

Constitution

ALS Limited

ACN 009 657 489

Adopted by special resolution at the Annual General Meeting held on 29 July 2014

Constitution of ALS Limited

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Constitution of ALS Limited

1. Defined terms & interpretation

1.1 In this Constitution:

Alternate Director means a person appointed as an alternate director under clause 73.

Approving Resolution Deadline in relation to a Proportional Takeover Bid means the day that is the fourteenth day before the last day of the Bid Period.

ASTC-Regulated Transfer has the same meaning as in the *Corporations Regulations 2001* (Cth).

ASX means ASX Limited ACN 008 624 691.

ASX Settlement means ASX Settlement Pty Limited ABN 49 008 504 532.

ASX Settlement Operating Rules means the Operating Rules of ASX Settlement in force from time to time.

Auditor means the Company's auditor.

Bid Class has the same meaning as in the *Corporations Act*.

Bidder has the same meaning as in the *Corporations Act*.

Bid Period has the same meaning as in the *Corporations Act*.

Business Day has the same meaning as in the *Corporations Act*.

CHESS has the same meaning as in the ASX Settlement Operating Rules.

CHESS Holding has the same meaning as in the ASX Settlement Operating Rules.

Company means ALS Limited.

Constitution means the constitution of the Company as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth) and includes any regulations made under the Act (including the *Corporations Regulations 2001* (Cth)) and any exemption or modification to that Act as it applies to the Company.

CS Facility Operating Rules means:

- (a) the ASX Settlement Operating Rules; and
- (b) any other Operating Rules of a Prescribed CS Facility under which Shares are approved or of a Prescribed CS Facility in which the Company participates,

in each case to the extent applicable in the given circumstances.

Direct Vote, in relation to a resolution or a meeting, means a specification in an appointment of a proxy of the way that the proxy is to vote on the resolution or on a resolution proposed to be put at

the meeting (as the case may be) where the appointment also indicates that the specification is to be regarded as a direct vote.

Director means a person appointed to the office of director of the Company and, where appropriate, includes an Alternate Director.

Directors means all or some of the Directors acting as a board.

Dividend includes bonus.

Executive Director has the meaning given by clause 80.1(b).

General Meeting means a general meeting of the Company.

Issuer Sponsored Holding has the same meaning as in the ASX Settlement Operating Rules.

Listing Rules means the Listing Rules of the ASX and any other rules of the 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 of the ASX.

Managing Director means a Director appointed as managing director under clause 80.1(a).

Marketable Parcel has the same meaning as in the business rules of the ASX in force from time to time.

Member means a person who is a member of the Company under the *Corporations Act*.

Non-Executive Director means a Director who is not an Executive Director or a Managing Director.

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

Office means the Company's registered office.

Operating Rules, in relation to a Prescribed CS Facility, has the same meaning as in Chapter 7 of the *Corporations Act*.

Prescribed CS Facility has the same meaning as in Chapter 7 of the *Corporations Act*.

Proper ASTC Transfer has the same meaning as in the *Corporations Regulations 2001* (Cth).

Proportional Takeover Bid has the same meaning as in the *Corporations Act*.

Register means the register of Members of the Company.

Registered Address means the last known address of a Member as noted in the Register.

Related Body Corporate has the meaning given to it by section 9 of the *Corporations Act*.

Representative means a person appointed by a Member to act as its representative under clause 57.1.

Restricted Securities has the same meaning as in the Listing Rules.

Seal means the Company's common seal (if any).

Secretary means any person appointed by the Directors to perform any of the duties of a secretary of the Company, and, if more than one person is appointed, any one or more of such persons.

Securities Exchange has the same meaning given to the term “financial market” in the *Corporations Act*.

Shares means shares in the share capital of the Company.

- 1.2 In this Constitution, unless the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
 - (b) words importing natural persons include corporations;
 - (c) a reference to the *Corporations Act* is a reference to the *Corporations Act* as modified or amended from time to time;
 - (d) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions; and
 - (e) a reference to writing includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.
- 1.3 Headings are for ease of reference only and do not affect the construction of this Constitution.
- 1.4 Unless a contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in the *Corporations Act*. Where the expression has more than one meaning in the *Corporations Act* and a provision of the *Corporations Act* deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.
- 1.5 The provisions of the *Corporations Act* that apply to certain companies as replaceable rules are displaced by this Constitution in their entirety and do not apply to the Company.
- 1.6 For the purposes of this Constitution, if the provisions of:
- (a) the *Corporations Act* and the Listing Rules;
 - (b) the *Corporations Act* and the CS Facility Operating Rules; or
 - (c) the *Corporations Act* and this Constitution,
- conflict on the same matter, the provisions of the *Corporations Act* prevail.

Shares

2. Rights

Subject to this Constitution, the *Corporations Act* and to the terms of issue of Shares, all Shares attract the following rights:

- (a) the right to receive notice of and to attend and vote at all General Meetings;
- (b) the right to receive Dividends; and
- (c) in a winding up or a reduction of capital, the right to participate equally in the distribution of the assets of the Company (both capital and surplus), subject only to any amounts unpaid on the Share and, in the case of a reduction, to the terms of the reduction.

3. Issue of Shares

3.1 Subject to the *Corporations Act*, the Listing Rules and this Constitution, the Directors may issue, or dispose of, Shares:

- (a) on terms determined by the Directors;
- (b) the issue price that the Directors determine; and
- (c) to Members whether in proportion to their existing shareholdings or otherwise, and to such other persons as the Directors may determine.

3.2 The Directors' power under clause 3.1 includes the power to:

- (a) grant options over unissued Shares; and
- (b) issue Shares:
 - (i) with any preferential, deferred or special rights, privileges or conditions;
 - (ii) with any restrictions in regard to Dividend, voting, return of capital or otherwise;
 - (iii) which are liable to be redeemed;
 - (iv) which are bonus Shares for whose issue no consideration is payable to the Company; or
 - (v) which have any combination of the characteristics described in subparagraphs (i) to (iv) inclusive.

4. Buy-backs

Subject to the *Corporations Act*, the Company may buy back Shares on terms and at times determined by the Directors in their discretion.

5. Commission and brokerage

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

6. Trusts not recognised

6.1 Except as required by law, the CS Facility Operating Rules or as otherwise provided by this Constitution, the Company will not recognise any person as holding a Share on trust and the Company will not recognise any equitable, contingent, future or partial interest or any other right in respect of a Share except the registered holder's absolute right of ownership.

6.2 This clause 6 applies even if the Company has notice of the relevant trust, interest or right.

7. Joint holders

7.1 If two or more persons are registered as the holders of a Share, they are taken to hold the Share as joint tenants with benefits of survivorship and the person whose name appears first on the Register is the only joint holder entitled to receive notices from the Company.

7.2 Any one of the joint holders of a Share may give an effective receipt for any Dividend or return of capital payable to the joint holders.

- 7.3 The Company is entitled to and, in respect of CHESS Holdings must:
- (a) record the names of only the first three joint holders of a Share on the Register;
 - (b) regard the three joint holders of a Share appearing first on the Register as the registered holders of that Share to the exclusion of any other holders; and
 - (c) disregard the entitlement of any person to be registered on the Register as a holder if the name of the person would appear on the Register after the first three holders for that Share.

8. Share certificates

- 8.1 Unless determined otherwise by the Directors or required by the Listing Rules or *Corporations Act*, the Company will not issue a certificate to a Member for any Shares registered in the Member's name or record any holding as held on a certificated subregister.
- 8.2 Any certificate for Shares must be issued and despatched in accordance with the *Corporations Act*, the CS Facility Operating Rules and the Listing Rules.
- 8.3 Subject to the Listing Rules and the CS Facility Operating Rules, the Directors may in their absolute discretion elect whether to maintain a certificated subregister for any class of Shares.
- 8.4 Subject to the Listing Rules and the CS Facility Operating Rules, Shares may be held on any subregister maintained by or on behalf of the Company or on any branch register kept by the Company.

9. Replacement of certificate

The Directors may order worn out or defaced certificates to be cancelled and, if necessary, replaced by new certificates.

10. Class meetings

- 10.1 The rights attached to any class of Shares may be varied in accordance with the *Corporations Act*.
- 10.2 The provisions of this Constitution relating to General Meetings apply, with necessary changes, to a meeting of a class of Members holding Shares in a class of Shares as if it was a General Meeting except that:
- (a) a quorum is two persons holding or representing by proxy (whether or not the Member or Members they represent cast Direct Votes), attorney or Representative not less than 5% of the Shares of the class or, if there is one holder of Shares in a class, that holder or a person representing by proxy, attorney or Representative that holder; and
 - (b) any five holders, or holders of Shares of the class (present in person or by proxy (whether or not the Member or Members they represent cast Direct Votes), attorney or Representative) who can vote not less than 5% of all votes held by Members of that class, may demand a poll.

11. Non-marketable parcels

- 11.1 If one or more Members hold less than a Marketable Parcel of Shares, the Directors may invoke the procedure for the sale of Shares under this clause 11 (**Procedure**).

- 11.2 To invoke the Procedure, the Directors must give each Member (or each Member whose Shares are not held in a CHESS Holding) who holds less than a Marketable Parcel of Shares (**Eligible Member**) written notice (**Notice of Divestiture**) that complies with this clause 11.
- 11.3 A Notice of Divestiture given to a Member must:
- (a) state that the Shares referred to in the Notice of Divestiture are liable to be sold in accordance with the Procedure if the Member does not advise the Company before a specified date (**Relevant Date**) that the Member wishes to keep those Shares; and
 - (b) if the Member holds Shares in a CHESS Holding, contain a statement to the effect that if those Shares remain in a CHESS Holding after the Relevant Date, the Company may, without further notice, move those Shares from the CHESS Holding to an Issuer Sponsored Holding for the purposes of divestment by the Company in accordance with the Procedure.
- 11.4 The Relevant Date must be six weeks or more after the date that the Notice of Divestiture is sent.
- 11.5 A copy of a Notice of Divestiture must be given to any other person required by the CS Facility Operating Rules.
- 11.6 If an Eligible Member on whom a Notice of Divestiture has been served wants to keep the Shares referred to in the Notice of Divestiture, the Eligible Member must give the Company written notice before the Relevant Date, advising the Company that the Member wants to keep those Shares in which event the Company will not sell the Shares.
- 11.7 If an Eligible Member on whom a Notice of Divestiture has been served does not give the Company written notice before the Relevant Date advising the Company that the Eligible Member wants to keep the Shares referred in the Notice of Divestiture, the Company may:
- (a) if the Member holds those Shares in a CHESS Holding, move those Shares from the CHESS Holding to an Issuer Sponsored Holding or a Certificated Holding; and
 - (b) in any case, sell those Shares in accordance with the Procedure,
- but only if the Shares held by the Eligible Member on the Relevant Date are less than a Marketable Parcel.
- 11.8 Any Shares which may be sold under this clause 11 may be sold on the terms, in the manner (whether on-market, by private treaty, through a share sale facility established by, on behalf of, or at the request of the Company, or otherwise) and at the time or times determined by the Directors and, for the purposes of a sale under this clause 11, each Eligible Member:
- (a) appoints the Company as the Eligible Member's agent for sale;
 - (b) authorises the Company to effect on the Eligible Member's behalf a transfer of the Shares sold and to deal with the proceeds of the sale of the Shares in accordance with clause 11.10;
 - (c) appoints the Company, its Directors and the Secretary jointly and severally as the Eligible Member's attorneys to execute an instrument or take other steps, in the Eligible Member's name and on the Eligible Member's behalf, as they or any of them may consider appropriate to transfer the Shares sold; and
 - (d) authorises each of the attorneys appointed under paragraph (c) to appoint an agent to do a thing referred to in paragraph (c).
- 11.9 The title of the transferee to Shares acquired under this clause 11 is not affected by an irregularity or invalidity in connection with the sale of Shares to the Transferee.

