

Constitution of Treasury Wine Estates Limited

ACN 004 373 862

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1 Name of Corporation

The name of the Company is **Treasury Wine Estates Limited**.

2 Status of the Constitution

2.1 Constitution of the Company

This is the constitution of the Company.

2.2 Replaceable Rules

This Constitution displaces the Replaceable Rules. Accordingly, none of the Replaceable Rules apply.

3 Interpretation

3.1 Definitions

In this Constitution:

ASX Settlement Rules means the ASX Settlement Operating Rules of ASX Settlement Pty Ltd.

ASX means ASX Limited.

Auditor means the person appointed for the time being as the auditor of the Company.

Board means the Directors and alternates present at a meeting, duly convened as a Board meeting, at which a quorum is present.

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

Certificate means any certificate issued by the Company on issue or registration of transfer of any Security, and any duplicate of that certificate.

CHES Approved Securities means Securities which are approved in accordance with the ASX Settlement Rules.

Company means Treasury Wine Estates Limited ACN 004 373 862.

Company Secretary means any person appointed for the time being as, or to perform the functions of, secretary of the Company.

Constitution means the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying this document.

Corporations Act means the *Corporations Act 2001* (Cth).

CS Facility means a clearing and settlement facility as defined in the Corporations Act.

CS Facility Operator means the operator of a CS Facility.

Default Rate means the interest rate per annum that is the sum of 3% and the rate advised by Westpac Banking Corporation (or such other bank as is nominated by the Company) as an equivalent rate charged by that bank for overdrafts in excess of \$100,000.

Director means a person who is a director for the time being of the Company, and **Directors** means more than one Director, and in relation to rules applying to meetings of the Board, references to Directors include alternates.

Executive Director means a natural person appointed as an executive Director.

Group Company means:

- (a) the Company; and
- (b) each of its subsidiaries from time to time.

Holder means:

- (a) in respect of a Share, the Member who holds that Share; and
- (b) in respect of any other Security, the person who is entered in the records kept by the Company as the holder of that Security.

Holding Lock has the meaning given to that term in the Listing Rules.

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

Managing Director means any person appointed for the time being as a managing director of the Company.

Market Transfer means:

- (a) a transfer of Shares pursuant to or connected with a transaction entered into on the stock market operated by ASX and includes a Proper ASTC Transfer; or
- (b) an issue of Shares as a result of the exercise of any rights, options or convertible notes where such rights, options or notes are traded on a market operated by ASX.

Member means a person who is, or who is registered as, a member of the Company or, in the case of joint holders of any Share, who are, or who are registered as, joint holders of that Share, and **Members** means more than one Member.

Non-Executive Director means a natural person appointed as non-executive Director.

Operating Rules means the operating rules for the time being of a CS Facility regulating the settlement, clearing and registration of uncertificated securities, except to the extent of any express written waiver by the CS Facility Operator.

Proper ASTC Transfer has the meaning of that term in the *Corporations Regulations 2001 (Cth)*.

Register means:

- (a) in respect of Shares, the Register of Members;
- (b) in respect of other Securities, the records of Holders kept by the Company.

Register of Members means the register of Members maintained pursuant to the Corporations Act.

Replaceable Rules means the replaceable rules applicable to a public company limited by shares which are set out in the Corporations Act.

Restricted Securities has the meaning given to that term in the Listing Rules.

Restriction Agreement has the meaning given to that term in the Listing Rules.

Seal means the common seal for the time being of the Company.

Security includes any Share, any unit of a Share, any rights to Shares, any option to subscribe for any Share, any instalment receipt and other security with rights of conversion to equity in the share capital of the Company and any debenture issued by the Company.

Share means any share in the share capital of the Company, and **Shares** means more than one Share.

3.2 Interpretation

In this Constitution:

- (a) the words “including”, “include” and “includes” are to be construed without limitation;
- (b) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
- (c) a reference to a “person” includes a corporate representative appointed pursuant to section 250D of the Corporations Act;
- (d) headings are used for convenience only and are not intended to affect the interpretation of this Constitution;
- (e) a word or expression defined in the Corporations Act, the ASX Settlement Rules or the Listing Rules and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act, the ASX Settlement Rules or the Listing Rules; and
- (f) references to the Listing Rules and the ASX Settlement Rules apply if the Company is on the official list of ASX.

3.3 Listing Rules

While the Company is on the official list of ASX, the following rules apply:

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

4 Modification or repeal of this Constitution

4.1 Modifying or repealing Constitution

This Constitution may be modified or repealed only by a special resolution of the Company in a general meeting.

4.2 Date of effect of modification or repeal

Any modification or repeal of this Constitution takes effect on the date the special resolution is passed or any later date specified, or provided for, in the resolution.

5 Members

5.1 Number of Members

The Company must have at least one Member.

5.2 Becoming a Member

Subject to the Corporations Act, the Listing Rules and this Constitution, a person becomes a Member on the registration of that person's name in the Register of Members.

6 Securities

6.1 Allotment and issue of Securities

Subject to the Corporations Act, the Listing Rules and this Constitution, the Board may allot and issue Securities in the Company to any person on such terms and with such rights as the Board determines.

6.2 Class rights

- (a) Subject to the Corporations Act, the Listing Rules and this Constitution, the Board may issue any Security with any preferred, deferred or other special rights or restrictions as to dividends, voting, return of capital, payment of calls or otherwise as the Board determines.
- (b) Subject to this **rule 6.2** and Corporations Act, the Company may by resolution convert or reclassify any Securities.
- (c) Subject to the Corporations Act, the Listing Rules and the terms of issue of any class of Securities, any right attaching to Securities in that class may be cancelled, abrogated or varied:
 - (i) by a special resolution passed at a separate meeting of the Holders of the issued Securities of that class; or
 - (ii) with the consent in writing of the Holders of 75% of the issued Securities of that class.
- (d) Any right attaching to Securities of any class issued with preferred or other rights will not be abrogated or varied by the creation or issue of further Securities ranking equally with those Securities.
- (e) The provisions of the Corporations Act and this Constitution relating to special resolutions and meetings of the Company apply to a special resolution or meeting referred to in paragraph (c) with any necessary modifications.

6.3 Preference Shares

- (a) The Company may issue preference Shares, including preference Shares which are, or at the option of the Company or the Holder are, liable to be redeemed or converted into ordinary Shares.
- (b) Each preference Share issued by the Company confers on the Holder a right to receive a preferential dividend at the rate and on the terms determined by the Board under the terms of issue.
- (c) A preferential dividend may be cumulative only if, and to the extent that, the Board determines for the purpose of the terms of issue.
- (d) In addition to any preferential dividend, a preference Share may participate with each ordinary Share in the profits and assets of the Company (including on a winding up) if, and to the extent that, the Board determines for the purposes of the terms of issue.

- (e) 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 in this rule.
- (f) Each preference Share confers on its Holder the right, in priority to the payment of any dividend on any other class of Share, to the preferential dividend.
- (g) Each preference Share confers on its Holder the right in a winding up and on redemption (if redeemable) to payment in priority to any other class of Shares of:
 - (i) the amount of any dividend accrued but unpaid on the preference Share at the date of winding up or the date of redemption (if redeemable); and
 - (ii) any amount paid up on the preference Share.
- (h) To the extent the Board determines for the purposes of 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.
- (i) A preference Share does not entitle its Holder to vote at any general meeting except in the following circumstances:
 - (i) on any resolution to reduce the share capital of the Company;
 - (ii) on any resolution that may affect the rights attached to the preference Share;
 - (iii) on any resolution to wind up the Company;
 - (iv) on any resolution for the disposal of the whole of the property, business and undertaking of the Company;
 - (v) on any resolution to approve the terms of a buy-back agreement;
 - (vi) on any resolution during a period in which a dividend or part of a dividend on the preference Share is in arrears; or
 - (vii) on any resolution during the winding up of the Company; or
 - (viii) in any other circumstances in which the Listing Rules require Holders of preference Shares to be entitled to vote.
- (j) The issue of any Security which ranks in priority to preference Shares in any respect will be treated as a variation or abrogation of the rights of the preference Shares. The issue of any Security ranking equally with preference Shares will not be treated as a variation of any of the rights of the preference Shares if that Security may not be redeemed until all existing preference Shares have been redeemed or converted to another class of Security.

6.4 Commission and brokerage

- (a) The Company may make payments by way of brokerage or commission to a person in consideration for the person subscribing

or agreeing to subscribe, whether absolutely or conditionally, for Securities or procuring or agreeing to procure subscriptions, whether absolute or conditional, for Securities.

- (b) The brokerage or commission may be satisfied by payment in cash, by issue of any Securities.

6.5 Fractional entitlement

On any issue of Securities (including on a dividend or bonus issue), if a Holder is entitled to a fraction of a Security, the Board may deal with that fractional entitlement, on behalf of that Holder, in any manner determined by the Board to be appropriate, including by:

- (a) making cash payments;
- (b) determining that fractions may be disregarded;
- (c) appointing a trustee to deal with any fractional entitlements on behalf of Members; and
- (d) rounding up any fractional entitlement to the nearest whole Security by capitalising any amount available for capitalisation under **rule 38.9** (even if only some Members participate in such capitalisation).

6.6 Certificates

- (a) If the Company participates in a computerised or electronic share transfer system conducted in accordance with the Listing Rules, the Company is not required to issue a Certificate for the Securities held by a Holder and may cancel a Certificate without issuing another Certificate where permitted to do so by the Listing Rules or the Operating Rules.
- (b) If Securities are not subject to a computerised or electronic share transfer system, a Certificate for the Securities must be issued in accordance with the provisions of the Corporations Act, this Constitution and the Listing Rules.

7 Joint holders of Securities

Where two or more persons are registered as the joint holders of any Security:

- (a) subject to the Listing Rules, ASX Settlement Rules and the Corporations Act, the Company will not register more than three people as joint holder of any Security;
- (b) they hold that Security as joint tenants with rights of survivorship;
- (c) on the death of any one or more of them, the survivor or survivors, as the case may be, are the only persons the Company recognises as having legal title to that Security;

- (d) any Certificate issued in respect of the Security must set out the name of all joint holders;
- (e) if the Company is required by the Corporations Act or the Listing Rules to issue a Certificate in respect of a Security, the Company must issue one Certificate and must give notice to the joint holder whose name appears first in the Register;
- (f) each of them is jointly and severally liable to pay each call or instalment of each call and interest and any other amount payable in respect of that Security;
- (g) on transfer of that Security, the instrument of transfer must be signed by all joint holders;
- (h) if the Board receives a request to convene a general meeting in accordance with this Constitution from any joint holder or any joint holders of that Security, the request must detail any proposed resolution, the name or names of the joint holder or holders requesting the meeting and be signed by all of the joint holders making the request. For this purpose, signatures of joint holders may be contained in more than one document;
- (i) if more than one joint holder attends a general meeting and purports to be entitled to vote on any resolution at that meeting, the joint holder whose name appears in the Register before the names of other joint holders attending the meeting may vote; and
- (j) any one of them may be given a receipt for any amount paid in respect of that Security (including any dividend, bonus, interest or other distribution).

