

Constitution

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Corporations Act 2001
Public Company Limited by Shares

Constitution

Carbon Energy Limited
ACN 057 552 137

1. Defined meanings and interpretation

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretation rule at the back of this document.

2. Consistency with Listing Rules

If and for so long as the Company is admitted to the Official List, the following rules apply:

- (a) notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;
- (e) if the Listing Rules require this Constitution not to contain a provision and the rules contain such a provision, this Constitution is deemed not to contain that provision;
- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

3. Shares and rights

3.1 Issue of securities and ordinary shares

- (a) Subject to the Company and Market Laws, the Shares are under the control of the Directors, who may issue, allot or dispose of Shares to such persons, at such times and on such terms and conditions as the Directors think fit.
- (b) All issued shares of the Company which are not issued upon special terms and conditions are ordinary shares and confer on the holders :
 - (i) The right to attend and vote at meetings of the Company and on a show of hands to one vote and on a poll to one vote for each Share held;
 - (ii) The right to participate in dividends (if any) declared on the class of Shares held; and

- (iii) On the winding up of the Company, the right to repayment of the capital paid up on their Shares and to participate in the division of any surplus assets or profits of the Company and in this regard to rank *pari passu* with all other holders of Shares having the same right.

3.2 Grant of options, etc.

Subject to the Company and Market Laws, the Directors have the right to grant any persons options or other securities with rights of conversion to Shares or pre-emptive rights to any Shares for any consideration and any period.

3.3 Variation of class rights

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

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

3.4 Power to pay brokerage, commission and interest on Share capital

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

3.5 Joint holders of Shares

Where two or more persons are registered as the holders of a Share, as between the Company and the holders, the Company shall treat them as holding as joint tenants with rights of survivorship subject to the following provisions:

- (a) they and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the Share;
- (b) subject to rule 3.5(a) on the death of any one of them the survivor or survivors are the only person or persons the Company will recognise as having any title to the Share;

- (c) any one of them may give effectual receipts for any dividend, interest or other distribution or payment in respect of the Share;
- (d) except where otherwise required under by the Company and Market Laws, the Company is not bound to register more than three persons as joint holders of the Share;
- (e) unless required by the Company and Market Laws, the Company is not bound to issue a certificate in respect of the Share and is not bound to issue more than one certificate in respect of the Share; and
- (f) delivery of a certificate for the Share to any one of them is sufficient delivery to all of them.

3.6 Equitable and other claims

- (a) Except as otherwise required by law or provided by this Constitution, the Company is entitled to treat the registered holder of a Share as the absolute owner of that Share and is not:
 - (i) compelled in any way to recognise a person as holding a Share upon any trust, even if the Company has notice of that trust; or
 - (ii) compelled in any way to recognise, nor bound by, any equitable, contingent, future or partial claim to or interest in a Share on the part of any other person except an absolute right of ownership in the registered holder, even if the Company has notice of that claim or interest.
- (b) With the consent of the Directors, Shares held by a trustee may be marked in the Register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in paragraph (b) limits the operation of paragraph (a) of this rule.

3.7 Certificates

- (a) Subject to this document, and the Company and Market Laws, the Board :
 - (i) is not required to issue a certificate for any Member for Shares or any other interest in the Company in the Member's name;
 - (ii) may determine to issue certificates for Shares or other securities of the Company, to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form it thinks fit.
- (b) Subject to the Company and Market Laws, delivery of a certificate or a statement of holdings for a Share or option may be effected by delivering it personally to the holder or by positing it in a prepaid envelope addressed to the holder at the address shown in the Register or to such other address as notified by the holder to the Company in writing. Delivery of a certificate or statement of holding to one of several joint holders is sufficient delivery to all such holders.

3.8 Computerised share transfer system:

Without limiting rule 3.7, if the Company participates, or to enable the Company to participate, in any computerised or electronic share transfer system introduced by or acceptable to the ASX, the Board may:

- (a) provide that Shares may be held in certificated or uncertificated form and make any provision it thinks fit, including for the issue or cancellation of certificates, to enable Members to hold Shares in uncertificated form and to convert between certificated and uncertificated holdings;
- (b) provide that some or all Members are not to be entitled to receive a share certificate in respect of some or all of the Shares which the Members hold in the Company;
- (c) accept any instrument of transfer or other method of transfer in accordance with the requirements of the share transfer system; and
- (d) despite any other provision in this Constitution, do all things it considers necessary, required or authorised by the Company and Market Laws in connection with the share transfer system.

3.9 Currency

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

3.10 Employee Share plans

The Directors may:

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

3.11 Vendor securities

Notwithstanding any other provisions of this Constitution :

- (a) the Company must refuse to acknowledge, deal with, accept or register any sale, assignment or transfer of vendor securities which is or might be in breach of the Listing Rules or any escrow agreement entered into by the Company under the Listing Rules in relation to the vendor securities; and
- (b) in the event of a breach of any escrow agreement entered into by the Company under the Listing Rules in relation to Shares which are vendor securities, the Member

holding the Shares in question ceases to be entitled to any dividends and to any voting rights in respect of those Shares for so long as the breach subsists.

4. Calls

4.1 Power to make calls

Subject to the terms upon which any Shares may have been issued, the Board may make calls from time to time upon the Members in respect of all money unpaid on their Shares. Each Member must pay the amount of each call in the manner, at the time and at the place specified by the Board. Calls may be made payable by instalments.

4.2 Obligation for calls

The Company may make arrangements on the issue of Shares for a difference between the holders of those Shares in the amount of calls to be paid and the time of payment of the calls.

4.3 When a call is made

A call is deemed to have been made at the time when the resolution of the Board authorising the call was passed. The call may be revoked or postponed at the discretion of the Board at any time prior to the date on which payment in respect of the call is due.

4.4 Interest on the late payment of calls

If any sum payable in respect of a call is not paid on or before the date for payment, the Member from whom the sum is due must pay interest at the Prescribed Rate on the unpaid amount from the due date to the date of payment. The Board may waive the whole or part of any interest paid or payable under this rule.

4.5 Instalments

If, by the terms of an issue of Shares, any amount is payable in respect of any Shares by instalments, every instalment is payable as if it is a call duly made by the Board of which due notice had been given, and all provisions of this Constitution with respect to the payment of calls and of interest or to the forfeiture of Shares for non-payment of calls or with respect to liens or charges apply to the instalment and to the Shares in respect of which it is payable.

4.6 Payments in advance of calls

If the Board thinks fit, it may receive from any Member all or any part of the money unpaid on all or any part of the Shares held by that Member beyond the amount actually called up and then due and payable either as a loan repayable or as a payment in advance of calls. The Company may pay interest on the money advanced at the rate and on the terms agreed by the Board and the Member paying the money in advance.

4.7 Non receipt of notice of any call

The non-receipt of a notice of any call by, or the accidental omission to give notice of any call to, any Member does not invalidate the call.

4.8 Proceedings for recovery of calls

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

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

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

4.9 Listing requirements

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

5. Forfeiture and lien

5.1 Failure to pay money

If a Member fails to pay any money payable on or in respect of any Shares, either for allotment money, calls or instalments, on or before the day for payment, the Board may, at any time after the day specified for payment whilst any part of the money remains unpaid, serve a notice on the Member requiring that Member to pay the money together with interest accrued and all expenses incurred by the Company by reason of the non-payment.

5.2 Time and place for payment

The notice referred to in rule 5.1 must name a day on or before which the money, interest and expenses (if any) are to be paid and the place where payment is to be made. The notice must also state that, in the event of non-payment at or before the time and at the place specified, the Shares in respect of which the money is payable will be liable to be forfeited.

5.3 Forfeiture on non-compliance with notice

If there is non-compliance with the requirements of any notice given under rule 5.1, any Shares in respect of which notice has been given may, at any time after the day specified in the notice for payment whilst any part of allotment money, calls, instalments, interest and expenses (if any) remains unpaid, be forfeited by a resolution of the Board. The forfeiture includes all dividends, interest and other money payable by the Company in respect of the forfeited Shares and not actually paid before the forfeiture.

5.4 Notice of forfeiture

When any Share is forfeited, notice of the resolution of the Board must be given to the Member in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture and the date of forfeiture must be made in the Register. Failure to give notice or make an entry as required by this rule does not invalidate the forfeiture.

5.5 Disposal of forfeited Shares

Any forfeited Share is deemed to be the property of the Company and the Board may sell or otherwise dispose or deal with the Share in any manner it thinks fit and with or without any money paid on the Share by any former holder being credited as paid up.

5.6 Annulment of forfeiture

The Board may, at any time before any forfeited Share is sold or otherwise disposed of, annul the forfeiture of the share upon any condition it thinks fit.

5.7 Liability despite forfeiture

Any Member whose Shares have been forfeited is, despite the forfeiture, liable to pay and must immediately pay to the Company all money, interest and expenses owing upon or in respect of the forfeited Shares at the time of forfeiture, together with expenses and interest from that time until payment at the Prescribed Rate. The Board may enforce the payment or waive the whole or any part of the money paid or payable under this rule as it thinks fit.

5.8 Company's lien or charge

- (a) The Company has a first and paramount lien or charge for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is called upon by law to pay in respect of Shares registered in the name of the Member in respect of which the calls, instalments and interest are due and unpaid (whether presently payable or not) or in respect of which the amounts are paid and upon the proceeds of sale of the Shares.
- (b) The lien or charge extends to all dividends and bonuses from time to time declared in respect of the Shares.
- (c) If the Company registers a transfer of any Shares upon which it has a lien or charge without giving the transferee notice of any claim it may have at that time, the Shares are freed and discharged from the lien or charge of the Company in respect of that claim.