- 11.10 (a) The proceeds of any sale of Shares under this clause 11 less any unpaid calls and interest (**Sale Consideration**) will be paid to the relevant Member or as that Member may direct.
- (b) The Sale Consideration received by the Company in respect of all Shares sold under this clause 11 will be paid into a bank account opened and maintained by the Company for the purposes of this clause.
- (c) The Company will hold the Sale Consideration in trust for the Member whose Shares are sold under this clause and will forthwith notify the Member in writing that the Sale Consideration in respect of the Member's Shares has been received by the Company and is being held by the Company pending instructions from the Member as to how it is to be dealt with. If the Member has been issued with a share certificate or certificates, the Member's instructions, to be effective, must be accompanied by the share certificate or certificates to which the Sale Consideration relates or, if the certificate or certificates has or have been lost or destroyed, by a statement and undertaking under subsection 1070D(5) of the *Corporations Act*.
- 11.11 Subject to the *Corporations Act*, the Company or the purchaser will bear all costs, including brokerage and stamp duty, associated with the sale of any Shares under this clause.
- 11.12 The Procedure may only be invoked once in any 12 month period after its adoption or renewal.
- 11.13 If the Procedure has been invoked and there is an announcement of a takeover bid for Shares, no more sales of Shares may be made under this clause 11 until after the close of the offers made under the takeover. The Procedure may then be invoked again.

Calls

12. General

- 12.1 Subject to the *Corporations Act* and the terms on which partly paid Shares are issued, the Directors may make calls on the holders of the Shares for any money unpaid on them.
- 12.2 A call is made when the resolution of the Directors authorising it is passed.
- 12.3 The Directors may revoke or postpone a call before its due date for payment.
- 12.4 The Directors may require a call to be paid by instalments.
- 12.5 The Company must comply with the *Corporations Act* and the Listing Rules in relation to the dispatch and content of notices to Members on whom a call is made.
- 12.6 A Member to whom notice of a call is given in accordance with this clause 12 must pay to the Company the amount called in accordance with the notice.
- 12.7 Failure to send a notice of a call to any Member or the non-receipt of a notice by any Member does not invalidate the call.
- 12.8 Joint holders of Shares are jointly and severally liable to pay all calls in respect of their Shares.

13. Instalments and amounts which become payable

If:

- (a) the Directors require a call to be paid by instalments; or
- (b) an amount becomes payable by the terms of issue of Shares on issue, or at a time or in circumstances specified in the terms of issue,

then:

- (c) every instalment or the amount payable under the terms of issue is payable as if it were a call made by the Directors and as if they had given notice of it; and
- (d) the consequences of late payment or non-payment of an instalment on the amount payable under the terms of issue are the same as the consequences of late payment or non-payment of a call.

14. Interest and expenses

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

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

15. Recovery of amounts due

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

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

will be conclusive evidence of the debt.

16. Differentiation

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

17. Payment of calls in advance

17.1 The Directors may accept from a Member the whole or part of the amount unpaid on a Share before the amount accepted has been called.

17.2 The Company may:

- (a) pay interest on any amount accepted, until the amount is payable under a call and at a rate (not exceeding 20% per annum) agreed between the Member and the Directors; and
- (b) subject to any contract between the Company and the Member, repay all or any of the amount accepted in excess of the amount called on the Share.

17.3 Payment of an amount in advance of a call does not entitle the paying Member to any:

- (a) Dividend, benefit or advantage, other than the payment of interest under this clause 17; or
- (b) voting right,

to which the Member would not have been entitled if it had paid the amount when it became due.

Lien and forfeiture

18. Lien

- 18.1 To the extent permitted by law and by the Listing Rules, the Company has a first and paramount lien on every partly paid Share and Dividends and other amounts payable in respect of the Share for all money:
- (a) due and unpaid to the Company at a fixed time, in respect of the Share;
 - (b) presently payable by a holder or the holder of the Share, or the holder's estate, to the Company in respect of the Share; or
 - (c) which the Company is required by law to pay (and has paid) in respect of the Share.
- 18.2 The lien extends to reasonable interest and expenses incurred because the amount is not paid.
- 18.3 If any law for the time being of any country, state or place imposes or purports to impose an immediate or contingent liability on the Company to make any payment or authorises a taxing authority or Government official to require the Company to make payment in respect of Shares or Dividends or other moneys accruing due to the Member who holds the Shares:
- (a) the Member or, if the Member is deceased, the Member's legal personal representative indemnifies the Company in respect of any such payment or liability;
 - (b) subject to the *Corporations Act* and the Listing Rules, the Company:
 - (i) has a lien on the Shares, Dividends and other moneys payable in respect of the Shares, whether the Shares are held by the Member solely or jointly with another person in respect of any payment made or liability incurred by the Company, together with reasonable expenses and interest on any payment made by the Company at a rate to be fixed by the Directors not exceeding 20% per annum from the date of payment by the Company to the date of repayment by the Member;
 - (ii) may set off amounts so paid by the Company against amounts payable by the Company to the Member as Dividends or otherwise; and
 - (iii) may recover as a debt due from the Member or the Member's legal personal representative the amount of all payments made by the Company together with reasonable expenses and interest at the rate and for the period referred to in clause 18.3(b)(i).
- 18.4 The Company may do all things which the Directors think necessary or appropriate to do under the CS Facility Operating Rules and the Listing Rules to enforce or protect the Company's lien.
- 18.5 Unless the Directors determine otherwise, the registration of a transfer of a Share operates as a waiver of the Company's lien on the Share.
- 18.6 The Directors may declare a Share to be wholly or partly exempt from a lien.

19. Lien sale

If:

- (a) the Company has a lien on a Share for money presently payable; and

- (b) the Company has given the Member or the Member's executors or administrators (as the case may be) holding the Share written notice demanding payment of the money; and
- (c) that Member fails to pay all of the money demanded,

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

20. Forfeiture notice

20.1 The Directors may at any time after a call or instalment becomes payable and remains unpaid by a Member, serve a notice on the Member requiring the Member to pay all or any of the following:

- (a) the unpaid amount;
- (b) any interest that has accrued; and
- (c) all expenses incurred by the Company as a consequence of the non-payment.

20.2 The notice under clause 20.1 must:

- (a) specify a day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice must be made; and
- (b) state that if a Member does not comply with the notice, the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

21. Forfeiture

21.1 If a Member does not comply with a notice served under clause 20, then any or all of the Shares in respect of which the notice was given may be forfeited under a resolution of the Directors.

21.2 Unpaid Dividends in respect of forfeited Shares will also be forfeited.

21.3 On forfeiture, Shares become the property of the Company and forfeited Shares must be:

- (a) if the Listing Rules permit, sold, disposed of, or cancelled on terms determined by the Directors; or
- (b) offered by public auction in accordance with any requirement of the Listing Rules.

21.4 The Directors may, at any time before a forfeited Share is sold, disposed of or cancelled, annul the forfeiture of the Share on conditions determined by them.

21.5 Promptly after a Share has been forfeited:

- (a) notice of the forfeiture must be given to the Member in whose name the Share was registered immediately before its forfeiture; and
- (b) the forfeiture and its date must be noted in the Register.

21.6 Omission or neglect to give notice of or to note the forfeiture as specified in clause 21.5 will not invalidate a forfeiture.

22. Liability of former Member

22.1 The interest of a person who held Shares which are forfeited is extinguished but the former Member remains liable to pay:

- (a) all money (including interest and expenses) that was payable by the Member to the Company at the date of forfeiture in respect of the forfeited Shares; and
 - (b) interest from the date of forfeiture until payment of the money referred to in paragraph (a) of this clause at a rate determined by the Directors (not exceeding 20% per annum).
- 22.2 A former Member's liability to the Company ceases if and when the Company receives payment in full of all money (including interest and expenses) payable by the person in respect of the Shares. The liability may only be released or waived in accordance with the Listing Rules.

23. Disposal of Shares

23.1 The Company may:

- (a) receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share, or a Share sold under lien sale; and
- (b) effect a transfer of the Share in favour of a person to whom the Share is sold or disposed of.

23.2 The purchaser of the Share:

- (a) is not bound to check the regularity of the sale or the application of the purchase price;
- (b) obtains title to the Share despite any irregularity in the sale; and
- (c) will not be subject to complaint or remedy by the former holder of the Share in respect of the purchase.

23.3 A statement signed by a Director and the Secretary that the Share has been regularly forfeited and sold or re-issued, or regularly sold without forfeiture to enforce a lien, is conclusive evidence of the matters stated as against all persons claiming to be entitled to the Share.

23.4 Subject to the terms on which a Share is on issue, the net proceeds of any sale made to enforce a lien or on forfeiture must be applied by the Company in the following order:

- (a) in payment of the costs of the sale;
- (b) in payment of all amounts (if any) secured by the lien or all money (if any) that was payable in respect of the forfeited Share; and
- (c) where the Share was forfeited under clause 21.1, in payment of any surplus to the former Member whose Share was sold.

Transfer of shares

24. General

24.1 Subject to this Constitution, a Member may transfer the Shares held by that Member.

24.2 Shares may be transferred by:

- (a) a written transfer instrument in any usual or common form; or
- (b) any other form approved by the Directors.

24.3 (a) The Company may participate in any computerised or electronic system for market settlement, securities transfer and registration conducted in accordance with the

Corporations Act, the Listing Rules and the Operating Rules of a Prescribed CS Facility, or corresponding laws or financial market rules in any other country.

