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Soul Pattis

Constitution of
Washington H. Soul Pattinson
and Company Limited

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Constitution of Washington H. Soul Pattinson and Company Limited

ACN 687 534 023

1. Preliminary

1.1 Replaceable rules

The replaceable rules referred to in section 141 do not apply to the Company and are replaced by the rules set out in this document.

1.2 Definitions

The following definitions apply in this document.

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

Alternate means an alternate Director appointed under rule 4.1.

Appointor in relation to an Alternate, means the Director who appointed the Alternate.

Approved Fees for a Director (other than an Executive Director) means fees, salary, bonuses, fringe benefits and superannuation contributions provided by the Company, but does not include:

- (a) a payment made as compensation for loss of office or in connection with retirement from office (which includes resignation from office and death while in office);
- (b) an insurance premium paid by the Company or indemnity under rule 11; or
- (c) any issue of securities.

ASX means ASX Limited (ABN 98 008 624 691) or the Australian Securities Exchange, as appropriate.

ASX Settlement Rules means the operating rules of ASX Settlement Pty Limited (ABN 49 008 504 532) and, to the extent that they are applicable, the operating rules of each of ASX and ASX Clear Pty Limited (ABN 48 001 314 503).

Board means the Directors acting collectively under this document.

business day has the meaning given by the Listing Rules.

Called Amount in respect of a share means:

- (a) the amount of a call on that share which is due and unpaid; and
- (b) any amount the Board requires a member to pay under rule 25.7.

Company means the company named at the beginning of this document whatever its name is for the time being.

Director means a person who is, for the time being, a director of the Company including, where appropriate, an Alternate.

Executive Director means a Director who is an employee of the Company or a subsidiary or acts in an executive capacity for the Company or a subsidiary under a contract for services and includes a Managing Director.

Interest Rate means, in respect of each rule in which that term is used:

- (a) the rate for the time being prescribed by the Board in respect of that rule; or
- (b) if no rate is prescribed, 15% each year.

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

Managing Director means a managing director appointed under rule 7.1.

member means a person whose name is entered in the Register as the holder of a share.

ordinary resolution means a resolution passed at a meeting of members by a majority of the votes cast by members entitled to vote on the resolution.

Register means the register of members kept as required by sections 168 and 169 and includes a computerised or electronic sub register established and administered under the ASX Settlement Rules.

Secretary means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this document.

Security Interest means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect, including any "security interest" as defined in sections 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth).

special resolution has the meaning given by section 9.

Unmarketable Parcel means a parcel of shares of a single class registered in the same name or the same joint names which is less than:

- (a) the number that constitutes a marketable parcel of shares of that class under the Listing Rules; or
- (b) subject to the Act, the Listing Rules and the ASX Settlement Rules, any other number determined by the Board from time to time.

Voting Member in relation to a general meeting, or meeting of a class of members, means a member who has the right to be present and to vote on at least one item of business to be considered at the meeting.

1.3 Interpretation of this document

Headings and marginal notes are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- For personal use only
- (a) A reference to:
 - (i) legislation (including subordinate legislation), the Listing Rules or the ASX Settlement Rules is to that legislation or those rules as:
 - (A) amended, modified or waived in relation to the Company;
or
 - (B) re-enacted, amended or replaced,
 - (C) and includes any subordinate legislation or rules issued under that legislation or those rules;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (iv) anything (including a right, obligation or concept) includes each part of it.
 - (b) A singular word includes the plural, and vice versa.
 - (c) A word which suggests one gender includes the other genders.
 - (d) If a word is defined, another part of speech has a corresponding meaning.
 - (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
 - (f) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
 - (g) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
 - (h) A reference to a power is also a reference to authority or discretion.
 - (i) A reference to something being **written** or **in writing** includes that thing being represented or reproduced in any mode in a visible form.
 - (j) A word (other than a word defined in rule 1.2) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.
 - (k) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

2. **Application of the Listing Rules**

In this Constitution, a reference to the Listing Rules and ASX Settlement Rules only applies while the Company is on the official list of the ASX.

While the Company is on the official list of ASX, it must comply with the following:

- (a) notwithstanding anything contained in this document, if the Listing Rules prohibit an act being done, the act shall not be done;
- (b) nothing contained in this document 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 document to contain a provision and it does not contain such a provision, this document is deemed to contain that provision;
- (e) if the Listing Rules require this document not to contain a provision and it contains such a provision, this document is deemed not to contain that provision; and
- (f) if any provision of this document is or becomes inconsistent with the Listing Rules, this document is deemed not to contain that provision to the extent of the inconsistency.

3. **Directors**

3.1 **Number of Directors**

- (a) Not counting Alternates, the Company must have at least three and not more than 10 Directors. The Board may from time to time determine to increase the maximum number of Directors but the maximum applying at any time cannot be reduced except by the Company in general meeting.
- (b) The Directors must not determine a maximum which is less than the number of directors in office at the time the determination takes effect.

3.2 **Eligibility**

A Director need not be a member. Neither the auditor of the Company for the time being nor any partner, director or employee of the auditor is eligible to act as a Director.

3.3 **Appointment by the Board**

Subject to this document, the Board may appoint a person to be a Director at any time except during a general meeting. Any Director so appointed automatically retires at the next annual general meeting and is eligible for election by members at that general meeting.

3.4 **Election by general meeting**

Subject to this document, section 201E and to the number of Directors for the time being fixed under rule 3.1 not being exceeded, the Company may elect Directors by ordinary resolution. A Director appointed to replace one removed from office under rule 3.10 must retire when the Director replaced would have been required to retire if not removed, and is eligible for re-election.

3.5 **Eligible candidates**

The Company in general meeting cannot validly elect a person as a Director unless:

- (a) the person retires under rule 3.3, 3.4 or 3.6 and seeks re-election;
- (b) the Board recommends the appointment; or
- (c) a nomination of the person by a member (who may be the person) and a consent to act as a Director signed by the person is served on the Company at its registered office:
 - (i) at least 45 business days before the general meeting unless it is a general meeting requisitioned by members;
 - (ii) at least 45 business days before the general meeting in the case of a general meeting which is requisitioned by members; or
 - (iii) any other period fixed by the Board and notified to ASX.

The Company must notify members of every candidate for election as a Director with the notice of meeting.

3.6 **Retirement of Directors**

- (a) A Director must not hold office (without re-election) past the third annual general meeting after the Director was elected or last re-elected or 3 years, whichever is longer.
- (b) A Director may elect to retire and seek re-election at an annual general meeting before the time required by rule 3.6(a), provided at least 45 business days (or any other period as the Board may determine) before the annual general meeting the Director has given the Board notice of their intention to do so. If the Director gives such a notice, the Director must then retire from office at the relevant annual general meeting.
- (c) An election of Directors must be held at each annual general meeting. If no election of Directors is scheduled to occur at an annual general meeting under rule 3.3 or 3.6(b), then one Director must retire from office at the annual general meeting.
- (d) None of rules 3.6(a), 3.6(b) and 3.6(c) applies to the Managing Director (or if there is more than one, the one (if any) nominated under rule 7.3(a)) and Alternates.
- (e) Unless the board decides otherwise, a Director who retires under this rule 3.6 is eligible for re-election.

3.7 **Selection of Directors to retire**

Subject to rule 3.4, the Director who retires under rule 3.6(c) is the Director who has held office the longest since last being elected. If two or more Directors have been in office for the same period, those Directors may agree which of them will retire. If they do not agree, they must draw lots to decide which of them must retire.

3.8 **Time of retirement**

A Director's retirement under rule 3.3 or 3.6 takes effect at the end of the relevant annual general meeting unless the Director is re-elected at that meeting.

3.9 **Cessation of Director's appointment**

A person automatically ceases to be a Director if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a director;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) fails to attend (either personally or by an Alternate) Board meetings for 6 consecutive months without leave of absence from the Board;
- (e) resigns by notice in writing to the Company unless such resignation would result in the Company contravening section 201A(2);
- (f) is removed from office under rule 3.10;
- (g) ceases to be eligible to act as a Director under rule 3.2; or
- (h) is a Managing Director and ceases to hold that office.

3.10 **Removal from office**

Whether or not a Director's appointment was expressed to be for a specified period, the Company may by ordinary resolution, and subject to section 203D, remove a Director from office.

3.11 **Too few Directors**

If the number of Directors is reduced below the minimum required by rule 3.1, the continuing Directors may act as the Board only:

- (a) to appoint Directors up to that minimum number;
- (b) to convene a meeting of members; and
- (c) in emergencies.

4. **Alternate Directors**

4.1 **Appointment of Alternates**

Subject to rule 3.2, a Director (other than an Alternate) may appoint a person who is approved by the Board (without the vote of the Appointor) to act as Alternate for a specified period or each time the Appointor is unable to attend a Board meeting or act as a Director.

