that are:
 - (1) within the powers of the company; and
 - (2) not by this constitution or by law directed or required to be done by the company in general meeting.
- (b) Without limiting the general nature of rule 6.6(a), the Board may exercise all the powers of the company to borrow or raise money in any other way, to charge any of the company's property or business or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The Board may decide how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the company.
- (d) The Board may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) Debentures or other securities may be issued on the terms and at prices decided by the Board, including bearing interest or not, with rights to subscribe for, or exchange into, shares or other securities in the company or a related body corporate or with special privileges as to redemption, participating in share issues, attending and voting at general meetings and appointing directors.
- (f) The Board may:
 - (1) appoint or employ any person to be an officer, agent or attorney of the company for such purposes with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Board), for such period and on such conditions as they decide;
 - (2) authorise an officer, agent or attorney to delegate any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (3) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.
- (g) The Board may delegate any of their powers to a related body corporate of the company, including to persons from time to time holding, occupying or performing the duties of a specified office or position in the related body corporate.
- (h) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Board decides.

6.7 Proceedings of the Board

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



meeting of the Board. All the provisions in this constitution relating to meetings of the Board apply, so far as they can and with such changes as are necessary, to meetings of the Board by telephone or other electronic means.

- (c) A meeting by telephone or other electronic means is to be taken to be held at the company's registered office or at such other place determined by the chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.
- (d) If, before or during the meeting, any technical difficulty occurs as a result of which one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.
- (e) A director taking part in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting and all directors participating in the meeting will (unless there is a specific statement otherwise) be taken to have consented to the holding of the meeting by the relevant electronic means.

6.8 Calling meetings of the Board

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

6.9 Notice of meetings of the Board

- (a) Subject to this constitution, notice of a meeting of the Board must be given to each person who is at the time of giving the notice:
 - (1) a director, other than a director on leave of absence approved by the Board; or
 - (2) an alternate director appointed under rule 6.14 by a director on leave of absence approved by the Board.
- (b) A notice of a meeting of the Board:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting;
 - (4) may be given in person or by post, telephone, fax or other electronic means; and
 - (5) is to be taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of any meeting of the Board by notifying the company to that effect in person or by post, telephone, fax or other electronic means.
- (d) Failure to give a director or alternate director notice of a meeting of the Board does not invalidate anything done or resolution passed at the meeting if:
 - (1) the failure occurred by accident or inadvertent error; or
 - (2) the director or an alternate director attended the meeting or waived notice of the meeting (whether before or after the meeting).



- (e) A person who attends a meeting of the Board waives any objection that person may have to a failure to give notice of the meeting.
- (f) If the person is:
 - (1) a director, the waiver applies to any alternate director appointed by that person; or
 - (2) an alternate director,the waiver applies to the director who appointed that person as an alternate director and to any other alternate director appointed by that director.

6.10 Quorum at meetings of the Board

- (a) No business may be transacted at a meeting of the Board unless a quorum of directors is present at the time the business is dealt with.
- (b) Unless the Board decides differently, 2 directors constitute a quorum.
- (c) If there is a vacancy in the office of director, the remaining director or directors may act. But, if the number of remaining directors is not sufficient to constitute a quorum, the remaining director or directors may act only in an emergency or to increase the number of directors to a number sufficient to constitute a quorum or to call a general meeting of the company.

6.11 Chairperson of the Board

- (a) The Board must elect a director to the office of chairperson of the Board and may decide the period for which that director is to be chairperson of the Board. The appointment of the chairperson must satisfy the requirements of any laws, regulations and standards that apply to the company.
- (b) The chairperson is entitled (if present within 10 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each meeting of the Board.
- (c) If at a meeting of the Board:
 - (1) there is no chairperson of the Board;
 - (2) the chairperson of the Board has notified the secretary that they will be an apology for a meeting or is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (3) the chairperson of the Board is present within that time but is not willing to act as chairperson of the meeting,the directors present must elect one of themselves to be chairperson of the meeting.