5.9 Sale of Shares to enforce lien

For the purpose of enforcing a lien or charge, the Board may sell the Shares which are subject to the lien or charge in any manner it thinks fit and with or without giving any notice to the Member in whose name the Shares are registered.

5.10 Title of Shares forfeited or sold to enforce lien

The following provisions apply in connection with a sale or re-allotment of Shares that have been forfeited or sold to enforce a lien or charge.

- (a) In a sale or a re-allotment of forfeited Shares or in the sale of Shares to enforce a lien or charge, an entry in the Board's minute book that the Shares have been forfeited, sold or re-allotted in accordance with this Constitution is sufficient evidence of that fact as against all persons entitled to the Shares immediately before the forfeiture, sale or re-allotment of the Shares. The Company may receive the purchase money or consideration (if any) given for the Shares on any sale or re-allotment.

- (b) In a re-allotment, a certificate signed by a Director or the Secretary to the effect that the Shares have been forfeited and the receipt of the Company for the price of the Shares constitutes a good title to them.
- (c) In a sale, the Company may appoint a person to execute, or may otherwise effect, a transfer in favour of the person to whom the Shares are sold.
- (d) Upon the issue of the receipt or the transfer being executed or otherwise effected the person to whom the Shares have been re-allotted or sold must be registered as the holder of the Shares and is discharged from all calls or other money due in respect of the Shares prior to the re-allotment or purchase. The person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration. The person's title to the Shares is not affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-allotment.
- (e) The net proceeds of any sale or re-allotment must be applied first in payment of all costs of or in relation to the enforcement of the lien or charge or the forfeiture (as the case may be) and of the sale or re-allotment, next in satisfaction of the amount in respect of which the lien exists as is then payable to the Company (including interest) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the Shares immediately prior to the sale or re-allotment or to the person's personal representative or assign upon the production of any evidence as to title required by the Board.

6. Payments by the Company

6.1 Payments by the Company

If any law of any place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment or empowers any government or taxing authority or government official to require the Company to make any payment in respect of any securities held either jointly or solely by any holder or in respect of any transfer of those securities or in respect of any interest, dividends, bonuses or other money due or payable or accruing due or which may become due or payable to the holder by the Company on or in respect of any securities or for or on account or in respect of any holder of securities, whether in consequence of:

- (a) the death of the holder;
- (b) the non-payment of any income tax or other tax by the holder;
- (c) the non-payment of any estate, probate, succession, death, stamp or other duty by the holder or the holder's personal representative or by or out of the holder's estate;
- (d) any assessment of income tax against the Company in respect of interest or dividends paid or payable to the holder; or
- (e) any other act or thing,

the Company in each case:

- (f) must be and is fully indemnified from all liability by the holder or the holder's personal representative and by any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate;

- (g) has a lien or charge upon the securities for all money paid by the Company in respect of the securities under or in consequence of any law;
- (h) has a lien upon all dividends, bonuses and other money payable in respect of the securities registered in the Register as held either jointly or solely by the holder for all money paid by the Company in respect of the securities under or in consequence of any law, together with interest at the Prescribed Rate from the date of payment to the date of repayment, and may deduct or set off against any dividend, bonus or other money payable any money paid by the Company together with interest;
- (i) may recover as a debt due from the holder or the holder's personal representative or any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate, any money paid by the Company under or in consequence of any law which exceeds any dividend, bonus or other money then due or payable by the Company to the holder together with interest at the Prescribed Rate from the date of payment to the date of repayment;
- (j) except in the case of a proper ASTC transfer, may, if any money is paid by the Company under any law, refuse to register a transfer of any securities by the holder or the holder's personal representative until the money and interest is set off or deducted or, in case the money and interest exceeds the amount of any dividend, bonus or other money then due or payable by the Company to the holder, until the excess is paid to the Company.

6.2 Rights not prejudiced

Nothing in this rule 6 prejudices or affects any right or remedy which any law confers on the Company. As between the Company, each holder and that holder's personal representative any right or remedy which the law confers on the Company is enforceable by the Company.

7. Transfer of securities

7.1 General

- (a) Subject to this Constitution, a Member may transfer all or any of the Member's Shares:
 - (i) in the case of CHESSE Approved Securities, in accordance with the ASTC Settlement Rules and the provisions of the Corporations Act and Listing Rules; or
 - (ii) in the case of non-CHESSE Approved Securities by:
 - (A) instrument in writing in any usual form or in any other form that the directors approve; or
 - (B) any other method of transfer of securities which may be recognised by the Corporations Act, is not inconsistent with the Listing Rules and is approved by the Directors.
- (b) An instrument of transfer referred to in rule 7.1(a)(i) or (ii) must be:
 - (i) signed by or on behalf of both the transferor and the transferee unless:

- (A) the instrument of transfer relates only to fully paid Shares and signature by the transferee has been dispensed with by the Directors; or
 - (B) the transfer of the Shares is effected by a document which is, or documents which together are, a sufficient transfer of those Shares under the Corporations Act; or
 - (C) in the case of a CHESSE Approved Security, signature is not required by the ASTC Settlement Rules;
- (ii) if required by law to be stamped, duly stamped;
 - (iii) 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
 - (iv) left for registration at the registered office of the Company or at such other place as the Directors determine, accompanied by the certificate (if any) for the Shares to which it relates and such other evidence as the Directors require to prove the title of the transferor or the transferor's right to the Shares and to prove the right of the transferee to be registered as the owner of the Shares.
- (c) If a CHESSE Approved Security is to be transferred, then the procedure set down by the ASTC Settlement Rules is to be observed.
 - (d) Subject to the powers vested in the Directors under rules 7.2, 7.3 and 7.4, where the Company receives an instrument of transfer in accordance with rule 7.1(b), the Company must register the transferee named in the instrument as the holder of the Shares to which it relates.
 - (e) Except as provided by the ASTC Settlement Rules, a transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares.
 - (f) The Company must not charge a fee for any matter concerning transfers, renunciations, transmissions, certificates, conversions between subregisters, holding statements and transactions statements where the charging of a fee is prohibited by the Listing Rules, but if the Listing Rules allow the charging of a reasonable fee for any such matter, the Company may charge a reasonable fee for the matter whether or not the Company is then on the Official List.
 - (g) The Company must retain any registered instrument of transfer for such period as the Directors think fit.
 - (h) Except in the case of fraud, the Company must return any instrument of transfer which the Directors decline to register to the person who deposited it with the Company.
 - (i) The Directors may do anything that is necessary or desirable for the Company to participate in any computerised, electronic or other system for facilitating the transfer of Shares that may be owned, operated or sponsored by the ASX or a related body corporate of the ASX.

- (j) The Directors may, to the extent permitted by law, waive all or any of the requirements of this rule 7.1, whether for the purpose of giving effect to rule 6.1(i) or otherwise and must waive the requirement for a proper instrument of transfer in writing and in the usual and common form in the case of a proper ASTC transfer.

7.2 Board may refuse to register transfers

- (a) Unless the Company and Market Laws otherwise provide, the Board may refuse to register any transfer of securities:
 - (i) if the registration of the transfer would result in a contravention of or failure to observe the provisions of the Company and Market Laws;
 - (ii) on which the Company has a lien; or
 - (iii) in circumstances where the Listing Rules permit the Company to do so.
- (b) If the Board declines to register a transfer, the Company must give to the party lodging the transfer written notice of the refusal and the precise reasons for that refusal within five business days after the date on which the transfer was lodged with the Company.
- (c) Failure to give notice of refusal to register any transfer as may be required under the Company and Markets Laws does not invalidate the decision of the Board.
- (d) The decision of the Board relating to the registration of a transfer is absolute.

7.3 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 they think fit.

7.4 Holding Lock

Without limitation to rule 7.2, the Company may request ASTC to apply a Holding Lock to prevent a proper ASTC transfer, or refuse to register a paper-based transfer, in any of the following circumstances :

- (a) The Company has a lien on the securities;
- (b) The company is served with a court order that restricts the holder's capacity to transfer the securities;
- (c) Registration of the transfer may be in breach of a law binding on the Company and (where required) ASX has agreed in writing to the application of a Holding lock or that the Company may refuse to register a transfer, provided that the application of the Holding Lock must not breach an ASTC Settlement Rule;
- (d) During the escrow period of Restricted Securities;
- (e) If the transfer is paper-based, the Company is obliged or allowed to refuse to register the transfer pursuant to a term of this Constitution or the Listing Rules;
- (f) If the transfer is paper-based, a law related to stamp duty prohibits the Company from registering it;

- (g) The Company is permitted to do so by the Listing Rules.

7.5 Proper ASTC transfers

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

7.6 Register to be kept

- (a) The Company must keep a Register in accordance with the Corporations Act.
- (b) If any of its securities are CHES Approved Securities, in addition to the CHES Subregister administered by ASTC (which forms part of the Register), the Company must provide for an Issuer Sponsored Subregister, or a Certificated Subregister, or both.
- (c) If the Company has Restricted Securities on issue, it must operate a Certificated Subregister other than in relation to existing Restricted Securities that are quoted.
- (d) If the Company operates an Issuer Sponsored Subregister :
- (i) the Company must allow holders of securities on the Issuer Sponsored Subregister to maintain more than one holding on that subregister;
 - (ii) each holding must be identified by a unique SRN;
 - (iii) each holding must be treated as a separate holding for determining benefits and entitlements; and
 - (iv) when the Company creates a new holding on the Issuer Sponsored Register it must allocate a unique SRN for that holding.

8. Transmission of securities

8.1 Transmission upon death

Subject to this Constitution, in the case of the death of a Member :

- (a) the survivor or survivors where the deceased was a joint holder; and
- (b) the legal personal representatives of the deceased where the deceased was a sole holder,

are the only persons recognised by the Company as having any title to securities registered in the name of the deceased Member.