4.2 **Notice of Board meetings**

If the Appointor requests the Company to give the Alternate notice of Board meetings, the Company must do so. Unless the Appointor has requested it, the Company need not give notice of Board meetings to an Alternate.

4.3 **Obligations and entitlements of Alternates**

An Alternate:

- (a) may attend and vote in place of the Appointor at a Board meeting at which the Appointor is not present;
- (b) if also a Director, has a separate right to vote as Alternate;
- (c) if Alternate for more than one Appointor, has a separate right to vote in place of each Appointor;
- (d) when acting as Alternate, is an officer of the Company and subject to all the duties, and entitled to exercise some of or all the powers and rights (as the Appointor determines at the time of appointment of the Alternate), of the Appointor as a Director; and
- (e) is entitled to reasonable travelling, accommodation and other expenses incurred in attending meetings of the Board or of the Company or while otherwise engaged on the business of the Company on the same basis as other Directors but is not entitled to any other remuneration from the Company (but the Appointor may further remunerate the Alternate).

4.4 **Termination of appointment**

The Appointor may at any time revoke the appointment of a person as an Alternate whether or not that appointment is for a specified period. Any appointment of an Alternate immediately ceases if:

- (a) the Appointor ceases to be a Director; or
- (b) an event occurs which would cause the Alternate to cease to be a Director under rule 3.9 if the Alternate were a Director.

4.5 **Appointments and revocations in writing**

The Appointor must appoint, and revoke the appointment of, any Alternate in writing. The appointment or revocation is not effective until a copy is provided to the Company. The appointment may be in relation to some or all of the powers of the Appointor.

5. **Powers of the Board**

5.1 **Powers generally**

Except as otherwise required by the Act, any other applicable law, the Listing Rules or this document, the Board:

- (a) has power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the members.

5.2 **Exercise of powers**

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule 12; or
- (b) in accordance with a delegation of the power under rules 7 or 8.

6. **Executing negotiable instruments**

- (a) Any two Directors of the Company may sign, draw, accept, endorse, or otherwise execute a negotiable instrument.
- (b) The Board may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way (including by other persons or by the use of electronic signatures).

7. **Managing Director**

7.1 **Appointment and power of Managing Director**

The Board may appoint one or more persons to be a Managing Director either for a specified term (but not for life) or without specifying a term. Subject to this document, a Managing Director has all the duties, and can exercise all the powers and rights, of a Director.

The Board may delegate any of the powers of the Board to a Managing Director:

- (a) on the terms (including power to further delegate) and subject to any restrictions the Board decides; and
- (b) so as to be concurrent with, or to the exclusion of, the powers of the Board,

and may revoke the delegation at any time.

This rule does not limit rule 8.

7.2 **Retirement and removal of Managing Director**

Subject to rule 7.3, a Managing Director is not:

- (a) subject to automatic retirement under rule 3.3; or
- (b) required to retire under rule 3.6,

but (subject to any contract between the Company and that Managing Director) is otherwise subject to the same rules regarding resignation, removal and retirement from office as the other Directors.

7.3 **Multiple Managing Directors**

If there are two or more Managing Directors at the same time:

- (a) the Board may nominate one of them as the Managing Director to be exempted from retirement under rules 3.3 and 3.6 and may revoke the nomination at any time;
- (b) if a Managing Director has been nominated under rule 7.3(a) and the Board later nominates a different Managing Director under that rule, the one first nominated must retire at the next annual general meeting after the later nomination; and
- (c) if none of them is the subject of a current nomination under rule 7.3(a), each of them must retire as required by rule 3.6.

7.4 **Termination of appointment of Managing Director**

The appointment of a Managing Director terminates if:

- (a) the Managing Director ceases for any reason to be a Director; or
- (b) the Board removes the Managing Director from the office of Managing Director (which, without affecting the rights of the Managing Director under any contract between the Company and the Managing Director, the Board has power to do),

whether or not the appointment was expressed to be for a specified term.

8. **Delegation of Board powers**

8.1 **Power to delegate**

The Board may delegate any of its powers to any persons it selects for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as it thinks fit, and may revoke, withdraw, alter or vary the delegation of any of those powers. The powers of delegation expressly or impliedly conferred by this document on the Board are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Act.

8.2 **Power to revoke delegation**

The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.

8.3 **Terms of delegation**

A delegation of powers under rule 8.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including power to further delegate) and subject to any restrictions the Board decides.

A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

8.4 **Proceedings of committees**

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.

9. **Directors' duties and interests**

9.1 **Compliance with duties under the Act and general law**

Each Director must comply with his or her duties under the Act and under the general law.

9.2 **Director can hold other offices etc**

A Director may:

- (a) hold any office or place of profit or employment other than that of the Company's auditor or any director or employee of the auditor;

- (b) be a member of any corporation (including the Company) or partnership other than the Company's auditor;
- (c) be a creditor of any corporation (including the Company) or partnership;
or

enter into any agreement with the Company.

9.3 Disclosure of interests

Each Director must comply with the general law in respect of disclosure of conflicts of interest or duty and with section 191 in respect of disclosure of material personal interests.

9.4 Director interested in a matter

Each Director must comply with section 195 in relation to being present, and voting, at a Board meeting that considers a matter in which the Director has a material personal interest. Subject to section 195:

- (a) a Director may be counted in a quorum at a Board meeting that considers, and may vote on, any matter in relation to which that Director has a conflict of interest or duty;
- (b) the Company may proceed with any transaction in relation to which a Director has an interest or conflict of duty and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may retain any benefits accruing to the Director under the transaction; and
- (d) the Company cannot avoid the transaction merely because of the existence of the Director's interest or conflict of duty.

If the interest is required to be disclosed under section 191, paragraph (c) applies only if it is disclosed before the transaction is entered into.

9.5 Agreements with third parties

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of a conflict of interest or duty; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.

9.6 Obligation of secrecy

Every Director and Secretary must keep the transactions and affairs of the Company and the state of its financial reports confidential unless required to disclose them:

- (a) in the course of duties as an officer of the Company;
- (b) by the Board or the Company in general meeting; or
- (c) by law or under the Listing Rules.

The Company may require a Director, Secretary, auditor, trustee, committee member or other person engaged by it to sign a confidentiality undertaking consistent with this rule. A Director or Secretary must do so if required by the Company.

10. **Directors' remuneration**

10.1 **Remuneration of Executive Directors**

Subject to any contract with the Company and to the Listing Rules, the Board may fix the remuneration of each Executive Director. That remuneration may consist of salary, bonuses or any other elements but must not include a commission on, or percentage of, operating revenue.

10.2 **Remuneration of non-executive Directors**

The Directors (other than the Executive Directors and those who are Directors only because they are Alternates) are entitled to be paid, out of the funds of the Company, an amount of Approved Fees which:

- (a) does not:
 - (i) in any year exceed in aggregate the amount last fixed by ordinary resolution; or
 - (ii) consist of a commission on, or percentage of, operating revenue; and
- (b) is allocated among them:
 - (i) on an equal basis having regard to the proportion of the relevant year for which each Director held office; or
 - (ii) as otherwise decided by the Board; and
- (c) is provided in the manner the Board decides, which may include provision of non-cash benefits.

If the Board decides to include non-cash benefits in the Approved Fees of a Director, the Board must also decide the manner in which the value of those benefits is to be calculated for the purposes of this rule.

10.3 **Additional Remuneration for extra services**

If a Director, at the request of the Board and for the purposes of the Company, performs extra services or makes special exertions (including going or living away from the Director's usual residential address), the Company may pay that Director a fixed sum set by the Board for doing so. Remuneration under this rule may be either in addition to or in substitution for any remuneration to which that Director is entitled under rule 10.1 or 10.2. Any amount paid will not form part of the aggregate maximum amount of Directors' remuneration determined by the Company in general meeting.

10.4 **Expenses of Directors**

The Company must pay a Director (in addition to any remuneration) all reasonable expenses (including travelling and accommodation expenses) incurred by the Director:

- (a) in attending meetings of the Company, the Board, or a committee of the Board; or
- (b) on the business of the Company.

10.5 **Directors' retirement benefits**

Subject to Division 2 of Part 2D.2 and the Listing Rules, the Company may:

- (a) agree with a Director or person about to become a Director that, when or after that person dies or otherwise ceases to be a Director, the Company will pay a pension or lump sum benefit in recognition of past services to:
 - (i) that person; or
 - (ii) after that person's death, any of the surviving spouse, dependants or legal personal representatives of that person; or
- (b) pay to a Director, or after that Director's death, any of the surviving spouse, dependants or legal personal representatives of that Director, a pension or lump sum benefit regardless of whether the Company has agreed to do so and regardless of the terms of any agreement.