8 Restricted Securities

If at any time any of the share capital of the Company is classified by the ASX as Restricted Securities, then despite any other provision of this Constitution:

- (a) the Restricted Securities must not be disposed of during the escrow period except as permitted by the Listing Rules or ASX;
- (b) the Company must refuse to acknowledge a disposal (including registering a transfer) of the Restricted Securities during the escrow period (except as permitted by the Listing Rules or ASX); and
- (c) during a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the Holder of the Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.

9 Calls on Securities

9.1 Power to make calls

- (a) Subject to the Corporations Act, the Listing Rules, this Constitution and the terms on which the Securities are on issue, the Board may make a call on any Holder in respect of any amount unpaid on any Security held by that Holder.
- (b) The Board may, to the extent permitted by the Corporations Act and the Listing Rules, waive or compromise all or part of any payment due under the terms of any issue of a Security or under any call.

9.2 Differentiation between Holders

The terms on which Securities are on issue may differ between Holders as to:

- (a) the amount to be paid on any call or instalment; and
- (b) the date (or dates) on which payment is to be made.

9.3 Date of call and number of payments

- (a) Subject to the terms on which the Securities are on issue, a call is made on the date the Board resolves to make a call.
- (b) Subject to the terms on which the Securities are on issue, a call may be payable in one payment or in instalments.

9.4 Deemed call

Any amount unpaid on a Security that, by the terms of issue of that Security becomes payable on issue or at a fixed date:

- (a) is treated for the purposes of this Constitution as if that amount were payable under a call duly made and notified; and
- (b) must be paid on the date on which it is payable under the terms of issue of the Security.

9.5 Notice of call

- (a) Subject to the terms on which the Securities are on issue and the Listing Rules, at least 30 Business Days notice must be given to the Holder of the date on which the amount of the call or the instalment of the call must be paid.
- (b) Subject to the terms on which the Securities are on issue and the Listing Rules, the notice must state:
 - (i) the amount of the call or, as the case may be, the amount of each instalment;
 - (ii) the date (or dates) for payment;
 - (iii) the time (or times) for payment;
 - (iv) the place (or places) for payment;
 - (v) that interest may be payable if payment is not made on or before the date (or dates) for payment; and

- (vi) that a lien will arise if the amount of the call or the instalment is not paid in accordance with the notice.
- (c) A call is not invalid by reason of any unintentional error or omission in giving notice or by non-receipt of notice.

9.6 Revocation, postponement or extension of calls

Subject to the terms on which the Securities are on issue and the Listing Rules, the Board may, by notice, revoke, postpone or extend the time for payment of the call.

9.7 Interest on unpaid calls

- (a) A Member must pay to the Company any called amount by the time and at the place specified in the notice of the call.
- (b) If an amount called is not paid on or before any date specified in the notice for payment, the Holder must pay interest on the amount unpaid from the date specified in the notice of the call for payment until and including the date of actual payment. The interest rate may be determined by the Board, or, if the Board does not determine a rate, the interest rate is the Default Rate. Interest will accrue and compound daily.
- (c) The Board may waive the right to require the payment of interest.

9.8 Recovery proceedings

- (a) In any proceeding to recover a call, or an amount payable due to the failure to pay a call or late payment of a call, proof that:
 - (i) the name of the person against whom proceedings are issued is entered in the Register as the Holder of the Securities the subject of the unpaid call;
 - (ii) the resolution making the call is duly recorded in the minute book of the Company; and
 - (iii) notice of the call was given to the Holder of the Securities the subject of the unpaid call,

will be conclusive evidence of the obligation of the Holder to pay the call and it is not necessary to prove the appointment of the Directors who made the call or any other matter.

- (b) Any proceeding brought by the Company in accordance with **rule 9.8** will be without prejudice to the right of the Company to forfeit the Security the subject of the unpaid call.
- (c) In **rule 9.8** a proceeding to recover a call or an amount includes a proceeding against a person whom the Company alleges a set-off or counterclaim.

9.9 Payment of calls in advance

- (a) The Board may accept from a Member in advance of any call, the whole or part of any amount unpaid on any Security.
- (b) The Board may authorise payment by the Company of interest (in an amount determined by the Board) upon the whole or any part of any sum so accepted from the date of payment until the date on which the sum paid is payable under a call.
- (c) Any sum accepted by the Company in advance of a call is:
 - (i) to be treated as a loan to the Company, not as share capital of the Company until the date on which the sum is payable under a call or instalment; and
 - (ii) not to be taken into account in determining an entitlement to vote or the amount of any dividend in respect of any Security.
- (d) The Board may repay any sum accepted in advance of a call.

10 Forfeiture

10.1 Notice regarding forfeiture

If any Holder does not pay the amount of any call or instalment in respect of any Security when it is due, the Board may give notice to the Holder:

- (a) requiring payment of:
 - (i) the unpaid call or instalment;
 - (ii) any costs and expenses incurred by the Company as a result of the non-payment of the call or instalment; and
 - (iii) interest that has accrued and compounded (on a daily basis) on the amount of the unpaid call or instalment;
- (b) demanding payment of those amounts within 14 days after the date of the notice;
- (c) stating the place where payment is to be made; and
- (d) stating that the Security and any dividend in respect of it not yet paid are liable to be forfeited if payment of the amount demanded is not made in full within 14 days after the date of the notice.

10.2 Forfeiture

- (a) If payment of the amount demanded is not made in full in accordance with a notice given under **rule 10.1**, the Board may by resolution forfeit any Security the subject of the notice.
- (b) A forfeiture of any Security under this **rule 10.2** includes all dividends, interest and other amounts payable by the company on the forfeited Security and not actually paid before the forfeiture.

- (c) The Board may accept the surrender of any Security which may be forfeited. If the Board accepts the surrender, that Security will be treated as having been forfeited and may be sold, re-issued or otherwise disposed of in the same manner as a forfeited Security.
- (d) If any Security is forfeited, notice of forfeiture will be given to the Holder of that Security and the date and details of the forfeiture will be recorded in the Register. Failure to do so will not invalidate the forfeiture.
- (e) Any forfeited Security is the property of the Company and, subject to the Listing Rules, the Board may sell, re-issue or otherwise dispose of any forfeited Security on terms and in such manner as determined by the Board.
- (f) At any time before any forfeited Security is sold or otherwise disposed of, the Board may cancel the forfeiture on terms determined by it.
- (g) On forfeiture of any Security, the holder of that Security ceases to be a Holder and ceases to have any right as a Holder in respect of that forfeited Security (including in respect of any dividend), but remains liable to pay the Company:
 - (i) all amounts payable by the former Holder to the Company at the date of forfeiture;
 - (ii) any and all costs or expenses incurred by the Company in respect of the forfeiture; and
 - (iii) interest to accrue and to compound daily at a rate determined by the Board or, if no such rate is determined, at the Default Rate on those amounts from the date of forfeiture until payment of amounts and accrued interest in full.
- (h) The liability of a Holder continues until:
 - (i) the Holder pays all those amounts and accrued interest in full; or
 - (ii) the Company receives and applies as the net proceeds from the sale or other disposal of the forfeited Security an amount which is equal to or greater than all those amounts and accrued interest.
- (i) The Company may receive the net proceeds from the sale or other disposal of any forfeited Security and execute an instrument of transfer in respect of the forfeited Security. The Company must apply the net proceeds of any sale or other disposal of any forfeited Security in or towards satisfaction of:
 - (i) firstly, costs and expenses paid or payable in connection with the enforcement of the forfeiture and the sale or other disposal of that Security; and

- (ii) secondly, all amounts due but unpaid and accrued interest on all those amounts.
- (j) The Company must pay the balance (if any) of the net proceeds of sale or other disposal to the person whose forfeited Security has been sold or otherwise disposed of.
- (k) The purchaser of any forfeited Security is entitled to assume that the proceeds of the sale or other disposal have been applied in accordance with this Constitution and is not responsible for the application of the purchase money by the Company.

10.3 Continuing liability

If the net proceeds from the sale or other disposal of any forfeited Security are less than the sum of:

- (a) the amount due but unpaid in respect of that Security;
- (b) the costs and expenses paid or payable in connection with the enforcement of the forfeiture and the sale or other disposal of that Security; and
- (c) interest on those amounts,

(together the **Shortfall**) the person whose Security has been sold or otherwise disposed of continues to be liable and must pay to the Company an amount equal to the Shortfall together with interest at the Default Rate.

10.4 Cancellation of forfeited Securities

Subject to the Corporations Act and the Listing Rules, the Company may, by resolution passed at a general meeting, cancel any forfeited Security.

10.5 Waiver

Liability for the amount called but unpaid in respect of the cancelled Security may not be released or waived without the approval of the holders of ordinary Shares given in accordance with the Listing Rules.

11 Lien

11.1 Lien

- (a) The Company has a first and paramount lien:
 - (i) on each partly paid Security in respect of any call (including any instalment) due and payable but unpaid;
 - (ii) on each Security in respect of any payment which the Company is required by law to pay (and has paid) in respect of the Security; and
 - (iii) on each Security acquired under an employee incentive scheme for any money payable to the Company in relation to

the Security, including any loan under an employee incentive scheme.

- (b) In each case, the lien extends to all dividends from time to time payable in respect of the Securities and to reasonable interest (at such rate as the Board may determine or if the Board does not determine a rate at a rate equal to the Default Rate) and reasonable expenses incurred because the amount is not paid.
- (c) The Company may do all things necessary or appropriate for it to do to protect any lien or other right to which it may be entitled under any law or this Constitution.
- (d) By notice, the Board may discharge or waive, in whole or in part, any lien or declare any Security to be wholly or partly exempt from a lien, but otherwise no act or omission is to be taken as discharging, waiving or otherwise granting an exemption from any lien.
- (e) If any Security is subject to a lien and the Company registers the transfer of any Security subject to a lien without giving notice of the lien to the transferee of the Security, the lien is treated as waived as against the transferee.