- (b) If the Company participates in a system of the kind described in clause 24.3(a), then despite any other provision of this Constitution:
- (i) Shares may be transferred, and transfers may be registered, in any manner required or permitted by any one or more of the Listing Rules or the CS Facility Operating Rules (or corresponding laws or financial market rules in any other country) applying in relation to the system;
 - (ii) the Company must comply with and give effect to those rules; and
 - (iii) the Company may, in accordance with those rules, decline to issue certificates for holdings of Shares.

24.4 A written transfer instrument must be:

- (a) executed by the transferor or (where the *Corporations Act* permits) stamped by the transferor's broker;
- (b) unless the Directors decide otherwise in the case of a fully paid Share, executed by the transferee or (where the *Corporations Act* permits) stamped by the transferee's broker; and
- (c) in the case of a transfer of partly paid Shares, endorsed or accompanied by an instrument executed by the transferee or by the transferee's broker to the effect that the transferee agrees to accept the Shares subject to the terms and conditions on which the transferor held them, to become a Member and to be bound by the Constitution.

Subject to the *Corporations Act*, the written transfer instrument may comprise more than one document.

24.5 Except as required by the CS Facility Operating Rules:

- (a) a transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares; and
- (b) a transfer of Shares does not pass the right to any Dividends or other amounts declared or determined on the Shares until such registration.

25. Proportional Takeover Bid [\[renewed 26 July 2016\]](#)

25.1 Registration of a transfer giving effect to a contract resulting from the acceptance of an offer made under a Proportional Takeover Bid is prohibited unless a resolution approving the Proportional Takeover Bid is passed at a General Meeting of those persons entitled to vote on the resolution PROVIDED THAT at such General Meeting the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution shall be greater than the one half of such total votes.

25.2 For the purposes of this clause 25.1, “the persons entitled to vote” on the resolution are all those persons (other than the Bidder under the Proportional Takeover Bid or a person associated with the Bidder) who, as at the end of the day on which the first offer under the Proportional Takeover Bid was made, held Bid Class Shares. Each person entitled to vote has one vote for each Bid Class Share held.

- 25.3 Any General Meeting held for the purposes of clause 25.1 is to be held in accordance with the provisions of this Constitution but subject to relevant requirements for the time being of the *Corporations Act*.
- 25.4 If a resolution to approve the Proportional Takeover Bid is voted on in accordance with this clause, before the Approving Resolution Deadline, the Company must, on or before the Approving Resolution Deadline, give:
- (a) the Bidder; and
 - (b) each relevant Securities Exchange, a written notice stating that a resolution to approve the Proportional Takeover Bid has been voted on and whether it was passed or rejected.
- 25.5 If no resolution has been voted on in accordance with this clause as at the end of the day before the Approving Resolution Deadline, a resolution to approve the Proportional Takeover Bid is taken, for the purposes of this clause, to have been passed in accordance with this clause.
- 25.6 In accordance with the *Corporations Act*, this clause 25 will automatically cease to have effect at the end of three (3) years from the date of the adoption of this clause unless the Company by special resolution resolves to renew this clause.

26. Transfer procedure

- 26.1 Except where the Directors determine (to comply with laws or financial market rules of a foreign country or the CS Facility Operating Rules), for a transfer of Shares that is not an ATSC-Regulated Transfer:
- (a) the written transfer instrument must be delivered to the Office or the office of the Company's Share registrar, together with payment of any fee charged under clause 26.3;
 - (b) the instrument must be accompanied by a certificate for the Shares dealt with in the transfer where a certificate has been issued, unless the Directors waive production of the certificate on receiving satisfactory evidence of the loss or destruction of the certificate; and
 - (c) the Directors may, if the Listing Rules permit, require other evidence of the transferor's right to transfer the Shares.
- 26.2 For a transfer of Shares that is an ASTC-Regulated Transfer, a Share transfer must be effected in accordance with the Listing Rules and the CS Facility Operating Rules.
- 26.3 The Company may charge a reasonable fee for each of the following:
- (a) registering paper-based transfers in registrable form; and
 - (b) where permitted by the Listing Rules, taking any other administrative action in connection with a Member's holding.

27. Right to refuse registration

- 27.1 The Directors may, in their absolute discretion and without assigning any reason refuse to register any transfer of Shares or other securities which are not quoted by ASX. Where the Shares or other securities are quoted by ASX, the Directors may in their absolute discretion refuse to register any transfer in any of the circumstances permitted by the Listing Rules.

- 27.2 The Directors must:
- (a) except as permitted by ASX, refuse to register any transfer of Shares or other securities which are Restricted Securities if that transfer is or might be in breach of the Listing Rules or any restriction agreement entered into by the Company under the Listing Rules in relation to the Shares; and
 - (b) refuse to register any transfer where the Company is, or the Directors are, required to do so by the Listing Rules.
- 27.3 Despite clauses 27.1 and 27.2, the Company must not refuse or fail to register or give effect to, or delay or in any way interfere with, a Proper ASTC Transfer of Shares or other securities quoted by ASX.
- 27.4 If a person has lodged a transfer which the Directors have refused to register, the Company must, within five Business Days after the date of lodgement, give to the lodging person written notice of the refusal and the reasons for it.
- 27.5 Subject to clause 27.3, Restricted Securities cannot be disposed of during the escrow period except as permitted by the Listing Rules or ASX. The Company will refuse to acknowledge a disposal of Restricted Securities to the extent required under the Listing Rules.

28. Closure of register

The transfer books and the Register may be closed for up to 30 days in each year.

Transmission of shares

29. Title on death

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

30. Entitlement of transmission

- 30.1 A person who becomes entitled to a Share in consequence of the death, lunacy, mental incapacity or bankruptcy of a Member may, subject to clause 27 and to producing to the Company evidence of its entitlement which is satisfactory to the Directors, elect to:
- (a) be registered as the holder of the Share; or
 - (b) transfer the Share to some other person nominated by it.
- 30.2 If the person who has become entitled to a Share:

- (a) elects to be registered as the holder, then the person must deliver or send to the Company a written notice of election signed by him or her; or
 - (b) elects to transfer the Share, then the person must execute a transfer of the Share.
- 30.3 An election to be registered as a holder of a Share under clause 30.1(a) or a transfer of a Share from a Member or deceased Member under this clause 30 is subject to the same limitations, restrictions and provisions of this Constitution as would apply if the election were a transfer or the transfer were made by the Member or deceased Member himself or herself.
- 30.4 A person who:
 - (a) has become entitled to a Share by operation of law; and
 - (b) has produced evidence of its entitlement which is satisfactory to the Directors,is entitled to the Dividends and other rights of the registered holder of the Share.
- 30.5 Where two or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they will be considered to be joint holders of the Share.
- 30.6 Any person who is registered under this clause must indemnify the Company against all liabilities, costs, losses and expenses incurred by the Company as a result of registering the person.

Changes to share capital

31. Consolidation or division

For the purpose of giving effect to any consolidation or division of Shares, the Directors may, subject to the CS Facility Operating Rules, settle any difficulty which arises with respect to fractions of Shares as they think expedient and, in particular, may:

- (a) issue fractional certificates;
- (b) vest any fractions of Shares in trustees on such trusts for the persons entitled to the fractions of Shares as may seem expedient to the Directors; or
- (c) sell the Shares representing the fractions for the best price reasonably obtainable to any person and distribute the net proceeds of sale (subject to retention by the Company of small amounts where the cost of distribution would be disproportionate to the amounts involved) in due proportion among those Members and, for such sale, any Director may execute an instrument of transfer of the Shares to the purchaser.

Powers of attorney

32. Powers of Attorney

- 32.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which is relevant to the Company or the Member's Share that Member must deliver the instrument appointing the attorney to the Company for notation.
- 32.2 The Company may require the Member to lodge a certified copy of the instrument for retention by the Company, and to ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

- 32.3 Any power of attorney granted by a Member, as between the Company and the Member who granted the power of attorney:
- (a) will continue in force; and
 - (b) may be acted on,
- unless express notice in writing of its revocation or of the death of the Member who granted it is lodged with the Company.
- 32.4 Where a Member proposes that an attorney represent the Member at a general meeting or adjourned meeting the Member must comply with clause 55.1 of this Constitution. If requested by the Company, the Member must also provide evidence satisfactory to the Company of the non-revocation of the attorney's appointment.

General Meeting

33. Calling General Meeting

- 33.1 A Director may call a meeting of Members.
- 33.2 The Directors must call annual General Meetings in accordance with the *Corporations Act*, to be held by the Company at times to be determined by the Directors.
- 33.3 Members may also request or call and arrange to hold a General Meeting in accordance with the procedures set out in the *Corporations Act*.
- 33.4 A General Meeting may be convened for and held at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

34. Notice

- 34.1 Notice of a General Meeting must be given in accordance with the *Corporations Act* to the persons referred to in clause 101.1.
- 34.2 Except as permitted by the *Corporations Act*, General Meetings must be called on at least the minimum number of days notice required by the *Corporations Act* (which, at the date of adoption of this Constitution, is 28 days) and in accordance with the procedures set out in the *Corporations Act*.
- 34.3 A notice calling a General Meeting:
- (a) must specify the place, date and time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (b) except as otherwise permitted by the *Corporations Act*, must state the general nature of the business to be transacted at the meeting;
 - (c) if a special resolution is to be proposed at the meeting, must set out an intention to propose the special resolution and state the resolution;
 - (d) if a member is entitled to appoint a proxy, must contain a statement setting out the following information:
 - (i) that the member has a right to appoint a proxy;
 - (ii) that the proxy does not need to be a member of the Company; and

- (iii) that the member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise;
- (e) must specify a place and facsimile number and may specify an electronic address for the purposes of proxy appointments and proxy appointment authorities;
- (f) may specify other electronic means by which a Member may give the Company a proxy appointment or proxy appointment authority; and
- (g) must comply with any other requirements of the *Corporations Act* or the Listing Rules (as applicable).

35. Business

35.1 Except to the extent that the *Corporations Act* provides otherwise:

- (a) an item of business may not be transacted at a General Meeting unless the general nature of the business is stated in the notice calling the meeting; and
- (b) no person may move any amendment to a resolution proposed at a General Meeting the terms of which are set out in the notice calling the meeting, or to a document which relates to such a resolution (and a copy of which has been given to Members or made available for them to inspect or obtain), without the approval of the chairperson of the meeting (in his or her discretion).

35.2 (a) Without limiting the powers conferred on the chairperson of a General Meeting under clause 40, the Directors may change a venue or venues for, postpone or cancel any general meeting (other than a meeting requested or called by Members under clause 33.3) at any time before the day of the meeting.