11. **Officers' indemnity and insurance and access**

11.1 **Definition**

Clause 11.2 applies:

- (a) to each person who is or has been a Director, Alternate Director, Executive Director or secretary of the Company; and
- (b) to such other officers or former officers of the Company or its related bodies corporate as the Directors in each case determines,

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

11.2 **Indemnity**

Subject to and so far as permitted by the Act, the *Competition and Consumer Act 2010* (Cth) and any other applicable law, the Company must indemnify each Officer against any Liability incurred by the Officer as an officer of the Company or a related body corporate.

In this rule, **Liability** means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator and, to the maximum extent permitted by law, liability for legal costs.

11.3 **Insurance**

Subject to the Act and any other applicable law, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

11.4 **Former officers**

The indemnity in favour of Officers under rule 11.2 is a continuing indemnity. It applies in respect of all acts done by a person while an Officer of the Company or one of its wholly owned subsidiaries even though the person is not an Officer at the time the claim is made.

11.5 **Access**

Where the Board considered it appropriate, the Company may:

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

11.6 **Deeds**

Subject to the Act, the *Competition and Consumer Act 2010* (Cth) and any other applicable law, the Company may, without limiting a person's rights under this rule 11, enter into an agreement with or execute a deed in favour of a person who is or has been an officer of the Company or any of the Company's subsidiaries, to give effect to the rights of the person under this rule 11 on any terms and conditions that the Board thinks fit.

12. **Board meetings**

12.1 **Convening Board meetings**

A Director may at any time, and a Secretary must on request from a Director, convene a Board meeting.

12.2 **Notice of Board meeting**

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to:
 - (i) each Director who is in Australia; and
 - (ii) each Alternate in respect of whom the Appointor has given notice under rule 4.2 requiring notice of Board meetings to be given to that Alternate or whose Appointor is not given notice due to being outside Australia; and
- (b) may give that notice orally (including by telephone) or in writing,

but accidental failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

12.3 **Use of technology**

A Board meeting may be held using any means of audio or audio visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of two or more places, at the place where the chair of the meeting is located.

12.4 **Chairing Board meetings**

The Board may elect a Director to chair its meetings and decide the period for which that Director holds that office. If there is no chair of Directors or the chair is not present within 15 minutes after the time for which a Board meeting is

called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

12.5 Quorum

Unless the Board decides otherwise, the quorum for a Board meeting is three Directors and a quorum must be present for the whole meeting. An Alternate who is also a Director or a person who is an Alternate for more than one Appointor may only be counted once toward a quorum. A Director is treated as present at a meeting held by audio or audio visual communication if the Director is able to hear and be heard by all others attending. If a meeting is held in another way permitted by section 248D, the Board must resolve the basis on which Directors are treated as present.

12.6 Majority decisions

A resolution of the Board is passed if a majority of the votes cast by Directors entitled to vote on the resolution are in favour of it. If an equal number of votes is cast for and against a resolution:

- (a) the chair of the meeting has a second or casting vote unless:
 - (i) only two Directors are entitled to vote; or
 - (ii) the chair of the meeting is not entitled to vote; and
- (b) if the chair does not have a second or casting vote under rule 12.6(a), the matter is decided in the negative.

12.7 Procedural rules

The Board may adjourn and, subject to this document, otherwise regulate its meetings as it decides.

12.8 Written resolution

If three quarters or more of the Directors entitled to receive notice of a Board meeting and to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director constituting the relevant minimum required number of votes to pass the resolution signs, without a Directors' meeting having being held.

12.9 Additional provisions concerning written resolutions

For the purpose of rule 12.8:

- (a) a Director will be excluded for the purposes of rule 12.8 (and will not be taken to be a person entitled to vote on the resolution) if that Director:
 - (i) is on a leave of absence approved by the Directors;
 - (ii) has notified the chair or the Secretary that they may be uncontactable for a certain period of time and the resolution in question is put to the Directors during that period;
 - (iii) becomes incapacitated due to ill health or other unforeseen circumstances and is unable to consider the resolution in question;

- (iv) disqualifies themselves from considering the resolution in question; or
- (v) would be prohibited by the Act or other laws or regulations from voting on the resolution in question;
- (b) two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document;
- (c) signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (d) signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity;
- (e) an electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company; and
- (f) a Director is taken to sign a document if the Director notifies the other Directors (or the Secretary) that the Director approves the resolutions set out in that document.

12.10 **Valid proceedings**

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or member of a committee is valid, even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

13. **Meetings of members**

13.1 **Annual general meeting**

The Company must hold an annual general meeting as required by section 250N.

13.2 **Calling meetings of members**

A meeting of members:

- (a) may be convened at any time by the Board or a Director; and
- (b) must be convened by the Board when required by section 249D or 250N or by order made under section 249G.

13.3 **Notice of meeting**

- (a) Subject to rule 13.6, at least 28 days' written notice of a meeting of members must be given individually to each member (whether or not the member is entitled to vote at the meeting), each Director (other than an Alternate), and to the auditor.
- (b) Subject to any regulation made under section 249LA, the notice of meeting must comply with sections 249L and 250BA, the regulations made

under section 1074E and the Listing Rules and may be given in any manner permitted by section 249J(3).

13.4 Postponement or cancellation

Subject to sections 249D(5) and 250N, the Board may:

- (a) postpone a meeting of members;
- (b) cancel a meeting of members; or
- (c) change the place for a general meeting,

by written notice given to ASX.

13.5 Fresh notice

If a meeting of members is postponed or adjourned for one month or more, the Company must give new notice of the resumed meeting.

13.6 Notice to joint holders of shares

If a share is held jointly, the Company need only give notice of a meeting of members (or of its cancellation or postponement) to the joint holder who is named first in the Register.

13.7 How meetings of members may be held

The Company may hold a meeting of its members:

- (a) at one or more physical venues; or,
- (b) at one or more physical venues and using virtual meeting technology; or,
- (c) using virtual meeting technology only,

as determined by the convenor of the meeting.

13.8 Accidental omission

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

13.9 Class meetings

Rules 13 to 17 apply to a separate meeting of a class of members as far as they are capable of application and modified as necessary.

14. Proceedings at meetings of members

14.1 Member present at meeting

- (a) A member who attends the meeting (whether at a physical venue and/or by using virtual meeting technology) or who has cast a direct vote is taken for all purposes to be present in person at the meeting while so attending.
- (b) If a member has appointed a proxy or attorney or (in the case of a member which is a body corporate) a representative to act at a meeting of members, that member is taken to be present at a meeting at which the proxy, attorney or representative is present.

14.2 **Quorum**

- (a) Subject to clause 14.2(b), the quorum for a meeting of members is five Voting Members present in person or by proxy, attorney or representative, or taken to be present under rule 14.1 (a) after casting a direct vote. Each individual present may only be counted once toward a quorum. If a member has appointed more than one proxy or representative only one of them may be counted toward a quorum.
- (b) At any time the Company is not listed on the ASX the quorum for a meeting of members shall be two Voting Members present in person or by proxy, attorney or representative, or taken to be present under rule 14.1 (a) after casting a direct vote. Each individual present may only be counted once toward a quorum. If a member has appointed more than one proxy or representative only one of them may be counted toward a quorum.

14.3 **Quorum not present**

If a quorum is not present within 15 minutes after the time for which a meeting of members is called:

- (a) if called as a result of a request of members under section 249D, the meeting is dissolved; and
- (b) in any other case:
 - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to members, or if no decision is notified before then, to the same time on the same day in the next week at the same place; and
 - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

14.4 **Chairing meetings of members**

If the Board has appointed a Director to chair Board meetings, that Director may also chair meetings of members. If:

- (a) there is no Director who the Board has appointed to chair Board meetings for the time being; or
- (b) the Director appointed to chair Board meetings is not present at the time for which a meeting of members is called or is not willing to chair the meeting,

the Board may appoint, prior to the commencement of the meeting of the members, a Director to act as alternate chair. If that alternate chair is not present at the time for which a meeting of members is called or is not willing to chair the meeting of the members and no alternate chair has previously been appointed, then the following may preside as chair for all or the relevant part of the meeting (in order of precedence):

- (c) any deputy chair;
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present; or

- (f) a Voting Member chosen by a majority of the Voting Members present in person or by proxy, attorney or Representative.

If a proxy instrument appoints the chair of the meeting as proxy for the part of the proceedings for which an acting chair is nominated, the proxy instrument is taken to be in favour of that acting chair for the relevant part of the proceedings.

14.5 **Attendance at meetings of members**

Subject to rules 14.6 and 14.8:

- (a) Every member has the right to attend all meetings of members whether or not entitled to vote.
- (b) Every Director has the right to attend and speak at all meetings of members whether or not a member.
- (c) The auditor has the right to attend any meeting of members and to speak on any part of the business of the meeting which concerns the auditor in the capacity of auditor.

14.6 **Members rights suspended while call unpaid**

If a call on a share is due and unpaid, the holding of that share does not entitle the member to be present, speak or vote at, or be counted in the quorum for, a meeting of members.

