



# **Ansell Limited - Constitution**

(Adopted by a special resolution of the members on [insert date] 2020)

## **Ansell Limited**

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**ANSELL LIMITED**

**ACN 004 085 330**

**A public company limited by shares**

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**CONSTITUTION**

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(Adopted by a special resolution of the members on [insert date] 2020)

**Preliminary**

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**1 Definitions and interpretation**

(a) In this constitution:

**Act** means Corporations Act 2001 (Cth);

**ASX Settlement Operating Rules** means the operating rules (however described) of ASX Settlement Pty Ltd and, to the extent they are applicable, the operating rules of the Exchange and the operating rules of ASX Clear Pty Limited;

**Board** means the directors of the company or those of them who are present at a meeting at which there is a quorum;

**Business Day** has the meaning given to that term in the Listing Rules;

**company** means Ansell Limited;

**Exchange** means the Australian Securities Exchange or such other body corporate that is declared by the Board to be the company's primary stock exchange for the purposes of this definition;

**Listed Company** means a company which is admitted to the official list of the Exchange;

**Listing Rules** means the listing rules of the Exchange as they apply to the company;

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

**Record Time** means:

- (1) in the case of a meeting for which the caller of the meeting has decided, under the Act, that shares are to be taken to be held by the persons who held them at a specified time before the meeting, the specified time; and
- (2) in any other case, 48 hours before the relevant meeting or, if this time would fall on a trading day, 7 pm (Melbourne time) on that day or such other time specified in the ASX Settlement Operating Rules;

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

**Transmission Event** means:

- (1) for a member who is an individual:
    - (A) the member's death;
    - (B) the member's bankruptcy; or
    - (C) the member becoming of unsound mind or a person who, or whose estate, is liable to be dealt with in any way under the law relating to mental health; and
  - (2) for a member which is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.
- (b) A reference in this constitution to:
- (1) a partly paid share is a reference to a share on which there is an amount unpaid; and
  - (2) an amount unpaid on a share includes a reference to any amount of the issue price which is unpaid.
- (c) A reference in this constitution to a member for the purposes of a meeting of members is a reference to a registered holder of shares as at the relevant Record Time.
- (d) A reference in this constitution to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or Representative (whether in physical attendance or by using technology approved by the Board in accordance with this constitution) or, except in any rule that specifies a quorum or except in any rule prescribed by the Board, a member who has duly lodged a valid direct vote in relation to the general meeting under rule 30.
- (e) A reference in this constitution in general terms to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position.
- (f) A reference to a document being 'signed' or to 'signature' includes that document being executed under hand or under seal or by any other method and, in the case of a communication in electronic form, includes the document being authenticated in accordance with the Act or any other method approved by the Board.
- (g) A reference in this constitution to a monetary amount is a reference to that amount in Australian currency or such other currency as may be determined by the Board from time to time.
- (h) Unless the contrary intention appears, in this constitution:
- (1) headings are only for convenience and do not affect the meaning of this constitution;

- (2) words that refer to a singular number also refer to plural numbers, and the other way around;
- (3) words that refer to a gender also refer to the other genders;
- (4) words used to refer to persons generally, or to refer to a natural person, include a company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
- (5) a reference to a person includes that person's successors and legal personal representatives;
- (6) a reference to a statute, regulation, proclamation, ordinance or by-law or a provision of any of them includes all statutes, regulations, proclamations, ordinances, by-laws or provisions varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (7) a reference to the Listing Rules or the ASX Settlement Operating Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any applicable waiver or exemption;
- (8) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
- (9) specifying anything in this constitution after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included.

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## **2 Application of the Act, Listing Rules and ASX Settlement Operating Rules**

- (a) The rules that apply as replaceable rules to public companies under the Act do not apply to the company except insofar as they are repeated in this constitution.
- (b) Unless the contrary intention appears:
  - (1) an expression or defined term in a rule that deals with a matter dealt with by a provision of the Act, the Listing Rules or the ASX Settlement Operating Rules has the same meaning as in that provision;
  - (2) subject to rule 2(b)(1), an expression in a rule that is defined in section 9 of the Act has the same meaning in this constitution;
- (c) while the company is a Listed Company, the following provisions apply:
  - (1) notwithstanding anything contained in this constitution, if the Listing Rules prohibit an act being done, the act must not be done;
  - (2) nothing contained in this constitution prevents an act being done that the Listing Rules require to be done;



- (3) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (4) if the Listing Rules require this constitution to contain a provision and it does not contain such a provision, this constitution is deemed to contain that provision;
- (5) if the Listing Rules require this constitution not to contain a provision and it contains such a provision, this constitution is deemed not to contain that provision; and
- (6) if any provision of this constitution is or becomes inconsistent with the Listing Rules, this constitution is deemed not to contain that provision to the extent of the inconsistency.

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### 3 Exercising powers

- (a) The company may in any way the Act permits:
  - (1) exercise any power;
  - (2) take any action; or
  - (3) engage in any conduct or procedure,which, under the Act a company limited by shares may exercise, take or engage in.
- (b) Where this constitution provides that a person may do a particular act or thing and the word “may” is used, the act or thing may be done at the person’s discretion.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the same way and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing, the power may be exercised from time to time.
- (e) Where this constitution confers a power to do a particular act or thing concerning particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing as to only some of those matters or as to a particular class of those matters, and to make different provision concerning different matters or different classes of matters.
- (f) Where this constitution confers a power to make appointments to an office or position (except the power to appoint a director under rule 34(a)), the power is, unless the contrary intention appears, to be taken to include a power:
  - (1) to appoint a person to act in the office or position until a person is permanently appointed to the office or position;

- (2) to remove or suspend any person appointed (without prejudice to any rights or obligations under any contract between the person and the company); and
  - (3) to appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.
- (g) To the extent the law permits, where this constitution gives power to a person to delegate a function or power:
- (1) the delegation may be concurrent with, or (except in the case of a delegation by the Board) to the exclusion of, the performance or exercise of that function or power by the person;
  - (2) the delegation may be either general or limited in any way provided in the terms of delegation;
  - (3) the delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
  - (4) the delegation may include the power to delegate; and
  - (5) where performing or exercising that function or power depends on that person's opinion, belief or state of mind about a matter, that function or power may be performed or exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.

## Share capital

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### 4 Shares

#### 4.1 Issue

- (a) Subject to this constitution, the Listing Rules, the ASX Settlement Operating Rules and any special rights conferred on the holders of any shares or class of shares, the Board may:
  - (1) issue, allot, cancel, grant options for, or otherwise dispose of, shares in the company; and
  - (2) decide:
    - (A) the persons to whom shares are issued or options are granted;
    - (B) the terms on which shares are issued or options are granted;
    - (C) the rights and restrictions attached to those shares or options.

## 4.2 Preference shares

- (a) The company may issue preference shares including preference shares which are, or at the option of the company or holder are, liable to be redeemed or convertible into ordinary shares.
- (b) Each preference share confers on the holder a right to receive a preferential dividend, in priority to the payment of any dividend on the ordinary shares, at the rate and on the basis decided by the Board under the terms of issue.
- (c) In addition to the preferential dividend and rights on winding up, each preference share may participate with the ordinary shares in profits and assets of the company, including on a winding up, if and to the extent the Board decides under the terms of issue.
- (d) The preferential dividend may be cumulative only if and to the extent the Board decides under the terms of issue, and will otherwise be non-cumulative.
- (e) Each preference share confers on its holder the right in a winding up and on redemption to payment in priority to the ordinary shares of:
  - (1) the amount of any dividend accrued but unpaid on the share at the date of winding up or the date of redemption; and
  - (2) any additional amount specified in the terms of issue.
- (f) To the extent the Board may decide under the terms of issue, a preference share may confer a right to a bonus issue or capitalisation of profits in favour of holders of those shares only.
- (g) A preference share does not confer on its holder any right to participate in the profits or property of the company except as set out above.
- (h) A preference share does not entitle its holder to vote at any general meeting of the company except in the following circumstances:
  - (1) on a proposal:
    - (A) to reduce the share capital of the company;
    - (B) that affects rights attached to the share;
    - (C) to wind up the company; or
    - (D) for the disposal of the whole of the property, business and undertaking of the company;
  - (2) on a resolution to approve the terms of a buy back agreement;
  - (3) during a period in which a dividend or part of a dividend on the share is in arrears;
  - (4) during the winding up of the company; or
  - (5) in any other circumstances in which the Listing Rules require holders of preference shares to be entitled to vote.
- (i) The holder of a preference share who is entitled to vote in respect of that share under rule 4.2(h) is, on a poll, entitled to the number of votes specified in, or determined in accordance with, the terms of issue for the share.

- (j) In the case of a redeemable preference share, the company must redeem the share, pay the amount payable in redemption of the shares, or otherwise deal with the redemption, in accordance with the terms of issue.
- (k) A preference share which, in accordance with its terms of issue, may be converted into an ordinary share will, at the time of conversion and without any further act:
  - (1) have the same rights as a fully paid ordinary share; and
  - (2) rank equally with other fully paid ordinary shares on issue.

This is subject to the terms of issue of the preference share in relation to entitlement to ordinary dividends paid after conversion. In addition, the terms of issue of the preference share may provide for the issue of additional ordinary shares on conversion as determined by the Board.
- (l) The conversion does not constitute a cancellation, redemption or termination of the preference share or the issue, allotment or creation of new shares, but has the effect of varying the status of, and the rights attaching to, the preference share so that it becomes an ordinary share.
- (m) A holder of a preference share must not transfer or purport to transfer, and the Board, to the extent permitted by the Listing Rules, must not register a transfer of, the share if the transfer would contravene any restrictions on the right to transfer the share set out in the terms of issue for the share.

## **5 Changes to share capital**

### **5.1 Alteration of share capital**

- (a) The company may reduce its share capital or alter its capital structure in any manner permitted by the Act or the Listing Rules.
- (b) Subject to the Act, the Board may do anything necessary or desirable to give effect to any resolution altering the company's share capital, including, where a member becomes entitled to a fraction of a share on a consolidation any or all of:
  - (1) making cash payments;
  - (2) determining that all or any fractions may be disregarded;
  - (3) appointing a trustee to deal with any fractions on behalf of members; and
  - (4) rounding up each fractional entitlement to the nearest whole share.

### **5.2 Conversion or reclassification of shares**

Subject to rule 5.3, the company may by resolution convert or reclassify shares from one class to another.

### **5.3 Variation of class rights**

- (a) The rights attached to a class of shares may, unless their terms of issue state otherwise, be varied:

- (1) with the written consent of holders of at least 75% of the shares of the class; or
  - (2) by a special resolution passed at a separate meeting of the holders of shares of the class.
- (b) The provisions of this constitution relating to general meetings apply, with necessary changes to separate class meetings as if they were general meetings except that:
- (1) a quorum is constituted by members present holding or representing at least 25% of the shares of the class; and
  - (2) any holder of shares included in the class present or the chair of the meeting, may demand a poll.
- (c) The rights conferred on the holders of any class of shares are to be taken as not having been varied by the creation or issue of further shares ranking equally with them, unless the terms of issue provide otherwise.