11.2 Enforcement of lien

- (a) The Board may sell or otherwise dispose of any Security the subject of a lien, if:
 - (i) a sum in respect of which the lien exists is due and payable but is unpaid;
 - (ii) the Company has provided notice to the Holder:
 - (A) setting out the amount due but unpaid;
 - (B) demanding payment of that amount; and
 - (C) stating that the Security is liable to be sold or otherwise disposed of if payment of that amount is not made within 14 days after the date of the notice; and
 - (iii) the amount specified in the notice is not paid in full in accordance with the notice.
- (b) The terms on which and manner by which any Security may be sold or otherwise disposed of are to be determined by the Board.
- (c) Interest accrues and compounds daily at the rate determined by the Board or, if no such rate is determined, at the Default Rate on the amount due but unpaid, costs and expenses paid in connection with the enforcement of the lien and the sale or other disposal of the Securities.
- (d) The Company may receive the net proceeds of the sale or other disposal of any Security and execute an instrument of transfer in

respect of the Security. The Company must apply the net proceeds of the sale or disposal of any Security in or towards satisfaction of:

- (i) firstly, costs and expenses paid or payable in connection with the enforcement of the lien and the sale or other disposal of that Security; and
 - (ii) secondly, all amounts due but unpaid and accrued interest on all those amounts.
- (e) The Company must pay any balance of the net proceeds of sale or other disposal to the person whose Security has been sold or otherwise disposed of.
- (f) The purchaser of any Security the subject of a lien is entitled to assume that the proceeds of sale or other disposal have been applied in accordance with this Constitution and is not responsible for the application of the purchase money by the Company.

11.3 Continuing liability

If the net proceeds from the sale or other disposal are less than the sum of:

- (a) the amount due but unpaid in respect of that Security;
- (b) the costs and expenses paid or payable in connection with the enforcement of the lien and the sale or other disposal; and
- (c) interest on those amounts,

(together the **Shortfall**) the person whose Security has been sold or otherwise disposed of continues to be liable and must pay to the Company an amount equal to the Shortfall together with interest at the Default Rate.

12 Payment of amounts required by law

The Company may make payment to any government authority (including any taxation authority) in respect of the Member, the death of the Member or any Security or dividend if it is required by law to do so. The Company may, but is not obliged, to notify the Member of its intention to make payment.

13 Transfer of Securities

13.1 Participation in computerised or electronic systems

The Board may do anything it considers necessary or desirable and that is permitted under the Corporations Act and the Listing Rules to facilitate the Company's participation in any computerised or electronic system established or recognised by the Corporations Act or the Listing Rules for the purposes of facilitating dealings in Securities.

13.2 Form of transfers

- (a) Subject to this Constitution, a Holder may transfer all or any of the Holder's Securities by:
 - (i) a Proper ASTC Transfer; or
 - (ii) an instrument of transfer in writing in any usual or common form or in any other form that the Board approves.
- (b) The transferor remains the Holder of the Securities until a Proper ASTC Transfer has been effected or the name of the transferee is entered in the Register as the Holder of those Securities.
- (c) In the case of a Market Transfer, the Company must comply with the obligations imposed on it by the Listing Rules and the Operating Rules and any applicable legislation in connection with any transfer of Securities.

13.3 Registration procedure

- (a) Subject to **rules 13.3(b)** and **15**, upon receipt of a transfer of Securities that complies with **rules 13.2** and **13.3**, the Company must register the nominated transferee as the Holder of the relevant Securities.
- (b) A transfer under **rule 13.2(a)(ii)** must:
 - (i) be executed by or on behalf of both the transferor and the transferee;
 - (ii) if required by law to be stamped, be duly stamped; and
 - (iii) be delivered to the registered address of the Company or the share registry of the Company for registration together with the Certificate (if any) for the Securities to be transferred and, subject to the Listing Rules, any other evidence the Directors may require to prove the title of the transferor to the Securities and the transferor's right to transfer the Securities.
- (c) A fee must not be charged on the registration of a transfer of the Securities.
- (d) On registration of a transfer of Securities, the Company must cancel the old Certificate (if any).

13.4 Directors' power to decline to register transfer

- (a) The Directors may decline to register, or prevent registration of, a transfer of Securities or request the application of a Holding Lock to prevent a transfer of Securities where:
 - (i) the transfer is not in registrable form;
 - (ii) the Company has a lien on any of the Securities the subject of the transfer;

- (iii) the transfer is paper-based and registration of the transfer will result in the creation of a Non-Marketable Parcel (as defined in rule 19.1);
 - (iv) the transfer is not permitted under the terms of issue of the Security; or
 - (v) the Company is otherwise permitted or required to do so under the Listing Rules or terms of issue of the Securities.
- (b) If the Board requests the application of a Holding Lock to prevent a transfer of Securities or refuses to register a transfer of a Security, it must give written notice to the Holder of the Security and the broker lodging the transfer, if any, of the refusal to transfer in accordance with the Listing Rules. Failure to give such notice will not invalidate any act or decision of the Board not to register the transfer.

13.5 Instruments of transfer retained

- (a) All instruments of transfer that are registered will be retained by the Company for such period as the Board may determine.
- (b) Any instrument of transfer which the Board declines to register will, except in the case of fraud, or alleged fraud, upon demand in writing be returned to the party who delivered it.

14 Approval required for proportional takeover bid

14.1 Definitions

In this rule:

- (a) **Approving Resolution** means a resolution of Eligible Shareholders approving a Bid.
- (b) **Approving Resolution Deadline** or **Deadline** means the day which is the 14th day before the last day of the bid period for a Bid.
- (c) **Bid** means offers for Securities made under a proportional takeover bid within the meaning of the Corporations Act.
- (d) **Eligible Shareholder** means 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 a Bid was made, held Securities in the class of Securities to which the Bid relates.

14.2 Transfer not to be registered

The registration of a transfer giving effect to a contract resulting from the acceptance of an offer made under a Bid is prohibited unless and until an Approving Resolution is passed (or is taken to have been passed) in accordance with this Constitution.

14.3 Approving Resolution

- (a) Where offers have been made under a Bid, the Board must, before the Approving Resolution Deadline, convene a meeting of the Eligible Shareholders to vote on the Approving Resolution for the purpose of considering and, if thought fit, passing a resolution to approve the Bid.
- (b) The provisions of this Constitution relating to general meetings apply, with such modification as is necessary, to a meeting convened under this **rule 14.3** as if that meeting were a general meeting.
- (c) Any vote cast on an Approving Resolution by the bidder or any of its associates will be disregarded.
- (d) 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.
- (e) If an Approving Resolution is voted on in accordance with this rule before the Approving Resolution Deadline, a Director or a Company Secretary must, on or before the Deadline, give the bidder and ASX notice stating that an Approving Resolution has been voted on and whether it was passed or rejected.
- (f) If no Approving Resolution has been voted on in accordance with this rule as at the end of the day before the Approving Resolution Deadline, an Approving Resolution is taken, for the purposes of this rule, to have been passed in accordance with those provisions.
- (g) This **rule 14** ceases to apply at the end of three years after the date of adoption of this rule or last renewal of this **rule 14**.

15 Closure of Register

Subject to the Corporations Act, the Listing Rules and the Operating Rules, the Register may be closed during any time (not exceeding in aggregate 30 Business Days in each year) the Board thinks fit.

16 Transmission of Securities

16.1 Transmission of Securities on death

- (a) On the death of a Holder who does not own Securities jointly, the Company will recognise only:
 - (i) where the Holder was a sole holder, the personal representative of the deceased Holder; and
 - (ii) where the Holder was a joint holder, the surviving joint holders,

as being entitled to the deceased's interest in Securities of the deceased Holder.

- (b) A person who becomes entitled to a Security upon the death of a Holder may, having provided the Board with such evidence as it requires to prove that person's entitlement to the Securities of the deceased Holder:
 - (i) by giving a signed notice to the Company, elect to be registered as the holder of any Security owned by the deceased; or
 - (ii) subject to the provisions of this Constitution as to transfers, transfer any Security owned by the deceased to another person.
- (c) A trustee, executor or administrator of the estate of a deceased Holder may be registered as the holder of any Security owned by the deceased as trustee, executor or administrator of that estate.
- (d) The death of a Holder will not release the estate of that Holder from any liability in respect of any Securities.

16.2 Transmission of Securities on bankruptcy

- (a) A person who becomes entitled to a Security on the bankruptcy of a Holder may, having provided the Board with such evidence as it requires to prove that person's entitlement to the Securities of the bankrupt Holder:
 - (i) by giving a signed notice to the Company, elect to be registered as the holder of any Security owned by the bankrupt Holder; or
 - (ii) subject to the provisions of this Constitution as to transfers, transfer any Security owned by the bankrupt Holder to another person.
- (b) A trustee or administrator of a person who is bankrupt may be registered as the holder of any Security owned by that person as trustee or administrator of that person's affairs.
- (c) This rule is subject to the *Bankruptcy Act 1966* (Cth).

16.3 Transmission of Securities on mental incapacity

- (a) A person who becomes entitled to a Security because a Holder is subject to assessment or treatment under any mental health law may, having provided the Board with such evidence as it requires to prove that person's entitlement to the Securities of the that Holder:
 - (i) by giving a signed notice to the Company, elect to be registered as the holder of any Security owned by the Holder; or

- (ii) subject to the provisions of this Constitution as to transfers, by giving a proper instrument of transfer to the Company, transfer any Securities owned by the Holder to another person.
- (b) A trustee or administrator of a person who is mentally or physically incapable of managing his or her affairs, may be registered as the holder of any Security owned by that person as trustee or administrator of that person's affairs.

16.4 Operating Rules

The provisions of this rule are subject to any provisions of the Operating Rules which deal with transmission on death or by operation of law.

17 Interests recognised

- (a) Subject to this Constitution and the rights of joint holders of Securities, the Company is entitled to treat the Holder of any Security as the sole legal owner of that Security.
- (b) Subject to the Corporations Act and this Constitution, the Company is not required to recognise:
 - (i) a person as holding a Share on trust; or
 - (ii) any equitable, contingent, future or other claim to or interest in any Security,even if the Company has notice of such trust, claim or interest.

18 Compliance with Operating Rules

Notwithstanding anything to the contrary in this Constitution, the Company must comply with the Operating Rules in relation to any of its Securities that are CHES Approved Securities.