8.2 Transmission by operation of law

- (a) Subject to rule 8.2(b), a person (a **transmittee**) who establishes to the satisfaction of the Board that the right to any securities has devolved on the transmittee by will or by operation of law may be registered as a Member in respect of the securities or may (subject to the provisions in this Constitution relating to transfers) transfer the

securities or require the securities to be registered in the name of one or more nominees.

- (b) The Board has the same right to refuse to register the transmittee or its nominee(s) as if the transmittee or its nominee(s) was the transferee named in an ordinary transfer presented for registration.

8.3 Notices on election

A person who has become entitled to a Share by operation of law and who :

- (a) elects to be registered as holder of the Share, must deliver or send to the Company a notice in writing signed by the person in such form as the Directors approve stating that election of the person;
- (b) nominates another person to be registered as the transferee of the Share must execute a transfer of the Share to the other person; and
- (c) elects to transfer the Share, must transfer the Share.

8.4 Dividends and rights

A person who

- (a) has become entitled to a Share by operation of law; and
- (b) has produced evidence of that person's entitlement in such form as the Directors may approve,

is entitled to the dividend and other advantages and rights of the registered holder of the Share, including, without limitation, in relation to the meetings of the Company and to voting.

8.5 Joint holding

Where two or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they are, for the purposes of this Constitution, deemed to be joint holders of the Share.

9. Minimum shareholding

9.1 Definitions

In this rule:

Authorised Price means the price per share equal to the weighted average of the last sale prices of the Shares quoted on the ASX for each of the five Business Days immediately preceding the date of any offer received by the Company pursuant to rule 9.3;

Date of Effect means a date specified in a notice from the Company to a Minority Member referred to in rule 9.10 prior to which a Minority Member must notify the Company that the Minority Member wishes to retain the Minority Member's Shares, being a date that is more than 6 weeks after the date on which the Minority Member receives or is deemed by this Constitution to receive the notice;

Minimum Shareholding means a number of Shares equal to a “marketable parcel” of Shares within the meaning of the Listing Rules;

Minority Member means a member holding less than the Minimum Shareholding on or at any time after the Date of Effect; and

Purchaser means any person whose offer to purchase Shares is accepted by the Company.

9.2 Sale of Shares of Minority Member

Subject to rules 9.10 and 9.11, on and from the Date of Effect, each Minority Member is deemed to have irrevocably appointed the Company as the Minority Member’s agent:

- (a) to sell all the Shares held by the Minority Member at a price not less than the Authorised Price and without any cost being incurred by the Minority Member; and
- (b) to deal with the proceeds of the sale of those Shares in accordance with this rule.

9.3 Acceptance of offer

Where the Company receives an offer for the purchase of all the Shares of a Minority Member to whom rule 9.2 applies at the date of the offer at a price not less than the Authorised Price, then the Company may accept the offer on behalf of the Minority Member.

9.4 Appointment of attorney

The Company may appoint a person to act as the attorney of a Minority Member to whom rule 9.2 applies to execute a transfer of the Minority Member’s Shares to the Purchaser.

9.5 Proceeds of sale

- (a) The Company must receive the proceeds of the sale of the Shares of a Minority Member to whom rule 9.2 applies and must:
 - (i) immediately cause the name of the Purchaser to be entered in the Register as the holder of the Shares sold; and
 - (ii) within 10 Business Days of:
 - (A) if the Shares are in a certificated holding - receipt from the Minority Member of any certificate relating to the Shares or evidence satisfactory to the Company that the certificate has been lost or destroyed; or
 - (B) otherwise – the date the proceeds of sale are received by the Company,

cause the proceeds of sale to be sent to the Minority Member by cheque mailed to the address of the Minority Member in the Register (or in the case of joint holders, to the address of the holder whose name is shown first in the Register), such cheque to be made payable to the Minority Member (or, in the case of joint holders, to them jointly).

- (b) If:
- (i) a Minority Member's whereabouts are unknown; or
 - (ii) the Shares are in a certificated holding and the Minority Member fails to furnish to the Company the certificate or evidence satisfactory to the Company that the certificate has been lost or destroyed,
- the proceeds of sale must be applied in accordance with the applicable laws dealing with unclaimed money.

9.6 Receipt of proceeds

The receipt by the Company of the proceeds of sale of Shares of a Minority Member is a good discharge to the Purchaser of all liability in respect of the purchase of the Shares.

9.7 Registration of Purchaser

Upon entry of the name of the Purchaser in the Register as the holder of the Shares of a Minority Member to whom rule 9.2 applies:

- (a) the Purchaser is not bound to see to the regularity of the actions and proceedings of the Company pursuant to this rule or to the application of the proceeds of sale; and
- (b) the validity of the sale may not be impeached by any person.

9.8 Remedies limited

The remedy of any Minority Member to whom rule 9.2 applies in respect of the sale of the Shares of the Minority Member is limited to a right of action in damages against the Company to the exclusion of any other right, remedy or relief against any other person.

9.9 Cost of sale of Shares

The Company must bear all the costs of the sale of the Shares of a Minority Member under this rule.

9.10 Exemption from rule 9.2

- (a) The Company must give written notice to a Minority Member requiring the Minority Member to dispose of the Minority Member's Shares prior to the Date of Effect, failing which the Company intends to sell the Minority Member's Shares under this rule on and from the Date of Effect.
- (b) If prior to the Date of Effect the Company receives written notice from the Minority Member that the Minority Member wishes to retain the Minority Member's Shares, then rule 9.2 does not apply to the Minority Member and the Company must not sell the Minority Member's Shares.

9.11 Reinstatement of sale authorisation

Where a Minority Member has given written notice to the Company under rule 9.10 that the Minority Member wishes to retain the Minority Member's Shares, the Minority Member may at any time revoke or withdraw that notice by notice in writing to the Company and rule 9.2 then applies to the Minority Member.

9.12 Takeover announcement

This rule ceases to have any effect following the announcement of a takeover in respect of Shares in the Company. However, the procedures in this rule may be started again after the close of the offers made under the takeover.

9.13 Use by Company of this rule

This rule may be invoked by the Company only once in any 12 month period.

10. Proportional takeover schemes

10.1 Definitions :

In this rule 10 :

- (a) **associate** has the meaning given to that term in the Corporations Act;
- (b) **prescribed resolution**, in relation to a proportional takeover scheme, means a resolution to approve the proportional takeover scheme passed in accordance with rule 10.3;
- (c) **proportional takeover scheme** means a takeover scheme that is made or purports to be made under Pt 6.5 of the Corporations Act in respect of Shares included in a class of Shares in the Company;
- (d) **relevant class**, in relation to a proportional takeover scheme, means the class of Shares in respect of which offers are made under the proportional takeover scheme; and
- (e) **relevant date**, in relation to a proportional takeover scheme, means the day that is 14 days before the end of the period during which the offers under the proportional takeover scheme remain open.

10.2 Transfers not to be registered

Notwithstanding the provisions of this Constitution concerning the transfer of Shares, a transfer giving effect to a contract resulting from the acceptance of an offer made under a proportional takeover scheme must not be registered unless and until a prescribed resolution to approve the proportional takeover scheme has been passed or is taken to have been passed in accordance with rule 10.3.

10.3 Resolution

- (a) Where offers have been made under a proportional takeover scheme, the Board must:
 - (i) convene a meeting of the persons entitled to vote on the prescribed resolution for the purpose of considering and, if thought fit, passing a prescribed resolution to approve the proportional takeover scheme; and
 - (ii) ensure that such a resolution is voted on in accordance with this rule 10.3, before the relevant day in relation to that proportional takeover scheme.

- (b) The provisions of this Constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to a meeting that is convened pursuant to rule 10.3(a).
- (c) The offerer under a proportional takeover scheme and any associates of the offerer are not entitled to vote on the prescribed resolution relating to that proportional takeover scheme and if they do vote, their votes must not be counted.
- (d) Subject to rule 10.3(c), a person who, as at the end of the day on which the first offer under the proportional takeover scheme was made, held Shares of the relevant class is entitled to vote on the prescribed resolution relating to the proportional takeover scheme and, for the purposes of so voting, is entitled to one vote for each such Share held at that time.
- (e) A prescribed resolution is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one half, and otherwise is to be taken to have been rejected.
- (f) If a prescribed resolution to approve a proportional takeover scheme has not been voted on in accordance with this rule 10.3 before the relevant day, a prescribed resolution to approve the proportional takeover scheme will be taken to have been passed in accordance with this rule 10.3 on the relevant day.

10.4 Sunset

Rules 10.1, 10.2 and 10.3 cease to have effect at the end of three years beginning:

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

11. Restricted securities

11.1 Disposal

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

11.2 Acknowledgment of disposal

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

11.3 Other rights

During a breach of the Listing Rules relating to securities so classified as restricted securities, or a breach of a Restriction Agreement, the holder of the restricted securities is not entitled to any dividend or distribution, or voting rights, in respect of the restricted securities.

12. Notification of Ownership to ASX

12.1 Application

This rule 12 applies if ;

- (a) A provision of this constitution (as agreed by ASX) or a law (except the Corporations Act or the *Foreign Acquisitions and Takeovers Act*) restricts the ownership or control of securities of the Company or control of votes to a specified percentage; and
- (b) The Company becomes aware that the percentage held by a class of persons restricted to owning or controlling that percentage has come within 5% of the restriction, or equals or exceeds it.

12.2 Obligations on Company

- (a) If the Company becomes aware of any changes of more than 1% in the capital or votes held by persons in the class, the Company must immediately tell ASX of the change. It must do so for each change it becomes aware of until rule 12.2(c) applies.
- (b) Each time the Company tells ASX of any change, it must state what action it will take to divest the securities or remove or change the voting or other rights attaching to them, if it receives a paper-based transfer in registrable form or a proper ASTC transfer is generated for securities whose registration would result in the restriction being exceeded.
- (c) If the Company becomes aware that the percentage of capital or votes held by the class of persons referred to in rule 12.2(a) has ceased to be within 5% of the restriction, or to equal or exceed it, the Company must immediately tell ASX.