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## 6 Joint holders of shares

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

- (a) they are liable individually as well as jointly for all payments, including calls, in respect of the share;
- (b) subject to rule 6(a), on the death of any one of them the survivor or survivors is/are the only person(s) the company will recognise as having any title to the share;
- (c) any one of them may give effective receipts for any dividend, bonus, interest or other distribution or payment in respect of the share;
- (d) except where persons are jointly entitled to a share because of a Transmission Event, or where required by the Listing Rules or the ASX Settlement Operating Rules, the company may limit to 3 the number of persons to be registered as joint holders of the share;
- (e) only the person whose name stands first in the share register as one of the joint holders of the shares is entitled, if the company determines to issue certificates for shares, to delivery of a certificate relating to the shares or to receive notices from the company and any notice given to that person is considered notice to all the joint holders; and
- (f) when the Act requires the number of members to be counted, they are to be counted as one member.

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## 7 Equitable and other claims

Except where a law requires otherwise, the company may treat the registered holder of a share as the absolute owner of that share and need not:

- (a) recognise a person as holding a share on any trust, even if the company has notice of that trust; or

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

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## 8 Restricted securities

Where at any time any of the share capital of the company is classified by the Exchange as “restricted securities” despite any other provision of this constitution:

- (a) a holder of restricted securities must not dispose of, or agree or offer to dispose of, those restricted securities during the escrow period applicable to those restricted securities except as permitted by the Listing Rules or the Exchange;
- (b) if the restricted securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the restricted securities are to be kept on the company’s issuer sponsored subregister and are to have a holding lock applied for the duration of the escrow period applicable to those restricted securities;
- (c) the company must refuse to acknowledge a disposal (including registering a transfer) of the restricted securities during the escrow period except as permitted by the Listing Rules or the Exchange;
- (d) a holder of restricted securities will not be entitled to participate in any return of capital on those restricted securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the Exchange; and
- (e) if a holder of restricted securities breaches a restriction deed or a provision of this constitution restricting a disposal of those securities, the holder of the restricted securities will not be entitled to any dividend or distribution, or to exercise any voting rights, in respect of those securities for so long as the breach continues.

## Calls, forfeiture, indemnities and lien

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## 9 Calls

- (a) Subject to this constitution and to the terms on which any shares are issued, the Board may:
  - (1) make calls on the members for any amount unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times; and
  - (2) on the issue of shares, differentiate between members as to the amount of calls to be paid and the time for payment.
- (b) The Board may require a call to be paid by instalments.

- (c) The Board must send members notice of a call at least 14 days (or any longer period required by the Listing Rules) before the amount called is due specifying:
  - (1) the amount of the call;
  - (2) the time or times for payment; and
  - (3) the manner in which payment must be made.
- (d) Each member must pay to the company the amount called on the member's shares by the time and in the manner specified for payment.
- (e) A call is taken to have been made when the resolution of the Board authorising the call is passed.
- (f) The Board may revoke a call or extend the time for payment.
- (g) Failure of a member to receive a notice of a call, or accidental failure to give notice of a call to a member, does not invalidate the call.
- (h) If an amount called on a share is not paid in full by the time specified for payment, the person who owes the amount must, if the Board decides, pay:
  - (1) interest on the unpaid part of the amount from the date specified for payment of the amount to the date of actual payment, at a rate determined under rule 16; and
  - (2) any costs, expenses or damages the company incurs because the amount has not been paid or has been paid late.
- (i) Any amount unpaid on a share that, by the terms of issue of the share, becomes payable on issue or at a fixed date:
  - (1) is treated for the purposes of this constitution as if that amount were payable under a call duly made and notified; and
  - (2) must be paid on the date on which it is payable under the terms of issue of the share.
- (j) The Board may, to the extent the law permits, waive or compromise all or part of any payment due to the company under the terms of issue of a share or under this rule 9.

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## 10 Proceedings to recover calls

- (a) In an action or other proceedings to recover a call, or interest or costs or expenses incurred because of the failure to pay or late payment of a call, proof that:
  - (1) the name of the defendant is entered in the register as the holder or one of the holders of the share on which the call is claimed;
  - (2) the resolution making the call is recorded in the minute book; and
  - (3) notice of the call was given to the defendant complying with this constitution,

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

- (b) In rule 10(a), defendant includes a person against whom the company alleges a set-off or counterclaim, and action or other proceedings for the recovery of a call is to be interpreted accordingly.

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## 11 Payments in advance of calls

- (a) The Board may accept from a member the whole or a part of the amount unpaid on a share even though no part of that amount has been called.
- (b) The Board may authorise payment by the company of interest on an amount accepted under rule 11(a), until the amount becomes payable, at a rate agreed between the Board and the member paying the amount.
- (c) Unless a different agreement is made, the company may, with the approval of the Board, repay to a member any amount accepted under rule 11(a).

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## 12 Forfeiting partly paid shares

- (a) If a member fails to pay the whole of a call or an instalment of a call by the time specified for payment, the Board may serve a notice on that member:
  - (1) requiring payment of the unpaid part of the call or instalment, together with any interest that has accrued and all costs, expenses or damages that the company has incurred because of the failure to pay;
  - (2) naming a further time (at least 14 days after the date of the notice) by which, and a place at which, the amount payable under rule 12(a)(1) must be paid; and
  - (3) stating that, if the whole of the amount payable under rule 12(a)(1) is not paid by the time and at the place named, the shares on which the call was made will be liable to be forfeited.
- (b) If the member does not comply with a notice served under rule 12(a)(1), the Board may by resolution forfeit any share concerning which the notice was given at any time after the day named in the notice and before the payment required by the notice is made.
- (c) A forfeiture under rule 12(b) includes all dividends, interest and other money payable by the company on the forfeited share and not actually paid before the forfeiture.
- (d) Where a share has been forfeited:
  - (1) notice of the resolution must be given to the member in whose name the share stood immediately before the forfeiture; and
  - (2) an entry of the forfeiture, with the date, must be made in the register of members.
- (e) Failure to give the notice or to make the entry required under rule 12(d) does not invalidate the forfeiture.
- (f) A forfeited share becomes the property of the company and the Board may sell, reissue or otherwise dispose of the share in the way it thinks fit and, in



the case of reissue or other disposal, with or without crediting as paid up any money paid on the share by any former holder.

- (g) A person whose shares have been forfeited ceases to be a member as to the forfeited shares, but must, unless the Board decides otherwise, pay to the company:
  - (1) all calls, instalments, interest, costs, expenses and damages owing on the shares at the time of the forfeiture; and
  - (2) interest on the unpaid part of the amount payable under rule 12(g)(1), from the date of the forfeiture to the date of actual payment, at a rate determined under rule 16.
- (h) The forfeiture of a share extinguishes all interest in, and all claims and demands against the company relating to, the forfeited share and, subject to rule 15(i), all other rights attached to the share.
- (i) The Board may accept a surrender of a share by way of compromise of a claim. Any share so surrendered may be sold, reissued or otherwise disposed of in the same manner as a forfeited share.

### **13 Members' indemnity**

If the company becomes liable for any reason under a law to make a payment:

- (a) in respect of shares held solely or jointly by a member;
- (b) in respect of a transfer or transmission of shares by a member;
- (c) in respect of dividends, bonuses or other money due or payable or which may become due and payable to a member; or
- (d) in any other way for, on account of or relating to a member,

then, in addition to any right or remedy the company may otherwise have, the member or, if the member is dead, the member's legal personal representative must:

- (1) fully indemnify the company against that liability;
- (2) on demand reimburse the company for any payment made; and
- (3) pay interest on the unpaid part of the amount payable to the company under rule 13(2), from the date the company makes the payment until the date the company is reimbursed in full for that payment under rule 13(2), at a rate determined under rule 16.

The Board may exempt a share from all or part of this rule 13 and waive or compromise all or part of any payment due to the company under this rule 13.

### **14 Lien on shares**

- (a) The company has a first lien on:
  - (1) each partly paid share for all unpaid calls and instalments due on that share;

- (2) each share acquired under an employee share plan for any amount which is owed to the company for the acquisition of that share; and
  - (3) each share for any amounts the company is called on by law to pay and has paid in respect of that share.
- (b) The company's lien on a share extends to:
- (1) all dividends payable on the share and to the proceeds of sale of the share; and
  - (2) reasonable interest and expenses incurred by the company because the amount is not paid.
- (c) The Board may sell a share on which the company has a lien as it thinks fit where:
- (1) an amount for which a lien exists under this rule 14 is presently payable; and
  - (2) the company has, at least 14 days before the date of the sale, given the registered holder of the share a written notice stating and demanding payment of that amount.
- (d) The Board may do anything necessary or desirable under the Listing Rules or the ASX Settlement Operating Rules to protect any lien, charge or other right to which the company is entitled under this constitution or a law.
- (e) When the company registers a transfer of shares on which the company has a lien without giving the transferee notice of its claim, the company's lien is released so far as it relates to amounts owing by the transferor or any predecessor in title on the shares transferred.
- (f) The Board may exempt a share from all or part of this rule 14 and waive or compromise all or part of any payment due to the company under this rule 14.

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## **15 Sale, reissue or other disposal of shares by the company**

- (a) A reference in this rule 15 to a sale of a share by the company is a reference to any sale, reissue or other disposal of a share under rule 12(f), rule 14(c) or rule 20.
- (b) When the company sells a share, the Board may:
  - (1) receive the purchase money or consideration given for the share;
  - (2) effect a transfer of the share or execute or appoint a person to execute, on behalf of the former holder, a transfer of the share or any other document to give effect to the sale; and
  - (3) register as the holder of the share the person to whom the share is sold.
- (c) A person to whom the company sells shares need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration on the sale is applied. That person's title to the shares is not affected by any irregularity by the company before the sale. A

sale of a share by the company is valid even if a Transmission Event occurs to the member before the sale.

- (d) The only remedy of a person who suffers a loss because of a sale of a share by the company is a claim for damages against the company.
- (e) The proceeds of a sale, reissue or other disposal by the company under rule 12(f) or under rule 14(c) must be applied in paying:
  - (1) first, the expenses of the sale, reissue or other disposal;
  - (2) secondly, all amounts payable (whether presently or not) by the former holder to the company,

and any balance must be paid to the former holder on the former holder delivering to the company proof of title to the shares acceptable to the Board.
- (f) The proceeds of a sale under rule 20 must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the company proof of title to the shares acceptable to the Board.
- (g) Until the proceeds of sale of a share sold by the company are claimed or otherwise disposed of according to law, the Board may invest or use the proceeds in any other way for the benefit of the company.
- (h) The company is not required to pay interest on money payable to a former holder under this rule 15.
- (i) On completion of a sale, reissue or other disposal of a share under rule 12(f), the rights attached to the share which were extinguished under rule 12(h) revive.
- (j) A written statement by a director or secretary of the company that a share in the company has been:
  - (1) duly forfeited under rule 12(b);
  - (2) duly sold, reissued or otherwise disposed of under rule 12(f); or
  - (3) duly sold under rule 14(c) or rule 20,

on a date stated in the statement is conclusive evidence of the facts stated as against all persons claiming to be entitled to the share, and of the right of the company or the Board to forfeit, sell, reissue or otherwise dispose of the share.