6.12 Decisions of the Board

- (a) The Board, at a meeting at which a quorum is present, may exercise any authorities, powers and discretions vested in or exercisable by the Board under this constitution.
- (b) Questions arising at a meeting of the Board are to be decided by a majority of votes cast by the directors present and entitled to vote on the matter.
- (c) If votes are equal on a proposed resolution:



- (1) the chairperson of the meeting does not have a casting vote in addition to any deliberative vote; and
- (2) the proposed resolution is to be taken as having been lost.

6.13 Written resolutions

- (a) If:
 - (1) a majority of the directors (other than any director excluded under rule 6.13(b)) (**required majority**) sign or consent to a written resolution; and
 - (2) the directors who sign or consent to the resolution would have constituted a quorum at a meeting of the Board held to consider that resolution,then that resolution is taken to have been passed by a meeting of the Board when the last director required to constitute the required majority signs or consents to the resolution.
- (b) A director will be excluded for the purposes of rule 6.13(a) if that director:
 - (1) is on leave of absence approved by the Board;
 - (2) has notified the chairperson of the Board or the secretary that he or she may be uncontactable for a certain period of time and the resolution in question is put to the Board during that period;
 - (3) becomes incapacitated due to ill health or other unforeseen circumstances and is unable to consider the resolution in question;
 - (4) disqualifies himself or herself from considering the resolution in question; or
 - (5) would be prohibited by the Act from voting on the resolution in question.
- (c) A director may consent to a resolution by:
 - (1) signing the document containing the resolution (or a copy of that document), including by electronic means;
 - (2) giving to the company a written notice (including by electronic means) addressed to the secretary or to the chairperson of the Board signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
 - (3) telephoning the secretary or the chairperson of directors and signifying assent to the resolution and clearly identifying its terms.
- (d) Where a document is assented to in accordance with rule 6.13(a), the document is to be taken as a minute of a meeting of the Board.

6.14 Alternate directors

- (a) A director may appoint, with approval of a majority of the other directors:
 - (1) a person to be the director's alternate director for such period as the director thinks fit; and
 - (2) another person to be the director's alternate director in the absence of any alternate director appointed under rule 6.14(a)(1).



- (b) An alternate director may, but need not, be a member or a director of the company.
- (c) One person may act as alternate director to more than one director.
- (d) An alternate director is entitled, if the appointer does not attend a meeting of the Board, to attend and vote in place of and on behalf of the appointer.
- (e) An alternate director has a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (f) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of any such power by the alternate director is to be taken to be the exercise of the power by the appointer.
- (g) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (h) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
- (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment, and does not take effect until the company has received written notice of the appointment or termination.
- (j) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this constitution.
- (k) In determining whether a quorum is present at a meeting of the Board, an alternate director who attends the meeting is to be counted as a director for each director on whose behalf the alternate director is attending the meeting.
- (l) An alternate director is entitled to be paid such remuneration as the Board determines, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate.
- (m) An alternate director is not entitled to be remunerated by the company for his or her services as an alternate director except as provided in rule 6.14(l).
- (n) An alternate director, while acting as a director, is responsible to the company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

6.15 Delegations by the Board

- (a) The Board may delegate any of its powers to one director, a committee or committees or any person or persons.
- (b) A director, committee or person to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board.
- (c) The provisions of this constitution applying to meetings and resolutions of the Board apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of the Board, except to the extent they are contrary to any direction given under rule 6.15(b).
- (d) The acceptance of a delegation of powers by a director or the membership of a committee may, if the Board so resolves, be treated as an extra service or



special exertion performed by the delegate or committee member for the purposes of rule 6.3(e).

6.16 Validity of acts

An act done by a meeting of the Board, a committee of the Board or a person acting as a director is not invalidated by:

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

if that circumstance was not known by the Board, committee or person (as applicable) when the act was done.