19 Sale of Non-Marketable Parcels

19.1 Definitions

In this rule:

Marketable Parcel means the number of Securities which in aggregate constitutes a marketable parcel of Securities within the meaning of the Listing Rules.

Minority Holder means any Holder who from time to time holds a Non-Marketable Parcel.

Non-Marketable Parcel means a parcel of Securities that is less than a Marketable Parcel.

Notice means a notice given to Minority Holders in accordance with **rule 19.3**.

Notice Date means the date a Notice is sent by the Company to a Minority Holder under **rule 19.3(a)**.

Sale Consideration means the proceeds of any sale or other disposal of Securities under **rule 19.5**.

19.2 Power to sell Non-Marketable Parcels

- (a) Subject to the Listing Rules, the Operating Rules, and this Constitution, the Company may dispose of Non-Marketable Parcels in the manner set out in this **rule 19**.
- (b) Subject to **rule 19.2(c)**, the Company may dispose of Non-Marketable Parcels under this **rule 19** only once in any twelve month period.
- (c) This **rule 19** ceases to have effect following the announcement of a takeover bid, but begins to have effect again after the end of the offer period under the takeover bid.

19.3 Notice

- (a) The Company must notify a Minority Holder of its intention to dispose of that Minority Holder's Non-Marketable Parcel. The notice must explain the effect of the notice and advise the Holder that he or she may choose to be exempt from the provisions of this rule.
- (b) Each Minority Holder on whom a Notice has been served may, by notice to the Company within 42 days after the Notice Date, request the Company not to sell the Minority Holder's Non-Marketable Parcel, in which event the provisions of this **rule 19** will not apply to that Minority Holder.

19.4 Procedure

- (a) Each Minority Holder to whom this rule applies appoints the Company as the Minority Holder's agent to sell the Minority Holder's Non-Marketable Parcel.
- (b) The Company may:
 - (i) sell the Non-Marketable Parcel as soon as practicable at a price that the Directors consider is the best price reasonably available for the Non-Marketable Parcel at the time of sale; and
 - (ii) deal with the proceeds of sale in accordance with this **rule 19**.
- (c) Each Minority Holder appoints the Company and each of its Directors from time to time as the Minority Holder's attorney in the name and on behalf of the Minority Holder to effect all transfers and other documents and do all things necessary to transfer the Non-Marketable Parcel from the Minority Holder to the transferee.
- (d) The transferee of Securities sold under this **rule 19** is not responsible for the regularity of proceedings or the application of the

purchase money in respect of the sale of a Non-Marketable Parcel. After the transferee's name has been entered in the Register in respect of the Securities, the validity of the sale or other disposal may not be impeached by any person and the remedy of any person aggrieved by the sale or other disposal will be in damages only and against the Company exclusively.

- (e) The Company may issue to the transferee such Certificates as may be required in order to vest title in the transferee. The title of the transferee to Securities sold under this **rule 19** will not be affected by any irregularity in connection with the sale or disposal of the Securities to the transferee.
- (f) If the relevant Securities are Certificated, the Company must cancel the Certificates of all Minority Holders whose Securities are sold under this **rule 19**.
- (g) If all the Securities of two or more Minority Holders to whom this **rule 19** applies are sold to one purchaser the transfer may be effected by one transfer document.

19.5 Sale Consideration

- (a) The Sale Consideration must be received by the Company and paid to the Minority Holder or as the Minority Holder may direct.
- (b) The Company may deduct the costs of the sale of the Non-Marketable Parcel from the amount paid to the Minority Holder.
- (c) The Sale Consideration so received by the Company must be paid into a bank account opened and maintained by the Company for that purpose only.
- (d) The Company must hold the Sale Consideration so received in trust for a Minority Holder whose Securities are sold under this **rule 19** pending payment of the Sale Consideration. The Company must, as soon as practicable after the sale of the Securities of a Minority Holder, and to the extent that it may reasonably do so, distribute the Sale Consideration received to such Minority Holder provided that the Company has received any Certificates issued to the Minority Holder with respect to the Security or, in the case of loss or destruction of any such Certificate, any additional documentation required by the Corporations Act.
- (e) Payment by the Company of any consideration under this **rule 19** is at the risk of the Minority Holder to whom it is sent.
- (f) Where the Sale Consideration is held in trust by the Company under this **rule 19** and is unclaimed, the Company must deal with the money in accordance with applicable legislative requirements.

20 General meetings

20.1 Annual general meetings

Annual general meetings must be held in accordance with the Corporations Act.

20.2 Calling a general meeting

A general meeting may only be called:

- (a) by a Directors' resolution; or
- (b) as otherwise provided in the Corporations Act.

20.3 Notice of general meeting

- (a) Notice of a general meeting must be given to the Members, Directors and the Auditor in accordance with the Corporations Act and the Listing Rules.
- (b) The notice must:
 - (i) state the date, time and place (or places) of the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) state the general nature of the business to be conducted at the meeting;
 - (iii) state any proposed resolutions;
 - (iv) contain a statement informing the Members of the right to appoint a proxy;
 - (v) specify a place and a fax number for the purposes of proxy appointments and proxy appointment authorities; and
 - (vi) if there is to be an election of Directors, the names of the candidates for election.
- (c) A notice of meeting must be accompanied by a form of proxy which satisfies the requirements of the Listing Rules and the Corporations Act.
- (d) Unless the Corporations Act provides otherwise:
 - (i) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
 - (ii) except with the approval of the Directors or the chair, 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, a copy of which has been made available to Members to inspect or obtain.

20.4 General meetings at two or more places

- (a) A general meeting may be held in two or more places. If a general meeting is held in two or more places, the Company must use technology that gives Members a reasonable opportunity to participate at that general meeting.
- (b) If, before or during a general meeting, any technical difficulty occurs which precludes a Member from having a reasonable opportunity to participate, the chair may either adjourn the meeting until the technology gives Members a reasonable opportunity to participate or continue the meeting (in which case no Member may object to the meeting being held or continuing).

20.5 Postponement or cancellation of general meetings

- (a) Subject to this Constitution, the Corporations Act and the Listing Rules, if the Directors have convened a general meeting, the Board may change the place (or places) of, or postpone or cancel that general meeting.
- (b) If a Director has convened a general meeting, only the Director who convened the general meeting may change the place (or places) of the general meeting or postpone or cancel the general meeting.
- (c) If a general meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the general meeting without the consent of the requesting Members.

20.6 Notice of change, postponement or cancellation

The Board must notify the Members and each other person entitled to receive notice of such change, postponement or cancellation.

20.7 Omission to give notice relating to general meeting

- (a) No resolution passed at or proceedings of any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:
 - (i) that general meeting;
 - (ii) any change of place (or places) of that general meeting;
 - (iii) postponement of that general meeting, including the date, time and place (or places) for the resumption of the adjourned meeting; or
 - (iv) resumption of that adjourned general meeting.
- (b) A person's attendance at a general meeting waives any objection that person may have in respect of any unintentional omission or error in the giving of a notice.

21 Proceedings at general meetings

21.1 Quorum

- (a) No business may be transacted at a general meeting except the election of a chair and the adjournment of the meeting unless a quorum is present when the meeting proceeds to business.
- (b) A quorum at a general meeting is three or more Members present in person or by proxy and entitled to vote.
- (c) If a Member has appointed more than one proxy and two or more proxies attend a general meeting, only one proxy will be counted for the purposes of determining whether there is a quorum.

21.2 Lack of quorum

- (a) If a quorum is not present within 30 minutes after the time appointed for a general meeting (or any longer period of time as the chair may allow) the general meeting:
 - (i) if convened by a Director or on the request of Members, is dissolved; or
 - (ii) in any other case, is adjourned to a day, time and place (or places) as the chair determines or if the chair is not present, as the Directors at the meeting determine or, if the Directors do not so determine, to the same day in the next week at the same time and place (or places) as the adjourned meeting.
- (b) If a quorum is not present within 30 minutes after the time appointed for the resumption of the adjourned general meeting, the general meeting is dissolved.

21.3 Chairing general meetings

- (a) The chair of the Board from time to time will be entitled to chair each general meeting of the Company.
- (b) If the chair is not present within 15 minutes after the time appointed for any general meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that general meeting, the deputy chair of Board meetings (if any) will chair the general meeting, or if there is no deputy chair or if the deputy chair is not present or is unwilling or unable to act, the Directors present may elect a Director present to chair that general meeting.
- (c) If no Director is elected or if all the Directors present decline to take the chair for the whole or any part of that general meeting, the Members present (whether in person or by proxy) may elect a Member present (in person) to chair the whole or any part of that general meeting. If the Members do not so elect a chair, the meeting will be adjourned to be resumed on the same day, at the same time and at the same place (or places) in the following week.

- (d) A chair of a general meeting may, for any item of business or part of a meeting, vacate the chair in favour of another Director who will preside as acting chair. Where an instrument of proxy appoints the chair as proxy for any part of the proceedings for which the acting chair presides, the instrument of proxy will be taken to have been given in favour of the acting chair for the relevant part of the proceedings of the general meeting.

21.4 Admission to and conduct of general meetings

- (a) The chair of each general meeting may take any action the chair considers necessary to enable that meeting to be carried on in an orderly and proper manner and to ensure the safety of all persons at that meeting and may:
 - (i) require any person not to enter or to leave the place (or any place) at which the meeting is to be held, including:
 - (A) any person in possession of any thing:
 - (1) allowing pictorial or sound recording; or
 - (2) that may be used in any demonstration or disruption, including any banner or placard;
 - (B) any person who does not permit inspection of any thing in that person's possession;
 - (C) any person who the chair considers may disrupt that general meeting; or
 - (D) any person who behaves or threatens to behave in a dangerous, offensive or disruptive way.
 - (ii) refuse entry to any person not entitled to receive notice of the meeting.

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

- (b) The chair of each general meeting has charge of the conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.
- (c) Without prejudice to the application of the Corporations Act, any Director and any person (whether or not a Member) invited to speak at a general meeting (including by the chair during the general meeting) may speak at the general meeting. No other person may speak at the general meeting.
- (d) Without prejudice to the application of any other rule, the chair may require the application of any proceeding that the chair considers necessary to allow proceedings at any meeting to be carried on in an orderly and proper manner, including:

- (i) imposing a limit on the time that a person may speak on any matter and terminating debate or discussion on any matter being considered and requiring the matter to be put to a vote of Members;
 - (ii) adopting any procedures for casting or recording votes at the meeting whether on a show of hands or a poll (including the appointment of scrutineers); and
 - (iii) requiring any person to leave any meeting, and if that person does not leave as required, have that person removed from the meeting.
- (e) A determination by the chair for the purpose of this rule binds all Members and is final.