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## 16 General

- (a) For the purposes of rules 9(h)(1), 12(g)(2) and 13(3), the rate of interest payable to the company is:
  - (1) if the Board has fixed a rate, the rate as fixed; or
  - (2) in any other case, a rate per annum 2% higher than the rate prescribed in respect of unpaid judgments in the Supreme Court of Victoria.

- (b) Interest payable under rules 9(h)(1), 12(g)(2) and 13(3) accrues and must be calculated daily and may be capitalised monthly or at the intervals the Board decides.
- (c) The Board may:
  - (1) exempt a share from all or a part of rule 12, 13 or 14;
  - (2) waive or compromise all or a part of any payment due to the company under rule 12, 13 or 14; and
  - (3) in relation to rule 12, before a forfeited share has been sold, reissued or otherwise disposed of, cancel the forfeiture on the conditions they decide.

## Transferring and transmitting shares

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### 17 Transferring shares

- (a) Subject to this constitution and to any restrictions attached to a member's shares, a member may transfer any of the member's shares by:
  - (1) a Proper ASTC Transfer;
  - (2) any manner permitted by law; or
  - (3) a written transfer in any usual form or in any other form approved by the Board.
- (b) A transfer referred to in rule 17(a)(3) must be:
  - (1) signed by or on behalf of both the transferor and, if required by the company, the transferee;
  - (2) if required by law to be stamped, duly stamped; and
  - (3) left for registration at the company's registered office, or at any other place the Board decides.
- (c) Subject to rules 8, 18 and 19, where the company receives a transfer complying with rule 17, the company must register the transferee named in the transfer as the holder of the shares to which it relates.
- (d) A transferor of shares remains the holder of the shares until a Proper ASTC Transfer has been effected or the transferee's name is entered in the register of members as the holder of the shares.
- (e) The company must not charge a fee for the registration of a transfer of shares unless:
  - (1) the company is not a Listed Company; or
  - (2) the fee is permitted by the Listing Rules.
- (f) The company (or the company's share registrar) may put in place, and require compliance with, reasonable processes and procedures in connection with determining:

- (1) the transferor's title or right to the shares the subject of an instrument of transfer; or
  - (2) the transferee's right to be registered as the owner of the shares the subject of an instrument of transfer; or
  - (3) the authenticity of an instrument of transfer,
- notwithstanding that this may prevent, delay or interfere with the registration of the relevant instrument of transfer.
- (g) The company may retain a registered transfer for any period the Board decides.
  - (h) The Board may do anything that is necessary or desirable for the company to participate in any computerised, electronic or other system for facilitating the transfer of shares or operation of the company's registers that may be owned, operated or sponsored by the Exchange or a related body corporate of the Exchange.
  - (i) The Board may, to the extent the law permits, waive any of the requirements of this rule 17 and prescribe alternative requirements instead, whether to give effect to rule 17(i) or for another purpose.

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## 18 Power to decline to register transfers

- (a) The Board may decline to register, or prevent registration of, a transfer of shares or apply a holding lock to prevent a transfer in accordance with the Act or the Listing Rules where:
  - (1) the transfer is not in registrable form;
  - (2) the company has a lien on any of the shares transferred;
  - (3) registration of the transfer may breach a law of Australia or would be in breach of an order of any court;
  - (4) the transfer is paper-based and registration of the transfer will create a holding which, at the time the transfer is lodged, is less than a marketable parcel;
  - (5) the transfer is not permitted under the terms of an employee share plan; or
  - (6) the company is otherwise permitted or required to do so under the Listing Rules or, except for a Proper ASTC Transfer, under the terms of issue of the shares.
- (b) If the Board declines to register a transfer, or request the application of a holding lock, the company must give notice of the refusal or request to the holder of the shares, the transferee and any broker lodging the transfer. Failure to give that notice will not invalidate the decision of the Board to decline to register the transfer or to apply a holding lock.
- (c) The Board may delegate its authority under this rule to the share registrar or any other person.

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## 19 Power to close register of members

The Board may suspend the registration of shares at any times and for any periods, as permitted by the ASX Settlement Operating Rules, that it decides.

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## 20 Selling non-marketable parcels

- (a) The company may sell shares that constitute less than a marketable parcel following the procedures in this rule 20.
- (b) The Board may send a written notice to a member who holds less than a marketable parcel of shares in a class of shares of the company, on a date determined by the Board, which:
  - (1) explains the effect of the notice under this rule 20; and
  - (2) advises the holder that he or she may elect to be exempt from the provisions of this rule. A form of election for that purpose must be sent with the notice.
- (c) If, before 5 pm Melbourne time on a date specified in the notice which is no earlier than 6 weeks after the notice is sent:
  - (1) the company has not received a notice from the member electing to be exempt from the provisions of this rule 20; and
  - (2) the member has not increased his or her shareholding to a marketable parcel,the member is taken to have irrevocably appointed the company as his or her agent to proceed in accordance with rule 20(e).
- (d) In addition to initiating a sale by sending a notice under rule 20(b), the company may also initiate a sale if a member proposes to transfer shares and holds less than a marketable parcel at the time that the relevant transfer documentation was initiated or, in the case of a paper-based transfer document, was left for registration at the company's registered office. In that case:
  - (1) the member is taken to have irrevocably appointed the company as his or her agent to proceed in accordance with rule 20(e); and
  - (2) if the holding which is less than a marketable parcel was created after the adoption of this rule, the company may suspend or change the member's rights to vote or receive dividends in respect of those shares. Any dividends withheld must be sent to the former holder after the sale when the former holder delivers to the company such proof of title as the Board accepts.
- (e) The company may:
  - (1) sell the shares constituting less than a marketable parcel as soon as practicable on the terms and in the manner that the Board thinks fit;
  - (2) deal with the proceeds of sale under rule 15; and
  - (3) receive any disclosure document, including a financial services guide, as agent for the member.

- (f) The costs and expenses of any sale of shares under this rule 20 (including brokerage and stamp duty, if applicable) are payable by the purchaser or the company.
- (g) A notice under rule 20(b) may be given to a member only once in a 12 month period and may not be given during the offer period of a takeover bid for the company.
- (h) If a takeover bid for the company is announced after a notice is given but before an agreement is entered into for the sale of shares, this rule ceases to operate for those shares. However, despite rule 20(g), a new notice under rule 20(b) may be given after the offer period of the takeover bid closes.
- (i) The Board may, before a sale is effected under this rule 20, revoke a notice given or suspend or terminate the operation of this rule either generally or in specific cases.
- (j) If a member is registered in respect of more than one parcel of shares, the company may treat the member as a separate member in respect of each of those parcels so that this rule 20 will operate as if each parcel was held by different persons.

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## 21 Transmitting shares

- (a) Subject to rule 21(c), where a member dies, the only persons the company will recognise as having any title to the member's shares or any benefits accruing on those shares are:
  - (1) the legal personal representative of the deceased, where the deceased was a sole holder; and
  - (2) the survivor or survivors, where the deceased was a joint holder.
- (b) Rule 21(a) does not release the estate of a deceased member from any liability on a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) The Board may register a transfer of shares signed by a member before the member's death, even though the company has notice of the member's death.
- (d) A person who becomes entitled to a share because of a Transmission Event may, on producing any evidence the Board requires to prove that person's entitlement to the share, choose:
  - (1) to be registered as the holder of the share by signing and giving the company a written notice stating that choice; or
  - (2) to nominate some other person to be registered as the transferee of the share by executing or effecting in some other way a transfer of the share to that other person.
- (e) The provisions of this constitution concerning the right to transfer shares, and the registration of transfers of shares apply, so far as they can and with any necessary changes, to a notice or transfer under rule 21(d) as if the

relevant Transmission Event had not occurred and the notice or transfer was a transfer executed or effected by the registered holder of the share.

- (f) Where two or more persons are jointly entitled to a share because of a Transmission Event they will, on being registered as the holders of the share, be taken to hold the share as joint tenants and rule 6 will apply to them.

## General meetings

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### 22 Calling general meetings

- (a) A general meeting may only be called:
- (1) by Board resolution; or
  - (2) as otherwise permitted under the Act.
- (b) The Board may, by notice to the Exchange:
- (1) postpone or cancel a general meeting; or
  - (2) change, or remove the offering of, any venue or technology for a general meeting,
- but:
- (3) a meeting which is called in accordance with a members' requisition under the Act; and
  - (4) and any other meeting which is not called by a Board resolution;
- may not be postponed or cancelled without the prior written consent of the person or persons who called or requisitioned the meeting.
- Any failure to give notice to the Exchange of cancellation, postponement, change or removal does not invalidate the cancellation, postponement, change or removal, the proceedings at or any resolution passed at the general meeting.

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### 23 Use of technology at general meetings

- (a) The company may hold a general meeting:
- (1) at two or more venues using any technology (including online platforms) that gives all persons entitled to attend, as a whole, a reasonable opportunity to participate in the meeting; and/or
  - (2) using one or more technologies that give all persons entitled to attend, as a whole, a reasonable opportunity to participate in the meeting without being physically present in the same place.

The Board is not under any obligation to offer or provide any additional venue or any technology.



- (b) All persons participating in a general meeting held pursuant to rule 23(a) are taken for all purposes of this constitution (including the quorum requirement under rule 26) to be present at the meeting while so participating.
- (c) A general meeting will be duly constituted and its proceedings valid if the chair is satisfied that adequate facilities are available throughout the meeting to ensure that persons entitled to attend have a reasonable opportunity to participate in the business for which the meeting has been convened.
- (d) Unless the chair determines otherwise, the general meeting will be deemed to take place at the place where the chair is physically present.
- (e) The powers of the chair will apply equally to each venue and each technology (including online platform) of the meeting.
- (f) If a general meeting is held wholly or partly by means of one or more technologies, the Board may (subject to the requirements of the Act and Listing Rules) make any arrangement and impose any requirement or restriction in connection with participation by such technologies, including any arrangement, requirement or restriction that is:
  - (1) necessary to verify the identification of the member, proxy, attorney or Representative;
  - (2) necessary to ensure the security of the technology used; and
  - (3) proportionate to the achievement of those objectives.
- (g) If, before or during the meeting, any technology used in accordance with rule 23(a) encounters a technical difficulty which results in a person entitled to participate not being able to participate in the meeting, the chair may:
  - (1) allow the meeting to continue; or
  - (2) adjourn the meeting until the difficulty is remedied or to such other time and location as the chair deems appropriate.
- (h) The chair, in his or her discretion, or the Board in its discretion, may require the adoption of any procedures which are in his or her, or its, opinion necessary or desirable for proper and orderly conduct of the meeting including debate or discussion.

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## 24 Notice of general meetings

- (a) Notice of a general meeting must be given to each person who at the time of giving the notice:
  - (1) is a member, director or auditor of the company; or
  - (2) is entitled to a share because of a Transmission Event and has satisfied the Board of his or her right to be registered as the holder of, or to transfer, the shares.