13. Alteration and reduction of capital

Subject always to any prohibition in the Listing Rules, the Company may convert all or any of its shares into such larger or smaller number of shares and may reduce its share capital in any manner permitted by the Company and Market Laws.

14. Power to buy back shares

The Company may buy back Shares at such times and on such terms as determined from time to time by the Directors.

15. General meetings

15.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Company and Market Laws.

15.2 Convening of general meetings of Members

- (a) General meetings of the Company may be called and held at the time and places and in the manner determined by the Board.
- (b) While the Company is included in the Official List any Director may call a general meeting of the Company.
- (c) The Directors must convene a general meeting when requested by Members in accordance with the Corporations Act.
- (d) Unless the Corporations Act provides otherwise, no Member may call a general meeting.

15.3 Notice

- (a) Subject to the Company and Market Laws and this Constitution, a notice of a general meeting may be given by the Board in the form, in the manner and at the time the Board thinks fit.
- (b) Subject to the Company and Market Laws and this Constitution, the Company must give notice of a meeting to :
 - (i) each Member;
 - (ii) each Director;
 - (iii) each Alternate Director;
 - (iv) the Auditor; and
 - (v) while ever the Company is on the Official List, the ASX.
- (c) If a Share is jointly held, notice of a meeting is only required to be given to the joint member named first in the Register.
- (d) Subject to the Company and Market Laws, other than the persons detailed at sub-rule 15.3(b) and 15.3(c), no other person is entitled to receive notice of a general meeting.

15.4 Waiver

A person may waive the requirement for notice of a general meeting by written notice to the Company.

15.5 Non-receipt of notice, etc.

The non-receipt of a notice of a general meeting by, or the accidental omission to give notice to any person entitled to notice does not invalidate any resolution passed at that meeting.

15.6 Venue

Despite any other rule, the Company may hold a general meeting of Members at two or more venues using technology that gives the Members as a whole a reasonable opportunity to participate in the meeting.

15.7 Postponement or cancellation of meeting

- (a) Subject to rule 15.3(b), the Directors may by notice to ASX change the venue for, postpone or cancel any general meeting whenever they think fit.
- (b) A meeting convened by a Member in accordance with the Corporations Act or a meeting which is otherwise not called by a resolution of the Directors may not be postponed or cancelled without the prior written consent of the person or Member who called or requisitioned the meeting.

16. Proceedings at general meetings

16.1 Membership at specified time

The power of the Company to determine, for the purposes of a particular general meeting convened by the Company, that all the shares quoted at a specified time before the meeting are taken to be held at the time of the meeting by the persons who hold them at the specified time is exercisable by the Board.

16.2 Representation

- (a) Any Member entitled to vote at a time specified in rule 16.1, or, where this is no such specified time, then at the time of the meeting, may be present and vote in person or may be represented at any meeting of the Company by proxy or attorney or, in the case of a body corporate, by a Representative of that body corporate.
- (b) Subject to the terms of this document, the appointment of proxies and Representatives is governed by the Corporations Act.
- (c) An attorney for a Member may, subject to the instrument of appointment, do whatever the Member could do, but if the attorney is to vote at a meeting of Members or a class of Members the instrument conferring the power of attorney or a certified copy of that instrument must be produced to the Company at least 48 hours before the meeting in the same manner as for the appointment of a proxy.

16.3 Quorum

- (a) No business may be transacted at any general meeting unless a quorum is present at the commencement of the meeting.
- (b) A quorum is three Members entitled to vote at the meeting.
- (c) For the purpose of determining whether a quorum is present:
 - (i) if a Member has appointed more than one Representative, proxy or attorney, only one of those persons may be counted; and
 - (ii) if an individual is attending both as a Member and as a Representative, proxy or attorney, the individual may only be counted once.
- (d) If a quorum is not present within 30 minutes after the time appointed for a general meeting, the general meeting, if called upon a requisition, is dissolved, but in any other case, is adjourned to the date, time and place the Directors specify, and if at the adjourned meeting a quorum is not present within 30 minutes after the time specified (or

otherwise determined under this paragraph (d)) for holding the meeting, the meeting is dissolved. If the Directors do not specify one or more of those things, the meeting is adjourned to:

- (i) if the date is not specified - the same day in the next week;
- (ii) if the time is not specified - the same time; and
- (iii) if the place is not specified - the same place.

16.4 Business at general meetings

- (a) The business of an annual general meeting is to :
 - (i) receive and consider the accounts and reports required by the Corporations Act to be laid before each annual general meeting;
 - (ii) elect Directors in the place of those retiring under this Constitution;
 - (iii) when relevant, appoint an auditor; and
 - (iv) transact any other business which, under this Constitution, is required to be transacted at any annual general meeting.

All other business transacted at an annual general meeting and all business transacted at other general meetings is deemed to be special.

- (b) Unless the Corporations Act provides otherwise :
 - (i) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
 - (ii) except with the approval of the Board or of the Chairperson or pursuant to the Corporations Act, no person may move at any meeting any resolution or any amendment of any resolution of which notice has not been properly given.

16.5 Persons entitled to attend a general meeting

Subject to rule 16.2, the persons entitled to attend a general meeting are:

- (a) Members (including a Member present by proxy, attorney or Representative);
- (b) the Directors and the Secretary;
- (c) the Auditor; and
- (d) any other person approved by the Chairperson.

16.6 Chairperson

- (a) The chairperson for Directors' meetings, will be the Chairperson at every general meeting.
- (b) If a general meeting is held and :

- (i) a chairperson has not been elected by the Directors; or
- (ii) the elected chairperson is not present within 15 minutes after the time appointed for the holding of the general meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be Chairperson of the general meeting, provided that failing an election by the Directors of a Director able and willing to act, the Members present must elect one of their number to be chairperson of the general meeting.

16.7 Casting vote

In the case of an equality of votes, the Chairperson of the general meeting does not have a second or casting vote.

16.8 Chairperson may vacate

A chairperson of a general meeting (**Initial Chairperson**) may, for any item or items of business, vacate the chair in favour of another person nominated by the Initial Chairperson.

16.9 Conduct of meeting

- (a) The Chairperson of a general meeting :
 - (i) is responsible for the general conduct of the meeting and for the procedures to be adopted at that meeting; and
 - (ii) may at any time the chairperson considers necessary or desirable for the proper and orderly conduct of the meeting, terminate debate or discussion on any matter,

and the rulings of the Chairperson on any such matter is final.

- (b) Any person in possession of a pictorial or sound recording device, a placard, banner or articles considered by the Chairperson to be dangerous, offensive or liable to cause disruption, or who refuses to produce or to permit examination of any such articles in their possession, may be refused admission to the meeting or, if admitted, may be required to leave the meeting.

16.10 Adjournment

- (a) The Chairperson may, with the consent of the general meeting, and must, if so directed by the general meeting, adjourn the general meeting from time to time. No business may be transacted on the resumption of any adjourned general meeting other than the business left unfinished at the general meeting from which the adjournment took place.
- (b) An adjourned general meeting may take place at a different venue from the initial general meeting.

16.11 Notice of resumption of adjourned general meeting

- (a) When a general meeting is adjourned for 30 days or more, notice of the resumption of the meeting must be given.

- (b) When a general meeting is adjourned for less than 30 days, notice of any adjournment or of the business to be transacted on the resumption of the adjourned general meeting need not be given.

16.12 Voting rights

- (a) Subject to restrictions on voting from time to time affecting any class of Shares or a holder of a Share, at general meetings of Members:
- (i) subject to paragraphs (ii) and (iii) of this rule 16.12(a), on a show of hands, each Member present has one vote;
 - (ii) where a Member has appointed more than one person as Representative, proxy or attorney for that Member, none of the Representatives, proxies or attorneys is entitled to vote on a show of hands;
 - (iii) where a person is entitled to vote by virtue of rule 16.12(a) in more than one capacity, that person is entitled to only one vote on a show of hands;
 - (iv) on a poll, each Member present:
 - (A) has one vote for each fully paid Share held; and
 - (B) for each other Share held has a fraction of a vote equivalent to the proportion which the amount paid (not credited) bears to the total amounts paid and payable (excluding amounts credited) for the Share. When calculating this proportion, amounts paid in advance of a call are to be ignored.
- (b) The holder of a preference share (or preference security, as that term is defined in the Listing Rules) has the right to vote in each of the following circumstances but not in others :
- (i) during a period during which a dividend (or part of a dividend) in respect of the shares is in arrears;
 - (ii) on a proposal to reduce the capital of the Company;
 - (iii) on a resolution to approve the terms of a buy-back agreement;
 - (iv) on a proposal that affects the rights attached to the share;
 - (v) on a proposal to wind up the Company;
 - (vi) on a proposal for the disposal of the whole of the Company's property, business and undertaking; and
 - (vii) during the winding up of the Company.

16.13 Voting - show of hands

At any general meeting a resolution put to the vote of the general meeting must be decided on a show of hands unless a poll is demanded in accordance with rule 16.15.

16.14 Results of voting

Unless a poll is so demanded, a declaration by the Chairperson that a resolution has on a show of hands been carried or carried unanimously or by a particular majority, or lost is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

16.15 Poll

- (a) A poll may be demanded before a vote is taken or before or immediately after the declaration of the result of a resolution decided on a show of hands by:
 - (i) the Chairperson of the general meeting;
 - (ii) at least five Members entitled to vote on the resolution; or
 - (iii) any one or more Members who are together entitled to at least 5% of the votes that may be cast on the resolution.
- (b) The demand for a poll may be withdrawn.