7 Executive officers

7.1 Managing directors and executive directors

- (a) The Board may appoint one or more of the directors to the office of managing director or other executive director.
- (b) Unless the Board decides otherwise, a managing director's or other executive director's employment terminates if the managing director or other executive ceases to be a director.
- (c) A managing director or other executive director may be referred to by any title the Board decides on.

7.2 Secretaries

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

7.3 Provisions applicable to all executive officers

- (a) A reference in this rule 7.3 to an executive officer is a reference to a managing director, executive director, secretary or assistant secretary appointed under this rule 7.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the Board decides.
- (c) Subject to any contract between the company and the relevant executive officer, an executive officer of the company may be removed or dismissed by the Board at any time, with or without cause.
- (d) Unless the Board decides differently, the office of a director, or secretary, who is employed by the company or by a related body corporate of the company



automatically becomes vacant if the director or secretary ceases to be so employed.

- (e) The Board may:
 - (1) delegate to or give an executive officer any powers, discretions and duties it decides;
 - (2) withdraw, suspend or vary any of the powers, discretions and duties given to an executive officer; and
 - (3) authorise the executive officer to delegate any of the powers, discretions and duties given to the executive officer.
- (f) An executive officer need not hold any shares to qualify for appointment.
- (g) An act done by a person acting as an executive officer is not invalidated by:
 - (1) a defect in the person's appointment as an executive officer;
 - (2) the person being disqualified from being an executive officer; or
 - (3) the person having vacated office,if the person did not know that circumstance when the act was done.

8 Seals

8.1 Manner of execution

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

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

8.2 Common seal

If the Board so decides, the company may have a common seal.

8.3 Use of seal

The Board may decide on procedures for the use of the seal.

9 Distributions

9.1 Dividends

- (a) The Board may pay any dividends that, in its judgment, the financial position of the company justifies.



- (b) The Board may rescind a decision to pay a dividend if it decides, before the payment date, that the company's financial position no longer justifies the payment or that it is otherwise in the best interests of the company that the dividend decision be rescinded.
- (c) The Board may pay any dividend required to be paid under the terms of issue of a share.
- (d) Paying a dividend does not require confirmation at a general meeting.
- (e) Subject to any rights or restrictions attached to any shares or class of shares:
 - (1) all dividends must be paid equally on all shares, except that a partly paid share confers an entitlement only to the proportion of the dividend which the amount paid (not credited) on the share is of the total amounts paid and payable (excluding amounts credited);
 - (2) for the purposes of rule 9.1(e)(1), unless the Board decides otherwise, an amount paid on a share in advance of a call is to be taken as not having been credited as paid on the share; and
 - (3) interest is not payable by the company on any dividend.
- (f) The Board may fix a record date in respect of a dividend, with or without suspending the registration of transfers from that date under rule 4.3.
- (g) A dividend in respect of a share must be paid to the person who is registered, or entitled under rule 4.1(c) to be registered, as the holder of the share:
 - (1) where the Board has fixed a record date in respect of the dividend, on that date; or
 - (2) where the Board has not fixed a record date in respect of that dividend, on the date fixed for payment of the dividend,and a transfer of a share that is not registered, or left with the company for registration in accordance with rule 4.1(b), on or before that date is not effective, as against the company, to pass any right to the dividend.
- (h) When resolving to pay a dividend the Board may direct payment of the dividend from any available source permitted by law, including:
 - (1) wholly or partly by the distribution of specific assets, including paid-up shares or other securities of the company or of another body corporate, either generally or to specific members; and
 - (2) to particular members wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining members wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source or generally.
- (i) The Board may retain from any dividend payable to a member all amounts presently payable by the member to the company and apply the amount retained to the amount owing.
- (j) Where a person is entitled to a share as a result of a Transmission Event, the Board may, but need not retain any dividends payable in respect of that share until that person becomes registered as the holder of the share or transfers it.
- (k) The Board may decide the method of payment of any dividend or other amount in respect of a share. Different methods of payment may apply to different members or groups of members (such as overseas members). Without limiting



any other method of payment which the company may adopt, payment in respect of a share may be made:

- (1) by such electronic or other means approved by the Board directly to an account (of a type approved by the Board) nominated in writing by the member or the joint holders; or
 - (2) by cheque sent to the address of the holder as shown in the register of members, or in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in that register, or to such other address as the holder or joint holders direct in writing.
- (l) A cheque sent under rule 9.1(k)(1) may be made payable to bearer or to the order of the member to whom it is sent or another person that the member directs and is sent at the member's risk.
- (m) If the Board decides that payments will be made by electronic transfer into an account (of a type approved by the Board) nominated by a member, but no such account is nominated by the member or an electronic transfer into a nominated account is rejected or refunded, the company may credit the amount payable to an account of the company to be held until the member nominates a valid account.
- (n) Where a member does not have a registered address or the company believes that a member is not known at the member's registered address, the company may credit an amount payable in respect of the member's shares to an account of the company to be held until the member claims the amount payable or nominates a valid account.
- (o) An amount credited to an account under rules 9.1(m) or 9.1(n) is to be treated as having been paid to the member at the time it is credited to that account. The company will not be a trustee of the money and no interest will accrue on the money. The money may be used for the benefit of the company until claimed or disposed of in accordance with the laws relating to unclaimed monies.

9.2 Capitalisation of profits

- (a) Subject to any rights or restrictions attached to any shares or class of shares and any special resolution of the company, the Board may capitalise and distribute to members in the same proportions as the members are entitled to receive dividends, any amount:
- (1) forming part of the company's undivided profits;
 - (2) representing profits arising from an ascertained accretion to capital or a revaluation of the company's assets;
 - (3) arising from the realisation of any of the company's assets; or
 - (4) otherwise available for distribution as a dividend.
- (b) The Board may resolve that any part of the capitalised amount is to be applied:
- (1) in paying up in full shares or other securities of the company to be issued to members;
 - (2) in paying up any amounts unpaid on shares or other securities held by the members;
 - (3) partly as specified in rule 9.2(b)(1) and partly as specified in rule 9.2(b)(2); or

- (4) any other method permitted by law.

The members entitled to share in the distribution must accept that application in full satisfaction of their interests in the capitalised amount.

- (c) Rules 9.1(e), 9.1(f) and 9.1(g) apply, so far as they can and with any necessary changes, to capitalising an amount under this rule 9.2 as if references in those rules to:
 - (1) a dividend were references to capitalisation of an amount; and
 - (2) a record date were references to the date the Board resolves to capitalise the amount under this rule 9.2.

9.3 Ancillary powers

- (a) To give effect to any resolution to satisfy a dividend as set out in rule 9.1(h)(1) or to capitalise any amount under rule 9.2, the Board may settle as they think expedient any difficulty that arises in making the distribution or capitalisation and, in particular may:
 - (1) make cash payments in cases where members are entitled to fractions of shares or other securities;
 - (2) decide that amounts or fractions less than a particular value decided by the Board may be disregarded to adjust the rights of all parties;
 - (3) fix the value for distribution of any specific assets;
 - (4) pay cash or issue shares or other securities to any members in order to adjust the rights of all parties;
 - (5) vest any of those specific assets, cash, shares or other securities in a trustee on trust for the persons entitled to the dividend or capitalised amount; and
 - (6) authorise any person to make, on behalf of all the members entitled to any specific assets, cash, shares or other securities as a result of the distribution or capitalisation, an agreement with the company or another person which provides, as appropriate, for the distribution or issue to them of shares or other securities credited as fully paid up or for payment by the company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by applying their respective proportions of the amount resolved to be distributed or capitalised.
- (b) Any agreement made under an authority referred to in rule 9.3(a)(6) is effective and binding on all members concerned.
- (c) If a distribution, transfer or issue of specific assets, shares or securities to a particular member or members is, in the Board's discretion, considered impracticable, the Board may make a cash payment to those members or allocate the assets, shares or securities to a trustee to be sold on behalf of, and for the benefit of, those members, instead of making the distribution, transfer or issue to those members. Any proceeds receivable by members under this rule 9.3(c) will be net of expenses incurred by the company and trustee in selling the relevant assets, shares or securities.
- (d) If the company distributes to members (either generally or to specific members) securities in the company or in another body corporate or trust (whether as a dividend or otherwise and whether or not for value), each of those members appoints the company as his or her agent to do anything needed to give effect



to that distribution, including agreeing to become a member of that other body corporate.