- (b) The content of a notice of a general meeting called by the Board is to be decided by the Board, but it must state the general nature of the business to be transacted at the meeting and any other matters required by the Act and the Listing Rules.
- (c) Notice of a general meeting may be given, and any other information to be provided with notice of the meeting, or at or in relation to the meeting, may be provided, using one or more technologies to communicate to those entitled to receive notice of the meeting:
  - (1) the contents of the notice and the other information; or
  - (2) details of the technology or online location where such contents and information can be viewed or from where they can be downloaded.
- (d) Notice of a general meeting must include information about how those entitled to attend can:
  - (1) attend the meeting, including in the case of meetings held using one or more technologies, details of any access, identification and security arrangements relating to the technology or technologies;
  - (2) in the case of meetings held using one or more technologies, participate in the meeting (including how they can participate in a vote taken at the meeting, and speak at the meeting, to the extent they are entitled to do so); and
  - (3) appoint proxies for the meeting to the extent they are entitled to do so.

This rule 24(d) does not affect the powers of the Board in rule 22(b).

- (e) Unless the Act provides otherwise:
  - (1) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
  - (2) no person may move any amendment to a proposed resolution the terms of which are set out in the notice calling the meeting or to a document which relates to such a resolution,
 except with the approval of the Board or the chair.
- (f) A person may waive notice of any general meeting by written notice to the company.
- (g) Failure of a member to receive a notice of a general meeting or a proxy form, or failure to give notice of a general meeting or a proxy form to any person entitled to receive notice of a general meeting, does not invalidate any act or thing done or resolution passed at the general meeting if:
  - (1) the failure to receive or give the notice occurred by accident or inadvertent error; or
  - (2) before or after the meeting, the person notifies the company of the person's agreement to that act, thing or resolution.
- (h) A person's attendance at a general meeting waives any objection that the person may have to:

- (1) a failure to give notice, or the giving of a defective notice, of the general meeting unless at the beginning of the meeting the person objects to the holding of the meeting; and
- (2) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the general meeting, unless the person objects to considering the matter when it is presented.

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## 25 Admission to general meetings

- (a) The chair of a general meeting may take any action he or she considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave and remain out of, the meeting any person:
  - (1) in possession of a pictorial-recording or sound-recording device, including cameras, video cameras, smart phones and any other audio or visual recording devices;
  - (2) in possession of a placard or banner;
  - (3) in possession of an article considered by the chair to be dangerous, offensive or liable to cause disruption;
  - (4) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
  - (5) who does not comply with searches, restrictions or other security arrangements that the chair considers appropriate;
  - (6) who behaves or threatens to behave, or who the chair has reasonable grounds to believe may behave, in a dangerous, offensive, unruly or disruptive way;
  - (7) who is not a member, Representative or a proxy, a director or the auditor of the company; or
  - (8) who is not entitled to receive notice of the meeting.

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

- (b) If the person entitled to act as chair of a general meeting considers that there is not enough room for the number of members who wish to attend the meeting, he or she may arrange for any person whom he or she considers cannot be seated in the main meeting room, where the chair will be, to observe or attend the general meeting in a separate room..
- (c) The inability of one or more members present in a separate room to participate in the conduct of the meeting, or to access, or to continue to access, one or more technologies for participation in the general meeting, does not invalidate the proceedings at or any resolution passed at the meeting, provided that sufficient members are able to participate in the meeting as are required to constitute a quorum for the meeting.

- (d) A person, whether a member or not, requested by the Board or the chair to attend a general meeting is entitled to be present and, at the request of the chair, to speak at the meeting.
- (e) Nothing in this rule 25 or in rule 28 is taken to limit the powers conferred on the chair by law.

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## 26 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum is 5 or more members present at the meeting and entitled to vote on a resolution at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for the general meeting:
  - (1) where the meeting was called on the requisition or at the request of members, the meeting must be dissolved; or
  - (2) in any other case:
    - (A) the meeting stands adjourned to the day, and at the time and place, the directors present decide or, if they do not make a decision, to the same day in the next week at the same time and place; and
    - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

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## 27 Chair of general meetings

- (a) The chair of the Board or, in the absence of the chair of the Board, the deputy chair of the Board (if any) is entitled, if present within 15 minutes after the time appointed for the general meeting and willing to act, to preside as chair at the general meeting.
- (b) The directors present at a general meeting may choose one of their number to preside as chair if, at a general meeting:
  - (1) there is no chair or deputy chair of the Board;
  - (2) the chair or deputy chair of the Board is not present within 15 minutes after the time appointed for the meeting; or
  - (3) neither the chair nor the deputy chair of the Board is willing to act as chair of the meeting.
- (c) If the Board does not choose a chair under rule 27(b), the members present must elect as chair of the meeting:
  - (1) another director who is present and willing to act; or

- (2) if no other director willing to act is present at the meeting, a member who is present and willing to act.
- (d) A chair of a general meeting may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by him or her (**Acting Chair**). Where an instrument of proxy appoints the chair as proxy for part of the proceedings for which an Acting Chair has been nominated, the instrument of proxy is taken to be in favour of the Acting Chair for the relevant part of the proceedings.

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## 28 Conduct at general meetings

- (a) Subject to the Act, the chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (b) The chair may:
  - (1) at any time the chair considers it necessary or desirable for the proper and orderly conduct of the meeting, impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the members present;
  - (2) adopt any procedures for casting or recording votes at the meeting, whether on a show of hands or on a poll, in a proper and orderly way, including the appointment of scrutineers;
  - (3) refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting, and to refuse to allow any amendment to be moved to a resolution of which notice has been given; and
  - (4) decide not to put to the meeting any resolution proposed in the notice convening the meeting (other than a resolution proposed by members in accordance with section 249N of the Act or required by the Act to be put to the meeting).
- (c) A decision by a chair under rule 28(a) or 28(b) is final.
- (d) A person present at a general meeting at the request of the Board or the chair is entitled to speak at the meeting if the chair allows and for such time that the chair allows. A requirement to allow an opportunity for persons attending the meeting to speak (for example, by asking questions) may be complied with by using one or more technologies that allow the persons the opportunity to communicate.
- (e) Whether or not a quorum is present, the chair of a general meeting may postpone the meeting before it has started if, at the time and place appointed for the meeting, he or she considers that:
  - (1) there is not enough room for the number of members who wish to attend the meeting; or

- (2) a postponement is necessary in light of the behaviour of persons present or for any other reason so that the business of the meeting can properly be carried out.
- (f) A postponement under rule 28(e) will be to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place will be taken to be the time and place for the meeting as if specified in the notice which called the meeting originally).
- (g) The chair of a general meeting may, without seeking approval of the members present, at any time during the course of the meeting:
  - (1) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion to a later time at the same meeting or to an adjourned meeting; and
  - (2) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period or periods as he or she decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chair otherwise allows.
- (h) The chair's rights under rules 28(e) and 28(g) are exclusive and, unless the chair requires otherwise, no vote may be taken or demanded by the members present concerning any postponement, adjournment or suspension of proceedings.
- (i) Only unfinished business may be transacted at a meeting resumed after an adjournment.
- (j) Where a meeting is postponed or adjourned for more than 24 hours under this rule 28, notice of the postponed or adjourned meeting must be given to the Exchange, but need not be given to any other person.
- (k) Where a meeting is postponed or adjourned, the Board may, by notice to the Exchange, postpone, cancel or change the place of the postponed or adjourned meeting.
- (l) Nothing in this rule 28 or in rules 23 or 25 is to be taken to limit the powers conferred on the chair by law.

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## 29 Decisions at general meetings

- (a) Except where a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the members present at the meeting. A decision made in this way is for all purposes a decision of the members.
- (b) If the votes are equal on a proposed resolution, the chair of the meeting has a casting vote in addition to any vote to which that chair may be entitled as a member or as a proxy, attorney or Representative.
- (c) Subject to rule 29(d), a resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded:
  - (1) before the show of hands is held;

- (2) before the result of the show of hands is declared; or
- (3) immediately after the result of the show of hands is declared.
- (d) Where the meeting is conducted using one or more technologies, unless the chair otherwise determines, a vote taken at the meeting must be taken on a poll, and not on a show of hands, to give each person entitled to vote the opportunity to participate in the vote in real time or, where practicable, to record their vote in advance of the meeting.
- (e) A poll may be demanded by:
  - (1) the chair of the meeting; or
  - (2) members in accordance with the Act.
- (f) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll is demanded.
- (g) Unless a poll is duly demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.
- (h) If a poll is duly demanded at a general meeting, it must be taken in a way and either at once or after an interval or adjournment or otherwise as the chair of the meeting directs. The result of the poll as declared by the chair is the resolution of the meeting at which the poll was demanded.
- (i) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.
- (j) The demand for a poll may be withdrawn.
- (k) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the chair of the meeting considers appropriate.

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### **30 Direct vote**

- (a) Despite anything to the contrary in this constitution, the Board may decide that, at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A 'direct vote' includes a vote delivered to the company by post, fax or other electronic means approved by the Board.
- (b) The Board may prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

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### **31 Voting rights**

- (a) Subject to this constitution and to any rights or restrictions attached to any shares or class of shares, at a meeting:

- (1) on a show of hands:
    - (A) every member present has one vote; and
    - (B) a direct vote is not counted; and
  - (2) on a poll, every member present and, if a decision has been made by the Board in accordance with rule 30(a), every member who gives a direct vote, each has:
    - (A) one vote for each share held as at the Record Time by the member and in respect of which the member is entitled to vote, except for each partly paid share, which confers only the fraction of one vote which the amount paid (not credited) on the share bears to the total amounts paid and payable (excluding amounts credited) on the share. An amount paid in advance of a call will be disregarded for this purpose; and
    - (B) in respect of every member who gives a direct vote, their vote is treated as if the member cast the vote in the poll at the meeting, and must be counted accordingly.
- (b) If a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member, on a show of hands the person is entitled to one vote only, even though he or she represents more than one member.
- (c) Any one joint holder may vote at a meeting either personally (in person or by using a technology permitted pursuant to rule 23) or by proxy, attorney or Representative or by direct vote as if that person was the sole holder. If more than one joint holder tenders a vote in respect of the relevant shares, the vote of the holder named first in the register who tenders a vote, whether in person or by proxy, attorney or Representative or by direct vote, must be accepted to the exclusion of the votes of the other joint holders.
- (d) A person entitled to a share because of a Transmission Event may vote at a general meeting in respect of those shares in the same way as if that person were the registered holder of those shares if, at least 48 hours before the meeting (or such shorter time as the Board determines), the Board has:
- (1) admitted that person's right to vote at that meeting in respect of those shares; or
  - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, those shares.
- Any vote duly tendered by that person must be accepted and the vote of the registered holder of those shares must not be counted.
- (e) A parent or guardian of an infant member may vote at a general meeting on evidence being produced of the relationship or of the appointment of the guardian as the Board may require and any vote so tendered by a parent or guardian of an infant member must be accepted to the exclusion of the vote of the infant member.