21.5 Adjournment

- (a) The chair of a general meeting at which a quorum is present may adjourn the meeting to another date, time and place (or places).
- (b) The chair of a general meeting may at any during the course of the meeting:
 - (i) adjourn the meeting or any business, motion, question or resolution being or to be considered by the meeting to a later time at the same meeting or to an adjourned meeting; and
 - (ii) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period or periods as the chair determines.
- (c) Subject to the Corporations Act and the Constitution, the chair's rights under **rule 21.5(b)** are exclusive and, unless the chair requires otherwise, no vote may be taken or demanded by the Members about any postponement, adjournment or suspension of proceedings.
- (d) No business may be transacted on the resumption of an adjourned or postponed general meeting other than the business left unfinished at the adjourned general meeting.

21.6 Postponement

Without prejudice to the application of any other rule, except where the general meeting has been convened by a court, the chair may postpone any general meeting, if at the place (or a place) and the time for that general meeting it appears to the chair that:

- (a) there is insufficient space for the Members who wish to attend the Meeting; or
- (b) the postponement of the Meeting is necessary because the business of the meeting is unlikely to be capable of being carried on in an orderly and proper manner, including because of the behaviour of any person present.

22 Proxy

22.1 Appointment of proxy

- (a) A Member who is entitled to attend and to vote at a general meeting of the Company may appoint a person as proxy to attend, speak and vote for that Member. The instrument appointing a proxy may restrict the exercise of any power.
- (b) A proxy may be, but does not have to be, a Member.
- (c) A proxy is not entitled to vote if the Member who has appointed the proxy is present in person at the meeting.
- (d) If a Member is entitled to cast two or more votes at a meeting, the Member may appoint two proxies. If the Member appoints two proxies and the appointment does not specify the proportion or the number of votes each proxy may exercise, each proxy may exercise half the votes.

22.2 Proxy instruments

- (a) Subject to the Corporations Act and the Listing Rules, an appointment of a proxy must be in writing and be signed by the Member appointing the proxy or by the duly authorised attorney of the Member and state:
 - (i) the Member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the general meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.
- (b) Where a proxy is signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument sent to the Company.
- (c) An instrument appointing a proxy may direct the way in which a proxy is to vote on a particular resolution. If an instrument contains a direction, the proxy must vote as directed in the instrument, and is not entitled to vote on the proposed resolution except as directed in the instrument. If an instrument does not contain a direction, the proxy is entitled to vote on the proposed resolution as the proxy considers appropriate.
- (d) If a proxy is appointed to vote on a particular resolution by more than one member, that proxy:
 - (i) may vote on a show of hands in the same way if each instrument appointing the proxy directs the proxy to vote in the same way or do not direct the proxy how to vote; and

- (ii) may not vote on a show of hands unless each instrument appointing the proxy and directing the proxy to vote in a particular way directs the proxy to vote in the same way.

22.3 Proxy to be received by Company

An instrument purporting to appoint a proxy is not effective unless it is received, together with any additional documentation, including a copy of the power of attorney (certified as a true copy of the original), by the Company at least 48 hours before the general meeting or, as the case may be, the resumption of an adjourned general meeting, at any of the following:

- (a) the registered office;
- (b) a facsimile number at the registered office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

22.4 Power to demand poll

A proxy may demand, or join in demanding, a poll.

22.5 Revocation of proxy

A Member may revoke the appointment of a proxy appointed by it by notice to the Company stating that the appointment of a proxy is revoked or by appointing a new proxy.

22.6 Validity of votes of proxy

A vote cast by a proxy will be valid unless before the start of a general meeting (or, in the case of an adjourned or postponed general meeting, not less than 48 hours before the resumption of the adjourned or postponed general meeting) at which a proxy votes:

- (a) the Member who appointed the proxy ceases to be a Member; or
- (b) the Company receives notice of:
 - (i) the revocation of the instrument appointing the proxy;
 - (ii) the appointment of a new proxy; or
 - (iii) the revocation of any power of attorney under which the proxy was appointed.

22.7 No liability

The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

23 Body corporate representative

23.1 Appointment of corporate representative

- (a) If a Member is a body corporate, it may appoint a natural person as its representative to exercise on its behalf any or all of the powers it may exercise:
 - (i) at meetings of the Members;
 - (ii) at meetings of creditors or debenture holders; or
 - (iii) relating to resolutions to be passed without meetings.
- (b) The appointment of a corporate representative may be a standing one.

23.2 Authority to act as corporate representative

- (a) An appointment of a corporate representative must be in writing and be signed by the body corporate appointing the representative and state:
 - (i) the Member's name and address;
 - (ii) the Company's name;
 - (iii) the representative's name or the name of the office held by the representative; and
 - (iv) the general meeting at which the representative may act, or if the appointment is a standing one, a clear statement to that effect.
- (b) The instrument appointing the corporate representative may restrict the exercise of any power.

23.3 Instrument to be received by Company

- (a) An instrument purporting to appoint a corporate representative is not valid unless it is received by the Company at least 48 hours before the general meeting or, in the case of an adjourned meeting, at least 48 hours before the resumption of an adjourned general meeting.
- (b) An instrument appointing a corporate representative must be received by the Company at any of the following:
 - (i) the registered office;
 - (ii) a facsimile number at the registered office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

23.4 Revocation and appointment of corporate representative

A Member may revoke the appointment of a corporate representative appointed by it by notice to the Company stating that the appointment of

the corporate representative is revoked or by appointing a new corporate representative.

23.5 Validity of votes of corporate representative

A vote cast by a corporate representative will be valid unless before the start of the general meeting (or, in the case of an adjourned or postponed general meeting, not less than 48 hours before the resumption of the adjourned or postponed general meeting) at which a corporate representative votes:

- (a) the Member who appointed the corporate representative ceases to be a Member; or
- (b) the Company has received notice of:
 - (i) the revocation of the instrument appointing the corporate representative; or
 - (ii) the appointment of a new corporate representative.

23.6 No liability

The Company is not responsible for ensuring that the terms of appointment of a corporate representative are complied with, and accordingly is not liable if those terms are not complied with.

24 Voting

24.1 Decisions of a general meeting

Except as required by the Corporations Act or the Listing Rules, questions arising for determination at a general meeting will be decided by a majority of votes cast by Members present in person or by proxy.

24.2 Casting vote

If on any ordinary resolution an equal number of votes is cast for and against a resolution, the chair has a casting vote in addition to any vote cast by the chair as a Member.

24.3 Entitlement to vote

- (a) Subject to this Constitution and the terms on which Securities are issued, each Member entitled to vote at a general meeting may vote in person or by proxy, attorney or representative.
- (b) Subject to this Constitution and the terms on which Securities are issued:
 - (i) on a show of hands, each Member has one vote; and
 - (ii) on a poll each Member has one vote for each fully paid Security held and a fraction of a vote for each partly paid Security equivalent to the proportion that the amount actually paid (not credited as paid) on the Security bears to the total

issue price of that Security and excludes amounts paid in advance of a call.

24.4 Direct vote

- (a) A Member who is entitled to attend and vote on a resolution at a general meeting may, where the Directors so determined, vote by electronic or other means at that general meeting. Any vote so admitted is referred to as a “direct vote”. The Directors may, in their absolute discretion, determine the means by which a direct vote may be cast which may include:
 - (i) post;
 - (ii) facsimile; or
 - (iii) other electronic means.
- (b) If the Directors determine that a Member may give a direct vote, the notice convening the general meeting must specify the form, method and timing of giving such a direct vote.

24.5 Unpaid calls

A Member is not entitled to vote in respect of any Security on which a call or instalment of a call is due and payable but is unpaid.

24.6 Proxy vote to be identified

Before a vote is taken the chair must inform the Members present whether any proxy votes have been received and, if so, how the proxy votes are to be cast.

24.7 Voting on resolution

- (a) At any general meeting, a resolution put to a vote must be determined by a show of hands unless a poll is demanded in accordance with this Constitution.
- (b) At any general meeting, unless voting is conducted by way of a poll, a declaration by the chair following a vote on a show of hands that a resolution has either been passed or lost is conclusive evidence of that fact without proof of the number or proportion of votes recorded for or against such resolution.

24.8 Vote of Member who is a minor

Subject to any applicable law, a parent or guardian of a natural person who is a minor may vote at any general meeting in respect of Securities registered in the name of the minor if the parent or the guardian produces evidence required by the Board to demonstrate parenthood or appointment as guardian. Any vote cast by a parent or guardian in respect of any Security registered in the name of the minor that has produced such evidence will be counted and any vote cast by the minor will not be counted.

24.9 Vote of Member who is of unsound mind

A person who, in accordance with law, has management of the affairs and estate of a Member who is subject to any law relating to mental health may vote at any general meeting in respect of Securities registered in the name of that Member if that person produces evidence required by the Board to demonstrate that the Member is subject to a law relating to mental health and that the person has management of the affairs and estate of the member. Any vote cast by the person in respect of any Security registered in the name of the Member subject to any law relating to mental health will be counted and any vote cast by the Member will not be counted.

24.10 Objection to right to vote

- (a) A challenge or dispute in relation to a right to vote at a general meeting:
 - (i) may only be made at that general meeting; and
 - (ii) must be determined by the chair.
- (b) A determination made by the chair in relation to a challenge or dispute in relation to a right to vote is binding on all Members and is final.

24.11 Membership at a specified time

The Board may determine, for the purposes of a particular meeting of Members, that all Securities that are quoted on ASX at a specified time before the meeting are taken to be held at the time of the meeting by the persons who hold them at the specified time. The determination must be made in accordance with the Corporations Act.

24.12 Minutes

- (a) Unless a poll is demanded in accordance with this Constitution, a declaration by the chair that a resolution has, on a show of hands, been:
 - (i) carried;
 - (ii) carried unanimously;
 - (iii) carried by a particular majority; or
 - (iv) lost or not carried by a particular majority,is conclusive evidence of that fact. An entry to that effect made in the minutes book of the Company and signed by the chair is evidence of that fact unless the contrary is proved.
- (b) Within one month after each general meeting, the Directors must record or cause to be recorded in the minute book of the Company:
 - (i) the proceedings and resolutions of each general meeting;
 - (ii) any declarations at each general meeting; and

- (iii) any information in relation to proxy votes which is required by the Corporations Act.
- (c) The chair, or the chair of the next meeting, must sign the minutes within one month after the general meeting.
- (d) The minute books must be kept at the registered office.
- (e) Members may inspect the minute books between the hours of 9:00am and 5:00 pm on any Business Day. No amount may be charged for inspection.