9.4 Reserves

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

9.5 Carry forward of profits

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

10 Winding up

10.1 Distributing surplus

Subject to this constitution and the rights or restrictions attached to any shares or class of shares:

- (a) if the company is wound up and the property of the company available for distribution among the members is more than sufficient to pay:
 - (1) all the debts and liabilities of the company; and
 - (2) the costs, charges and expenses of the winding up,the excess must be divided among the members in proportion to the number of shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in rule 10.1(a), any amount unpaid on a share is to be treated as property of the company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 10.1(a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under rule 10.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the company.

10.2 Dividing property

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:



- (1) divide among the members the whole or any part of the company's property; and
 - (2) decide how the division is to be carried out as between the members or different classes of members.
- (b) A division under rule 10.2(a) need not accord with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under rule 10.2(a) does not accord with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Act.
- (d) If any of the property to be divided under rule 10.2(a) includes securities with a liability to calls, any person entitled under the division to any of the securities may, within 10 days after the passing of the special resolution referred to in that rule, by written notice direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds. The liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 10.2 takes away from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 9.3 applies, so far as it can and with any necessary changes, to a division by a liquidator under rule 10.2(a) as if references in rule 9.3 to:
 - (1) the Board and to a distribution or capitalisation were references to the liquidator; and
 - (2) a distribution or capitalisation were references to the liquidator and division under rule 10.2(a).

11 Indemnity and insurance

11.1 Persons to whom rules 11.2 and 11.4 apply

Rules 11.2 and 11.4 apply to:

- (a) each person who is or has been a director, alternate director or executive officer (within the meaning of rule 7.3(a)) of the company; and
- (b) to such other officers or former officers of the company or of its related bodies corporate as the Board in each case determines,

(each an **Officer** for the purposes of this rule 11).

11.2 Indemnity

The company must indemnify each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses (**Liabilities**) incurred by the person as an officer of the company.

11.3 Extent of indemnity

The indemnity in rule 11.2:



- (a) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the company;
- (b) is enforceable without the Officer having first to incur any expense or make any payment; and
- (c) applies to all Liabilities incurred both before and after the adoption of this constitution.

11.4 Insurance

The company may, to the extent permitted by law:

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

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

11.5 Savings

Nothing in rule 11.2 or 11.4:

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

11.6 Deed

The company may enter into a deed with any Officer to give effect to the rights of the person conferred by this rule 11 or the exercise of a discretion under this rule 11, on such terms and conditions as the Board thinks fit, as long as they are not inconsistent with this rule 11.

12 Inspection of and access to records

- (a) A person who is not a director does not have the right to inspect any of the board papers, books, records or documents of the company, except as provided by law or this constitution, or as authorised by the Board or by a resolution of the members.
- (b) The company may enter into contracts with its directors or former directors agreeing to provide continuing access for a specified period after they cease to be a director to board papers, books, records and documents of the company which relate to the period during which the director or former director was a director on such terms and conditions as the Board thinks fit and which are not inconsistent with this rule 12.



- (c) The company may procure that its subsidiaries provide similar access to board papers, books, records or documents as that set out in rules 12(a) and 12(b).
- (d) This rule 12 does not limit any right the directors or former directors otherwise have.