14.7 **Chair's powers at meetings of members**

- (a) The chair of a meeting of members:
 - (i) is responsible for the general conduct of, and procedures to be adopted at, the meeting;
 - (ii) may require any person wishing to attend the meeting to comply with searches, restrictions or other security arrangements considered appropriate;
 - (iii) may, subject to the Act, at any time terminate discussion or debate on any matter being considered by the meeting, where the chair considers it necessary or desirable for the proper and orderly conduct of the meeting;
 - (iv) may, subject to the Act, eject a member from the meeting, at any time the chair considers it is necessary or desirable for the proper and orderly conduct of the meeting;
 - (v) may determine that a vote be disregarded and treated as not having been cast (without requiring that the matter be put to a vote), if a person purports to cast a vote at or for the purposes of a general meeting in contravention of the Act or Listing Rules;
 - (vi) subject to the Act, may refuse to allow:
 - (A) any amendment to be moved to a resolution set out in the notice of that meeting; and
 - (B) any business to be transacted unless the general nature of the business is stated in the notice calling the meeting;

- (vii) may withdraw from consideration by the meeting any resolution that is set out in the notice of that meeting (other than those requisitioned by members or required by law); and
- (viii) may require the adoption of any procedure which is in the chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the meeting,

and a decision by the chair under this rule is final.

- (b) The chair of a meeting may invite a person who is not a member to attend and to speak at the meeting.
- (c) Subject to rule 13.7, if the chair considers that there are too many persons present at a meeting to fit into the venue where the meeting is to be held, the chair may nominate a separate meeting place using any technology that gives the members as a whole a reasonable opportunity to participate.
- (d) The chair's rights and powers under this rule 14.7 are exclusive to the chair.

14.8 **Admission to meetings of members**

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

- (a) possessing a pictorial recording or sound recording device;
- (b) possessing a placard or banner;
- (c) possessing an article considered by the chair to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive way; or
- (f) who is not entitled to receive notice of the meeting.

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

14.9 **Adjournment**

Subject to rule 13.5, the chair of a meeting of members at which a quorum is present:

- (a) may; and
- (b) must, if directed by ordinary resolution of the meeting,

adjourn it to another time and place.

14.10 **Business at adjourned meetings**

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

15. **Proxies, attorneys and representatives**

15.1 **Appointment of proxies**

Each member may appoint a proxy to attend and act for the member at a meeting of members. If the member is entitled to cast two or more votes at the meeting, the member may appoint two proxies to attend and act for the member at a meeting of members. An appointment of proxy must be made by written notice to the Company that:

- (a) complies with section 250A(1); or
- (b) is in a form and mode, and is signed or otherwise authenticated by the member in a manner, satisfactory to the Board.

If a member appoints two proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of those votes.

15.2 **Member's attorney**

A member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of members. If the appointor is an individual, the power of attorney must be signed in the presence of at least one witness.

15.3 **Deposit of proxy appointment forms, powers of attorney and proxy appointment authorities**

- (a) An appointment of a proxy or an attorney is not effective for a particular meeting of members unless the validly executed instrument effecting the appointment is received by the Company in accordance with section 250B(3):
 - (i) at least 48 hours before the time for which the meeting was called; or
 - (ii) if the meeting has been adjourned, at least 48 hours before the resumption of the meeting.
- (b) Where a notice of meeting provides for electronic lodgement of proxy appointments, an appointment received at the electronic address or by the electronic means specified in the notice of meeting is taken to have been received at the registered office of the Company and validly completed and authorised by the member if there is compliance with the applicable requirements set out in the notice of meeting.
- (c) If the Company receives an instrument or form appointing a proxy, attorney or representative from a member and the Directors or their authorised representatives consider that it is not properly executed or authenticated, or is incomplete or unclear:
 - (i) if the name, or the name of the office, of the proxy, attorney or representative, is not filled in or is unclear, then the proxy, attorney or representative of that member is the person specified by the Company in the instrument or form of proxy or if no person is specified, the chair of that meeting;
 - (ii) if the instrument or form has not been duly signed or authenticated, the Company may return the instrument or form to the appointing member and request the member sign or authenticate the

instrument or form and return it to the Company within a period determined by the Directors (which may be later than the time specified in the notice of meeting for the receipt of proxy appointments);

- (iii) if the instrument or form is otherwise unclear or incomplete, the Company may:
 - (A) by oral or written communication, clarify with the member any instruction on the appointment; and
 - (B) complete or amend the contents of any instrument or form to reflect the clarification in the instructions received from the member (which may occur later than the time specified in the notice of meeting for the receipt of proxy appointments) and the member appoints the Company as its attorney for this purpose.

15.4 Evidence of proxy appointment forms, powers of attorney and other appointments

The Board may require evidence of:

- (a) in the case of a proxy appointment form executed or otherwise authenticated by an attorney, the relevant power of attorney or other authority under which the appointment was authenticated or a certified copy of it;
- (b) in the case of an attorney, the power of attorney or a certified copy of it;
- (c) in the case of a corporate representative of a member or a proxy, the appointment of the representative in accordance with the Act; or
- (d) in the case of any appointment under this rule 15 which is transmitted to the Company electronically, the identity of the person who transmitted the message containing the appointment.

15.5 Corporate representatives

A member that is a body corporate may appoint an individual to act as its representative at meetings of members as permitted by section 250D.

15.6 Appointment for particular meeting, standing appointment and revocation

A member may appoint a proxy, attorney or representative to act at a particular meeting of members or make a standing appointment and may revoke any appointment. A proxy, attorney or representative may, but need not, be a member.

15.7 Position of proxy or attorney if member present

The appointment of a proxy or attorney and their authority to speak and vote for a member is not revoked by the member attending and taking part in the general meeting, but if the member speaks at the meeting then the proxy or attorney is not entitled to speak at the meeting, and if the member votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the member's proxy or attorney on the resolution.

15.8 **Priority of conflicting appointments of attorney or representative**

If more than one attorney or representative appointed by a member is present at a meeting of members and the Company has not received notice of revocation of any of the appointments:

- (a) an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
- (b) subject to rule 15.8(a), an attorney or representative appointed under a more recent appointment may act to the exclusion of an attorney or representative appointed earlier in time.

15.9 **More than two current proxy appointments**

An appointment of proxy by a member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that member which would result in there being more than two proxies of that member entitled to act at a meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this rule.

15.10 **Continuing authority**

An act done at a meeting of members by a proxy, attorney or representative is valid even if, before the act is done, the appointing member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an insolvent under administration or is wound up;
- (c) revokes the appointment or revokes the authority under which the appointment was made by a third party; or
- (d) transfers the share to which the appointment relates,

unless the Company has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

16. **Entitlement to vote**

16.1 **Determining voting entitlements**

Subject to section 250L(4) and rule 17.2(b), to decide, for the purposes of a particular meeting, who are members of the Company and how many shares they hold, the Company must refer only:

- (a) if the convenor of the meeting determined a specified time under the regulations made under section 1074E before notice of the meeting was given, to the Register as it stood at that time; or
- (b) otherwise, to the Register as it stood 48 hours before the meeting or at any later time required by the ASX Settlement Rules.

16.2 **Number of votes**

Subject to sections 250BB(1) and 250BC, rules 14.6, 15, 16.4, 16.5, 16.6 and 29.4, and the terms on which shares are issued:

- (a) on a show of hands:
 - (i) if a member has appointed two proxies, neither of those proxies may vote;
 - (ii) a member who is present and entitled to vote and is also a proxy, attorney or representative of another member has one vote; and
 - (iii) subject to paragraphs (a)(i) and (a)(ii), every individual present who is a member, or a proxy, attorney or representative of a member, entitled to vote has one vote;
- (b) on a poll, every member entitled to vote who is present in person or by proxy, attorney or representative:
 - (i) has one vote for every fully paid share held; and
 - (ii) subject to paragraph (c), in respect of each partly paid share held has a fraction of a vote equal to the proportion which the amount paid bears to the total issue price of the share;
- (c) unless:
 - (i) permitted under the Listing Rules; and
 - (ii) otherwise provided in the terms on which shares are issued; and
- (d) in calculating the fraction of a vote which the holder of a partly paid share has, the Company must not count an amount:
 - (i) paid in advance of a call; or
 - (ii) credited on a partly paid share without payment in money or money's worth being made to the Company.

16.3 Casting vote of chair

The chair at a meeting of the Company's members has a casting vote, and also, if they are a member, any vote they have in their capacity as a member.

16.4 Votes of joint holders

Where two or more persons are registered as the holders of a share, any one of them may vote at a meeting of members, in person or by proxy, attorney or representative, as if that holder were the sole owner of the share. If more than one of the joint holders of a share (including, for the purposes of this rule, joint legal personal representatives of a dead member) are present at a meeting of members, in person or by proxy, attorney or representative, and tender a vote in respect of the share, the Company may only count the vote cast by, or on behalf of, the most senior joint holder who tenders a vote. For this purpose, seniority depends on the order in which the names of the joint holders are listed in the Register.