25 Poll

25.1 Chair may determine to take a poll

The chair of a general meeting may determine that a poll be taken on any resolution.

25.2 Right to demand poll

- (a) A poll may be demanded on any resolution at a general meeting other than the election of a chair or the question of an adjournment.
- (b) A demand for a poll may be made by:
 - (i) at least five Members entitled to vote on the resolution; or
 - (ii) Members with at least five percent of the votes that may be cast on the resolution on a poll.

25.3 Procedure for demanding poll

- (a) A poll may be demanded:
 - (i) before a vote on a show of hands is taken;
 - (ii) before the result of a vote on a show of hands is declared; or
 - (iii) immediately after the result of a vote on a show of hands is declared.
- (b) If a poll is demanded, it may be taken in the manner and at the time and place (or places) as the chair directs.
- (c) The demand for a poll may be withdrawn with the chair's consent.
- (d) A demand for a poll does not prevent the general meeting continuing for the transaction of any business.

26 Appointment and removal of Directors

26.1 Number of Directors

The minimum number of Directors is three. The maximum number of Directors is to be fixed by the Directors, but may not be more than nine unless the Company in general meeting resolves otherwise. The Directors

must not determine a maximum which is less than the number of Directors in office at the time the determination takes effect. At least two Directors must reside ordinarily in Australia.

26.2 Appointment of Directors

- (a) Subject to this Constitution, the Company may by resolution at a general meeting appoint a natural person as a Director. The resolution must specify whether the person to be appointed is to be appointed as an Executive Director or Non-Executive Director.
- (b) Subject to this Constitution, the Board may by resolution appoint a natural person as a Director (either as an additional Director or to fill a casual vacancy).
- (c) An appointment of a person as a Director is not effective unless a signed consent to the appointment is provided by that person to the Company. The appointment of a person as a Director will take effect on the later of the date of appointment and the date on which the Company receives the signed consent.

26.3 Confirmation of appointment

- (a) If a person is appointed as a Director by the Board, the Company must confirm the appointment at the next annual general meeting. If the appointment is not confirmed, the person ceases to be a Director at the conclusion of the annual general meeting.
- (b) **Rule 26.3(a)** does not apply to a Managing Director. If there is more than one Managing Director, only one of them is entitled not to have his or her appointment confirmed under **rule 26.3(a)**.

26.4 Eligibility

A person is eligible for election to the office of Director at a general meeting only if:

- (a) the person is in office as a Director immediately before that meeting;
- (b) the person has been nominated by the Board for election at that meeting;
- (c) in any other case, not less than the number of Members specified in the Corporations Act as being required to give notice of a resolution at a general meeting of the Company have:
 - (i) at least 35 Business Days; or
 - (ii) in the case of a general meeting the Board has been duly requested by Members under the Corporations Act to call, at least 30 Business Days,

but, in each case, no more than 90 Business Days before the meeting, given the Company:

- (iii) a notice signed by the Members stating their intention to nominate the person for election; and

- (iv) a notice signed by the person so nominated stating his or her consent to the nomination.

26.5 Removal of Director

- (a) The Company may remove a Director by resolution at a general meeting.
- (b) At least two months' notice must be given to the Company of the intention to move a resolution to remove a Director at a general meeting.
- (c) If notice of intention to move a resolution to remove a Director at a general meeting is received by the Company, a Director must be given a copy of the notice as soon as practicable.
- (d) The Director must be informed that the Director may:
 - (i) submit a written statement to the Company for circulation to the Members before the meeting at which the resolution is put to a vote; and
 - (ii) speak to the motion to remove the Director at the general meeting at which the resolution is to be put to a vote.

26.6 Cessation of Directorship

A person ceases to be a Director and the office of Director is vacated if the person:

- (a) is removed from office as a Director by a resolution of the Company at a general meeting;
- (b) resigns as a Director in accordance with this Constitution;
- (c) is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Director;
- (c) is convicted on indictment of an offence and the Board does not within month after that conviction, resolve to confirm the Director's appointment or election (as the case may) to the office of Director;
- (d) dies;
- (e) is disqualified from acting as a Director under the Corporations Act; or
- (f) is absent from Board meetings for a continuous period of three 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 Company Secretary giving details of the absence, resolved that leave of absence be granted.

26.7 Election and retirement of Directors

- (a) No Director (other than a Managing Director) may retain office (without re-election) for more than three years or past the third

annual general meeting following the Director's appointment, whichever is the longer.

- (b) When required to do so by the Act or the Listing Rules, the Company must hold an election of Directors each year. In the event that the Company is required to hold an election of Directors, if there is not otherwise a vacancy on the Board and no Director is required to cease to hold office under **rule 26.3(a)** or **rule 26.7(a)**, then the Director who has been in office longest since his or her last election or appointment must retire.
- (c) For the purposes of **rule 26.7(b)**, if there are two or more Directors who were last elected or appointed on the same day, and an agreement cannot be reached between those Directors as to who will retire, the Director who will retire will be determined by lot.
- (d) A retiring Director is eligible for re-appointment.
- (e) If there is more than one Managing Director, only one of them (as nominated by the other Directors) will not be subject to **rule 26.7(a)**.
- (f) The Company may by resolution at an annual general meeting fill an office vacated by a Director under **rule 26** by electing or re-electing an eligible person to that office.
- (g) The retirement of a Director from office and the re-election of a Director or the election of any new Director will not become effective until the end of the meeting at which the retirement and re-election or election occur.
- (h) In the event that a Director required to retire under **rules 26.3(a)** or **26.7(a)** ceases for any reason to be a Director between the date of the notice calling the relevant meeting and the date of the meeting, no other Director is required to retire at that meeting.

26.8 Resignation of Directors

A Director may resign from the office of Director by giving notice of resignation to the Company at its registered office.

27 Remuneration and reimbursement for expenses

27.1 Remuneration of Directors

- (a) The Non-Executive Directors will be remunerated for their services as Directors by:
 - (i) an amount or value of remuneration each year (if any) as the Company in general meeting determines; or
 - (ii) an aggregate amount or value of remuneration (if any) not exceeding the maximum amount or value as the Company in general meeting determines, to be divided among the Non-

Executive Directors in such proportion and manner as they agree or if they do not agree, equally.

- (b) The remuneration for Non-Executive Directors must be a fixed amount or value and not a commission on or percentage of profits or operating revenue.
- (c) The aggregate maximum amount of remuneration for Non-Executive Directors must not be increased except with the prior approval of the Company in general meeting. Particulars of the amount of the proposed increase and the new maximum amount or value that may be paid to the Non-Executive Directors as a whole must be detailed in the notice convening the meeting.
- (d) The Directors may:
 - (i) at any time after a Director dies or ceases to hold office as a director for any other reason, pay or provide to the Director or a legal personal representative, spouse, relative or dependent of the Director, in addition to the remuneration of that Director under this **rule 27.1**, a pension or benefit for past services rendered by that Director; and
 - (ii) cause the Company to enter into a contract with the Director or legal personal representative, spouse, relative or dependent of the Director to give effect to such a payment or provide for such a benefit.

27.2 Reimbursement of expenses

Directors and alternates are entitled to be reimbursed by the Company for reasonable costs and expenses incurred or to be incurred in connection with attendance at meetings of the Board and committees of the Board.

27.3 Extra services

If a Director, with the concurrence of the Directors, performs extra services or makes any special exertions for the benefit of the Company, the Directors may cause that Director to be paid out of the funds of the Company such special and additional remuneration as the Directors decide is appropriate having regard to the value to the Company of the extra services or special exertions. Any amount paid will not form part of the aggregate remuneration permitted under this Constitution.

27.4 Pensions and similar benefits

The Board may establish or support, or assist in the establishment or support, of funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors and grant pensions or allowances to those persons or their dependents, either by periodic payment or a lump sum.

28 Powers and duties of Board

- (a) Subject to this Constitution, the Corporations Act and the Listing Rules, the activities of the Company are to be managed by, or under the direction of, the Board.
- (b) Subject to this Constitution, the Corporations Act and the Listing Rules, the Board may exercise all powers of the Company that are not required to be exercised by the Company in a general meeting.
- (c) The powers of the Board include the power to:
 - (i) borrow or otherwise raise money;
 - (ii) mortgage, charge (including in the form of a floating charge) any of the Company's assets (both present and future); and
 - (iii) issue debentures and other Securities.
- (d) The Board may delegate any of its powers to:
 - (i) a Director;
 - (ii) a committee of Directors;
 - (iii) an employee of the Company; or
 - (iv) any other person.

29 Negotiable instruments

All negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

30 Alternate Directors

30.1 Appointment and terms of appointment

- (a) A director may, with the approval of a majority of the other Directors, appoint a person to be the Director's alternate for such period and on such terms as the Director decides.
- (b) An alternate Director may, but need not be, a Member.
- (c) A person may act as an alternate Director for more than one Director.
- (d) An alternate is not an agent of the Director appointing the alternate.

30.2 No liability

The Company is not responsible for ensuring that the terms of appointment of an alternate are complied with and accordingly, is not liable if those terms are not complied with.

30.3 Remuneration of alternate

An alternate is not entitled to receive any fee (or other remuneration) from the Company for services performed as an alternate but will be entitled to reimbursement for reasonable costs and expenses incurred in connection with attendance at meetings of the Board.

30.4 Notice and attendance at Board meetings

If the notice appointing the alternate provides that the alternate is to receive notice of Board meetings, the Company must provide each alternate with notice. By notice to the Company, the Director who appointed an alternate may at any time require that the notice of Board meetings cease to be given to the alternate.

30.5 Voting and exercise of powers of alternate

- (a) If an appointing Director is not present at any meeting of the Board, that Directors' alternate Director may exercise any powers that the appointing Director may exercise.
- (b) An alternate Director is entitled, if the appointing Director does not attend a meeting of the Board, to attend and vote in place of the appointing Director.
- (c) An alternate is entitled to a vote for each Director that the alternate represents in addition to any vote the alternate may have as a Director in the alternate's own right.