- (f) Where a member holds a share on which a call or other amount payable to the company has not been duly paid:
- (1) that member is only entitled to be present at a general meeting and vote if that member holds, as at the Record Time, other shares on which no money is then due and payable; and
  - (2) on a poll, that member is not entitled to vote in respect of those shares but may vote in respect of any shares that member holds, as at the Record Time, on which no money is then due and payable.
- (g) A member is not entitled to vote on a resolution if, under the Act or the Listing Rules:
- (1) the member must not vote or must abstain from voting on the resolution; or
  - (2) a vote on the resolution by the member must be disregarded for any purposes.
- If the member or a person acting as proxy, attorney or Representative of the member does tender a vote on that resolution, their vote must not be counted.
- (h) An objection to the validity of a vote tendered at a general meeting must be:
- (1) raised before or immediately after the result of the motion is declared; and
  - (2) referred to the chair of the meeting, whose decision is final.
- (i) A vote tendered, but not disallowed by the chair of a meeting under rule 31(g), is valid for all purposes, even if it would otherwise not have been valid.
- (j) The chair may decide any difficulty or dispute which arises as to the number of votes that may be cast by or on behalf of any member and the decision of the chair is final.

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## 32 Representation at general meetings

- (a) Subject to this constitution and any rights or restrictions attached to any class or classes of shares, each member entitled to vote at a general meeting may:
- (1) attend and vote in person or, where the member is a body corporate, by Representative;
  - (2) be represented and vote by not more than 2 proxies;
  - (3) be represented and vote by not more than 1 attorney; or
  - (4) if the Board has made a decision in accordance with rule 30(a), vote by direct vote.
- (b) A proxy, attorney or Representative may, but need not, be a member of the company.

- (c) An instrument appointing a proxy or casting a direct vote is valid if it is in accordance with the Act or in any form (including electronic) approved by the Board.
- (d) For the purposes of this rule 32, a proxy appointment received at an electronic address specified in the notice of general meeting for the receipt of proxy appointments or otherwise received by the company in accordance with the Act is taken to have been signed or executed if the appointment:
  - (1) includes or is accompanied by a personal identification code allocated by the company to the member making the appointment;
  - (2) has been authorised by the member in another manner approved by the Board and specified in or with the notice of meeting; or
  - (3) is otherwise authenticated in accordance with the Act.
- (e) A vote given in accordance with an instrument appointing a proxy or attorney is valid despite the transfer of the share in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be received under rule 32(i).
- (f) Unless otherwise provided in the appointment of a proxy, attorney or Representative, an appointment will be taken to confer authority:
  - (1) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions, to do any of the acts specified in rule 32(g); and
  - (2) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled, adjourned or postponed to another time or changed to another venue, to attend and vote at the rescheduled, adjourned or postponed meeting or at the new venue.
- (g) The acts referred to in rule 32(f)(1) are:
  - (1) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - (2) to vote on any motion before the general meeting, whether or not the motion is referred to in the appointment; and
  - (3) to act generally at the meeting (including to speak, demand a poll, join in demanding a poll and to move motions).
- (h) A proxy form issued by the company must allow for the insertion of the name of the person to be primarily appointed as proxy and may provide that, in circumstances and on conditions specified in the form that are not inconsistent with this constitution, the chair of the relevant meeting (or another person specified in the form) is appointed as proxy.
- (i) A proxy or attorney may not attend or vote at general meeting or adjourned meeting or on a poll unless the instrument appointing that proxy or attorney, and the authority under which it is signed (or a certified copy of the authority), are received by the company:

- (1) at least 48 hours or such lesser time as specified by the Board in the notice of meeting (or, in the case of an adjournment or postponement of a meeting, including an adjourned meeting, any lesser time that the Board or chair of the meeting decides) before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable; or
- (2) where rule 32(j)(2) applies, such shorter period before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable, as the company determines in its discretion.

An instrument is received by the company under this rule 32(i) when it is received in accordance with the Act and, to the extent permitted by the Act, if the document is produced or the transmission of the document is otherwise verified to the company in the way specified in the notice of meeting.

- (j) Where the company receives an instrument recording a direct vote or appointing a proxy or attorney in accordance with this constitution or the Act and within the time period specified in rule 32(i) or as otherwise determined by the Board, the company is entitled to:
  - (1) clarify with the relevant member any instruction in relation to that instrument by written or verbal communication and make any amendments to the instrument required to reflect any clarification; and
  - (2) where the company considers that the instrument has not been duly executed, return the instrument to the appointing member and request that the member duly execute the instrument and return it to the company within the period determined by the company under rule 32(i)(2) or otherwise determined by the Board and notified to the member.
- (k) The member is taken to have appointed the company as its attorney for the purpose of any amendments made to an instrument recording a direct vote or appointing a proxy or attorney in accordance with rule 32(j)(1). An instrument appointing a proxy or attorney which is received by the company in accordance with rule 32(j) is taken to have been validly received by the company.
- (l) The appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the general meeting but if the appointor votes on a resolution, the person acting as proxy or attorney for the appointor is not entitled to vote, and must not vote, as the appointor's proxy or attorney on the resolution.
- (m) Where, otherwise than in accordance with rule 32(h), a member appoints 2 proxies or attorneys to vote at the same general meeting:
  - (1) if the appointment does not specify the proportion or number of votes that each proxy or attorney may exercise, each proxy or attorney may exercise half the member's votes;
  - (2) on a show of hands, neither proxy or attorney may vote if more than one proxy or attorney attends; and

- (3) on a poll, each proxy or attorney may only exercise votes in respect of those shares or voting rights the proxy or attorney represents.
- (n) Unless written notice of the matter has been received at the company's registered office (or at another place specified for lodging an appointment of a proxy, attorney or Representative for the meeting) within the time periods specified in rules 32(i)(1) or 32(i)(2) (as applicable) a vote cast by the proxy, attorney or Representative is valid even if, before the vote is cast:
  - (1) a Transmission Event occurs to the member; or
  - (2) the member revokes the appointment of the proxy, attorney or Representative or revokes the authority under which a third party appointed the proxy, attorney or Representative.
- (o) The chair of a meeting may require a person acting as a proxy, attorney or Representative to establish to the chair's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy the requirement, the chair may:
  - (1) exclude the person from attending or voting at the meeting; or
  - (2) permit the person to exercise the powers of a proxy, attorney or Representative on the condition that, if required by the company, he or she produce evidence of the appointment within the time set by the chair.
- (p) The chair may delegate his or her powers under rule 32(o) to the share registrar or any other person.
- (q) In the case of a body corporate appointed as a member's proxy in accordance with the Act, the instrument appointing a Representative to exercise the powers that the body corporate may exercise as the member's proxy is not valid unless:
  - (1) the full name of the body corporate appointed as proxy, and the full name or title of the individual Representative of the body corporate at the meeting, is set out in the instrument; and
  - (2) the instrument is also deposited in accordance with rule 32(i).

## Directors

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### 33 Number of directors

The number of directors shall be:

- (a) not less than 4; and
- (b) not more than 10,

unless the company in general meeting resolves otherwise.

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## 34 Appointing and retirement of directors

- (a) The Board may appoint an eligible person as a director, either in addition to the existing directors or to fill a casual vacancy, but so that the total number of directors does not exceed the maximum number fixed under this constitution.
- (b) A director appointed under rule 34(a), who is not a managing director, holds office only until the conclusion of the next annual general meeting following his or her appointment.
- (c) A director (excluding a managing director and a director appointed under rule 34(a)) may not hold office beyond the third annual general meeting following the meeting at which the director was elected or last re-elected. A director who retires from office under this rule retains office until the conclusion of the relevant annual general meeting.
- (d) If the Board has appointed more than one managing director, the Board must nominate one of them to not be subject to vacation of office under this rule 34.
- (e) Where it is a requirement of law or the Listing Rules that an election of directors be held and no director would otherwise be required by rules 34(b) or 34(c) to submit for election or re-election the director to retire is any director who wishes to retire (whether or not he or she intends to stand for re-election), otherwise it is the director who has been longest in office since last election or appointment (excluding the managing director). As between directors who were last elected or appointed on the same date, the director to retire will, unless agreed otherwise, be decided by lot.
- (f) The directors to retire under rule 34(c) (both as to number and identity) is to be decided having regard to the composition of the Board at the date of the notice calling the annual general meeting. A director is not required to retire and is not relieved from retiring because of a change in the number or identity of the directors after the date of the notice but before the meeting closes.
- (g) The company may by resolution at an annual general meeting appoint an eligible person to be a director, either as an addition to the existing directors or to fill a casual vacancy, but so that the total number of directors does not exceed the maximum number fixed under this constitution.
- (h) The retirement and re-election of a director from office, or the election of another person to that office (as the case may be) takes effect at the end of the meeting at which the retirement and re-election or election occurs.
- (i) If at a general meeting at which an election of directors ought to take place and no such election is made, the retiring directors or those retiring directors whose position on the board has not been filled, may, if willing to act, continue in office until the next annual general meeting of the company.
- (j) A person is eligible for election to the office of a director at a general meeting only if:

- (1) the person is in office as a director immediately before that meeting and the Board has recommended the person's election to members;
- (2) the person has been nominated by the Board for election at that meeting;
- (3) where the person is a member he or she has, at least 45 business days (or such other period as may be specified for this purpose under the Listing Rules) before the meeting, given the company a notice signed by him or her stating his or her desire to be a candidate for election at that meeting; or
- (4) where the person is not a member, a member intending to nominate him or her for election at that meeting has, at least 45 business days (or such other period as may be specified for this purpose under the Listing Rules) before the meeting, given the company a notice signed by the member stating the member's intention to nominate the person for election, and a notice signed by the person and stating his or her consent to the nomination.

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### 35 Vacating office

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

- (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally;
- (c) is convicted of an indictable offence and the Board does not within one month of that conviction resolve to confirm the director's appointment or election (as the case may be) to the office of director;
- (d) is disqualified from holding office as a director of the company under any Australian legislation or any regulatory requirement or standard made in accordance with such legislation applicable to the company;
- (e) fails to attend meetings of the Board for more than 3 consecutive months without leave of absence from the Board and a majority of the other directors have not, within 14 days of having been given a notice by the secretary giving details of the absence, resolved that leave of absence be granted; or
- (f) resigns or retires by written notice to the company.