- (b) The Directors must give notice of the change of venue or venues, postponement or cancellation to ASX and are not required to give notice individually to the persons entitled to receive notices of a General Meeting.

35.3 Any accidental omission to send a notice of General Meeting (including a proxy appointment form) or the postponement of a General Meeting to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the General Meeting.

35.4 A person's attendance at a General Meeting waives any objection that the person may have to:

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

Proceedings at General Meeting

36. Member

In clauses 37, 38, 39, 41 and 46, 'Member' includes a Member present in person or by proxy, attorney or Representative.

37. Quorum

- 37.1 No business may be transacted at a General Meeting unless a quorum of Members is present at the commencement of business.
- 37.2 A quorum of Members is three Members unless there is only one Member, in which case a quorum is that Member.
- 37.3 If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
- (a) the General Meeting is automatically dissolved if it was requested or called by Members under clause 33.3 or
 - (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) if at the adjourned General Meeting a quorum is not present within 30 minutes after the time appointed for the General Meeting, the General Meeting is automatically dissolved.

38. Chairperson

- 38.1 The chairperson or, if the chairperson is absent or unwilling to act as chairperson of the meeting, the deputy chairperson, of Directors' meetings will be the chairperson at every meeting of Members.
- 38.2 If:
- (a) there is no chairperson or deputy chairperson; or
 - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the General Meeting; or
 - (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the General Meeting,
- the Directors present may elect a chairperson of the General Meeting of the Members.
- 38.3 If no election is made under clause 38.2, then:
- (a) the Members may elect one of the Directors present as chairperson; or
 - (b) if no Director is present and willing to take the chair, the Members may elect one of the Members present as chairperson.
- 38.4 At any time during a meeting and in respect of any specific item or items of business, the chairperson may elect to vacate the chair in favour of another person nominated by the chairperson (which person must be a Director unless no Director is present or is willing to act). That person is to be taken to be the chairperson and will have all the powers of the chairperson (other than the power to adjourn the meeting), during the consideration of that item of business or those items of business. Without limiting those powers, where a person has been nominated under this clause to act as chairperson for part of a meeting and the chairperson of the meeting is authorised to act as a Member's proxy for the meeting (or for the relevant part of the meeting), the proxy appointment will be taken to be in favour of the acting chairperson for the relevant part of the meeting.

38.5 If there is a dispute at a General Meeting about a question of procedure, the chairperson may determine the question.

39. General conduct

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

39.2 Without limiting the powers conferred on the chairperson under clause 39.1, the chairperson of a General Meeting:

- (a) may, subject to the *Corporations Act*, at any time terminate discussion or debate on any matter being considered by the meeting, where the chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting;
- (b) may require the adoption of any procedure which is, in the chairperson's opinion, necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting, recording or counting of votes at the meeting (including the appointment of scrutineers); and
- (c) may withdraw from consideration by the meeting any resolution proposed in the notice calling the meeting (other than a resolution proposed by Members in accordance with section 249N of the *Corporations Act*, or required by the *Corporations Act* to be put to the meeting).

39.3 A person, whether a Member or not, requested or permitted by the Directors or the chairperson to attend a General Meeting is entitled to be present and, with the consent of the chairperson, to speak at the meeting.

39.4 If, upon or prior to commencement of a General Meeting, the chairperson of the meeting considers that there is not enough room at a venue to allow the meeting to accommodate at that venue everyone who is present and entitled to attend, the chairperson may nominate a separate venue, whether or not that venue has previously been notified to Members, and may direct some of those present to move to the other venue for the purpose of attending the meeting at that other venue, provided that, in the chairperson's opinion, the separate venue will afford a reasonable opportunity to participate.

39.5 If the chairperson of a General Meeting believes that, because of technical difficulties or for any other reason, the Members attending the meeting at a venue do not or may not have a reasonable opportunity to participate in the meeting at that venue, then the chairperson may:

- (a) adjourn the meeting; or
- (b) suspend any debate or other proceedings at the meeting while the technical difficulties or other impediments to participation are addressed, without adjourning the meeting; or
- (c) allow the meeting to continue, but only if the chairperson is of the opinion on reasonable grounds that no substantial injustice will be caused by doing so.

40. Postponement and adjournment

40.1 If, at the time appointed for a General Meeting, the chairperson of the meeting considers that:

- (a) there is not enough room at any venue at which the meeting is to be held to accommodate everyone present at that venue and entitled to attend the meeting; or

- (b) a postponement is necessary in light of the behaviour of persons present at any venue at which the meeting is to be held or for any other reason so that the business of the meeting can be properly carried out,

the chairperson may postpone the meeting before it has started, whether or not a quorum is present. A postponement under this clause will be to another time, which may (but need not) be on the same day as the meeting, and may be to another venue, as determined by the chairperson.

40.2 The chairperson of a General Meeting:

- (a) in his or her discretion may adjourn the general meeting;
- (b) must adjourn the General Meeting if the meeting directs him or her to do so; and
- (c) may defer consideration of, and may adjourn debate on, any item of business, motion, question or resolution being considered or remaining to be considered at the meeting to a later time at the same meeting.

40.3 An adjourned General Meeting may take place at a different venue to the initial general meeting.

40.4 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial General Meeting.

40.5 If a General Meeting has been adjourned for more than 30 days, notice (exclusive of the day on which the notice is served or taken to be served and of the day for which notice is given) of the adjourned General Meeting must be given to Members as if it were an original meeting, but otherwise it is not necessary to give notice of an adjourned meeting or business of the adjourned meeting to any person other than ASX.

40.6 No poll may be demanded on the question of adjournment of a General Meeting except by the chairperson.

40.7 The chairperson's rights under this clause 40 are exclusive and, unless the chairperson requires otherwise, and subject to clause 40.2(b), no vote may be taken or demanded by the Members present (whether in person or by proxy, attorney or Representative) about any postponement or adjournment of a General Meeting or any proceedings at a meeting under this clause.

41. Decisions on questions

41.1 Subject to the *Corporations Act* in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

41.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded by:

- (a) at least 5 Members entitled to vote on the resolution;
- (b) Members with at least 5% of the votes that may be cast on the resolution on a poll; or
- (c) the chairperson.

41.3 A poll may be demanded:

- (a) before a vote is taken; or
- (b) in the case of a vote taken on a show of hands, before, or immediately after, the results of the vote are declared.

41.4 The chairperson must demand a poll if:

- (a) a vote by show of hands is taken;

- (b) appointments of proxies have been received specifying the way the proxies are to vote on the resolution (whether or not as a Direct Vote) and have not been revoked; and
- (c) votes cast in accordance with the appointment of proxies referred to in clause 41.4(b) could change the outcome of the vote on the resolution.

41.5 Unless a poll is demanded:

- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
- (b) an entry to that effect in the minutes of the meeting,

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

41.6 The demand for a poll may be withdrawn.

41.7 A decision of a General Meeting may not be impeached or invalidated on the ground that a person voting at the General Meeting was not entitled to do so.

42. Taking a poll

42.1 Subject to clause 42.5, a poll will be taken when and in the manner that the chairperson directs. No notice need be given of any poll.

42.2 The result of the poll will determine whether the resolution on which the poll was demanded is carried or lost.

42.3 The chairperson may determine any dispute about the admission or rejection of a vote, and such determination, if made in good faith, will be final and conclusive.

42.4 A poll cannot be demanded on any resolution concerning the election of the chairperson of a general meeting.

42.5 A poll demanded on the adjournment of a general meeting must be taken immediately.

42.6 After a poll has been demanded at a General Meeting, the General Meeting may continue for the transaction of business other than the question on which the poll was demanded.

42.7 Subject to clause 42.5, the result of a poll taken at a General Meeting may be declared by announcement to ASX after closure of the meeting.

43. Casting vote of Chairperson

The chairperson has a casting vote (in addition to the chairperson's vote as a Member, proxy, attorney or Representative) on a show of hands or on a poll.

Votes of members

44. Admission to General Meetings

The chairperson of a General Meeting may take any action the chairperson considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting, including refusing a person admission to, or requiring a person to leave and not return to, the meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,
 which the chairperson considers to be dangerous, offensive or liable to cause disruption; or
- (c) in the opinion of the chairperson:
 - (i) causes or threatens to cause any disruption to the meeting;
 - (ii) behaves or threatens to behave in a dangerous, offensive or disruptive way; or
 - (iii) refuses to comply with a request to turn off a mobile telephone, personal communication device or similar device.

The chairperson may delegate the powers conferred by this clause to any person and references to the chairperson in this clause include any person to whom the relevant power has been delegated.

45. Auditor's right to be heard

The Auditor is entitled to:

- (a) attend any General Meeting of the Company;
- (b) be heard at any General Meeting of the Company on any part of the business of the meeting that concerns the Auditor in their capacity as auditor, even if:
 - (i) the Auditor retires at the General Meeting; or
 - (ii) Members pass a resolution to remove the Auditor from office; and
- (c) authorise a person in writing to attend and speak at any General Meeting as the Auditor's representative.

46. Entitlement to vote

46.1 Subject to this Constitution, the *Corporations Act* and to any rights or restrictions attaching to any class of Shares:

- (a) every Member may vote;
- (b) subject to clause 51.4 , on a show of hands every Member has one vote; and
- (c) on a poll every Member has:
 - (i) one vote for each fully paid Share;
 - (ii) for each partly paid Share held by the Member, a fraction of a vote equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable, whether or not called (excluding amounts credited), on the Share. Without limiting the generality of clause 17.3, an amount paid on a Share in advance of a call is not to be taken as paid for the purposes of this clause.

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

46.3 If a Member:

- (a) dies; or
- (b) through mental or physical infirmity, is incapable of managing the Member's affairs, and a personal representative, trustee or other person is appointed under law to administer the Member's estate or property, the personal representative, trustee or person so appointed may exercise any rights of the Member in relation to a general meeting as if the personal representative, trustee or person (as the case may be) was a Member.

46.4 If the *Corporations Act* or the Listing Rules require that, in order for a resolution proposed in a notice calling a General Meeting to have its intended effect:

- (a) a Member must not vote in favour of a resolution;
- (b) a Member must not vote in any way on a resolution; or
- (c) a vote on the resolution by a Member must be disregarded by the Company,

and the Member or a person acting as the Member's proxy, attorney or Representative tenders a vote, in the case of paragraph (b) or (c), on the resolution, or, in the case of paragraph (a), in favour of the resolution, their vote is taken not to have been cast and must not be counted by the Company.

47. Unpaid calls

A Member is entitled to:

- (a) vote; or
- (b) be counted in a quorum,

only in respect of Shares on which all calls due and payable have been paid.