16.16 Manner of taking poll

- (a) If a poll is duly demanded, it must be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairperson directs, and the result of the poll must be the resolution of the general meeting at which the poll was demanded.
- (b) A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.

16.17 Meeting may continue

A demand for a poll does not prevent the continuation of the general meeting for the transaction of other business.

16.18 Voting by joint holders

In the case of joint holders of Shares, the vote of the senior holder who tenders a vote, whether in person or Representative, proxy or attorney must be accepted to the exclusion of the votes of the other joint holders and, for this purpose, seniority is determined by the order in which the names stand in the Register.

16.19 Member under disability

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Member's personal representative or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the personal representative or other person were the Member.

16.20 Payment of calls

A Member is not entitled to any vote at a general meeting in relation to Shares in the Company with respect to which all calls and other sums presently payable by the Member have not been paid. Nothing in this rule prevents such a Member from voting at a general meeting in relation

to any other Shares held by that Member provided all calls and other sums payable by the Member have been paid on those other Shares.

16.21 Objection to voting

- (a) An objection may be raised to the qualification of a voter only at the general meeting or adjourned general meeting at which the vote objected to is given or tendered. Any such objection must be referred to the Chairperson of the general meeting, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.
- (b) Without limitation to rule 16.9 and rule 16.21(a), the Chairperson may decide any difficulty or dispute which arises as to the number of votes which may be cast by or on behalf of any Member, and the decision of the Chairperson is final and binding.

16.22 Proxies

- (a) A Member who is entitled to attend and cast a vote at a general meeting of the Company may appoint a person as a proxy to attend and vote for the Member in accordance with the Corporations Act but not otherwise.
- (b) A proxy need not be a Member.
- (c) A proxy appointed to attend and vote in accordance with the Corporations Act may exercise the rights of the Member on the basis and subject to the restrictions provided in the Corporations Act but not otherwise.
- (d) A form of appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) which the Board may prescribe or accept.
- (e) Any appointment of proxy under this rule 16.22 which is incomplete may be completed by the Secretary on the authority of the Board, and where the name of the proxy is omitted, the Board may authorise completion of the proxy by the insertion of the name of the Chairperson as the person in whose favour the proxy is given.
- (f) The Board may issue with any notice of general meeting of Members or any class of Members forms of proxy for use by the Members. Each form may include the names of any of the Directors or of any other persons as suggested proxies. The forms may be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

16.23 Electronic transmission of proxy instruments

A proxy received at an electronic address specified in the notice of general meeting for that purpose or otherwise received by the Company in accordance with the Corporations Act is taken to have been signed or executed if the appointment :

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

16.24 Validity and revocation of proxies

- (a) No instrument appointing a proxy is to be treated as invalid merely because it does not contain the address of the appointor or of a proxy or is not dated or does not contain in relation to any or all resolutions an indication of the manner in which the proxy is to vote or contain the name of a proxy, and where the instrument does not contain the name of a proxy it is treated as given in favour of the Chairperson of the meeting.
- (b) A vote given in accordance with the terms of a proxy or power of attorney is valid despite, prior to the relevant meeting, the death or mental incapacity of the appointing Member, revocation of the proxy or power of attorney or transfer of the Shares in respect of which the vote is given, unless notice in writing of the death, mental incapacity, revocation or transfer has been received at the Registered Office at least 48 hours before the relevant meeting or adjourned meeting.
- (c) If the instrument appointing a proxy specifies the way the proxy is to vote on a particular resolution and, as a result, it is provided by the Corporations Act that, in an event specified in the Corporations Act, the proxy must vote that way, any vote tendered by the proxy which is not a vote in that way must be disregarded.
- (d) A proxy is not rendered ineffective by reason only of the adjournment of the meeting in respect of which the proxy is appointed.
- (e) A proxy is revoked by the appointing Member attending the meeting.

16.25 Attorneys of Members

By properly executed power of attorney, any Member may appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Registered Office or any other place the Board may determine together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

16.26 Special meetings

All the provisions of this Constitution as to general meetings apply to any special meeting of any class of Members which may be held under the operation of this Constitution or the Corporations Act.

16.27 Director entitled to speak

A Director is entitled to speak at any meeting of the Members.

17. The Directors

17.1 Number of Directors

- (a) Subject to the Corporations Act and this rule 17.1, the number of Directors (not including Alternate Directors) shall be not less than 3 and not more than 9.
- (b) The maximum number of Directors fixed by the Company at a particular time must not be less than the number of Directors in office at that time.

- (c) Subject to rules 17.1(a) and (b), the Company may by resolution passed at a general meeting increase or decrease the minimum number of Directors or increase or decrease the maximum number of Directors.

17.2 Rotation of Directors

- (a) Subject to rules 17.4 and 17.5, at every annual general meeting, one-third of the Directors for the time being (other than any Managing Director), or, if their number is not a multiple of 3, then the whole number nearest to but not more than one-third, must retire from office.
- (b) A Director (other than any Managing Director) must retire from office at the conclusion of the third annual general meeting after which the Director was elected or re-elected.
- (c) A Director who is required to retire under this rule 17.2 retains office until the dissolution or adjournment of the meeting at which the retiring Director retires.
- (d) The Directors to retire at an annual general meeting are those who have been longest in office since their last election, but, as between persons who became Directors on the same day, those to retire must (unless they otherwise agree among themselves) be determined by ballot.
- (e) A retiring Director is eligible for re-election.

17.3 Election of Directors

- (a) No person (other than a retiring Director seeking re-election) is eligible for election to the office of Director at a general meeting unless the person or some Member intending to nominate the person has given notice in writing signed by the nominee giving consent to the nomination and signifying either candidature for the office or the intention of the Member to nominate the nominee. To be valid, the notice must be left at the Registered Office not less than 30 Business Days nor more than 40 Business Days before the meeting unless the nominee has been recommended by the Board for election, in which case the notice is required to be left at the Registered Office at least 28 days before the meeting.
- (b) Where the number of nominations for election as a Director exceeds the number of Directors who have or are to resign at the general meeting, the order in which the nominations are to be voted on must be determined by ballot and once the relevant vacancies have been filled, no further nominations may be voted on.

17.4 Casual vacancies and additional Directors

The Directors may at any time appoint a person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors does not at any time exceed the maximum number specified by this Constitution. Any Director so appointed holds office only until the next following annual general meeting and is then eligible for re-election but must not be taken into account in determining the Directors who are to retire by rotation at that meeting.

17.5 Termination of office of Director

- (a) The office of a Director is terminated if the Director:
 - (i) ceases to be a Director by virtue of any provision of the Corporations Act;
 - (ii) becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (iii) becomes prohibited from being a Director by reason of any order made the Corporations Act;
 - (iv) becomes of unsound mind or a person whose person or estate is administered under laws relating to mental health;
 - (v) resigns the Director's office by notice in writing to the Company;
 - (vi) is removed from office under the Corporations Act; or
 - (vii) is absent for more than 6 months, without permission of the Board, from meetings of the Board held during that period.
- (b) A Director whose office is terminated under rule 17.5(a) must not be taken into account in determining the number of Directors who are to retire by rotation at any annual general meeting.

17.6 Remuneration

- (a) Subject to rule 17.6(b), as remuneration for services, each Director may be paid out of the funds of the Company an amount determined by the Board payable at the time and in the manner determined by the Board.
- (b) In the event that the Company in general meeting has fixed the aggregate remuneration to be paid to all the Directors in any one year, the amount paid must not exceed the amount so fixed.
- (c) The expression "remuneration" in this rule does not include any amount which may be paid by the Company under rules 17.7, 17.8, 17.9 or 17.10.

17.7 Expenses

The Directors are entitled to be paid reasonable travelling, hotel and other expenses properly incurred by them in attending meetings of the Company or of the Board or of any committee of the Board, or in connection with the Company's business.

17.8 Remuneration for extra services

Any Director who serves on any committee, or who devotes special attention to the business 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 Director, may be paid extra remuneration as determined by the Board.

17.9 Retirement benefits

Any Director may be paid a retirement benefit, as determined by the Board, in accordance with the Corporations Act. The Board may make arrangements with any Director with respect to the payment of retirement benefits in accordance with this rule 17.9.

17.10 Superannuation contributions

The Company may pay superannuation contributions for each Director to the extent necessary for the avoidance or minimisation of any penalty, charge, tax, or other impost on the Company under any applicable legislation which imposes a penalty, charge, tax or other impost on employers if a minimum level of superannuation contributions are not paid for an employee (within the meaning of the legislation).

17.11 No Share qualification

A Director is not required to hold any Shares in the capital of the Company.

17.12 Directors may hold other offices

A Director may:

- (a) hold any other office or position under the Company (except that of auditor) in conjunction with the office of Director, on terms and at a remuneration in addition to remuneration as a Director (if any), as the Board may approve; and
- (b) be or become a director of or hold any other office or position under any corporation promoted by the Company, or in which it may be interested, whether as a vendor or member or otherwise, (including without limitation the Stapled Company) and the Director is not accountable for any benefits received as a director or member of or holder of any other office or position under that corporation.

17.13 Directors may contract with the Company

- (a) Subject to the Company and Market Laws, a Director is not disqualified by the office of Director from contracting or entering into any arrangement with the Company whether as vendor, purchaser or otherwise. No such contract or arrangement or contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested is avoided or prejudiced for that reason. No Director is liable to account to the Company for any profit arising from any such contract or arrangement by reason of holding the office of Director or of the fiduciary relationship established by the office.
- (b) Except where the Director is prohibited by the Company and Market Laws from voting, a Director may vote in respect of a matter in which the Director has a personal interest.
- (c) A Director who is interested in a contract or arrangement may, despite that interest, sign or attest the affixing of the Seal to any document evidencing or otherwise connected with the contract or arrangement.