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### 36 Remuneration

- (a) The Board may decide the remuneration from the company to which each director is entitled for his or her services as a director, but the total aggregate amount provided to all non-executive directors of the company for their services as directors, excluding any amounts paid under rules

- 36(f), 36(g) and under rule 63, must not exceed in any financial year the amount fixed by the company in general meeting.
- (b) When calculating a non-executive director's remuneration for the purposes of rule 36(a), any amount paid by the company or related body corporate:
- (1) to a superannuation, retirement or pension fund for a director is to be included;
  - (2) as fees for acting as a director of the company or any child entity (including attending and participating in any board committee meetings where the Board has not made a determination under rule 36(g)) is to be included;
  - (3) as securities, issued with the approval of members under the Listing Rules, is to be excluded; and
  - (4) for any insurance premium paid or agreed to be paid under rule 63 is to be excluded.
- (c) Remuneration under rule 36(a) may be provided in such manner that the Board decides including by way of non-cash benefit, such as any superannuation contribution made for the benefit of a director.
- (d) The remuneration is taken to accrue from day to day.
- (e) The remuneration of a director (who is not a managing director or an executive director) must not include a commission on, or percentage of, profits or operating revenue.
- (f) The directors are also entitled to be paid all travelling and other expenses they properly incur in attending to the company's affairs, including attending and returning from general meetings of the company or meetings of the Board or of committees of the Board.
- (g) If a director, with the concurrence of the Board, performs extra services or makes any special exertions for the benefit of the company, which, in the opinion of the Board, are outside the scope of the ordinary duties of a non-executive director, that director may be remunerated for the services (as determined by the Board) out of the funds of the company. Any amount paid will not form part of the aggregate remuneration permitted under rule 36(a).
- (h) Subject to the Act and the Listing Rules, where a director dies or otherwise ceases to hold office as a director for any other reason, the Board may:
- (1) pay to the director's legal personal representative, spouse, relative or dependant, in addition to the remuneration of that director under rule 36(a), a pension or lump sum payment for past services rendered by that director; and
  - (2) cause the company to enter into a contract with the director or a legal personal representative, spouse, relative or dependant of the director to give effect to such a payment or provide for such a benefit.

- (a) In addition to any disclosures required under the Act or the Listing Rules, the Board may make rules requiring disclosure of interests that a director, and any person deemed by the Board to be related to the director, may have in any matter that relates to the affairs of the company or a related body corporate or in any other matter. The extent to which, and the conditions on which, disclosure is required will be determined by the Board. Any rules made under this rule will bind all directors.
- (b) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any requirement for disclosure under the Act or with any rules made under rule 37(a).

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### **38 Directors may contract with the company and hold other offices**

- (a) A director is not disqualified from contracting or entering into an arrangement with the company as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (b) A contract or arrangement entered into by or on behalf of the company in which a director is in any way interested is not invalid, avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (c) A director who is interested in any arrangement involving the company is not liable to account to the company for any profit realised by or under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with the disclosure requirements applicable to the director under rule 37(a) and under the Act regarding that interest.
- (d) A director may hold any other office or other position (except auditor) in the company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or position on the terms as to remuneration, tenure of office and otherwise as the Board decides.
- (e) A director may be or become a director or other officer of, or interested in, any related body corporate or any other body corporate promoted by or associated with the company or in which the company may be interested as a vendor or in any other way, and need not account to the company for any remuneration or other benefits the director receives as a director or officer of, or from having an interest in, that body corporate.
- (f) A director who has an interest in a matter that is being considered at a meeting of the Board may, despite that interest, vote, be present and be counted in a quorum at the meeting, unless that is prohibited by the Act or the Listing Rules. No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a director fails to comply with that prohibition.
- (g) The Board may exercise the voting rights given by shares in any corporation held or owned by the company in any way and in all respects as the Board decides. This includes voting for any resolution appointing a



director as a director or other officer of that corporation or voting for the payment of remuneration to the directors or other officers of that corporation. A director may, if the law permits, vote for the exercise of those voting rights even though he or she is, or may be about to be appointed, a director or other officer of that other corporation and, in that capacity, may be interested in the exercise of those voting rights.

- (h) Subject to complying with the Corporations Act, a director who is interested in any contract or arrangement may despite that interest sign any document by or on behalf of the company evidencing or otherwise connected with that contract or arrangement.

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## 39 Powers and duties of directors

- (a) The company's business and affairs are to be managed by or under the direction of the Board, which, in addition to the powers and authorities conferred on it by this constitution, may exercise all powers and do all things that are:
- (1) within the company's power; and
  - (2) are not expressly required by the Act or this constitution to be done by the company in general meeting.
- (b) The Board may exercise all the powers of the company:
- (1) to borrow or raise money in any other way;
  - (2) to charge any of the company's property or business or any amount unpaid on its shares; and
  - (3) to issue debentures, give any indemnities or guarantees or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) Debentures or other securities may be issued on the terms and at prices decided by the Board, including bearing interest or not, with rights to subscribe for, or exchange into, shares or other securities in the company or a related body corporate or with special privileges as to redemption, participating in share issues, attending and voting at general meetings and appointing directors.
- (d) The Board may decide how cheques, documents, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as applicable, by or on behalf of the company.
- (e) The Board may:
- (1) appoint or employ any person as an officer, agent or attorney of the company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Board), for any period and on any conditions they decide;
  - (2) authorise an officer, agent or attorney of the company to delegate any of the powers, discretions and duties vested in the officer, agent or attorney; and

- (3) remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.
- (f) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the Board decides.
- (g) Nothing in this rule 39 limits the general nature of rule 39(a).

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## **40 Proceedings of directors**

- (a) The directors may meet together to attend to business and adjourn and regulate their meetings as they decide.
- (b) The contemporaneous linking together by telephone or other audio, audio visual or electronic means of a sufficient number of the directors to constitute a quorum, constitutes a meeting of the Board. All the provisions in this constitution relating to meetings of the Board apply, as far as they can and with any necessary changes, to meetings of the Board by telephone, audio, audio visual or other electronic means.
- (c) A meeting by telephone, audio, audio visual or electronic means is taken to be held at the place where the chair of the meeting is or at such other place the chair of the meeting decides, provided that at least one of the directors involved was at that place for the duration of the meeting.
- (d) A director taking part in a meeting by telephone, audio, audio visual or electronic means is to be taken to be present in person at the meeting and all directors participating in the meeting will (unless there is a specific statement otherwise) be taken to have consented to the holding of the meeting by the relevant means.
- (e) If, before or during the meeting, any technical difficulty occurs whereby one or more directors cease to participate, the chair may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

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## **41 Calling meetings of the Board**

- (a) A director may, whenever he or she thinks fit, call a meeting of the Board.
- (b) A secretary must, on the requisition of a director, call a meeting of the Board.

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## **42 Notice of meetings of the Board**

- (a) Subject to this constitution, notice of a meeting of the Board must be given to each person who is at the time of giving the notice:
  - (1) a director, other than a director on leave of absence approved by the Board; or

- (2) an alternate director appointed under rule 47 by a director on leave of absence approved by the Board.
  - (b) A notice of a meeting of the Board:
    - (1) must specify the time and place of the meeting;
    - (2) must specify any form of technology being used to conduct the meeting and provide information on how to access the meeting;
    - (3) needs not state the nature of the business to be transacted at the meeting;
    - (4) will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director;
    - (5) may, if necessary, be given immediately before the meeting; and
    - (6) may be given in person, by post, by telephone or electronic means, or in any other way consented to by the directors from time to time.
  - (c) A director or alternate director may waive notice of a meeting of the Board by notifying the company.
  - (d) Failure to give a director notice of a meeting of the Board does not invalidate anything done or any resolution passed at the meeting if:
    - (1) the failure occurred by accident or inadvertent error; or
    - (2) the director attended the meeting or waived notice of the meeting (whether before or after the meeting).
  - (e) A person who attends a meeting of the Board waives any objection that person may have to a failure to give notice of the meeting.
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### **43 Quorum at meetings of the Board**

- (a) No business may be transacted at a meeting of the Board unless a quorum of directors is present at the time the business is dealt with.
  - (b) Until the Board decides differently, 3 directors constitute a quorum.
  - (c) If there is a vacancy in the office of a director, the remaining directors may act provided that, if their number is not sufficient to constitute a quorum, they may act only in an emergency or to increase the number of directors to a number sufficient to constitute a quorum or to call a general meeting of the company.
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### **44 Chair and deputy chair of the Board**

- (a) The Board may elect a director to the office of chair of the Board and may elect one or more directors to the office of deputy chair of the Board. The Board may decide the period for which those offices will be held.
  - (b) The chair of the Board is entitled (if present within 10 minutes after the time appointed for the meeting and willing to act) to preside as chair at each meeting of the Board.
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- (c) If at a meeting of the Board:
  - (1) there is no chair of the Board;
  - (2) the chair of the Board is not present within 10 minutes after the time appointed for holding the meeting; or
  - (3) the chair of the Board is present within that time but is not willing or declines to act as chair of the meeting or of part of the meeting,

the deputy chair, if any, is entitled to be chair of the meeting. In the absence of a deputy chair, or if the deputy chair is unwilling or declines to act as chair of the meeting, the directors present must elect one of themselves to chair the meeting.
- (d) Subject to rule 44(e), an executive director (including a managing director) is ineligible to be elected as chair or deputy chair of the Board.
- (e) An executive director (including a managing director) may act as chair at a meeting of the Board in relation to any particular item of business to be considered by the meeting of the Board.

## 45 Decisions of the Board

- (a) The Board, at a meeting at which a quorum is present, may exercise all the authorities, powers and discretions vested in or exercisable by the Board generally or under this constitution.
- (b) Questions arising at a meeting of the Board must be decided by a majority of votes cast by the directors present and entitled to vote on the matter. The decision is for all purposes a decision of the Board.
- (c) If the votes are equal on a proposed resolution, the chair of the meeting has a casting vote, in addition to his or her deliberative vote.

## 46 Written resolutions

- (a) If:
  - (1) a majority of the directors entitled to vote on the resolution, sign or consent to a written resolution; and
  - (2) the directors who sign or consent to the resolution would have constituted a quorum at a meeting of the Board held to consider that resolution,

then the resolution is taken to have been passed by a meeting of the Board when the last director signs or consents to the resolution and the resolution is taken to have been passed at a meeting of the Board.
- (b) A director will be excluded for the purposes of rule 46(a) if that director:
  - (1) is on leave of absence approved by the Board; or
  - (2) has notified the chair or the secretary that he or she may be uncontactable for a certain period of time and the resolution in question is put to the Board during that period;

- (3) would be prohibited by the Act, Listing Rules or other laws and regulations from voting on the resolution;
  - (4) becomes incapacitated due to ill health or other unforeseen circumstances and is unable to consider the resolution; or
  - (5) disqualifies themselves from considering the resolution in question.
- (c) A director may consent to a resolution by:
- (1) signing the document containing the resolution (or a copy of that document);
  - (2) giving to the company at its registered office a written notice (including by electronic means) addressed to the secretary or to the chair of the Board signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
  - (3) communicating with the chair of the Board, or in his or her absence, the secretary and signifying assent to the resolution and clearly identifying its terms.

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## 47 Alternate directors

- (a) A director may, with the approval of a majority of his or her co-directors, appoint a person to be the director's alternate director for such period as the director decides.
- (b) An alternate director may, but need not, be a member or a director of the company.
- (c) An alternate director does not require any share qualification.
- (d) One person may act as alternate director to more than one director.
- (e) An alternate director is entitled to exercise all powers (except the power to appoint an alternate director) and perform all duties of a director, insofar as the director by whom he or she was appointed had not exercised or performed them.
- (f) An alternate director is entitled, if the appointor does not attend a meeting of the Board, to attend and vote in place of and on behalf of the appointor.
- (g) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (h) An alternate director, whilst acting as a director, is responsible to the company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.
- (i) The office of an alternate director is vacated if and when the appointor vacates office as a director.
- (j) The appointment of an alternate director may be terminated or suspended at any time by the appointor or by a majority of the other directors.
- (k) An appointment, or the termination or suspension of an appointment of an alternate director must be in writing signed and takes effect only when the

company has received notice in writing of the appointment, termination or suspension, and in the case of an appointment, when approved by a majority of the appointing director's co-directors.