48. Joint holders

48.1 If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.

48.2 For the purposes of this clause 48, several executors or administrators of a deceased Member in whose sole name any Shares are registered will be taken to be joint holders of those Shares.

49. Objections

49.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned General Meeting at which the voter tendered its vote.

49.2 An objection must be referred to the chairperson of the General Meeting, whose decision made in good faith is final.

49.3 Subject to clause 46.4, a vote which the chairperson does not disallow pursuant to an objection is valid for all purposes.

50. Votes by operation of law

A person who has satisfied the Directors not less than 24 hours before a General Meeting that it is entitled to a Share by operation of law may exercise all rights attached to the Share in relation to a General Meeting, as if the person were the registered holder of the Share.

51. Votes by proxy

51.1 A Member who is entitled to vote at a General Meeting of the Company may appoint not more than two proxies to attend and vote at the General Meeting on that Member's behalf.

51.2 A proxy need not be a Member.

51.3 If a Member appoints one proxy, that proxy may, subject to the *Corporations Act*, vote on a show of hands.

51.4 If a Member appoints two proxies and both attend a General Meeting, neither proxy may vote on a show of hands.

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

51.6 Subject to the *Corporations Act*, a proxy may vote or abstain as he or she chooses.

51.7 Subject to the *Corporations Act*, if:

- (a) a Member nominates the chairperson of the meeting as the Member's proxy; or
- (b) the chairperson is to act as proxy under clause 53 or otherwise under a default appointment according to the terms of the proxy form,

then the person acting as chairperson in respect of an item of business at the meeting must act as proxy under the appointment in respect of that item of business.

52. Document appointing proxy

52.1 An appointment of a proxy is valid if it is signed, or otherwise authenticated in a way permitted by the *Corporations Act*, by the Member making the appointment and contains the information required by subsection 250A(1) of the *Corporations Act*.

52.2 The Directors, or the chairperson and the Secretary, may approve a form or means of appointment of proxy from time to time.

52.3 A proxy or attorney may be appointed for all General Meetings or for any number of General Meetings or for a particular purpose.

52.4 Subject to the *Corporations Act* and unless otherwise provided for in the proxy's appointment or in the instrument appointing the attorney or Representative, the appointment of a proxy, attorney or Representative will be taken to confer authority to do any and all of the following on the appointing Member's behalf:

- (a) to act generally at the meeting (including to speak, demand or join in demanding a poll and to move motions);
- (b) to vote on:
 - (i) any amendment moved to a proposed resolution; and

- (ii) any procedural motion, including any motion that any proposed resolution not be put or any similar motion, and on any motion to elect the chairperson, to vacate the chair or to adjourn the General Meeting,

even though the appointment may refer to specific resolutions and specify the way the proxy, attorney or Representative is to vote on any of those resolutions;

- (c) to vote on any motion before the General Meeting whether or not the motion is referred to in the appointment; and
- (d) where the meeting is adjourned or postponed to another time or changed to another venue, to attend and vote at the adjourned or postponed meeting, or at the new venue, even though the appointment or instrument may refer to the meeting being held at a specified time or venue.

53. Direct Votes

53.1 An appointment of a proxy may indicate, either generally or in relation to a particular resolution or resolutions, that a specification of the way that the proxy is to vote be regarded as a Direct Vote.

53.2 Subject to clause 53.5, except where the Directors determine prior to the relevant meeting that direct voting will not be permitted in relation to a particular resolution or resolutions, a Direct Vote on a resolution by a Member will, if a poll is demanded (but not on a show of hands) on the resolution, be effective to cast or to abstain from casting, at the meeting, the votes of the Member on the resolution as specified in the instrument appointing the proxy without the need for, and regardless of, any further action by the proxy.

53.3 If it is necessary to identify the individual who casts Direct Votes on a resolution, all Direct Votes are cast at the meeting (as specified in clause 53.2) by:

- (a) if the chairperson casts any votes, other than Direct Votes, on the resolution, the chairperson; and
- (b) otherwise, the Member casting the first vote to be counted of any votes, other than Direct Votes,

without the need for, and regardless of, any further action by the chairperson or the Member (as the case may be).

53.4 If the Directors determine, under clause 53.2, that direct voting will not be permitted in relation to a particular resolution or resolutions, an indication under clause 53.1 that a specification of the way that the proxy is to vote is to be regarded as a direct vote is to be of no effect and the specification is to be treated as simply a specification of the way that the proxy is to vote.

53.5 Where a Member attends a general meeting for which the Member has validly appointed a proxy (whether or not the appointment includes Direct Votes), the Member may choose to revoke the proxy's appointment and, if the Member does so, clause 53.2 will not apply to any Direct Votes included in the instrument appointing the proxy.

54. Proxy in blank

If a proxy appointment is signed or otherwise authenticated by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either act as proxy or complete the proxy appointment by inserting the name or names of one or more Directors or the Secretary.

55. Lodgement of proxy

- 55.1 Subject to clause 55.3, an appointment of a proxy or attorney must be received by the Company at least 48 hours (unless that period is reduced in the notice of meeting to which the proxy relates or by clause 55.6) before the time for holding the General Meeting (or resumption of an adjourned General Meeting) at which the appointee proposes to vote.
- 55.2 If the appointment purports to be signed or otherwise authenticated under a power of attorney or other authority, the original authority or a certified copy of it must be received by the Company by the time determined under this clause 55.
- 55.3 The Company receives an appointment or document required by this clause 55:
- (a) when the appointment or document is received at:
 - (i) the Office;
 - (ii) a facsimile number at the Office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of General Meeting; and
 - (b) if the notice of meeting specifies other electronic means by which a Member may give the appointment or document, when the appointment or document has been given by those electronic means.
- 55.4 The Company may, by written or oral communication, clarify with a Member any instruction on an appointment of proxy or attorney which is received by the Company within a period referred to in clause 55.1 or clause 55.6 (as applicable). The Company may amend the contents of any appointment of proxy or attorney to reflect any clarification in instruction received from the Member and the Member at that time appoints the Company as its attorney for this purpose.
- 55.5 Where an appointment of a proxy or attorney has been received by the Company by the time determined under clause 55.1 and the Company considers that the appointment has not been duly signed or authenticated, the Company, in its discretion, may:
- (a) return the appointment to the appointing Member; and
 - (b) request that the Member duly sign or authenticate the appointment and return it to the Company within a period determined by the Directors under clause 55.6.
- 55.6 Where clause 55.5 applies:
- (a) the 48 hour period referred to in clause 55.1 is reduced to any lesser number of hours before the time for holding the relevant General Meeting (or resuming the adjourned General Meeting) determined by the Directors and notified to the appointing Member; and
 - (b) the appointment of proxy or attorney is effective for the scheduled General Meeting or adjourned General Meeting (as the case may be) if the appointment and any other document required by clause 55.2 is received by the Company at least the number of hours determined by the Directors under clause 55.6(a) before the time for holding the relevant meeting or resuming the adjourned meeting (as the case may be).
- 55.7 Nothing in clauses 55.4, 55.5 or 55.6 requires the Directors or the Company to do anything referred to in those clauses.

56. Validity

A vote cast in accordance with an appointment of proxy (whether or not by Direct Vote) or power of attorney is valid even if before the vote was cast the appointor:

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

unless the Company received written notification of the death, mental incapacity, revocation or transfer before the relevant General Meeting or adjourned General Meeting.

57. Representatives of corporations

57.1 Any Member that is a corporation may appoint an individual as its representative as provided by the *Corporations Act*.

57.2 The appointment of a Representative may set out restrictions on the Representative's powers.

57.3 The original form of appointment of a Representative, a certified copy of the appointment, or a certificate of the body corporate evidencing the appointment of a Representative is prima facie evidence of a Representative having been appointed.

57.4 The chairperson of a general meeting may permit a person claiming to be a Representative to exercise his or her powers even if he or she has not produced a certificate or other satisfactory evidencing his or her appointment.

Appointment and removal of directors

58. Number of Directors

58.1 Subject to the *Corporations Act*, the Company may by resolution passed at a General Meeting increase or reduce the minimum or maximum number of Directors.

58.2 Until the Company resolves otherwise in accordance with clause 58.1 there will be:

- (a) a minimum of three Directors; and
- (b) a maximum of eight Directors.

58.3 Subject to the *Corporations Act* and any resolution of the Members determining the maximum and minimum numbers of Directors, the Directors may from time to time determine the respective numbers of Executive and Non-Executive Directors.

58.4 The Directors and Secretary in office immediately before the adoption of this Constitution continue in office subject to this Constitution.

59. Qualification

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

- 59.2 In addition to the circumstances which disqualify a person from managing a corporation according to the *Corporations Act*, no person who has been insolvent or under administration within the previous five years is eligible to become a Director.
- 59.3 A Director (and an Alternate Director when acting as a Director) is entitled to notice of all General Meetings and meetings of the holders of any class of Shares.

60. Power to remove and appoint

- 60.1 The Company may, subject to the *Corporations Act*, by resolution passed in General Meeting:
- (a) remove any Director before the end of the Director's term of office; and
 - (b) appoint another person in the Director's place.
- 60.2 A person appointed under clause 60.1 will hold office for the remainder of the term for which the Director replaced would have held office if the Director had not been removed.
- 60.3 Subject to the provisions of this Constitution, the Company may appoint a person as a Director by resolution passed in General Meeting.
- 60.4
- (a) If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
 - (b) The suspended Director may not take any part in the business or affairs of the Company until the suspension has been terminated.
 - (c) Within 14 days of the suspension, the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office in accordance with clause 60.1(a) or annul the suspension and reinstate the Director.

61. Additional and casual Directors

- 61.1 Subject to clause 58.2, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors.
- 61.2 Subject to clause 80.5, a Director appointed under clause 61.1 must retire from office at the end of the next annual General Meeting of the Company and is eligible for election at that General Meeting.

62. Filling vacated office

The Company may at a General Meeting at which a Director retires, by ordinary resolution, fill the vacated office by electing a person to that office.

63. Retirement of Directors

- 63.1 An election of Directors must be held if required for compliance with the Listing Rules, the *Corporations Act* or this Constitution.
- 63.2 If an election of Directors is required to take place in accordance with clause 63.1, a number of non-Executive Directors must retire from office, being the minimum number required for

compliance with the Listing Rules or the Corporations Act, or if no number is specified by the Listing Rules or the Corporations Act, the number determined by the Directors.

- 63.3 (a) The Non-Executive Directors to retire in accordance with clause 63.2 are those Non-Executive Directors who have been longest in office since their last election or re-election.
- (b) Non-Executive Directors elected on the same day may agree among themselves or determine by lot which of them must retire.
- 63.4 Subject to clause 60.2 and clause 80.5, a Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected or re-elected as a Director.
- 63.5 A Director may elect to retire and seek re-election at an annual general meeting before the time required by this clause 63.
- 63.6 A retiring Director remains in office until the end of the meeting and will be eligible for re-election at the meeting.