16.5 Votes of transmitters and guardians

Subject to section 1072C, if the Board is satisfied at least 48 hours before the time fixed for a meeting of members, that a person:

- (a) is entitled to the transmission of a share under rule 30; or

- (b) has power to manage a member's property under a law relating to the management of property of the mentally incapable,

that person may vote as if registered as the holder of the share and the Company must not count the vote (if any) of the actual registered holder.

16.6 **Voting restrictions**

If:

- (a) the Act or the Listing Rules require that some members are not to vote on a resolution, or that votes cast by some members be disregarded, in order for the resolution to have an intended effect; and
- (b) the notice of the meeting at which the resolution is proposed states that fact,

those members have no right to vote on that resolution and the Company must not count any votes purported to be cast by those members. If a proxy purports to vote in a way or in circumstances that contravene section 250BB(1), on a show of hands the vote is invalid and the Company must not count it and on a poll rule 17.3(c) applies.

16.7 **Decision on right to vote**

A Voting Member or Director may challenge a person's right to vote at a meeting of members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the chair, whose decision is final.

17. **How voting is carried out**

17.1 **Method of voting**

Subject to any rules prescribed by the Directors pursuant to rule 17.4(b), a resolution put to the vote at a meeting of members must be decided on a show of hands unless:

- (a) a poll is demanded under rule 17.2 either before or on declaration of the result of the vote on a show of hands;
- (b) a poll is required under the Act because the Company is on the official list of ASX; or
- (c) the notice of meeting set out an intention to propose the resolution or stated the resolution or the Company has given notice of a members' resolution under the Act,

in each case to be determined by a poll. Otherwise the chair's declaration of a decision on a show of hands is final.

17.2 **Demand for a poll**

A poll may be demanded on any resolution (except a resolution concerning the election of the chair of a meeting) by:

- (a) at least five members entitled to vote on the resolution; or
- (b) members entitled to cast at least 5% of the votes that may be cast on the resolution on a poll (worked out as at the midnight before the poll is demanded); or

- (c) the chair.

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn. The poll may be demanded before a vote is taken, before the voting results on a show of hands are declared or immediately after the voting results on a show of hands are declared.

17.3 **When and how polls must be taken**

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule 17.3(c), in the manner that the chair of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and, subject to rule 17.3(c), in the manner that the chair of the meeting directs;
- (c) votes which sections 250BB(1) or 250BC require to be cast in a given way must be treated as cast in that way;
- (d) the demand may be withdrawn;
- (e) a person voting who has the right to cast two or more votes need not cast all those votes and may cast those votes in different ways; and
- (f) the result of the poll is the resolution of the meeting at which the poll was demanded.

17.4 **Direct Voting**

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

17.5 **Electronic voting**

The Board may permit, in relation to a particular meeting or generally:

- (a) the appointment of proxies to be made by electronic means;
- (b) postal votes to be cast by electronic means; and
- (c) to the extent permitted by law, votes to be cast on resolutions at meetings of shareholders (or of other groups) by electronic means.

The procedures in relation to such electronic appointment or electronic voting shall be those required by law (if any) together with any other procedures determined by the Board. If the Board permits electronic appointment of proxies or electronic voting in accordance with this clause 17.5, such electronic appointments may be made or electronic votes cast notwithstanding any other provision of this Constitution.

18. **Secretary**

18.1 **Appointment of Secretary**

The Board:

- (a) must appoint at least one individual; and
- (b) may appoint more than one individual,

to be a Secretary either for a specified term or without specifying a term.

18.2 **Terms and conditions of office**

A Secretary holds office on the terms (including as to remuneration) that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

18.3 **Cessation of Secretary's appointment**

A person automatically ceases to be a Secretary if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 18.4.

18.4 **Removal from office**

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

19. **Minutes**

19.1 **Minutes must be kept**

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's members;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 8);
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures and notices of Directors' interests,

to be kept in accordance with sections 191, 192, 251A and 251AA.

19.2 **Minutes as evidence**

A minute recorded and signed in accordance with sections 251A and 251AA is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

19.3 **Inspection of minute books**

The Company must allow members to inspect, and provide copies of, the minute books for the meetings of members in accordance with section 251B.

20. **Execution of documents**

20.1 **General**

- (a) The Company may sign or execute a document (including a deed) as permitted under the Act or applicable laws.
- (b) Without limiting the ways a person may sign a document, a document to which Division 1 of Part 1.2AA of the Act applies may be signed by a person in accordance with that Division.

20.2 **Common seal**

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2).

20.3 **Use of seals**

The common seal and duplicate seal (if any) may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 123.

20.4 **Fixing seals to documents**

The fixing of the common seal, or any duplicate seal, to a document must be witnessed:

- (a) as set out in section 127(2); or,
- (b) as otherwise authorised by the Board.

21. **Financial reports and audit**

21.1 **Company must keep financial records**

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited,

and must allow a Director and the auditor to inspect those records at all reasonable times.

21.2 **Financial reporting**

The Board must cause the Company to prepare a financial report and a directors' report that comply with Part 2M.3 and must report to members in accordance with section 314 no later than the deadline set by section 315.

21.3 **Audit**

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report. The eligibility, appointment, rotation, removal, remuneration, rights and duties of the auditor are regulated by Division 3 of Part 2M.3, Divisions 1 to 6 of Part 2M.4 and sections 1280, 1289, 1299B and 1299C.

21.4 **Inspection of financial records and books**

Subject to rule 19.3 and unless otherwise required by the Act, a member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board.

22. **Shares**

22.1 **Issue at discretion of Board**

Subject to section 259C and rules 22.2 and 22.3, the Board may, on behalf of the Company, issue, grant options over or otherwise dispose of unissued shares to any person on the terms, with the rights, and at the times that the Board decides.

22.2 **Preference and redeemable preference shares**

The Company may issue preference shares (including preference shares that are liable to be redeemed) provided that the rights attached to preference shares include the rights set out in or determined in accordance with the schedule, or are otherwise approved by the Company in accordance with the Corporations Act.

22.3 **Restrictions on issue**

The Company must not issue shares or grant options if the issue or grant would result in a breach of the Listing Rules or the ASX Settlement Rules whilst the Company is a Listed Company.

22.4 **Brokerage and commissions**

The Company may pay brokerage or commissions to a person in respect of that person or another person agreeing to take up shares in the Company.

22.5 **Surrender of shares**

The Board may accept a surrender of shares:

- (a) to compromise a question as to whether those shares have been validly issued; or
- (b) if surrender is otherwise within the Company's powers.

The Company may sell or re-issue surrendered shares in the same way as forfeited shares.

22.6 **Variation of rights**

If the Company issues different classes of shares, or divides issued shares into different classes, the rights attached to shares in any class may (subject to sections 246C and 246D) be varied or cancelled only:

- (a) with the written consent of the holders of 75% of the issued shares of the affected class; or
- (b) by special resolution passed at a separate meeting of the holders of the issued shares of the affected class.

Subject to the terms of issue of shares, the rights attached to a class of shares are not treated as varied by the issue of further shares of that class.

23. **Certificates**

23.1 **Uncertificated shares**

Unless the Listing Rules and the ASX Settlement Rules allow the Company to issue a certificate for particular shares, the Company:

- (a) must not issue a certificate for those shares; and
- (b) may cancel a certificate for them without issuing another certificate.

Rules 23.3 and 23.5 apply only if there is a current certificate for particular shares.

23.2 **Certificated shares**

Where allowed under rule 23.1, the Company must issue a certificate of title to shares that complies with section 1070C and deliver it to the holder of those shares in accordance with section 1071H. The Company must not charge any fee to issue a certificate.

23.3 **Registers**

Subject to the Listing Rules, the Company may elect not to maintain a certificated subregister and that all shares on any class of securities in the Company may only be held without a certificate.

23.4 **Multiple certificates and joint holders**

Subject to rule 23.1, if a member requests the Company to issue several certificates each for a part of the shares registered in the member's name, the Company must do so. For this purpose, joint holders of shares are a single member. The Company may issue only one certificate that relates to each share registered in the names of two or more joint holders and may deliver the certificate to any of those joint holders.

23.5 **Lost and worn out certificates**

Subject to rule 23.1, if a certificate:

- (a) is lost or destroyed and the owner of the relevant securities applies in accordance with section 1070D(5), the Company must; or
- (b) is defaced or worn out and is produced to the Company, the Company may,

issue a new certificate in its place.