13 Notices

13.1 Notices by the company to members

- (a) Without limiting any other way in which notice may be given to a member under this constitution or the Act, the company may give a notice to a member by:
 - (1) delivering it personally to the member;
 - (2) sending it by post to the member's address in the register of members or any other address the member supplies to the company for giving notices; or
 - (3) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or electronic address the member has supplied to the company for giving notices.
- (b) The company may give notice to the joint holders of a share by giving the notice in the manner authorised by rule 13.1(a) to the joint holder named first in the register of members for the share.
- (c) The company may give a notice to a person entitled to a share as a result of a Transmission Event by delivering it or sending it in the manner authorised by rule 13.1(a) addressed to the name or title of the person, to:
 - (1) the address, fax number or electronic address that person has supplied to the company for giving notices to that person; or
 - (2) if that person has not supplied an address, fax number or electronic address, to the address, fax number or electronic address to which the notice might have been sent if that Transmission Event had not occurred.
- (d) A notice given to a member in accordance with rule 13.1(a) or 13.1(b) is, even if a Transmission Event has occurred and whether or not the company has notice of that occurrence:
 - (1) duly given or any shares registered in that person's name, whether solely or jointly with another person;
 - (2) sufficiently served on any person entitled to the shares because of the Transmission Event; and
 - (3) duly given for any shares registered in that person's name, whether solely or jointly with another person.
- (e) A notice given to a person who is entitled to a share as a result of a Transmission Event is sufficiently served on the member in whose name the share is registered.
- (f) Any person who, because of a transfer of shares, becomes entitled to any shares registered in the name of a member, is taken to have received every notice which, before that person's name and address is entered in the register



of members for those shares, is given to the member in complying with this rule 13.1.

- (g) A signature to any notice given by the company to a member under this rule 13.1 may be printed or affixed by some mechanical, electronic or other means.
- (h) Where a member does not have a registered address or where the company believes that member is not known at the member's registered address, all notices are taken to be:
 - (1) given to the member if the notice is exhibited in the company's registered office for a period of 48 hours; and
 - (2) served at the commencement of that period,
- (i) unless and until the member informs the company of the member's address.

13.2 Notices by the company to directors

The company may give a notice to any director or alternate director by:

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

13.3 Notices by members or directors to the company

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

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

13.4 Time of service

- (a) A notice from the company properly addressed and posted is taken to be served at 10:00am (Sydney time) on the day after the date it is posted.
- (b) A certificate signed by a secretary or officer of the company to the effect that a notice was duly posted under this constitution is conclusive evidence of that fact.
- (c) Where the company sends a notice by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the facsimile transmission report produced by the sender's fax machine.
- (d) Where the company sends a notice by electronic transmission, the notice is taken as served at the time the electronic transmission is sent.
- (e) Where the company gives a notice to a member by any other means permitted by the Act relating to the giving of notices and electronic means of access to them, the notice is taken as given at 10:00am (Sydney time) on the day after the date on which the member is notified that the notice is available.



- (f) Where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

13.5 Other communications and documents

Rules 13.1 to 13.4 (inclusive) apply, so far as they can and with any necessary changes, to the service of any communication or document.

13.6 Notices in writing

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

14 General

14.1 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the state or territory in which the company is taken to be registered, the Federal Court of Australia and the courts which may hear appeals from those courts.

14.2 Prohibition and enforceability

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

15 Transitional provisions

This constitution must be interpreted in such a way that:

- (a) every director, managing director and secretary in office in that capacity immediately before this constitution is adopted continues in office subject to, and is taken to have been appointed or elected under, this constitution;
- (b) any register maintained by the company immediately before this constitution is adopted is taken to be a register maintained under this constitution;
- (c) any seal adopted by the company immediately before this constitution is adopted is taken to be a seal which the company has under a relevant authority given by this constitution;
- (d) unless a contrary intention appears in this constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the constitution of the company in force before this constitution is adopted, continue



to have the same status, operation and effect after this constitution is adopted;
and

- (e) except where expressly stated to the contrary, the adoption of this constitution does not alter the rights attaching to any class of shares which exist at the date this constitution is adopted.