64. Nomination of Director

- 64.1 A person (other than a person who was a Director immediately prior to the General Meeting) is not eligible for election as a Director at a general meeting at which an election of Directors is to be held unless the person, or a Member who intends to nominate the person, has delivered to the Office a written notice signed by the person:
- (a) giving the person's consent to the nomination (including their consent to act as a Director); and
- (b) stating either that the person is a candidate for the office of Director or that the Member intends to nominate the person for election.
- 64.2 A notice given in accordance with clause 64.1 must be delivered to the Office not less than 45 Business Days but no more than 90 Business Days before the relevant General Meeting.
- 64.3 Any person who is a Director immediately prior to a General Meeting at which an election of Directors is to be held and would cease to hold office at that General Meeting (whether under this Constitution, by operation of law or otherwise) will be eligible for election or re-election (as the case may be) at the General Meeting.

65. Vacation of office

The office of a Director immediately becomes vacant if the Director:

- (a) ceases to be a Director by virtue of the *Corporations Act*;
- (b) is prohibited by the *Corporations Act* or is otherwise disqualified or prevented by law from holding office or continuing as a Director;
- (c) is liable to make a call but does not make the call within 21 days after the date on which it is payable;
- (d) is prohibited from holding or is removed from the office of Director by an order made under the *Corporations Act* or any other law applicable to the Company;
- (e) becomes bankrupt or makes any general arrangement or composition with his or her creditors;

- (f) cannot fully participate in the management of the Company because of his or her mental incapacity or is a person whose estate is liable to have a person appointed, under the law relating to the administration of estates of persons who through mental or physical infirmity are incapable of managing their affairs, to administrate, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (g) resigns from his or her office of Director by notice in writing to the Company;
- (h) is removed by a resolution of the Company;
- (i) is resident in Australia and not being engaged abroad on the business of the Company, is absent from Directors' meetings for three consecutive months without leave of absence from the Directors; or
- (j) dies.

Remuneration of directors

66. Remuneration of Non-Executive Directors

- 66.1 The Directors as a whole (other than any Managing Director or Executive Director) may be paid or provided remuneration for their services of a total amount or value per annum which must not exceed an aggregate maximum sum determined from time to time by the Company in general meeting (whether that determination was made before or after the adoption of this Constitution).
- 66.2 The notice calling a general meeting at which it is proposed that Members approve an increase of the aggregate maximum sum must state the amount of the increase and the aggregate maximum sum, and any other matters required by the Listing Rules.
- 66.3 Subject to the Listing Rules, the aggregate maximum sum will be divided among the Non-Executive Directors in such proportion and manner as the Directors agree and, in default of agreement, equally, and shall be deemed to accrue from day to day.
- 66.4 Non-Executive Directors may not be paid a commission on or a percentage of profits or operating revenue.
- 66.5 If a Non-Executive Director is required to perform services for the Company which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, the Company may pay or provide the Director remuneration determined by the Directors which may be either in addition to or instead of the Director's remuneration under clause 66.1. Such remuneration paid or provided under this clause 66.5 is excluded from the aggregate maximum sum of Directors' remuneration determined by the Company in General Meeting.
- 66.6 Non-Executive Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or General Meetings or otherwise in connection with the Company's business.
- 66.7 The Company may also pay a premium for a contract insuring a person who is or has been a Non-Executive Director against a liability incurred by the person as a Director, except in circumstances prohibited by the *Corporations Act*. Such premium paid is excluded from the aggregate maximum sum of Directors' remuneration determined by the Company in General Meeting.

67. Remuneration of Executive Directors

- 67.1 The remuneration of a Managing Director or of an Executive Director may from time to time be fixed by the Directors. The remuneration may be paid or provided in any form or forms (including by way of salary, commission, participation in profits and Shares, rights to or options over Shares, and other non-cash benefits), but may not be by commission on, or a percentage of, operating revenue.
- 67.2 The Company may reimburse an Executive Director for his or her expenses properly incurred as a Director or in the course of his or her office.
- 67.3 Except in circumstances prohibited by the *Corporations Act*, the Company may pay a premium for a contract insuring a person who is or has been an Executive Director against liability incurred by the person as a Director.

68. Retirement benefits

Subject to the *Corporations Act*, the Company may give a person a benefit in connection with a Director's retirement from a board or managerial office in the Company.

Powers and duties of directors

69. Directors to manage Company

- 69.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that are not required by the Constitution or the *Corporations Act* to be exercised by the Company in General Meeting.
- 69.2 Without limiting the generality of clause 69.1, the Directors may exercise all the powers of the Company to:
- (a) borrow money;
 - (b) charge any property or business of the Company or all or any of its uncalled capital;
 - (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.
- 69.3 Every Director and other agent or officer of the Company must:
- (a) keep secret all aspects of all transactions of the Company, except:
 - (i) to the extent necessary to enable the person to perform his or her duties to the Company;
 - (ii) as required by law or the Listing Rules; and
 - (iii) when requested to disclose information by the Directors, to the auditors of the Company or a General Meeting; and
 - (b) if requested by the Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Company.

Proceedings of directors

70. Directors' meetings

- 70.1 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.
- 70.2 It is not necessary to give notice of a meeting of the Directors to an Australian resident Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.
- 70.3 A Directors' meeting must be called by not less than 48 hours notice of a meeting to each Director, unless the Directors unanimously agree otherwise. The notice of a meeting may (but need not) be in writing, and may be given in person, by mail or by facsimile, email or telephone, or in any other way consented to by all the Directors from time to time. The consent may be a standing one.
- 70.4 (a) An accidental omission to send a notice of a meeting of Directors to any Director or the non-receipt of such a notice by any Director does not invalidate the proceedings, or any resolution passed, at the meeting.
- (b) A Director may waive notice of a Directors' meeting by giving written notice to that effect to the Company.
- (c) By attending a Directors' meeting, a Director waives any objection he or she may have had in relation to the notice of meeting.
- 70.5 (a) A Directors' meeting may be held using any technological means consented to by all the Directors. The consent may be a standing one.
- (b) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (c) A Director who participates in a meeting held in accordance with this clause 70.5 is taken to be present at the meeting.
- (d) A Directors' meeting held solely or partly using technology is treated as being held at the place at which the greatest number of Directors present at the meeting is located or, if there is an equal number of Directors located at two or more places, at the place where the chairperson of the meeting is located.
- (e) Subject to clause 70.3, a Director may withdraw his or her consent under clause 70.6 to the use of any particular technology for calling or holding a meeting within a reasonable period before the meeting is called or held.
- 70.6 Without limiting clause 70.3 or clause 70.5(a) (and to the extent required despite clause 70.3), each Director consents to the use of each of the following technologies (and any combination of them):
- (a) for calling a Directors' meeting:
- (i) facsimile;
 - (ii) email; and
 - (iii) telephone; and
- (b) for holding a Directors' meeting:

- (i) video; and
- (ii) telephone; and
- (iii) any other technology by which they are able simultaneously to hear each other and to participate in discussion.

70.7 Subject to this clause 70, the Directors may meet together, adjourn and regulate their meetings as they think fit.

70.8 At a meeting of Directors, a quorum is three Directors. The quorum must be present at all times during the meeting.

70.9 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson or the Managing Director may call a general meeting of Members to deal with the matter.

71. Decisions

71.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to the *Corporations Act*, each Director has one vote.

71.2 Subject to the Listing Rules, in the case of an equality of votes the chairperson of a meeting has a casting vote in addition to his or her deliberative vote.

- 71.3
- (a) An Alternate Director has one vote for each Director for whom he or she is an alternate.
 - (b) If the Alternate Director is a Director, he or she also has a vote as a Director.

72. Directors' interests

72.1 Where required by the *Corporations Act*, a Director must give the Directors notice of any material personal interest in a matter that relates to the affairs of the Company.

72.2 A Director will be required to declare at a meeting of Directors or otherwise disclose to the Directors any:

- (a) interest in a matter relating to the affairs of the Company (including any direct or indirect interest in an existing or proposed agreement or arrangement with the Company); or
- (b) potential or actual conflict of interest arising (whether directly or indirectly) from any office held or property possessed by the Director,

only if the Director is required to do so by the *Corporations Act* or by rules made by the Directors under clause 72.8.

72.3 Subject to the provisions of this clause 72, a Director or a body or entity in which a Director has a direct or indirect interest may:

- (a) enter into any agreement or arrangement with the Company;
- (b) hold any office or place of profit other than as auditor in the Company; and
- (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

- 72.4 The fact that a Director holds office as a director, and has fiduciary obligations arising out of that office:
- (a) will not void or render voidable a contract made by a Director with the Company;
 - (b) will not void or render voidable a contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest; and
 - (c) will not require the Director to account to the Company for any profit realised by or under any contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest.
- 72.5 A Director may be or become a director or other officer of, or otherwise be interested in:
- (a) any Related Body Corporate; or
 - (b) any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise,
- and is not accountable to the Company for any remuneration or other benefits received by the director or officer of, or from having an interest in, that body corporate.
- 72.6 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter,
- if to do so would be prohibited by the *Corporations Act*.
- 72.7 If not prohibited by the *Corporations Act*, a Director may:
- (a) be counted in determining whether or not a quorum is present at, and attend, any meeting of Directors that considers any matter in which the Director has a direct or indirect interest in any capacity (including any proposed contract or arrangement in which the Director has such an interest);
 - (b) participate in the execution of any document by or on behalf of the Company in relation to any matter (including any proposed contract or arrangement) in which the Director has any such interest; and
 - (c) vote on any resolution, decision or other matter in which the Director has any such interest.
- 72.8 The Directors may make rules requiring the disclosure of interests that a Director, and any person considered by the Directors to be related to (or associated with) the Director, may have in any matter concerning or connected with the Company or any of its Related Bodies Corporate. Any rules made under this clause bind all Directors. No act, transaction, agreement, instrument, resolution or other thing is void or voidable only because a Director fails to comply with any rule made under this clause 72.8.
- 72.9 A Director must give to the Company such information about:
- (a) the Shares or other securities in the Company in which the Director has a relevant interest; and
 - (b) any other notifiable interests (as defined in the Listing Rules) that the Director has in relation to the Company

as is required, and at the times that the Secretary requires, to enable the Company to comply with any disclosure obligations it has under the *Corporations Act* or the Listing Rules relating to such interests.