24. **Register**

24.1 **Joint holders**

If the Register names two or more joint holders of a share, the Company must treat the person named first in the Register in respect of that share as the sole owner of it for all purposes (including the giving of notice) except in relation to:

- (a) delivery of certificates (to which rule 23.3 applies);
- (b) the right to vote (to which rule 16.4 applies);
- (c) the power to give directions as to payment of, or a receipt for, dividends (to which rules 27.8 and 27.9 apply);
- (d) liability for instalments or calls (which, subject to section 1072E(8), is joint and several);
- (e) sale of Unmarketable Parcels under rule 31; and
- (f) transfer.

The Company is not bound to register as joint holders more than the maximum number of persons capable of being registered under the ASX Settlement Rules.

24.2 **Non-beneficial holders**

Subject to section 1072E, unless otherwise ordered by a court of competent jurisdiction or required by statute, the Company:

- (a) may treat the registered holder of any share as the absolute owner of it; and
- (b) need not recognise any equitable or other claim to or interest in a share by any person except a registered holder.

25. **Partly paid shares**

25.1 **Fixed instalments**

If a share is issued on terms that some or all of the issue price is payable by instalments, the registered holder of the share must pay every instalment to the Company when due. If, having been given notice of the instalment in accordance with rule 25.4, the registered holder does not pay it when due, rules 25.7 to 25.16 apply as if the registered holder had failed to pay a call.

25.2 **Prepayment of calls**

The Board may:

- (a) accept prepayment of some or all of the amount unpaid on a share above the sums actually called as a payment in advance of calls;
- (b) agree to payment by the Company of interest at a rate no higher than the Interest Rate on that part of the advance payment which for the time being exceeds the aggregate amount of the calls then made on the shares in respect of which it was paid; and
- (c) unless otherwise agreed between the member and the Company, repay the sum or part of it.

25.3 **Calls made by Board**

Subject to the terms of issue of a share and to any special resolution passed under section 254N, the Board may:

- (a) make calls on a member for some or all of the money unpaid on a share held by that member;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call before the due date for payment.

25.4 **Notice of call**

The Company must give a member on whom a call has been made or from whom an instalment is due, written notice of the call or instalment:

- (a) within the time limits; and
- (b) in the form,

required by the Listing Rules.

25.5 **Classes of shares**

The Board may issue shares on terms as to the amount of calls to be paid and the time for payment of those calls which are different as between the holders of those shares. The Board may make different calls on different classes of shares.

25.6 **Obligation to pay calls**

Subject to section 1072E(8), a member subject to a call must pay the amount of the call to the payee named in the notice of call no later than the time specified in the notice. Joint holders of a share are jointly and severally liable for calls.

25.7 **Called Amounts**

If a call is not paid on or before the day specified for payment, the Board may require the member liable for the call to pay:

- (a) interest on the amount of the call at the Interest Rate from that day until payment is made; and
- (b) all costs and expenses incurred by the Company because payment was not made on that day.

25.8 **Proof of call**

If on the hearing of an action for recovery of a Called Amount it is proved that:

- (a) the minute books of the Company record the Board's resolution making the call;
- (b) notice of the call was given under rules 25.4 and 1.135; and
- (c) the person sued appears in the Register as a holder of the share in respect of which the call was made,

proof of those matters is conclusive proof of the debt.

25.9 **Forfeiture notice**

At any time until a Called Amount is paid, the Board may give the relevant member a notice which:

- (a) requires the member to pay the Called Amount;
- (b) states the Called Amount at the date of the notice;
- (c) specifies how to calculate the Called Amount when payment is made;
- (d) specifies a date at least 14 days after the date of the notice by which and a place at which payment must be made; and
- (e) states that if payment is not made at that place on or before that date, the share to which the call relates is liable to be forfeited.

25.10 **Forfeiture**

If the requirements of a notice given under rule 25.9 are not satisfied, the Board may forfeit the share in respect of which that notice was given (and all dividends, interest and other money payable in respect of that share and not actually paid before the forfeiture) by resolution passed before the Called Amount is paid.

25.11 **Disposal and re-issue of forfeited shares**

A share forfeited under rule 25.10 immediately becomes the property of the Company. Subject to the Listing Rules, the Board, on behalf of the Company, may:

- (a) re-issue the share with or without any money paid on it by any former holder credited as paid; or
- (b) sell or otherwise dispose of the share, and effect or execute and register a transfer of it,

to the person, and on the terms, it decides.

25.12 **Notice of forfeiture**

The Company must promptly:

- (a) give notice of the forfeiture of a share to the member who held the share immediately before the resolution for forfeiture was passed; and
- (b) enter the forfeiture and its date in the Register.

A written declaration that a share was forfeited on a specified date and notice of forfeiture was given in accordance with this document signed by a Director or Secretary is, in the absence of proof to the contrary, evidence of those facts and of the Company's right to dispose of the share.

25.13 **Cancellation of forfeiture**

The Board may cancel the forfeiture of a share on any terms at any time before it disposes of that share under rule 25.11.

25.14 **Effect of forfeiture**

A person who held a share which has been forfeited under rule 25.10 ceases to be a member in respect of that share but remains liable to pay the Called

Amount until it is paid in full. The Board may elect not to enforce payment of an amount due to the Company under this rule.

25.15 Application of proceeds

The Company must:

- (a) apply the net proceeds of any re-issue, sale or disposal of a forfeited share under rule 25.11 (after payment of all costs and expenses) to satisfy the Called Amount; and
- (b) subject to the terms of issue of the share, pay any surplus to the person who held the share immediately before forfeiture.

25.16 Title of new holder

The title of the new holder of a forfeited share is not affected by any irregularity in the forfeiture or the re-issue, sale or disposal. The sole remedy of any person previously interested in the share is damages which may be recovered only from the Company. The new holder is not liable for the Called Amount.

25.17 Mortgage of uncalled capital

If the Company grants a mortgage or charge over uncalled capital, the Board may delegate the power to make calls to:

- (a) the person in whose favour the mortgage or charge is granted; or
- (b) a trustee or agent for that person,

on the terms (including power to further delegate) and subject to any restrictions the Board decides. If the Board does so, a call made in accordance with the delegation is treated as made by the Board.

This rule does not limit rule 8.

26. Company liens

26.1 Existence of liens

Unless the terms of issue provide otherwise and to the extent permitted by law, the Company has a first and paramount lien on each share for:

- (a) all money called or payable at a fixed time in respect of that share (including money payable under rule 25.7) that is due but unpaid; and
- (b) amounts paid by the Company for which the Company is indemnified under rule 26.4.

The lien extends to all dividends payable in respect of the share and to proceeds of sale of the share.

26.2 Sale under lien

If:

- (a) the Company has a lien on a share;
- (b) an amount secured by the lien is due and payable;

- (c) the Company has given notice to the member registered as the holder of the share:
- (i) requiring payment of the amount which is due and payable and secured by the lien;
 - (ii) stating the amount due and payable at the date of the notice;
 - (iii) specifying how to calculate the amount due when payment is made; and
 - (iv) specifying a date (at least 10 business days after the date of the notice) by which and a place at which payment of that amount must be made; and
- (d) the requirements of the notice given under paragraph (c) are not fulfilled,

the Company may sell the share as if it had been forfeited under rule 25.10. Rules 25.11, 25.15 and 25.16 apply, to the extent practical and modified as necessary, as if the Called Amount in respect of that share were the aggregate of the amount referred to in paragraph (b) and the costs and expenses incurred by the Company because that amount was not paid when due.

26.3 **Protection of lien**

The Company may do anything necessary or desirable under the ASX Settlement Rules to protect a lien or other interest in shares to which it is entitled by law or under this document.

26.4 **Indemnity for payments required to be made by the Company**

If the law of any jurisdiction imposes or purports to impose any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, on account of a member or referable to a share held by that member (whether alone or jointly) or a dividend or other amount payable in respect of a share held by that member, the Company:

- (a) is fully indemnified by that member from that liability;
- (b) may recover as a debt due from the member the amount of that liability together with interest at the Interest Rate from the date of payment by the Company to the date of repayment by the member; and
- (c) subject to rule 29.5, may refuse to register a transfer of any share by that member until the debt has been paid to the Company.

Nothing in this document in any way prejudices or affects any right or remedy which the Company has (including any right of set off) and, as between the Company and the member, any such right or remedy is enforceable by the Company.

27. **Dividends**

27.1 **Accumulation of reserves**

The Board may:

- (a) set aside out of profits of the Company reserves to be applied, in the Board's discretion, for any purpose it decides and use any sum so set

aside in the business of the Company or invest it in investments selected by the Board and vary and deal with those investments as it decides; or

- (b) carry forward any amount out of profits which the Board decides not to distribute without transferring that amount to a reserve; or
- (c) do both.

27.2 **Payment of dividends**

Subject to the Act, rules 27.3 and 27.10, and the terms of issue of shares, the Board may resolve to pay any dividend (including an interim dividend) it thinks appropriate and fix the time for payment. The Company does not incur a debt merely by fixing the amount or time for payment of a dividend. A debt arises only when the time fixed for payment arrives. The decision to pay a dividend may be revoked or altered by the Board at any time before then.