17.14 Exercise of voting power in other corporations

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in

favour of any resolution appointing any Director a director of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director may vote in favour of the exercise of those voting rights despite that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

18. Powers of the Board

18.1 Management of the Company

- (a) Subject to the Corporations Act and to any other provision of this Constitution, the management and control of the business of the Company are vested in the Board, which may exercise all such powers of the Company as are not, by the Company and Market Laws or by this Constitution, required to be exercised by the Company in general meeting.
- (b) Without limiting the generality of rule 18.1, but subject to the limitations therein, the Directors may exercise all the powers of the Company to :
 - (i) borrow money;
 - (ii) charge any property or business of the Company or any of its uncalled capital;
 - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
 - (iv) guarantee or otherwise secure the performance of any obligation by any person.
- (c) Without limiting the generality of rule 18.1, a Secretary appointed by the Directors holds office on the terms and conditions (including as to remuneration) that the Directors determine.

19. Proceedings of Directors

19.1 Convening a meeting

A Director may at any time, and a Secretary must, whenever requested to do so by one or more Directors, call a Directors' meeting. At least 24 hours' notice of every such Directors' meeting must be given to each Director either by personal telephone contact or in writing by its convenor unless the Directors by unanimous resolution agree to shorter notice.

19.2 Procedure at meetings

The Directors may meet together for the dispatch of business and adjourn and, subject to this rule, otherwise regulate the Directors' meetings as they think fit.

19.3 Quorum

Unless otherwise determined by the Board, two Directors comprise a quorum.

19.4 Meetings by telephone or other means of communication

- (a) The Board may meet either in person or by telephone, audio visual link or by using any other technology consented to by all Directors.
- (b) A consent for the purposes of rule 19.4(a) may be a standing one.
- (c) A meeting conducted by telephone or other means of communication is considered to be held at the place agreed on by the Directors attending the meeting if at least one of the Directors present at the meeting was at that place for the duration of the meeting.

19.5 Majority decisions

Questions arising at any Board meeting must be decided by a majority of votes.

19.6 Casting votes

- (a) Subject to this rule 19.6, in the case of an equality of votes, the Chairperson of the meeting has a second or casting vote.
- (b) The Chairperson has no casting vote where only two Directors are present or competent to vote on the question.
- (c) For the avoidance of any doubt, the Chairperson does not have a second vote where there is not otherwise an equality of votes.

19.7 Alternate Directors

- (a) A Director may appoint any person as his or her alternate during such period as the Director thinks fit.
- (b) The following provisions apply with respect to any Alternate Director:
 - (i) the alternate Director is entitled to notice of Directors' meetings and, if the alternate Director's appointor Director is not present at such a Directors' meeting, the alternate Director is entitled to attend and vote in the place of the absent Director;
 - (ii) the alternate Director may exercise any powers that the alternate Director's appointor Director may exercise, and the exercise of any such power by the alternate Director is deemed to be the exercise of the power by the alternate Director's appointor Director;
 - (iii) the alternate Director is not required to hold any Shares in the capital of the Company;
 - (iv) the alternate Director's appointment may be terminated at any time by the alternate Director's appointor Director despite the period of the appointment of the alternate Director not having expired, and the appointment must terminate in any event if the alternate Director's appointor Director vacates office as a Director; and
 - (v) the appointment or the termination of an appointment of an alternate Director must be effected by a written notice signed by the Director who made the appointment given to the Company.

19.8 Continuing Directors may act

In the event of a vacancy in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum, or in order to call a general meeting of the Company.

19.9 Chairperson

The Board may elect from among their number a Chairperson of their meetings and determine the period for which each is to hold office. If no Chairperson is elected or if at any meeting the Chairperson is not present at the time specified for holding the meeting, the Directors present may choose 1 of their number to be Chairperson of the meeting.

19.10 Committees

- (a) The Board may delegate any of its powers to a committee consisting of Directors or any other person as the Board thinks fit provided that any such committee will include at least one Director.
- (b) A committee to which any powers have been delegated pursuant to rule 19.10(a) must exercise the powers delegated in accordance with any directions of the Board, and a power so exercised is deemed to have been exercised by the Board.
- (c) Any committee formed pursuant to this rule 19 and its proceedings are governed by the provisions in this constitution regulating the meetings and proceedings of the Directors.

19.11 Written resolutions

- (a) The Directors may pass a resolution with a directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last Director signs.
- (d) Any document referred to in this rule 19.11 may, without limitation, be transmitted by facsimile or other electronic or mechanical means and, for the purposes of execution, any document produced by mechanical or electronic means under the name of a Director with the Director's authority is deemed to be a document in writing signed by the Director.

19.12 Defective appointment

All acts done by any Board meeting or of a committee of the Board or by any person acting as a Director are, despite any defect in the appointment of a person to be, or to act as, a Director, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

19.13 Wholly owned subsidiary

If the Company is a wholly owned subsidiary of a body corporate then the Directors may in carrying out their duties act in the best interests of the holding company of the Company.

20. Managing Director

20.1 Appointment

- (a) Subject to rule 20.4, the Board may from time to time appoint 1 or more Directors to the office of managing director (**Managing Director**) of the Company or to any other office, except that of auditor, of employment under the Company.
- (b) An appointment pursuant to rule 20.4(a) may be either for a fixed term or at will, but may not be for life or such other terms as is permitted by the Corporations Act and, subject to the terms of any agreement entered into in a particular case, the Board may revoke any such appointment.
- (c) A Director other than a Managing Director appointed pursuant to this rule 20.1 is referred to in this Constitution as an **Executive Director**.

The appointment of a Managing Director or Executive Director automatically terminates if the person so appointed ceases for any reason to be a Director.

20.2 Remuneration

Subject to the terms of any agreement entered into in a particular case, a Managing Director or Executive Director receives such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Board may determine.

20.3 Powers

The Board may :

- (a) upon such terms and conditions and with such restrictions as it thinks fit, confer upon a Managing Director or Executive Director any of the powers exercisable by it and any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Board;
- (b) at any time withdraw or vary any of the powers so conferred on a Managing Director or an Executive Director.

20.4 Rotation

A Managing Director (and where there is more than one Managing Director, then one only of the Managing Directors, as determined by the Board from time to time) does not retire by rotation in accordance with rule 17.2, but Executive Directors (and where there is more than one Managing Director, all Managing Directors except the one determined by the Directors from time to time) must retire by rotation in accordance with rule 17.2.

21. Dividends and reserves

21.1 Payment from profits

Except as permitted by the Corporations Act, no dividend or bonus or payment by way of bonus is payable to members otherwise than out of profits of the Company.

21.2 Determination of Dividends

- (a) The directors may determine that a dividend is payable and fix:
 - (i) The amount;
 - (ii) The time for payment; and
 - (iii) The method of payment.
- (b) The Company in general meeting may determine a dividend, but may do so only if the directors have recommended a dividend.
- (c) A dividend determined by the Company in general meeting must not exceed the amount recommended by the directors.
- (d) Interest is not payable on a dividend.

21.3 Power to employ reserves

- (a) The directors may, before recommending or determining any dividend, set aside out of the profits of the Company those sums they think proper as reserves, to be applied, at the discretion of the directors, for any purpose to which the profits of the Company may be properly applied.
- (b) Pending the application of reserves under rule 21.3(a), the reserves may, at the discretion of the directors, be used in the business of the Company or be invested as the directors see fit.
- (c) The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

21.4 Crediting of dividends

- (a) Subject to the rights of persons (if any) entitled to Shares with special rights as to dividend and to this rule 21.4, all dividends are apportioned and paid proportionately to the amounts paid or credited as paid on the Shares.
- (b) If a Share is issued on terms that it will rank for dividend as from a particular date, that Share ranks for dividend only from that date.
- (c) An amount paid or credited as paid on a share during the period for which a dividend is declared only entitles the holder of the Share to an apportioned amount of the dividend as from the date of payment.
- (d) Despite any other provision of this rule 21.4 the holder of a partly-paid Share is not entitled to a greater proportion of the dividend than the proportion which the amount

paid (not credited) is of the total amounts paid and payable (excluding amounts credited). In this rule 21.4 amounts paid in advance of a call are ignored when calculating the proportion.

- (e) An amount paid or credited as paid on a Share in advance of a call is not to be taken for the purpose of this constitution to be paid or credited as paid on the Share.

21.5 Dividends where different classes of shares

- (a) If there is more than one class of Shares on issue, any dividend whether interim or otherwise may be paid on the Shares of any 1 or more class or classes to the exclusion of the Shares of any other class or classes.
- (b) If at any meeting dividends are declared on more than one class, the dividend declared on the Shares of one class may be at a higher or lower rate than or at the same rate as the dividend declared on the Shares of another class, but the Shares within each class must share equally in any dividend declared in respect of that class.
- (c) No objection may be raised to any resolution which declares a higher rate to dividend on the Shares of any class than the dividend declared on the shares of any other class or which declares a dividend on the Shares of any class to the exclusion of the Shares of any other class on the ground that the resolution was passed by the votes of the holders of the shares of a class to receive the higher rate of dividend or to receive the dividend (as the case may be) and that the resolution was opposed by the holders of the Shares of a class to receive the lower rate or dividend or to be excluded (as the case may be).

21.6 Deduction from dividends

The Directors may deduct from any dividend payable to a member all sums of money (if any) presently payable by the member to the Company on account of calls or otherwise in relation to Shares in the Company.

21.7 Unclaimed dividends

Unclaimed dividends may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.

21.8 Entitlement to Dividends

Unless otherwise specified in the resolution determining the dividend, all dividends are payable to the members who are upon the Register on the day the resolution declaring the dividend is passed or on the date fixed for payment, as applicable.