73. Alternate Directors

- 73.1 A Director may, with the approval of Directors, appoint any person as his or her alternate for a period determined by that Director.
- 73.2 An Alternate Director is entitled to notice of Directors' meetings while he or she is acting in that capacity and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director. An Alternate Director who is also a Director or is also an alternate director for another Director, is entitled to vote for each Director he or she is attending as alternate, in addition to any vote he or she may have as a director, but may only be counted once for the purpose of determining if a quorum is present at the meeting.
- 73.3 An Alternate Director is an officer of the Company and is not an agent of the appointor.
- 73.4 The provisions of this Constitution which apply to Directors also apply to Alternate Directors, except that Alternate Directors are not entitled to any remuneration from the Company.
- 73.5 (a) The appointment of an Alternate Director may be revoked at any time by the appointor or by the other Directors.
- (b) An Alternate Director's appointment ends automatically when his or her appointor ceases to be a Director.
- 73.6 Any appointment or revocation under this clause must be effected by written notice delivered to the Secretary.
- 73.7 An Alternate Director does not have an interest in a contract or arrangement or a material personal interest in a matter by reason only of the fact that his or her appointor has such an interest.

74. Remaining Directors

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

75. Chairperson

- 75.1 The Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office.
- 75.2 If no chairperson is elected or if the chairperson is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- 75.3 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

76. Delegation

- 76.1 The Directors may delegate any of their powers or discretions, other than those which by law must be dealt with by the Directors as a board, to:
- (a) a committee or committees of Directors;
 - (b) a Director or Directors;
 - (c) an employee or employees of the Company or any Related Body Corporate; or
 - (d) any other person.
- 76.2 The Directors may at any time revoke or vary any delegation of power under clause 76.1.
- 76.3 At least one member of each committee of Directors must be a Director.
- 76.4 The Directors may authorise any committee or person to whom they delegate any power or discretion under clause 76.1 to sub-delegate that power or discretion.
- 76.5 Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.
- 76.6 This clause 76 does not limit the Directors' authority to delegate their powers under the *Corporations Act*.

77. Written resolutions

- 77.1 If all the Directors who would, at a Directors' meeting, be entitled to vote on a resolution have consented to the resolution in accordance with this clause 77, then the resolution is passed by the Directors without a Directors' meeting being held. The resolution is passed when the last of the Directors who is entitled to vote on the resolution consents to the resolution in accordance with this clause 77.
- 77.2 A Director may consent to a resolution by:
- (a) signing a document that sets out the terms of the resolution and contains a statement to the effect that the Director is in favour of the resolution; or
 - (b) giving to the Company notice in writing addressed to and received by the Secretary or the chairperson of Directors' meetings:
 - (i) that signifies the Director's assent to the resolution;
 - (ii) that sets out the terms of the resolution or clearly identifies those terms; and
 - (iii) if the Director has notified the Company in writing of specified means by which his or her consent to a resolution must be authenticated for the purposes of this clause (including, for example, by providing particular personal information), that authenticates the Director's consent by those specified means.
- 77.3 For the purposes of clause 77.2(a), separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 77.4 Any notice, document or resolution referred to in this clause 77 may be given or sent by facsimile, electronic mail or other electronic means.
- 77.5 If a resolution is taken to have passed in accordance with this clause 77, the minutes must record that fact.

77.6 The terms of any resolution proposed for consideration by Directors under this clause 77 must be sent to every Director who is entitled to vote on the resolution.

78. Validity of acts of Directors

78.1 An act done by a Director is effective even if their appointment, or the continuance of their appointment, is invalid because the Company or Director did not comply with this Constitution or any provision of the *Corporations Act*.

78.2 Clause 78.1 does not deal with the question whether an effective act by a Director:

- (a) binds the Company in its dealings with other people; or
- (b) makes the Company liable to another person.

79. Minutes

79.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by the Directors in accordance with clause 77;
- (d) appointment of offices, but only if the Directors resolve that a minute of the appointment should be made in accordance with the *Corporations Act*; and
- (e) all disclosures of interests made in accordance with the *Corporations Act*.

79.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting, and if so signed will be conclusive evidence of the matters stated in such minutes.

Executive directors

80. Appointment

80.1 (a) The Directors may appoint a Director to the office of managing director or any other full-time executive position in the Company for any period (but not for life) and on any terms as they think fit.

- (b) A Director (other than a Managing Director) so appointed, and a Director (however appointed) occupying for the time being a full-time executive position in the Company or a Related Body Corporate of the Company, is referred to in this Constitution as an Executive Director.

80.2 The Directors may, subject to the terms of a Managing Director's or Executive Director's employment contract, suspend, remove or dismiss him or her from that office and appoint another Director in that place.

80.3 If a Managing or Executive Director ceases to be a Director, his or her appointment as Managing or Executive Director terminates automatically.

- 80.4 If a Managing or Executive Director is suspended from office, he or she will not be entitled to attend or vote at any meeting of Directors.
- 80.5 A sole Managing Director (or, if there is more than one Managing Director, the Managing Director nominated by the Directors):
- (a) is not subject to retirement under clause 61.2 or clause 63 and is not to be taken into account in determining which Director (if any) is to retire under clause 63.2; and
 - (b) is otherwise subject to the same provisions as to resignation and removal as the other Directors.

81. Powers

- 81.1 The Directors may confer on a Managing Director or Executive Director any powers exercisable by the Directors, subject to any terms and restrictions determined by the Directors.
- 81.2 The Managing Director and other Executive Directors may be authorised by the Directors to sub-delegate all or any of the powers vested in them.
- 81.3 Any power conferred under this clause may be concurrent with or to the exclusion of the Directors' powers.
- 81.4 The Directors may at any time withdraw or vary any of the powers conferred on a Managing Director or Executive Director.

Local management

82. General

- 82.1 The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit.
- 82.2 Without limiting clause 82.1 the Directors may:
- (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and
 - (b) delegate to any person appointed under clause 82.2(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,
- on any terms and subject to any conditions determined by the Directors.
- 82.3 The Directors may at any time revoke or vary any delegation under this clause 82.

83. Appointment of attorneys and agents

- 83.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the *Corporations Act* appoint any person to be the agent or attorney of the Company:
- (a) for the purposes;
 - (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);

- (c) for the period; and
 - (d) subject to the conditions,
determined by the Directors.
- 83.2 Without limiting clause 83.1, an appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) an individual;
 - (b) any member of any local board established under this Constitution;
 - (c) any body corporate;
 - (d) the members, directors, nominees or managers of any body corporate or firm; or
 - (e) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 83.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 83.4 The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.
- 83.5 An attorney or agent appointed under this clause 83 may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

Secretary

84. Secretary

- 84.1 There must be at least one Secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.
- 84.2 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

Seals

85. Common Seal

If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Directors or a Directors' committee authorised to permit use of the Seal;
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document; and
- (d) the Directors may determine by resolution either generally or in any particular case that the signature of any Director or the Secretary to a document to which the Seal or certificate seal is affixed may be a facsimile applied to the document by specified, mechanical means.

86. Duplicate Seal

If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:

- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
- (b) must only be used with the authority of the Directors or a Directors' Committee.

87. Share Seal

If the Company has a Seal the Company may have a Share seal which:

- (a) may be affixed to Share, option or other certificates;
- (b) must be a facsimile of the Seal with 'Share Seal' or 'Certificate Seal' on its face; and
- (c) must only be used with the general or specific authority of the Directors or a Director's committee.

Inspection of records

88. Times for inspection

- 88.1 Except as otherwise required by the *Corporations Act*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- 88.2 A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.
- 88.3 Notwithstanding clause 88.1 and 88.2, the books of the Company containing the minutes of General Meetings shall be kept at the Office and shall be open to inspection of Members at all times when the Office is required to be open to the public.

Dividends and reserves

89. Payment of Dividends

- 89.1 The Directors may by resolution either:
- (a) declare a Dividend and fix the amount and time for and method of payment; or
 - (b) determine a Dividend is payable and fix the amount and time for and method of payment.
- 89.2 Subject to the *Corporations Act*, the Directors may amend or revoke a resolution made under clause 89.1(b) to pay a Dividend at any time before the date fixed for payment.

90. No Interest

The Company must not pay interest on a Dividend.

91. Reserves

- 91.1 The Directors may set aside out of any amount available for distribution as a Dividend such amounts by way of reserves as they think appropriate before declaring a Dividend or determining to pay a Dividend.
- 91.2 The Directors may apply the reserves for any purpose for which any amount available for distribution as a Dividend may be properly applied.
- 91.3 Pending any such application, the Directors may invest or use the reserves in the business of the Company or in other investments as they think fit.
- 91.4 The Directors may carry forward any undistributed amount available for distribution as a Dividend without transferring them to a reserve.

92. Dividend entitlement

- 92.1 Subject to the rights of persons (if any) entitled to Shares with special rights as to Dividends:
- (a) all fully paid Shares on which any Dividend is declared or paid are entitled to participate in that Dividend equally; and
 - (b) each partly paid Share is entitled to a fraction of the Dividend declared or paid on a fully paid Share of the same class, equivalent to the proportion which the amount paid (not credited) on the Share bears to the total amounts paid and payable, whether or not called, (excluding amounts credited) on the Share.
- 92.2 An amount paid on a Share in advance of a call is not to be taken as paid for the purposes of clause 92.1.
- 92.3 Unless otherwise determined by the Directors, Shares rank for Dividends from their date of issue.
- 92.4 Subject to the *Corporations Act* and the CS Facility Operating Rules, a transfer of Shares registered after the record date notified to ASX for determining entitlements to a Dividend paid or payable in respect of the transferred Shares does not pass the right to that Dividend.

93. Deductions from Dividends

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

94. Distribution of assets

- 94.1 The Directors may resolve that a Dividend (interim or final) will be paid wholly or partly by the transfer or distribution of specific assets, including fully paid Shares in, or debentures of, any other corporation.
- 94.2 If a difficulty arises in making a transfer or distribution of specific assets, the Directors may:
- (a) deal with the difficulty as they consider expedient;
 - (b) fix the value of all or any part of the specific assets for the purposes of the distribution;
 - (c) determine that cash will be paid to any Members on the basis of the fixed value in order to adjust the rights of all the Members; and

(d) vest any such specific assets in trustees as the Directors consider expedient.

94.3 If a transfer or distribution of specific assets to a particular Member or Members is illegal or, in the Directors' opinion, impracticable, the Directors may make a cash payment to the Member or Members on the basis of the cash amount of the Dividend instead of the transfer or distribution of specific assets.

95. Payment

95.1 Any cash Dividend or other money payable in respect of Shares may be paid to a Member or joint holders by any means determined by the Directors, including:

(a) by cheque sent through the mail directed to:

(i) the address of the Member shown in the Register or to the address of the joint holder of Shares shown first in the Register; or

(ii) an address which the Member, or any of the joint holders, has in writing notified the Company as the address to which Dividends should be sent; or

(b) by electronic funds transfer to an account with a bank or other financial institution nominated by the Member, or any of the joint holders, and acceptable to the Company.