- (l) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed or the rotation of directors under this constitution.
- (m) An alternate director is to be counted for the purpose of determining whether a quorum is present at a meeting of the Board attended by the alternate director at which the alternate director is entitled to vote.
- (n) An alternate director is not entitled to receive any remuneration as a director from the company otherwise than out of the remuneration of the director appointing the alternate director but is entitled to travelling, hotel and other expenses properly and reasonably incurred for the purpose of attending any meeting of the Board at which the appointer is not present and at which the alternate director is entitled to vote.

## **48 Delegation by the Board**

- (a) The Board may delegate any of their powers to one director, a committee of the Board, or any person or persons.
- (b) A director, committee or person to whom any powers have been delegated must exercise the powers delegated in accordance with any directions of the Board.
- (c) The provisions of this constitution applying to meetings and resolutions of the Board apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of the Board, except to the extent they are contrary to any direction given under rule 48(b).
- (d) The delegation of powers to a director (including as part of a committee) may, if the Board so decides, be treated as an extra service or special exertion performed by the members for the purposes of rule 36(g).

## **49 Validity of acts**

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

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

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

## Executive officers

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### 50 Managing director and executive director

- (a) The Board may appoint one or more persons as managing director who must be a director or who, if not already a director, must be appointed a director within 2 months after his or her appointment.
- (b) The Board may also appoint one or more persons as executive director.
- (c) Unless the Board decides otherwise, a managing director's or other executive director's appointment automatically terminates if he or she does not become a director within 2 months of his or her appointment or ceases to be a director.
- (d) A managing director or other executive director may be referred to by any title the Board decides on.

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### 51 Secretary

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

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### 52 Provisions applying to executive officers

- (a) A reference in this rule 52 to an executive officer is a reference to a managing director, deputy managing director, executive director, secretary or assistant secretary appointed under rules 50 or 51 (as applicable).
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the Board decides.
- (c) The remuneration payable by the company to an executive officer must not include a commission on, or percentage of, operating revenue.
- (d) The Board may:
  - (1) delegate to or give an executive officer any powers, discretions and duties they decide;
  - (2) withdraw, suspend or vary any of the powers, discretions and duties given to an executive officer; and
  - (3) authorise the executive officer to delegate any of the powers, discretions and duties given to the executive officer.
- (e) Unless the Board decides otherwise, the office of a director who is employed by the company or by a subsidiary of the company becomes vacant if the director ceases to be so employed.
- (f) An act done by a person acting as an executive officer is not invalidated by a defect in the person's appointment as an executive officer, the person

being disqualified to be an executive officer or having vacated office if he or she did not know that circumstance when the act was done.

## Seals

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### 53 Using the seal

Without limiting the ways in which the company can execute documents in accordance with the Act, if the company has a common seal the Board may determine whatever procedures they consider appropriate for the use of the seal.

## Distributions to members

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### 54 Dividends

- (a) The Board may pay any interim, special and final dividends that, in their judgment, the financial position of the company justifies.
- (b) The Board may rescind a decision to pay a dividend if they decide at any time before the company's shares are quoted by the Exchange on an ex-dividend basis in relation to the dividend.
- (c) The Board may pay any dividend required to be paid under the terms of issue of a share.
- (d) Paying a dividend does not require confirmation by a general meeting.
- (e) Subject to any rights or restrictions attached to any shares or class of shares:
  - (1) all dividends must be paid equally on all shares, except that a partly paid share confers an entitlement only to the proportion of the dividend which the amount paid (not credited) on the share is of the total amounts paid and payable (excluding amounts credited);
  - (2) for the purposes of rule 54(e)(1), unless the Board decides otherwise, an amount paid or credited as paid on a share in advance of a call is to be taken as not having been credited as paid on the share until it becomes payable; and
  - (3) interest is not payable by the company on any dividend.
- (f) Subject to the ASX Settlement Operating Rules, the Board may fix a record date for a dividend, with or without suspending the registration of transfers from that date under rule 19.
- (g) Subject to the ASX Settlement Operating Rules, a dividend in respect of a share must be paid to the person who is registered, or entitled under rule 17(c) to be registered, as the holder of the share:



- (1) where the Board has fixed a record date for the dividend, on that date; or
  - (2) where the Board has not fixed a record date for that dividend, on the date on which the dividend is paid.
- (h) When resolving to pay a dividend the Board may direct payment of the dividend from any available source permitted by law, including:
- (1) wholly or partly by the distribution of specific assets, including paid-up shares or other securities of the company or of another body corporate, either generally or to specific members; and
  - (2) unless prevented by the Listing Rules, to particular members wholly or partly out of any particular fund or reserve or out of sums derived from any particular source, and to the other members wholly or partly out of any other particular fund or reserve or out of sums derived from any other particular source.
- (i) Subject to the ASX Settlement Operating Rules, where a person is entitled to a share because of a Transmission Event, the Board may, but need not, retain any dividends payable on that share until that person becomes registered as the holder of that share or transfers it.
- (j) The Board may retain from any dividend payable to a member any money presently payable by the member to the company and apply the amount retained in or towards satisfaction of the money owing.
- (k) The Board may decide the method of payment of any dividend or other amount in respect of a share. Different methods of payment may apply to different members or groups of members (such as overseas members). Without limiting any other method of payment which the company may adopt, payment in respect of a share may be made:
- (1) by cheque and sent by post or courier:
    - (A) to the address of the holder as shown in the register of members (or in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in that register); or
    - (B) to such other address as the holder (or joint holders) in writing directs; or
  - (2) by electronic funds transfer to an account with a bank or other financial institution nominated by the holder (or in the case of joint holders, to the account nominated by, the joint holder first named in that register) and which is acceptable to the company; or
  - (3) in any other manner the Board determines.
- Any payment made under rule 54(k) is made at the member's risk.
- (l) If the Board decides to make payment by electronic funds transfer to an account (of a type approved by the Board) nominated by a member, but no such account is nominated by the member or an electronic funds transfer to a nominated account is rejected or refunded, the company may credit the amount payable to an account of the company to be held until the member nominates a valid account.

- (m) Where a member does not have a registered address or the company believes that a member is not known at the member's registered address, the company may credit an amount payable in respect of the member's shares to an account of the company to be held until the member claims the amount payable or nominates a valid account.
- (n) Where a person is entitled to a share as a result of a Transmission Event, the Board may, but need not, retain any dividends payable on that share until that person becomes registered as the holder of the share or transfers it.
- (o) An amount credited to an account under rules 54(l) or 54(m) is to be treated as having been paid to the member at the time it is credited to that account. The company will not be a trustee of the money and no interest will accrue on the money. The money may be used for the benefit of the company until claimed, reinvested under rule 54(p) or disposed of in accordance with the laws relating to unclaimed monies.
- (p) If a cheque for an amount payable under rule 54(k) is not presented for payment for at least 11 calendar months after issue or an amount is held in an account under rules 54(l) or 54(m) for at least 11 calendar months, the Board may reinvest the amount, after deducting reasonable expenses, into shares in the company on behalf of, and in the name of, the member concerned and may stop payment on the cheque. The shares may be acquired on market or by way of new issue at a price the Board decides is market price at the time. Any residual sum which arises from the reinvestment may be carried forward or donated to charity on behalf of the member, as the Board decides. The company's liability to provide the relevant amount is discharged by an application under this rule 54(p). The Board may do anything necessary or desirable (including executing any document) on behalf of the member to effect the application of an amount under this rule 54(p). The Board may determine other rules to regulate the operation of this rule 54(p) and may delegate its power under this rule to any person.

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## 55 Dividend reinvestment plans

The Board may implement, amend, suspend or terminate as it thinks fit a dividend reinvestment plan under which the whole or any part of a dividend due to members who participate in the plan on their shares or any class of shares may be applied in subscribing for securities of the company or of a related body corporate.

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## 56 Capitalising profits

- (a) Subject to the Listing Rules, any rights or restrictions attached to any shares or class of shares and any special resolution of the company in general meeting, the Board may capitalise and distribute among those members who would be entitled to receive dividends, and in the same proportions, any amount:

- (1) forming part of the company's undivided profits;
  - (2) representing profits arising from an ascertained accretion to capital or from a revaluation of the company's assets;
  - (3) arising from the realisation of any of the company's assets; or
  - (4) otherwise available for distribution as a dividend.
- (b) The Board may resolve that all or any part of the capitalised amount is to be applied:
- (1) in paying up in full, at an issue price decided by the Board, any unissued shares in or other securities of the company;
  - (2) in paying up any amounts unpaid on shares or other securities held by the members; or
  - (3) partly as specified in rule 56(b)(1) and partly as specified in rule 56(b)(2).

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

- (c) Rules 54(e), 54(f) and 54(g) apply, so far as they can and with any necessary changes, to capitalising an amount under this rule 56 as if references in those rules to:
- (1) a dividend were references to capitalising an amount; and
  - (2) the date a dividend is declared were references to the date the Board resolves to capitalise the amount under this rule 56.
- (d) Where the terms of options (existing at the date the resolution referred to in rule 56(b) is passed) entitle the holder to an issue of bonus shares under this rule 56, the Board may in determining the number of unissued shares to be so issued, allow in an appropriate manner for the future issue of bonus shares to holders of options.

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## 57 Ancillary powers

- (a) To give effect to any resolution to satisfy a dividend as set out in rule 54(h)(1) or by capitalising any amount under rule 56, the Board may settle as it thinks expedient any difficulty that arises in making the distribution or capitalisation and, in particular:
- (1) make cash payments in cases where shares or other securities in the company become issuable in fractions;
  - (2) decide that amounts or fractions of less than a particular value decided by the Board may be disregarded in order to adjust the rights of all parties;
  - (3) fix the value for distribution of any specific assets;
  - (4) pay cash or issue shares or other securities to any member in order to adjust the rights of all parties;

- (5) vest any of those specific assets, cash, shares or other securities in a trustee on the trusts for the persons entitled to the distribution or capitalised amount; and
- (6) authorise any person to make, on behalf of all the members entitled to any specific assets, cash, shares or other securities as a result of the distribution or capitalisation, an agreement with the company or another person which provides, as appropriate:
  - (A) for the distribution or issue to them of those further shares or other securities credited as fully paid up; or
  - (B) for payment by the company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by applying their respective proportions of the sum resolved to be distributed or capitalised.

Any agreement made under an authority referred to in this rule 57(a)(6) is effective and binds all members concerned.