30.6 Termination of appointment of alternate

- (a) A Director who appointed an alternate may terminate or suspend the appointment of the alternate at any time by notice to the alternate, the Directors and the Company.
- (b) An alternate may terminate the alternate's appointment at any time by notice to the Directors and the Company.
- (c) A termination of appointment does not take effect until the Company has received notice of termination.

30.7 Cessation of appointment of alternate

An alternate ceases to be an alternate if the person who appointed that alternate ceases to be a Director.

31 Board meetings

31.1 Convening meetings

- (a) A Director may at any time convene a Board meeting by notice to the other Directors.
- (b) The Company Secretary must, if requested by a Director, call a meeting of the Board.

31.2 Notice of meetings

- (a) Notice of each Board meeting must be given to the Directors and each alternate entitled to receive notice (if any).
- (b) Each notice must state:
 - (i) the date, time and place (or places) of the Board meeting;
 - (ii) the general nature of the business to be conducted at the Board meeting; and
 - (iii) any proposed resolutions.

31.3 Omission to give notice

No resolution passed at or proceedings of any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that Board meeting;
- (b) any change of place (or places) of that Board meeting;
- (c) postponement of that Board meeting; or
- (d) resumption of that adjourned Board meeting.

31.4 Use of technology

- (a) A Board meeting may be convened or held using telephone or other electronic means.
- (b) If a number of Directors equal to the quorum is able to hear or to see and to hear each other Director contemporaneously using telephone or electronic means, there is a meeting and a quorum is present. The rules relating to meetings of Directors apply to each such meeting as determined by the chair of the meeting.
- (c) A Director participating at a meeting using technology consented to by all Directors is treated as being present in person at the meeting.
- (d) A meeting using technology consented to by all Directors is to be taken to be held at the place determined by the chair of the meeting.
- (e) A Director may not leave a meeting using technology consented to by all Directors unless the chair consents to that Director leaving.
- (f) A Director is presumed conclusively to have been present and to have formed part of a quorum at all times during a meeting using technology consented to by all Directors, unless the chair consents to that Director leaving in which case that Director will be treated as having been present until that Director leaves.

31.5 Quorum at meetings

- (a) No business may be transacted at a meeting of the Board unless a quorum is present at the time the meeting proceeds to business.

- (b) A quorum at a Board meeting is at least two of the Directors present in person. The quorum must be present at all times during the Board meeting.
- (c) If there is a vacancy in the office of a Director, the remaining Directors may act, provided however if the number of Directors 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 call a general meeting.

31.6 Chair of meetings

- (a) The Directors may elect one of their number as chair. The person that has been elected as chair may chair each subsequent Board meeting unless and until the Directors determine otherwise.
- (b) The Directors may from time to time appoint a deputy chair who in the absence of the chair at a meeting of the Board may exercise all the power and authorities of the chair.
- (c) The election of a chair or deputy chair by the Directors must be made by majority vote.
- (d) If the chair is not present within 30 minutes after the time appointed for a Board meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that Board meeting, the deputy chair will act as chair of the meeting or, if the deputy chair is not present or is unwilling or unable to act, the Directors present may elect a Director present to chair that Board meeting.

31.7 Passing resolutions at meetings

- (a) A resolution of the Board must be passed by a majority of the votes cast by the Directors entitled to vote on the resolution.
- (b) Subject to this Constitution and the Corporations Act, each Director present at a Board meeting in person or by alternate has one vote.

31.8 Casting vote

If an equal number of votes is cast for and against a resolution, the chair has a casting vote in addition to any vote cast by the chair as a Director.

31.9 Conduct of meetings

The chair of each Board meeting has charge of the conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

31.10 Written resolutions

The Board may pass a resolution without a Board meeting being held if at least 75% of Directors entitled to vote on the resolution (excluding any Director on an approved leave of absence, any Director who disqualifies himself or herself from considering the resolution in question and any Director who would be prohibited by the Corporations Act from voting on

the resolution in question) sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document, with each document to be identical to each other document.

31.11 Minutes of meetings

- (a) Within one month after each Board meeting, the Directors must record or cause to be recorded in the minute book:
 - (i) the proceedings and resolutions of each Board meeting; and
 - (ii) all resolutions passed without a Board meeting.
- (b) The chair, or the chair of the next Board meeting, must sign the minutes within one month after the meeting.
- (c) The minute book must be kept at the registered office of the Company.
- (d) The Directors may inspect the minute book between the hours of 9:00 am and 5:00 pm on any Business Day. No amount may be charged for inspection.

31.12 Committee meetings

- (a) The Directors may delegate any powers to a committee of Directors.
- (b) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (c) The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of Directors, except to the extent they are contrary to any direction given under **rule 31.12(b)**.
- (d) Membership of a committee of Directors may, if the Directors so resolve, be treated as an extra service or special exertion performed by the Directors for the purposes of **rule 27.3**.

32 Director's interests

32.1 Declaration of interest

- (a) Any Director who has a material personal interest in a contract or proposed contract of the Company, holds any office or owns any property such that the Director might have duties or interests which conflict with, or which may conflict, either directly or indirectly, with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting.
- (b) A notice of a material personal interest must set out:
 - (i) the nature and extent of the interest; and

- (ii) the relation of the interest to the affairs of the Company.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

32.2 Voting by interested Directors

A Director who has a material personal interest in a matter that is being considered at a Board meeting must not, except where permitted under the Corporations Act:

- (a) vote on the matter at a meeting; or
- (b) be present while the matter is being considered at the meeting, and accordingly will not count for the purposes of determining whether there is a quorum.

32.3 Contracts between a Director and the Company

- (a) Subject to the Corporations Act and the Listing Rules, no Director is disqualified from office due to the fact that such director holds any other office or association:
 - (i) with the Company;
 - (ii) with any of the Company's subsidiaries;
 - (iii) with any company in which the Company is or becomes a shareholder or otherwise interested; or
 - (iv) arising from contracting or arranging with the Company or any other company referred to in **rules 32.3(a)(ii) or 32.3(a)(iii)**, either as vendor, purchaser or otherwise.
- (b) A contract or arrangement entered into by or on behalf of the Company in which a Director is in any way interested (including any contract referred to in **rule 32.3(a)**) is not invalid or 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 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 under **rule 32.1** and under the Corporations Act regarding that interest.

33 Managing Director

- (a) The Board may appoint one or more of the Directors to the office of Managing Director for such period, and on such terms (including as to remuneration), as the Board determines.

- (b) The Board may confer on a Managing Director any of the powers that the Board may exercise.
- (c) The Board may vary or revoke a conferral of any power on a Managing Director.
- (d) The Board may at any time vary or revoke an appointment of a Managing Director.
- (e) A person ceases to be a Managing Director if they cease to be a Director.

34 Company Secretary

- (a) The Company must have at least one Company Secretary. The Board has the power to appoint a natural person to act as Company Secretary on the terms and for such period as the Board may determine.
- (b) Any Company Secretary appointed may be removed at any time by the Board.

35 Provisions applicable to all executive officers

- (a) A reference in this **rule 35** to an executive officer is a reference to a Managing Director, Executive Director or Company Secretary appointed under this Constitution.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the Directors decide.
- (c) The remuneration payable by the Company to an executive officer must not include a commission on, or percentage of, operating revenue.
- (d) The Directors may:
 - (i) delegate to or give an executive officer any powers, discretions and duties they decide;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties given to an executive officer; and
 - (iii) authorise the executive officer to delegate any of the powers, discretions and duties given to the executive officer.
- (e) Unless the Directors decide differently, the office of a Director who is employed by the Company or by a subsidiary of the Company automatically becomes vacant if the Director ceases to be so employed.
- (f) An act done by a person acting as an executive officer is not invalidated by:
 - (i) a defect in the person's appointment as an executive officer;

- (ii) the person being disqualified to be an executive officer; or
 - (iii) the person having vacated office,
- if the person did not know that circumstance when the act was done.

36 Seal

- (a) If the Company has a Seal the Directors must provide for the safe custody of the Seal (and any duplicate of it).
- (b) The Seal (and any duplicate of it) must not be used without the prior authority of the Board, and when used, the Seal must be used in accordance with any direction of the Board.
- (c) If a document is to be executed by the use of the Seal, the affixing of the Seal must be witnessed by two Directors or a Director and Company Secretary.

37 Inspection and access to records

- (a) A person who is not a Director does not have the right to inspect any of the Board papers, books, records or documents of the Company, except as provided by law, or this Constitution, or as authorised by the Directors, or by resolution of the Members.
- (b) The Company may enter into contracts with its Directors or former Directors agreeing to provide continuing access for a specified period after the Director ceases to be a Director to Board papers, books, records and documents of the Company which relate to the period during which the Director or former Director was a Director on such terms and conditions as the Directors think fit and which are not inconsistent with this **rule 37**.
- (c) The Company may procure that its subsidiaries provide similar access to board papers, books, records or documents as that set out in **rules 37(a)** and **37(b)**.
- (d) This **rule 37** does not limit any other rights of the Directors or former Directors.

38 Dividends

38.1 Determination and declaration of dividend

- (a) Subject to the Corporations Act, the Listing Rules and this Constitution, the Board may determine or declare that a dividend (whether interim, final or otherwise) is payable and fix:
 - (i) the amount of the dividend;
 - (ii) the time for payment; and

- (iii) the method of payment.
- (b) The Board may rescind a determination to pay a dividend at any time before the dividend is declared, if the Board determines that the Company's financial position no longer justifies payment of the dividend.
- (c) The Board may pay any dividend required to be paid under the terms of issue of any Share.
- (d) Payment of a dividend does not require confirmation at a general meeting.
- (e) The Board may deduct from any dividend payable to any Member any amount presently due but unpaid by that Member to the Company.
- (f) The Board will determine the method of payment of a dividend which may include the payment of cash, the issue of Securities or securities of any body corporate, the grant of options or the distribution of assets.
- (g) Interest is not payable on a dividend.
- (h) To the extent permitted by law, the Board may resolve to pay a dividend out of any available account, including the capital of the Company.

38.2 Unpaid calls

Without prejudice to the application of any other rule of this Constitution, the Board may retain the dividends payable on Shares in respect of which there are any unpaid calls.

38.3 Place to which payment to be paid

A dividend payable in cash may be paid:

- (a) by cheque sent by post or by courier to the addresses of each Member or to an address directed by that Member or joint holder, as the case may be;
- (b) by electronic funds transfer to an account (of a type approved by the Board) nominated by and in the name of each Member, and in the case of any joint holder of any Share, to the account (of a type approved by the Board) nominated by and in the name of the joint holder whose name appears first in the Register of Members; or
- (c) in any other manner determined by the Board.