95.2 Different methods of payment may apply to different Members or groups of Members (such as Members whose Registered Address is outside Australia).

95.3 The Directors may require a Member to provide a bank account for direct deposit of a Dividend prior to making payment of the Dividend.

95.4 Any joint holder may give an effective receipt for any Dividend or other money paid in respect of Shares held by holders jointly.

95.5 Without limiting clause 98, if the Directors decide to make a payment in respect of Shares by electronic funds transfer under clause 95.1(b) and no account has been nominated by the relevant Member or a joint holder for that purpose, or an electronic transfer into their nominated account is rejected or refunded, the Company may hold the amount payable in a separate account of the Company until the Member or a joint holder nominates an account into which a payment may be made under clause 95.1(b). No interest is payable to the relevant Member or joint holders on any amount held under this clause.

95.6 The Directors may elect to pay in a currency other than Australian dollars any Dividend or other money payable to a Member or joint holders whose Registered Address is in a foreign country. For this purpose, the Directors may determine the exchange rate to be used to convert a Dividend or other money into a foreign currency and may fix a time on or before the payment date as the time at which the applicable exchange rate will be determined.

96. Election to reinvest Dividend

96.1 The Directors may:

(a) establish a plan under which Members or any class of Members may elect to reinvest cash Dividends paid by the Company by subscribing for Shares;

(b) vary, suspend or terminate the arrangements established under clause 96.1(a).

97. Election to accept Shares in lieu of Dividend

- 97.1 The Directors may resolve, in respect of any Dividend which it is proposed to pay on any Shares, that holders of those Shares may elect to:
- (a) forego their right to share in the proposed Dividend or part of the proposed Dividend; and
 - (b) instead receive an issue of Shares credited as fully paid.
- 97.2 If the Directors resolve to allow the election provided for in clause 97.1, each holder of Shares conferring a right to share in the proposed Dividend may, by notice in writing to the Company given in such form and within such period as the Directors may decide, elect to:
- (a) forego the Dividend which otherwise would have been paid to the holder on such of the holder's Shares conferring a right to share in the proposed Dividend as the holder specifies in the notice of election; and
 - (b) receive instead Shares to be issued to the holder credited as fully paid, on and subject to such terms and conditions as the Directors may determine.
- 97.3 Following the receipt of duly completed notices of election under clause 97.2, the Directors must:
- (a) appropriate from any reserve account or the profit and loss account or any other amount available for distribution to Members an amount equal to the aggregate issue price (if any) of the Shares to be issued credited as fully paid to those holders of Shares who have given such notices of election; and
 - (b) apply the amount (if any) in paying up in full the number of Shares required to be so issued.
- 97.4 The Directors may rescind, vary or suspend a resolution of the Directors made under clause 97.1 and the arrangements implemented under the resolution.
- 97.5 The powers given to the Directors by this clause 97 are additional to the provisions for capitalisation of amounts available for distribution as a Dividend provided for by this Constitution. If the Directors exercise their power to capitalise any amount available for distribution as a Dividend under clause 99 then any Member who has elected to participate in arrangements established under this clause 97 is deemed, for the purpose of determining the Member's entitlement to share in the capitalised sum, not to have so elected.

98. Unclaimed Dividends

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

99. Capitalisation of amounts available for distribution as Dividend

- 99.1 The Directors may resolve:
- (a) to capitalise any sum available for distribution to Members; and
 - (b) that:
 - (i) no Shares be issued and no amounts unpaid on Shares be paid up on capitalisation of the sum; or

- (ii) the sum be applied in any of the ways mentioned in clause 99.2 for the benefit of Members in the proportions in which the Members would have been entitled if the sum had been distributed by way of Dividend.

99.2 The ways in which a sum may be applied for the benefit of Members under clause 99.1(b)(ii) are:

- (a) in paying up any amounts unpaid on Shares held or to be held by Members;
- (b) in paying up in full unissued Shares or debentures to be issued to Members as fully paid; or
- (c) partly as mentioned in paragraph (a) and partly as mentioned in paragraph (b).

99.3 To the extent necessary to adjust the rights of the Members among themselves, the Directors may:

- (a) make cash payments in cases where Shares or debentures become issuable in fractions; and
- (b) authorise any person to make, on behalf of all the Members entitled to a benefit on the capitalisation, an agreement with the Company providing for:
 - (i) the issue to them, credited as fully paid up, of any such further Shares or debentures; or
 - (ii) the payment by the Company on their behalf of the amount or any part of the amount remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under the authority of paragraph (b) is effective and binding on all the Members concerned.

Notices

100. Service of notices

100.1 Subject to the *Corporations Act* and the Listing Rules, the Company may give any notice or other document to any person who is entitled to receive the notice or other document by:

- (a) serving it on the person;
- (b) sending it by post to the person's Registered Address or any other address supplied by the person to the Company for sending notices to the person;
- (c) sending it to the fax number or electronic address (if any) nominated by the person;
- (d) sending it by any other electronic means (if any) nominated by the person;
- (e) notifying the person (using an electronic notification means (if any) nominated by the person and by which the person may be notified that the notice or other document is available):
 - (i) that the notice or other document is available; and
 - (ii) how the person may use an electronic means (if any) nominated by the person to access the notice or other document; or
- (f) (except in the case of a notice of meeting of Members which is required to be given individually to each Member entitled to vote at the meeting and to each Director), advertising in one or more newspapers published daily (except on weekends) throughout Australia as determined by the Directors.

- 100.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting the notice; and
 - (b) on the day after the day on which it was posted.
- 100.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day of its transmission except if transmitted after 5.00pm in which case it is taken to be served on the next day.
- 100.4 A notice sent by electronic means under clause 100.1(d) is taken to be served on the day it is sent except if sent after 5.00pm in which case it is taken to be served on the next day.
- 100.5 A notice or other document notified under clause 100.1(e) is taken to be served:
- (a) by properly addressing the electronic notification that the notice is available and transmitting it; and
 - (b) on the day of transmission of the electronic notification that the notice or document is available, except if transmitted after 5.00pm in which case it is taken to be served on the next day.
- 100.6 A notice may be given by the Company to joint holders by giving the notice to the joint holder whose name appears first in the Register by a means permitted under clause 100.1.
- 100.7 Every person who is entitled to a Share by operation of law and who is not registered as the holder of the Share is taken to receive any notice served in accordance with this clause on the person from whom it derives its title.
- 100.8 A Share certificate, cheque, warrant or other document may be delivered by the Company either personally or by sending it:
- (a) in the case of a Member who does not have a Registered Address in Australia, by airmail post; and
 - (b) in any other case, by ordinary post,
- and is at the risk of the addressee as soon as it is given or posted.
- 100.9 A Member whose Registered Address is not in Australia may specify in writing an address in Australia as the Member's Registered Address within the meaning of this clause.
- 100.10 A certificate in writing signed by a Director, Secretary or other officer of the Company that a notice or document was sent or given in accordance with this clause 100.1 is conclusive evidence of service.
- 100.11 Subject to the *Corporations Act* the signature to a written notice given by the Company may be handwritten, printed or affixed or applied by mechanical or electronic means.
- 100.12 All notices sent by post outside Australia must be sent by prepaid airmail post.
- 100.13 A notice sent by post, courier, facsimile transmission, electronic notification or other means permitted under clause 100.1 to a Member's address shown in the Register or the address supplied by the Member to the Company for the purpose of sending notices to the Member is deemed to have been served notwithstanding that the Member has died, whether or not the Company has notice of his or her death.

101. Persons entitled to notice

101.1 Notice of every general meeting must be given to:

- (a) every Member;
- (b) every Director and Alternate Director;
- (c) ASX; and
- (d) any Auditor.

101.2 No other person is entitled to receive notice of a general meeting.

Audit and accounts

102. Company to keep financial records

102.1 The Directors must cause the Company to keep written financial records and to prepare financial documents and reports in accordance with the requirements of the *Corporations Act* and the Listing Rules.

102.2 The Directors must cause the financial records and financial documents of the Company to be audited in accordance with the requirements of the *Corporations Act* and the Listing Rules.

Winding up

103. Winding Up

103.1 Nothing in this clause prejudices the rights of the holders of Shares issued on special terms and conditions.

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

- (a) divide among the Members in kind all or any of the Company's assets; and
- (b) for that purpose, determine how he or she will carry out the division between the different classes of Members,

but may not require a Member to accept any Shares or other securities in respect of which there is any liability.

103.3 The liquidator may, with the sanction of a special resolution of the Company, vest all or any of the Company's assets in a trustee on trusts determined by the liquidator for the benefit of the contributories.

Indemnity

104. Indemnity

104.1 To the extent permitted by law and subject to the restrictions in section 199A of the *Corporations Act* the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as an officer of the Company

(including liabilities incurred by the officer as an officer of a subsidiary, associate entity or joint venture of the Company where the Company requested the officer to accept that appointment).

- 104.2 To the extent permitted by law and subject to the restrictions in section 199A of the *Corporations Act*, the Company indemnifies every person who is or has been an officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary, associate entity or joint venture of the Company where the Company requested the officer to accept that appointment).
- 104.3 The amount of any indemnity payable under clauses 104.1 or 104.2 will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**'Indemnified Officer'**) in connection with the indemnity (less the amount of any input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- 104.4 The Directors may agree to advance to an officer an amount which it might otherwise be liable to pay to the officer under clause 104.2 on such terms as the Directors' think fit but which are consistent with this clause, pending the outcome of any findings of a relevant court or tribunal which would have a bearing on whether the Company is in fact liable to indemnify the officer under clause 104.2. If after the Company makes the advance, the Directors form the view that the Company is not liable to indemnify the officer, the Company may recover any advance from the officer as a debt due by the officer to the Company.
- 104.5 For the purposes of this clause 104, 'officer' means:
- (a) a Director; or
 - (b) a Secretary.

General

105. Shareholder disclosure

If a Member has entered into any arrangement restricting the transfer or other disposal of Shares and those arrangements are of the nature of arrangements which the Company is required to disclose under the Listing Rules, then the Member must provide to the Company such information that the Company requires, and within the time that the Company requires, to comply with the Company's disclosure obligations.

106. Listing Rules

- 106.1 If, and for such time only as, the Company is included in 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 deemed to contain that provision.
- (e) If the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision.
- (f) If any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

106.2 The rules set out in clause 106.1 will cease to have any operation or effect at such time, if any, as the Company ceases to be included in the official list of ASX.