21.9 Payment of Dividends on Transmission

The Directors may retain the dividends or bonuses payable on any share to which rule 8 applied until the person entitled to elect to be registered as holder of the Share or transfer the Share does so.

21.10 Payment of Dividends by Asset Distribution

- (a) Any general meeting or the Directors determining a dividend may, by resolution, direct payment of the dividend wholly or partly by the distribution of specific assets,

including paid up shares in, or debentures, of, the Company or any other body corporate, and the directors must give effect to that resolution.

- (b) Where a difficulty arises in regard to a distribution referred to in rule 21.10(a), the Directors may settle the matter as they think expedient and fix the value for distribution of the assets or any part of those assets and may determine that cash payments will be made to any members on the basis of the value so fixed in order to adjust the rights of all parties, and may vest any of those specific assets in trustees as the directors consider expedient.

21.11 Manner of payment of Dividends

Any dividend, interest or other money payable in cash in respect of Shares may be paid:

- (a) directly into an account, with a bank or some other financial institution, that the holder or joint holders in writing directs or direct; or
- (b) by cheque sent through the post directed to:
 - (i) the address of the holder as shown in the Register, or in the case of joint holders, the address shown in the Register as the address of the joint holder first named in the Register; or
 - (ii) any other address that the holder or joint holders in writing directs or direct.

21.12 Power to Make Concurrent Call

The Directors, when declaring a dividend, may make a call on the members of such amount as they may fix but so that the call on each Member does not exceed the dividend payable to the Member and so that the call is made payable at the same time as the dividend and the dividend may, if so arranged between the Company and the Member, so set off against the call.

21.13 Dividend Reinvestment, Bonus Share and Employee Incentive Plans

- (a) This rule 21.13 is without limitation to the rights of the Directors under rule 3.10.
- (b) A general meeting of the Company or the Directors may:
 - (i) establish one or more plans “(Plans)” under which some or all members may elect in terms of one or more of the following for a period or periods as provided in the Plan:
 - (A) That dividends to be paid in respect of some or all of the shares held by the members may be satisfied by the issue of fully paid ordinary Shares; and
 - (B) The dividends are not to be declared or paid in respect of some or all of the Shares held by the Member, but that the Member is to receive an issue of fully paid ordinary Shares; and
 - (ii) vary, suspend or terminate the Plan.
- (c) The Company in general meeting may by special resolution:

- (i) establish a plan that shares be offered or issued to some or all employees of the Company whether or not for consideration; or
 - (ii) vary, suspend or terminate a plan established under rule 21.13(c)(i).
- (d) Any Plan has effect in accordance with its terms and the directors must do all things necessary and convenient for the purpose of implementing the Plan, including without limitation, the making of each necessary allotment of Shares and of each necessary appropriation, capitalisation, application, payment and distribution of funds which lawfully may be appropriated, capitalised, applied, paid or distributed for the purpose of the allotment.
- (e) For the purpose of giving effect to any Plan, the directors may make an appropriation, capitalisation, application, payment or distribution and the powers of the directors may be exercised (and with adjustments as may be required) even if only some of the members or holders of shares of any class participate in the appropriation, capitalisation, application, payment and distribution.
- (f) In offering opportunities to members or employees to participate in any Plan, the directors may give any information that in their opinion may be useful to assist members or employees in assessing the opportunity and making requests to their best advantage. The Directors, the Company and its officers are not responsible for, nor are they obliged to provide, any legal, taxation or financial advice in respect of the choices available to members or employees.
- (g) The Directors are under no obligation:
- (i) to admit any member or employee as a participant in any Plan; or
 - (ii) to comply with any request made by a member or employee who is not admitted as a participant in any Plan.
- (h) In establishing and maintaining any Plan, the Directors must act in accordance with the Listing Rules and this Constitution, and may exercise all or any of the powers conferred on them by the terms of the Plan, by this Constitution or by the law.

22. Capitalisation

22.1 Capitalisation

- (a) The Board may resolve that the whole or any portion of any sum forming part of the undivided profits, any reserve or other account of the Company and which is available for distribution, be capitalised and distributed to Members in the same proportions in which they would be entitled to receive it if distributed by way of dividend or in accordance with either the terms of issue of any Shares or the terms of any employee share plan.
- (b) The ways in which a sum may be applied for the benefit of Members under rule 22.1(a) are :
 - (i) in paying up any amounts unpaid on shares held by members;
 - (ii) in paying up in full unissued shares or debentures to be issued to Members as fully paid; or

- (iii) partly as mentioned in subparagraph (i) and partly as mentioned in subparagraph (ii),

provided that no sum shall be applied in any way which is inconsistent with the Listing Rules.

22.2 Determining entitlements

- (a) The Board may do all things necessary to give effect to the resolution as to capitalisation and, in particular, to adjust the rights of the members among themselves so as to cater for fractions of a share or debenture or fractions of a cent.
- (b) Without limitation to rule 22.2(a), the Board may specify the manner in which any fractional entitlements and any difficulties relating to distribution are to be dealt with and, without limitation, may specify that fractions are to be disregarded or that any fractional entitlements are to be increased to the next whole number or that payments in cash instead of fractional entitlements be made.

22.3 Appropriations

The Board may make all necessary appropriations and applications of the amount to be capitalised under rule 22.1 and all necessary issues of fully paid Shares or debentures.

22.4 Contracts

Where required, the Board may appoint a person to sign a contract on behalf of the Members entitled on a capitalisation to any Shares or debentures, which provides for the issue to them, credited as fully paid, of any further Shares or debentures or for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised.

22.5 No limitation to statutory power

Nothing in this rule 22 limits any power to capitalise profits conferred by the Corporations Act.

23. Inspection of records

- 23.1** The Directors or the Company by resolution passed at a general meeting may authorise a Member to inspect books of the Company.
- 23.2** A Member other than a Director does not have the right to inspect any financial records or other documents of the Company, other than the minute books for the meeting of the Members and for resolutions of Members passed with meeting, except as provided by law or authorised by the Directors or by the Company in general meeting.
- 23.3** The Company may enter into contracts with its Directors or former directors agreeing to provide continuing access for a specified period after the Director ceases to be a Director to board papers, books, records and documents of the Company which relate to the period during which the Director or former director was a Director on such terms and conditions as the Directors think fit and which are not inconsistent with this rule 23.

24. Seal

24.1 Common seal

- (a) The Company may but need not have a common seal.
- (b) In the event that the Company has a common seal, the provisions of this rule 24 shall apply.

24.2 Safe custody of seal

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

24.3 Use of seal

- (a) The seal must be used only by the authority of the Directors or of a committee of the Directors authorised by the Directors to authorise the use of the seal.
- (b) The authority to use the seal may be given before or after the seal is used.
- (c) Subject to rule 24.6, every document to which the seal is affixed must be signed by a Director and countersigned by another Director, a Secretary or another person appointed by the directors to countersign that document or a class of documents in which that document is included.

24.4 Seal register

- (a) The Company must keep a seal register and, upon the affixing of the seal to any document (other than a certificate for securities of the Company), enter in the register particulars of the document, giving in each case the date of the document, the names of the parties to the document, a short description of the document and the names of the persons signing and countersigning the document under rule 24.3(c).
- (b) The register must be available at meetings of Directors for confirmation of the use of the seal since confirmation was last given under this rule 24.3.

24.5 Official seal

- (a) The Company may have for use in place of its common seal one or more official seals each of which must be a facsimile of the common seal of the Company with the addition on its face of the words “Official Seal”.
- (b) A document sealed with an Official Seal is to be taken as having been sealed with the common seal of the Company.

24.6 Share seal or certificate seal

- (a) The Company may have for use on certificates for securities of the Company in place of its common seal one or more share seals or certificate seals, each of which must be a facsimile of the common seal of the Company with the addition on its face of the words “share seal” or “certificate seal”.
- (b) A certificate for securities of the Company sealed with a share seal or certificate seal is to be taken as having been sealed with the common seal of the Company.

24.7 Sealing and signing

The directors may determine either generally or in a particular case that the signature of any Director or the Secretary to a document to which the seal or an official seal or share seal or certificate seal is affixed may be a facsimile applied to the document by specified mechanical or other means.

25. Notices

25.1 Notices

- (a) Without limiting any other way in which notice may be given to a Member or any other person, a notice may be given by the Company to any person:
 - (i) by serving it on the person;
 - (ii) by sending it by post, courier, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for the sending of notices to that person;
 - (iii) by notifying the person of the notice's availability by an electronic means nominated by the person for that person;
 - (iv) other than where the notice must be given individually, by advertising it in one or more newspapers published daily (exclusive of weekends) throughout Australia.
- (b) If the notice is signed, the signature may be original or printed.
- (c) If a notice is sent to a destination outside Australia by post, that notice must be sent by prepaid airmail post.

25.2 When notice taken to be served

- (a) Any notice sent by post is taken to have been served on the second next Business Day after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.
- (b) Any notice served personally or left at the recipient's registered address is taken to have been served when delivered.
- (c) Any notice served by facsimile is taken to be delivered at the time the facsimile is sent provided that the sender does not receive a message indicating incomplete, garbled or otherwise ineffective transmission and provided that where the facsimile is transmitted after 5pm at the place of the sender, it will be taken to be served on the next Business Day following the day of transmission.
- (d) Any notice served by electronic transmission other than by facsimile is taken to have been served when the transmission is sent if :
 - (i) the electronic transmission was correctly addressed by the sender; or

- (ii) the sender receives evidence satisfactory to the Directors that the notice reached the electronic address supplied by the recipient for the purpose of giving notices or an address to which the original message was diverted at the hand or by the cause of the recipient,

provided that where the electronic transmission is transmitted after 5pm at the place of the sender, it will be taken to be served on the next Business Day following the day of transmission

- (e) Any notice given by advertisement is taken to be served on the date on which the advertisement first appears in any newspaper.
- (f) Any notice given to a person by notifying the person of the notice's availability by an electronic means nominated by the person for that purpose is taken as given at 10am on the day after the date on which the member is notified that the notice is available.
- (g) Where a given number of days' notice or notice extending over any other period is required to be given the day of service and the day of the notified event are not to be counted in the number of days or other period.