38.4 Electronic transfers

- (a) If the Board determines that dividends will be paid in cash by electronic funds transfer in accordance with **rule 38.3(b)** and:
 - (i) no account (of a type approved by the Board) is nominated by a Member; or

- (ii) electronic funds transfer into a nominated account is rejected or refunded,

the Company may credit the amount payable to an account of the Company (**Company Account**) to be held until the Member nominates a valid account.

- (b) The Company does not hold any money in the Company Account as a trustee and no interest will be paid to the Member on monies held in the Company Account unless the Board determines otherwise.
- (c) An amount credited to the Company Account is treated as paid to the Member at the time it is credited to the Company Account.
- (d) If an amount is held in the Company Account for more than 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. The Shares may be acquired on market or by way of new issue at a price the Board accepts to be the market price at the time.
- (e) If Board exercises its power to reinvest under **rule 38.4(d)** and there are residual amounts remaining, the residual amounts may be retained in the Company Account or donated to a charity on behalf of the Member, as the Board decides.
- (f) The Company's liability to pay the relevant dividend amount in respect of a Member to which this **rule 38.4** applies, is discharged when Shares are issued or transferred to that Member in accordance with **rule 38.4(d)**.
- (g) The Board may do anything necessary or desirable (including executing any document) on behalf of the Member to effect the reinvestment under **rule 38.4(d)** or donation under **rule 38.4(e)**.
- (h) The Board may determine other rules to regulate the operation of this **rule 38.4** and may delegate their power under this rule to any person.

38.5 Transfer of assets

- (a) The Board may direct payment of a dividend wholly or partly by the distribution of specific assets (including Securities or securities of any body corporate) to some or all of the Members. The Board may determine in respect of the payment of any dividend to allow Members to elect to receive the amount of the dividend to which that Member is entitled in Securities instead of in cash.
- (b) To give effect to any direction, the Board may do all things that it considers appropriate including:
 - (i) fixing the value for distribution of any specific asset or any part of any such asset; or

- (ii) making a cash payment to any Member to adjust the value of distributions made to Members.

38.6 Record Date

- (a) Subject to the ASX Settlement Rules, the Board will determine the date (**Record Date**) which will be the date on which persons who are Members at midnight at the end of that date will be entitled to receive the dividend.
- (b) A transfer of any Security that has not been registered or left with the Company for registration on or before the Record Date is not effective (as against the Company) to pass any right or entitlement in respect of a dividend payable to Holders of Securities as at the Record Date.

38.7 Entitlement to dividends

Subject to any rights or restrictions attaching to any Shares (or any class of Shares), all dividends will be payable equally on all Shares, save and except that a partly paid Share confers an entitlement on the Holder only to that proportion of the dividend that the amount actually paid (not credited as paid) on that Share bears to the total amounts paid and payable on the Shares.

38.8 Unclaimed dividends

Subject to the Corporations Act and any other applicable law, the Board may apply the amount of unclaimed dividends in investments for the benefit of the Company.

38.9 Capitalisation of profits

- (a) Subject to the Corporations Act, this Constitution, the Listing Rules and the terms of issue of Securities, the Board may capitalise any amount:
 - (i) forming part of the undivided profits of the Company;
 - (ii) representing profits arising from an ascertained accretion to capital or a revaluation of the assets of the Company;
 - (iii) arising from the realisation of any assets of the Company; or
 - (iv) otherwise available for distribution as a dividend.
- (b) The Directors may resolve that all or any part of any capitalised amount is to be applied in:
 - (i) paying up any amount unpaid on any Security;
 - (ii) paying up in full unissued Securities to be issued to Members as fully paid; or
 - (iii) partly paying up any amount unpaid on any Security and paying up in full unissued Securities to be issued as fully paid.

- (c) Each Member is entitled to benefit from any such capitalisation on the same basis that that Member is entitled to dividends.

38.10 Additional powers

- (a) To give effect to any resolution to reduce the capital of the Company, to satisfy any dividend under **rule 38.1(f)** or to capitalise any amount under **rule 38.9**, the Board may do all things that it considers appropriate including:
 - (i) disregarding any fractional entitlement to any Security;
 - (ii) making a cash payment in respect of any fractional entitlement;
 - (iii) fixing the value for distribution of any specific asset or any part of any such asset;
 - (iv) making a cash payment to any Member to adjust the value of distributions made to Members; or
 - (v) authorising any person, on behalf of Members entitled to receive any specific assets, cash, Shares or other Securities as a result of the distribution or capitalisation) to enter into an agreement with the Company or any other person which provides, as appropriate, for the distribution or issue to those Members of shares or other Securities credited as fully paid up or for payment by the Company on their behalf of the amounts (or any part thereof) remaining unpaid on their existing Securities, by applying their respective proportions of the amount resolved to be distributed or capitalised, which agreement will be binding on all Members affected.
- (b) Any agreement made under an authority referred to in **rule 38.10(a)(v)** is effective and binds all members concerned.
- (c) If a distribution, transfer or issue of specific asset, Securities or securities of any body corporate to a particular Member or Members is in the Directors' discretion considered impracticable or contrary to any law of Australia or anywhere else in the world or would give rise to parcels of securities which do not constitute a Marketable Parcel, the Directors may make a cash payment to those Members or allocate the assets 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.
- (d) If the Company distributes to Members (either generally or to specific Members) Securities or securities 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.

38.11 Reserves

- (a) Subject to this Constitution, the Board may set aside out of the profits of the Company, any provision or reserve as it determines.
- (b) The Board may appropriate to the Company's profits any amount previously set aside as a provision or reserve.
- (c) Any amount set aside as a provision or reserve does not have to be kept separate from any other asset of the Company and such amount may be used in the Company's business or as the Board determines.
- (d) The Board may carry forward any part of the profits they consider should not be distributed as dividends or capitalised and need not transfer those profits to a reserve or provision.

38.12 Dividend reinvestment plan

The Directors may:

- (a) establish a dividend reinvestment plan on terms they decide, under which:
 - (i) the whole or any part of any dividend or interest due to Members or Holders of any convertible Securities of the Company who participate in the plan on their Shares or any class of Shares or any convertible Securities; or
 - (ii) any other amount payable to Members,may be applied in subscribing for or purchasing securities of the Company; and
- (b) amend, suspend, recommence or terminate a dividend reinvestment plan.

39 Notices

39.1 General

Any notice, statement or other communication under this Constitution must be in writing.

39.2 How to give a communication

- (a) In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:
 - (i) personally delivered;
 - (ii) left at the person's current address as recorded in the Register;
 - (iii) sent to the person's address as recorded in the Register by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;

- (iv) sent by fax to the person's current fax number for notices; or
 - (v) sent by email to the person's current email address for notices.
- (b) Notices and other documents for overseas Security holders must be forwarded by air mail or fax or in another way that ensures it will be received quickly.

39.3 Communications by post

- (a) Where a notice is sent by post, service of the notice is deemed to have occurred by properly addressing, prepaying and posting the notice and is deemed to have been received on the day after the date of its posting.
- (b) A certificate in writing signed by any manager, Company Secretary or other officer of the Company that the envelope containing the notice was so addressed, prepaid and posted is conclusive evidence of that fact.

39.4 Communications by fax

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

39.5 Communications by email

A communication is given if sent by email, when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

39.6 After hours communications

If a communication is given:

- (a) after 5:00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9:00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

40 Indemnity and insurance

40.1 Indemnity

- (a) To the extent permitted by and subject to the Corporations Act, the Company must indemnify each officer, Director and Company Secretary of a Group Company in respect of any liability, loss,

damage, cost or expense incurred or suffered or to be incurred or suffered by the officer, Director or Company Secretary in or arising out of the conduct of any activity of the relevant Group Company or the proper performance of any duty of that officer, Director or Company Secretary.

- (a) The indemnity in **rule 40.1(a)**:
 - (i) is enforceable without the officer, Director, or Company Secretary first having to make a payment or incur an expense;
 - (ii) is enforceable by the officer, Director or Company Secretary notwithstanding that the officer, Director or Company Secretary has ceased to be an officer, Director or Company Secretary of the relevant Group Company; and
 - (iii) applies to any liability, loss, damage, cost or expense incurred or suffered or to be incurred or suffered by the officer, Director, or Company Secretary whether incurred before or after the date of this Constitution.

40.2 Documenting indemnity

The Company may enter into an agreement containing an indemnity in favour of any officer, Director or Company Secretary on such terms as the Board determines.

40.3 Insurance

- (a) To the extent permitted by and subject to the Corporations Act, the Company may pay any premium in respect of a contract of insurance between an insurer and an officer, Director or Company Secretary of a Group Company or any person who has been an officer a Director or Company Secretary of a Group Company in respect of liability suffered or incurred in or arising out of the conduct of any activity of the relevant Group Company and the proper performance by the officer, Director or Company Secretary of any duty.
- (b) If the Board determines, the Company may execute a document containing rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

41 Winding up

41.1 Distribution of surplus on winding up

- (a) Subject to this Constitution and the rights and restrictions attaching to any Securities (or any class of Securities), if the Company is wound up, any property that remains after satisfaction of:
 - (i) all debts and liabilities of the Company; and

- (ii) the payment of the costs, charges and expenses of winding up,

must be distributed among the Members in accordance with their respective rights.

- (b) Any amount that would otherwise be distributable to the Holder of a partly paid Security under **rule 41(a)** must be reduced by the amount unpaid on that Security as at the date of distribution. Where the effect of such reduction is to reduce the distribution to a negative amount, the Holder must contribute that amount to the Company.

41.2 Dividing property

- (a) If the Company is wound up, whether voluntarily or otherwise, the liquidator may, with the sanction of a special resolution:
 - (i) divide amongst the Members the whole or any part of the Company's property; and
 - (ii) decide how the division is to be carried out as between the Members or classes of Members.
- (b) Any division of property under **rule 41.2** need not accord with the legal rights of Members and where it does not do so, a Member may dissent and exercise the same rights as if the special resolution sanctioning the division was a special resolution passed under section 507 of the Corporations Act.
- (c) A Member will not be compelled to accept any Shares or other Securities upon a division of property under this **rule 41.2** if there is any liability owing in respect of such Share or other Security.

42 General

42.1 Submission to jurisdiction

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

42.2 Prohibition and enforceability

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