- (b) If a distribution, transfer or issue of specific assets, shares or securities to a particular member or members is, in the Board's discretion, considered impracticable or would give rise to parcels of securities that do not constitute a marketable parcel, the Board may make a cash payment to those members or allocate the assets, shares or securities to a trustee to be sold on behalf of, and for the benefit of, those members, instead of making the distribution, transfer or issue to those members. Any proceeds receivable by members under this rule 57(b) will be net of expenses incurred by the company and trustee in selling the relevant assets, shares or securities.
- (c) If the company distributes to members (either generally or to specific members) securities in the company or in another body corporate or trust (whether as a dividend or otherwise and whether or not for value), each of those members appoints the company as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.
- (d) The Board may:
  - (1) determine that any dividend, repayment of capital, participation in surplus property of the company or amount otherwise payable to some or all of the members will be paid in a currency other than Australian currency;
  - (2) determine or provide for the determination of the exchange rate or exchanges rates at which the amount of dividend in Australian currency will be converted into the other currency or currencies for the purpose of payment; and
  - (3) settle any difficulty arising in regard to any payment of a dividend in a currency or currencies other than Australian currency, as they consider expedient.
- (e) Payment in another currency or currencies of the amount of any dividend converted pursuant to rule 57(d) is deemed between the company and any

member to whom payment is made, and as against all other members, to be an adequate and proper payment of the amount of the dividend.

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## 58 Reserves

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

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## 59 Carrying forward profits

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

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## 60 Distributing surplus

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

- (a) if the company is wound up and the property of the company available for distribution among the members is more than sufficient to pay:
  - (1) all the debts and liabilities of the company; and
  - (2) the costs, charges and expenses of the winding up,the excess must be divided, subject to the rights of any preference shares, among the members in proportion to the number of shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in rule 60(a), any amount unpaid on a share is to be treated as property of the company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 60(a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under rule 60(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the company.

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## 61 Dividing property

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:
  - (1) divide among the members the whole or any part of the company's property; and
  - (2) decide how the division is to be carried out as between the members or different classes of members.
- (b) A division under rule 61(a) need not accord with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under rule 61(a) does not accord with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under the Act.
- (d) If any of the property to be divided under rule 61(a) includes securities with a liability to calls, any person entitled under the division to any of the securities may, within 10 days after the special resolution referred to in rule 61(a) is passed, by written notice direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds. The liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 61 takes away from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 57 applies, so far as it can and with any necessary changes, to a division by a liquidator under rule 61(a) as if references in rule 57 to:
  - (1) the Board were references to the liquidator; and
  - (2) a distribution or capitalisation were references to the division under rule 61(a).

## Records

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## 62 Inspection of and access to records

- (a) A person who is not a director does not have the right to inspect any of the board papers, books, records or documents of the company, except as provided by law, this constitution or as authorised by the Board or by a resolution of the members.
- (b) The company may enter into contracts with its directors or former directors agreeing to provide continuing access for a specified period after they cease to be a director to board papers, books, records and documents of the company which relate to the period during which the director or former director was a director on such terms and conditions as the Board thinks fit and which are not inconsistent with this rule 62.

- (c) The company may procure that its subsidiaries provide similar access to board papers, books, records or documents as that set out in rules 62(a) and 62(b).
- (d) This rule 62 does not limit any right the directors or former directors otherwise have.

## Protection of officers and former officers

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### 63 Indemnity and insurance

- (a) Rule 63 applies:
  - (1) to each person who is or has been a director, secretary or executive officer of the company; and
  - (2) to such other employees, officers or former employees or officers of the company or of its related bodies corporate as the Board in each case determines,
 each an **Officer** for the purposes of this rule 63.
- (b) The company will indemnify on a full indemnity basis and to the full extent permitted by law, each Officer for all losses, liabilities, costs, charges and expenses (**Liabilities**) incurred by the person as an officer of the company, a related body corporate or trustee of a company sponsored superannuation fund.
- (c) The indemnity in rule 63(b):
  - (1) is enforceable without the Officer having to first incur any expense or make any payment;
  - (2) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the company or its related bodies corporate; and
  - (3) applies to Liabilities incurred both before and after the adoption of this constitution.
- (d) The company may, to the extent permitted by law:
  - (1) purchase and maintain insurance; or
  - (2) pay or agree to pay a premium for insurance,
 for any Officer against any Liability incurred by the person as an officer of the company or of a related body corporate including liability for negligence or for reasonable costs and expenses incurred in defending or responding to proceedings, whether civil or criminal and whatever their outcome.
- (e) Nothing in this rule 63:
  - (1) affects any other right or remedy that a person may have in respect of any loss or liability referred to in those rules; or

- (2) limits the capacity of the company to indemnify or provide insurance for any person to whom those rules do not apply; or
  - (3) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into prior to the adopting of this constitution.
- (f) The company may enter into a deed with any Officer to give effect to the rights conferred by this rule or the exercise of a discretion under this rule on such terms as the Board thinks fit which are not inconsistent with this rule 63.

## Notices

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### 64 Giving of Notices

#### 64.1 Notices by the company to members

- (a) Without limiting any other way in which notice may be given to a member under this constitution, the Act or the Listing Rules, the company may give a notice to a member by:
  - (1) personal delivery;
  - (2) prepaid post to the member's address in the register of members or any other address the member supplies to the company for giving notices;
  - (3) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or electronic address the member has supplied to the company for giving notices; or
  - (4) if a member nominates any other electronic means by which the member may be notified that documents are available and may access documents, sending a notification that the document is available for access, in each case by the relevant electronic means.
- (b) The company may give a notice to the joint holders of a share by giving the notice in the way authorised by rule 64.1(a) to the joint holder who is named first in the register of members for the share.
- (c) The company may give a notice to a person entitled to a share because of a Transmission Event by delivering it or sending it in the way authorised by rule 64.1(a) addressed to the name or title of the person, to:
  - (1) the address, fax number or electronic address that person has supplied to the company for giving notices to that person; or
  - (2) if that person has not supplied an address, fax number or electronic address, to the address, fax number or electronic address to which the notice might have been sent if that Transmission Event had not occurred.



- (d) A notice given to a member under rules 64.1(a) or (b) is, even if a Transmission Event has occurred and whether or not the company has notice of that occurrence:
  - (1) duly given for any shares registered in that person's name, whether solely or jointly with another person; and
  - (2) sufficiently served on any person entitled to the shares because of the Transmission Event.
- (e) A notice given to a person who is entitled to a share because of a Transmission Event is sufficiently served on the member in whose name the share is registered.
- (f) A person who, because of a transfer of shares, becomes entitled to any shares registered in the name of a member, is taken to have received every notice which, before that person's name and address is entered in the register of members for those shares, is given to the member complying with this rule 64.
- (g) A signature to any notice given by the company to a member under this rule 64 may be printed or affixed by some mechanical, electronic or other means.
- (h) Where a member does not have a registered address or where the company believes that member is not known at the member's registered address, all notices are taken to be:
  - (1) given to the member if the notice is exhibited in the company's registered office for a period of 48 hours; and
  - (2) served at the commencement of that period,
 unless and until the member informs the company of the member's address.

#### **64.2 Notices by the company to directors**

The company may give a notice to a director by:

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

#### **64.3 Notices by directors to the company**

A director may give a notice to the company by:

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

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## 65 Time of service

- (a) Where a notice (including notice of a general meeting) is sent by post, the notice is to be taken as served if the notice is properly addressed and posted at 10 am Melbourne time on the day after the date it is posted.
- (b) A certificate signed by a secretary or officer of the company to the effect that a notice was duly posted under this constitution is conclusive evidence of that fact.
- (c) Where a notice is sent by fax transmission, the notice is to be taken as served if the correct fax number appears on the fax transmission report produced by the sender's fax machine.
- (d) Where a notice is sent by electronic transmission, the notice is to be taken as served at the time the electronic transmission is sent.
- (e) Where the company gives a notice to a member by any other means permitted by the Act relating to the giving of notices and electronic means of access to them, the notice is taken as given at 10 am Melbourne time on the day after the date on which the member is notified that the notice is available.
- (f) Where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period, unless this constitution provides differently.

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## 66 Other communications and documents

Rules 64 and 65 apply, so far as they can and with any necessary changes, to serving any communication or document.

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## 67 Written notices

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

### General

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## 68 Submission to jurisdiction

Each member submits to the jurisdiction of the Supreme Court of Victoria, the Federal Court of Australia and the courts which may hear appeals from those courts.

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## 69 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.

- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal, unlawful or unenforceable, in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place, with the intent that the unlawful or unenforceable provision shall be treated for all purposes as severable from this constitution to the extent necessary.

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## 70 Transitional provisions

This constitution must be interpreted in such a way that:

- (a) every director, managing director and secretary in office in that capacity immediately before this constitution is adopted continues in office subject to, and is taken to have been appointed or elected under, this constitution;
- (b) the Board is taken, immediately after this constitution is adopted, to have decided under rule 33 a number which is equal to the number of persons in office as directors immediately after this constitution is adopted;
- (c) any register maintained by the company immediately before this constitution is adopted is taken to be a register maintained under this constitution;
- (d) any seal adopted by the company immediately before this constitution is adopted is taken to be a seal which the company has under a relevant authority given by this constitution; and
- (e) for the purposes of rule 54(p), a cheque issued under the predecessor of rule 54(k) of the company's constitution is taken to have been issued under rule 54(k), any money held at the date of adoption of this constitution for a member under the predecessor of rule 54(m) is taken to have been held in an account under rule 54(m) and any money held at the date of adoption of this constitution for a member the company regards as uncontactable is taken to have been held in an account under rule 54(l) or 54(m); and
- (f) unless a contrary intention appears in this constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the constitution of the company in force before this constitution is adopted continue to have the same status, operation and effect after this constitution is adopted.

## Proportional Takeovers

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## 71 Proportional Takeovers

- (a) Unless the context otherwise indicates or requires, expressions in this rule 71 have the meaning given to them by the Act.
- (b) Where offers have been made under a proportional takeover bid for securities of the company:
- (1) a transfer giving effect to a takeover contract for the bid must not be registered unless and until a resolution to approve the bid (in this

- rule 71 referred to as “an approving resolution”) is passed in accordance with the provisions of this rule 71;
- (2) a person (other than the bidder or an associate of the bidder) who, as at the end of the day on which the first offer under the bid was made, held bid class securities is entitled to vote on an approving resolution;
  - (3) an approving resolution must be voted on at a meeting, convened by the company, of the persons entitled to vote on the resolution. The bidder under the proportional takeover bid and any associates of the bidder are not entitled to vote on the approving resolution and if they do vote, their votes must not be counted; and
  - (4) an approving resolution that has been voted on is taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than 50% and otherwise is taken to have been rejected.
- (c) The provisions of this constitution that apply in relation to a general meeting of members apply, with such modifications as the circumstances require, in relation to a meeting that is convened under this rule 71 as if the last-mentioned meeting were a general meeting of members.
- (d) This rule 71 ceases to have effect at the end of 3 years beginning:
- (1) where those rules have not been approved or renewed in accordance with the Act, on the date that those rules were approved or adopted by the company; or
  - (2) where those rules have been renewed in accordance with the Act, on the date those rules were last renewed.