25.3 Member not known at registered address

Where a Member does not have a registered address or where the Company has reason to believe that a Member is not known at the Member's registered address, all future notices are taken to be given to the Member if the notice is exhibited in the Registered Office for a period of 48 hours (and is taken to be served at the commencement of that period) unless and until the Member informs the Company of a registered place of address.

25.4 Notice to transferor binds transferee

Every person who, by operation of law, transfers or by any other means becomes entitled to be registered as the holder of any Shares is bound by every notice which, prior to the person's name and address being entered in the Register in respect of those Shares, was properly given to the person from whom the person derives title to those Shares.

25.5 Service on deceased Members

A notice served in accordance with this Constitution is (despite the fact that the Member is then dead and whether or not the Company has notice of the Member's death) taken to have been properly served in respect of any registered Shares, whether held solely or jointly with other persons by the Member, until another person is registered in the Member's place as the holder or joint holder. The service is sufficient service of the notice or document on the Member's personal representative and any person jointly interested with the Member in the Shares.

25.6 Written notice

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

26. Winding-up

26.1 Distribution in kind

If the Company is wound up, the liquidator may with the sanction of a special resolution of the Company :

- (a) divide among all or any of the contributories as the liquidator thinks fit in specie or kind any part of the assets of the Company; and
- (b) may vest any part of the assets of the Company in trustees on any trusts for the benefit of all or any of the contributories as the liquidator thinks fit,

provided that the liquidator may not require a Member to accept any Shares or other securities in respect of where there is any liability.

26.2 Variation of rights of contributories

If thought expedient, any division pursuant to rule 26.1 may be otherwise than in accordance with the legal rights of the contributories and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part, but in case any division otherwise than in accordance with the legal rights of the contributories is determined, any contributory who would be prejudiced by the division has a right to dissent and ancillary rights as if the determination were a special resolution passed under the Corporations Act relating to the sale or transfer of the Company's assets by a liquidator in a voluntary winding up.

27. Indemnities and insurance

27.1 Definitions

In this rule:

officer means a director, secretary or executive officer of the Company or a person who formerly held 1 of those positions;

duties of the officer includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, a subsidiary of the Company to any other corporation;

to the relevant extent means:

- (a) to the extent the Company is not precluded by law from doing so;
- (b) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and
- (c) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation; and

liability means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government **Auditor** means the auditor for the Company;

27.2 Indemnities

The Company must indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.

27.3 Documentary indemnity

Where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company.

27.4 Insurance

Where the Board considers it appropriate, and to the extent to which the Company is not precluded by law from doing so, the Company may:

- (a) make payments of amounts by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
- (b) bind itself in any contract or deed with any officer of the Company to make the payments.

27.5 Access to Board papers

Where the Board considers it appropriate, the Company may:

- (a) give a Director or former Director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
- (b) bind itself in any contract with a Director or former Director to give the access.

28. Definitions

28.1 General definitions

In this Constitution, unless the context otherwise requires:

Alternate Director means a person appointed as an alternate for a director pursuant to rule 19.7;

ASIC means the Australian Securities and Investments Commission;

ASTC means ASX Settlement and Transfer Corporation Pty Ltd ABN 49 008 504 532;

ASTC Settlement Rules means the operating rules of the ASTC;

ASX means Australian Stock Exchange Limited and, in the event and to the extent that one or more functions of the Australian Stock Exchange are taken over by ASIC, means ASIC, where applicable;

Board means the Directors for the time being of the Company;

Business Day means a day which is a business day for the purposes of the Listing Rules;

call includes any instalment of a call and any amount due on allotment of any share;

Certificated Subregister means that part of the Register that records certificated holdings of securities of the Company;

Chairperson :

- (a) in respect of the Board means a person elected by the Board to that office from time to time in accordance with rule 19.9;
- (b) in respect of a meeting of the Members, means the person appointed as chairperson for that meeting pursuant to rule 16.6 or for part of a meeting pursuant to rule 16.8;

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

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

Company and Market Laws means the Corporations Act, the Corporations Regulations and, where applicable, the ASTC Settlement Rules and the Listing Rules (where applicable);

Constitution means this Constitution as altered or added to from time to time;

Corporations Act means the *Corporations Act 2001*;

Corporations Regulations means the *Corporations Regulations 2001*;

Director means a person appointed or elected from time to time to the office of director of the Company in accordance with this Constitution and includes any alternate Director duly acting as a Director;

Executive Director means a Director appointed in accordance with rule 11 to an office of, or otherwise employed by, the Company;

Holding Lock means a facility that, in accordance with the ASTC Settlement Rules, prevents securities being deducted from, or entered into, a holding pursuant to a transfer or conversion (that is a transfer of securities from a CHESS Holding or to any other holding or from any holding to a CHESS Holding or a movement from a holding on one subregister to a holding on another subregister without any change in legal ownership);

Issuer Sponsored Subregister means that part of the Register for a class of the Company's CHESS Approved Securities that is administered by the Company (not ASTC) and that records uncertificated holdings of securities;

Listed means admitted to the official list of ASX whether or not quotation of the Shares is deferred, suspended, or subject to a trading halt, and whether securities in the Company are listed as Shares or Stapled Securities;

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

Managing Director means a Director appointed as a managing director of the Company in accordance with rule 20.1;

Member means a person registered in the Register as the holder of 1 or more Shares and includes any person who is a member of the Company in accordance with or for the purposes of the Corporations Act;

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

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

Ordinary Share means an ordinary share in the capital of the Company;

Prescribed Rate means the rate of 12% per annum or such other rate as may from time to time be fixed by the Directors;

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

Register means the register of members kept by the Company in accordance with section 169 of the Corporations Act and includes any Certificated Subregister and issuer Sponsored Subregister;

Registered Office means the registered office of the Company;

Related Body Corporate means a body corporate which by virtue of the provisions of section 50 of the Corporations Act is deemed to be related to the Company and 'related' has a corresponding meaning;

Representative means a person authorised to act as a representative of a corporation under section 250D of the Corporations Act;

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

Restricted Securities has the meaning ascribed by the Listing Rules;

Seal means the common seal of the Company (if any);

Secretary means any person appointed to perform the duties of a secretary of the Company;

Share means a share in the capital of the Company;

SRN means shareholder reference number.

28.2 Company and Market Laws definitions

Unless otherwise defined in rule 28.1 or unless the context otherwise requires:

- (a) any word or expression defined in or for the purposes of the Company and Market Laws has the same meaning when used in this Constitution;
- (b) the rules of interpretation specified in or otherwise applicable to the Company and Market Laws apply in the interpretation of this Constitution;

28.3 Conflicts in Company and Market Laws

Where there is any conflict in definitions or interpretations contained in the Company and Market Laws, the definitions rules in the Corporations Act shall apply.

28.4 Reference

Reference to a statute, ordinance, code, rule or other law includes regulations and other instructions under it and consolidations, amendments, re-enactments or replacements of it.

28.5 Replaceable rules

The replaceable rules in the Corporations Act do not apply to the Company.

28.6 Other

- (a) A reference in a rule relating to fully paid Shares to a Share or shareholder includes a reference to stock or stockholder respectively.
- (b) A reference in a rule to a partly paid Share is a reference to a Share on which there is an amount unpaid.
- (c) A reference in a rule to an amount unpaid on a Share includes a reference to an amount unpaid by way of premium.
- (d) A reference in a rule relating to partly paid Shares to a call or an amount called in respect of a Share includes a reference to a sum that, by the terms of issue of a Share, becomes payable on allotment or at a fixed date.
- (e) A Member is to be taken to be present at a general meeting if the Member is present in person or by proxy, attorney or Representative.
- (f) A Director is to be taken to be present at a meeting of directors if the director is present in person or by Alternate Director.
- (g) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (h) Unless the contrary intention appears, in this Constitution:
 - (i) headings and underlinings are for convenience only and do not affect the interpretation of this Constitution;
 - (ii) words importing the singular include the plural and vice versa;

- (iii) words importing a gender include every other gender;
- (iv) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
- (v) a reference to a person includes that person's success and legal personal representatives;
- (vi) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (vii) a reference to the Listing Rules or the ASTC Settlement Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any waiver granted by the ASX from compliance with those rules; and
- (viii) 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.

28.7 Application of the Corporations Act and Listing Rules

- (a) This Constitution is to be interpreted subject to the Corporations Act and (while the Company is a listed company) the Listing Rules.
- (b) Without limitation to rule 2, the Company and the Directors must comply with the obligations imposed on them under the Corporations Act and, while the Company is admitted to the Official List, the Listing Rules.
- (c) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by:
 - (i) a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act; or
 - (ii) a provision of the Listing Rules has the same meaning as in that provision of the Listing Rules.
- (d) Subject to rule 28.7(c), unless the contrary intention appears, an expression in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section.
- (e) Unless a contrary intention appears, where a provision in this constitution :
 - (i) is qualified by the words "subject to the Listing Rules" or any similar expression;
 - (ii) states that a particular thing must not be done or is not allowed unless done in accordance with or allowed by the Listing Rules; or
 - (iii) requires that a particular thing be done in accordance with the Listing Rules,

the qualification, statement or requirement does not operate at any time when the Company is not admitted to the Official List.