27.3 **Amount of dividend**

Subject to the terms of issue of shares, the Company may pay a dividend on one class of shares to the exclusion of another class. Subject to rule 27.4, each share of a class on which the Board resolves to pay a dividend carries the right to participate in the dividend in the same proportion that the amount for the time being paid on the share bears to the total issue price of the share.

27.4 **Prepayments, payments during dividend period and credits without payment**

For the purposes of rule 27.3:

- (a) an amount paid in advance of calls is not taken into account as part of the amount for the time being paid on a share;
- (b) if an amount was paid on a share during the period to which a dividend relates, the Board may resolve that only the proportion of that amount which is the same as the proportion which the period from the date of payment to the end of the period to which the dividend relates bears to the total period to which the dividend relates, counts as part of the amount for the time being paid on the share; and
- (c) an amount credited on a partly paid share without payment in money or money's worth being made to the Company is not taken into account as a part of the amount for the time being paid on a share.

27.5 **Dividends in kind**

The Board may resolve to pay a dividend (either generally or to specific members) in cash or satisfy it by distribution of specific assets (including shares or securities of any other corporation), the issue of shares or the grant of options. If the Board satisfies a dividend by distribution of specific assets, the Board may:

- (a) fix the value of any asset distributed;
- (b) make cash payments to members on the basis of the value fixed so as to adjust the rights of members between themselves; and
- (c) vest an asset in trustees.

27.6 **Payment of dividend by way of securities in another corporation**

Where the Company satisfies a dividend by way of distribution of specific assets, being shares or other securities in another corporation, each member is taken to

have agreed to become a member of that corporation and to have agreed to be bound by the constitution of that corporation. Each member also appoints each Director and each Secretary their agent and attorney to:

- (a) agree to the member becoming a member of that corporation;
- (b) agree to the member being bound by the constitution of that corporation; and
- (c) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that member.

27.7 Source of dividends

Subject to the Act and the Listing Rules, the Board may resolve to pay a dividend to some members from a particular source and pay the same dividend to other members entitled to it from another source.

27.8 Method of payment

- (a) The Company may pay any cash dividend, interest or other money payable in respect of shares by:
 - (i) cheque sent, and may distribute assets by sending the certificates or other evidence of title to them, through the post directed to:
 - (A) the address of the member (or in the case of a jointly held share, the address of the joint holder named first in the Register); or
 - (B) to any other address the member (or in the case of a jointly held share, all the joint holders) directs in writing; or
 - (ii) any method of direct credit or electronic transfer determined by the Directors to an account (of a type approved by the Directors) as provided in writing by the holder or holders shown on the Register, or to such person or plan directed by them,

or by any other method of payment or distribution the Board decides.
- (b) If the Directors determine under rule 27.8(a)(ii) that payments will be made only by direct credit or electronic transfer into an account (of a type approved by the Directors) nominated by a holder(s) shown on the Register, but no such account is nominated by the holder or an electronic transfer into the nominated account is rejected or refunded, the Company may credit the amount payable to an account of the Company or its nominee to be held until:
 - (i) the holder nominates a valid account; or
 - (ii) the amount is required to be dealt with in accordance with any law relating to unclaimed moneys.
- (c) An amount credited to an account under rules 27.8(a)(ii) or 27.8(b) is to be treated as having been paid to the holder at the time it is credited to that account. The Company will not be a trustee of the money and no interest will accrue on that amount.

27.9 **Joint holders' receipt**

Any one of the joint holders of a share may give an effective receipt for any dividend, interest or other money payable in relation to that share.

27.10 **Retention of dividends by Company**

The Company may retain the dividend payable on a share:

- (a) of which a person seeks to be registered as the holder under rule 30.2 or 30.3, until that person is registered as the holder of that share or transfers it; or
- (b) on which the Company has a lien, to satisfy the liabilities in respect of which the lien exists.

27.11 **No interest on dividends**

No member may claim, and the Company must not pay, interest on a dividend (either in money or kind).

28. **Share plans**

28.1 **Implementing share plans**

The Board may adopt and implement one or more of the following plans on such terms as it thinks appropriate:

- (a) a re-investment plan under which any dividend or other cash payment in respect of a share or convertible security may, at the election of the person entitled to it, be:
 - (i) retained by the Company and applied in payment for fully paid shares issued under the plan; and
 - (ii) treated as having been paid to the person entitled and simultaneously repaid by that person to the Company to be held by it and applied in accordance with the plan;
- (b) any other plan under which members or security holders may elect that dividends or other cash payments in respect of shares or other securities:
 - (i) be satisfied by the issue of shares or other securities of the Company or a related body corporate, or that issues of shares or other securities of the Company or a related body corporate be made in place of dividends or other cash payments;
 - (ii) be paid out of a particular reserve or source; or
 - (iii) be forgone in consideration of another form of distribution from the Company, another body corporate or a trust; or
- (c) a plan under which shares or other securities of the Company or a related body corporate may be issued or otherwise provided for the benefit of employees or Directors of the Company or any of its related bodies corporate.

28.2 **Board's powers and varying, suspending or terminating share plans**

The Board:

- (a) has all powers necessary or desirable to implement and carry out a plan referred to in rule 28.1 (including a plan approved by members); and
- (b) may:
 - (i) vary the rules governing; or
 - (ii) suspend or terminate the operation of,

a plan referred to in rule 28.1 (including a plan approved by members) as it thinks appropriate.

29. **Transfer of shares**

29.1 **Modes of transfer**

Subject to this document, a member may transfer a share by any means permitted by the Act or by law. Unless permitted by the Listing Rules, the Company must not charge any fee on transfer of a share.

29.2 **Market obligations**

The Company:

- (a) may do anything permitted by the Act, the Listing Rules or the ASX Settlement Rules that the Board thinks necessary or desirable in connection with the Company taking part in a computerised or electronic system established or recognised by the Act, the Listing Rules or the ASX Settlement Rules for the purpose of facilitating dealings in shares; and
- (b) must comply with obligations imposed on it by the Listing Rules or the ASX Settlement Rules in relation to transfers of shares.

29.3 **Delivery of transfer and certificate**

- (a) Except in the case of a transfer under the ASX Settlement Rules:
 - (i) a duly completed document of transfer must be lodged with the Company; and
 - (ii) if the Listing Rules permit, the Directors may require other evidence of the transferor's right to transfer.
- (b) Property in and title to a document of transfer that is delivered to the Company (but not the shares to which it relates) passes to the Company on delivery.
- (c) To the maximum extent permitted by law, the Company may (or may direct or procure the Company's share registry to) put in place, and require compliance with, reasonable processes and procedures in connection with determining the authenticity of an instrument of transfer, notwithstanding that this may prevent, delay or interfere with the registration of the relevant instrument of transfer.

29.4 **Restricted securities**

If any securities of the Company are classified as restricted securities under the Listing Rules:

- (a) during the escrow period required by ASX in relation to those securities:
 - (i) the holder of any restricted securities may not dispose of or agree or offer to dispose of those restricted securities;
 - (ii) the holder of any restricted securities will not be entitled to participate in any return of capital on those restricted securities; and
 - (iii) the Company must not and will refuse to acknowledge any disposal (including, without limitation, by registering any transfer) of the restricted securities,

except as permitted by the Listing Rules or ASX;
- (b) if the restricted securities are in the same class as any securities that are quoted on the ASX, the holder will be taken to have agreed in writing that the restricted securities are to be kept on the Company's issuer sponsored sub-register and are to have a holding lock applied during the escrow period required by ASX in relation to those securities; and
- (c) if there is a breach of this rule 29.4 or of the relevant restriction deed by the holder of a restricted security, that holder will not be entitled:
 - (i) to exercise any voting rights; or
 - (ii) to receive any dividend or other distribution,in respect of those restricted securities while the breach continues.

In this rule 29.4, **dispose, holding lock, issuer sponsored sub-register, restricted securities, restriction deed** and **securities** (and other grammatical forms of them) have the meaning given by the Listing Rules.

29.5 **Refusal to register transfer**

The Board:

- (a) may refuse to register a transfer of shares only if that refusal would not contravene the Listing Rules or the ASX Settlement Rules;
- (b) without limiting paragraph (a), but subject to the Act, the Listing Rules and the ASX Settlement Rules, may refuse to register a transfer of shares where the registration of the transfer would create a new holding of an Unmarketable Parcel;
- (c) subject to section 259C, must not register a transfer to a subsidiary of the Company; and
- (d) must not register a transfer if the Act, the Listing Rules or the ASX Settlement Rules forbid registration.

If the Board refuses to register a transfer, the Company must give the lodging party notice of the refusal and the reasons for it within five business days after

the date on which the transfer was delivered to it. Failure to give notice does not invalidate the decision of the Board.

29.6 Transferor remains holder until transfer registered

The transferor of a share remains the holder of it:

- (a) if the transfer is under the ASX Settlement Rules, until the time those rules specify as the time that the transfer takes effect; and
- (b) otherwise, until the transfer is registered and the name of the transferee is entered in the Register as the holder of the share.

29.7 Powers of attorney

The Company may assume, as against a member, that a power of attorney granted by that member that is lodged with or produced or exhibited to the Company remains in force, and may rely on it, until the Company receives express notice in writing at its registered office of:

- (a) the revocation of the power of attorney; or
- (b) the death, dissolution or insolvency of the member.

30. Transmission of shares

30.1 Death of joint holder

The Company must recognise only the surviving joint holders as being entitled to shares registered jointly in the names of a deceased member and others. The estate of the deceased joint holder is not released from any liability in respect of the shares.

30.2 Death of single holder

The Company must not recognise any one except the legal personal representative of the deceased member as having any title to shares registered in the sole name of a deceased member. If the personal representative gives the Board the documents described in section 1071B(9) or 1071B(13) or other information that satisfies the Board of the representative's entitlement to be registered as holder of the shares:

- (a) subject to rules 29.5 and 30.4, the Company must register the personal representative as the holder of the shares as soon as practical after receipt of a written and signed notice to the Company from the representative requiring it to do so; and
- (b) whether or not registered as the holder of the shares, the personal representative:
 - (i) may, subject to rule 29, transfer the shares to another person; and
 - (ii) has the same rights as the deceased member.

30.3 Transmission of shares on insolvency or mental incapacity

Subject to the *Bankruptcy Act 1966* (Cth), if a person entitled to shares because of the insolvency or mental incapacity of a member gives the Board the information it reasonably requires to establish the person's entitlement to be registered as holder of the shares:

- For personal use only
- (a) subject to rules 29.5 and 30.4, the Company must register that person as the holder of the shares as soon as practical after receipt of a written and signed notice to the Company from that person requiring it to do so; and
 - (b) whether or not registered as the holder of the shares, that person:
 - (i) may, subject to rule 29, transfer the shares to another person; and
 - (ii) has the same rights as the insolvent or incapable member.

If section 1072C applies, this rule is supplemental to it.

30.4 **Refusal to register holder**

The Company has the same right to refuse to register a personal representative or person entitled to shares on the insolvency or mental incapacity of a member as it would have if that person were the transferee named in a transfer signed by a living, solvent, competent member.

31. **Unmarketable parcels**

31.1 **Board power of sale**

The Board may sell a share that is part of an Unmarketable Parcel if it does so in accordance with this rule. The Board's power to sell lapses if a takeover (as defined in the Listing Rules) is announced after the Board gives a notice under rule 31.2 and before the Board enters into an agreement to sell the share.

31.2 **Notice of proposed sale**

Once in any 12 month period, the Board may determine that it will give written notice to a member who holds an Unmarketable Parcel. If it does so, the notice must:

- (a) state that it intends to sell the Unmarketable Parcel; and
- (b) specify a date at least six weeks (or any lesser period permitted under the Act or the Listing Rules) after the notice is given by which the member may give the Company written notice that the member wishes to retain the holding.

If the Board's power to sell lapses under rule 31.1, any notice given by the Board under this rule is taken never to have been given and the Board may give a new notice after the close of the offers made under the takeover.

31.3 **New small holdings**

In addition to initiating a sale by sending a notice under rule 31.2, the Board may initiate the sale of shares if a member holds an Unmarketable Parcel created by a transfer of shares. This applies only if, at the time the transfer document was initiated (or, for paper-based transfers, lodged with the company), the parcel was an Unmarketable Parcel.

In these circumstances,

- (a) the member is deemed to have irrevocably appointed the company as their agent to do all things necessary to effect the sale of those shares, including executing any transfer and receiving the proceeds of sale on their behalf;

- (b) the proceeds of sale (less the costs of the sale) must be sent to the member after the sale; and
- (c) the Board may suspend or remove the member's right to vote or receive dividends in respect of those shares while the shares are subject to divestment. Any dividends withheld during this period must be sent to the member after the sale.

31.4 No sale where member gives notice

The Company must not sell an Unmarketable Parcel if, in response to a notice given by the Company under this rule 31, the Company receives a written notice that the member wants to keep the Unmarketable Parcel.

31.5 Terms of sale

A sale of shares under this rule includes all dividends payable on and other rights attaching to them. The sale must be made in the ordinary course of trading on a prescribed financial market (as defined for the purposes of the *Personal Property Securities Act 2009* (Cth)) and the Company or the relevant purchaser of the shares must pay the costs of the sale. Otherwise, the Board may decide the manner, time and terms of sale.

31.6 Share transfers

For the purpose of giving effect to this rule, each Director and each Secretary has power to initiate, execute or otherwise effect a transfer of a share as agent for a member who holds an Unmarketable Parcel.

31.7 Application of proceeds

The Company must:

- (a) deduct any Called Amount in respect of the shares sold under this rule from the proceeds of sale and pay the balance into a separate bank account it opens and maintains for the purpose only;
- (b) hold that balance in trust for the previous holder of the shares (the **Divested Member**);
- (c) as soon as practical give written notice to the Divested Member stating:
- (i) what the balance is; and
 - (ii) that it is holding the balance for the Divested Member while awaiting the Divested Member's instructions and return of the certificate (if any) for the shares sold or evidence of its loss or destruction;
- (d) if the shares sold were certificated, not pay the proceeds of sale out of the trust account until it has received the certificate for them or evidence of its loss or destruction; and
- (e) subject to paragraph (d), deal with the amount in the account as the Divested Member instructs.

31.8 Protections for transferee

The title of the new holder of a share sold under this rule is not affected by any irregularity in the sale. The sole remedy of any person previously interested in the share is damages which may be recovered only from the Company.

31.9 **Multiple holdings**

If a person is registered as a holder in respect of more than one parcel of shares (whether under the same name or otherwise), the Directors may treat the multiple parcels as a single holding or such number of separate holdings at the absolute discretion of the Directors for the purposes of this rule 31.

32. **Alteration of share capital**

32.1 **Capitalisation of profits**

The Company may capitalise profits, reserves or other amounts available for distribution to members. Subject to the terms of issue of shares and rule 32.4, members are entitled to participate in a capital distribution in the same proportions in which they are entitled to participate in dividends.

32.2 **Adjustment of capitalised amounts**

The Board may settle any difficulty that arises in regard to a capitalisation of profits as it thinks appropriate and necessary to adjust the rights of members among themselves including:

- (a) fix the value of specific assets;
- (b) make cash payments to members on the basis of the value fixed for assets or in place of fractional entitlements so as to adjust the rights of members between themselves;
- (c) disregard fractional entitlements; and
- (d) vest cash or specific assets in trustees.

32.3 **Conversion of shares**

Subject to Part 2H.1, the Listing Rules and rules 22.2 and 22.6, the Company may convert:

- (a) an ordinary share into a preference share;
- (b) a preference share into an ordinary share; or
- (c) all or any of its shares into a larger or smaller number of shares by ordinary resolution (but in the case of partly paid shares the proportion between the amount paid and the amount unpaid on each share must be the same as before the conversion).

32.4 **Adjustments on conversion**

The Board may do anything it thinks appropriate and necessary to give effect to a resolution converting shares including, if a member becomes notionally entitled to a fraction of a share as a result of the conversion:

- (a) make a cash payment or disregard fractional entitlements so as to adjust the rights of members between themselves;
- (b) vest fractional entitlements in a trustee to be dealt with as determined by the Board; or
- (c) round up fractional entitlements to the nearest whole share by capitalising an amount under rule 32.1 even though not all members participate in the capitalisation.

32.5 **Reduction of capital**

Subject to the Listing Rules, the Company may reduce its share capital:

- (a) by reduction of capital in accordance with Division 1 of Part 2J.1;
- (b) by buying back shares in accordance with Division 2 of Part 2J.1;
- (c) in the ways permitted by sections 258E and 258F; or
- (d) in any other way for the time being permitted by the Act.

32.6 **Payments in kind**

Where the Company reduces its share capital in accordance with Division 1 of Part 2J.1, it may do so by way of payment of cash, distribution of specific assets (including shares or other securities in another corporation), or in any other manner permitted by law. If the reduction is by distribution of specific assets, the Board may:

- (a) fix the value of any assets distributed;
- (b) make cash payments to members on the basis of the value fixed so as to adjust the rights of members between themselves; and
- (c) vest an asset in trustees.

32.7 **Payment in kind by way of securities in another corporation**

Where the Company reduces its share capital by way of distribution of specific assets, being shares or other securities in another corporation, each member is taken to have agreed to become a member of that corporation and to have agreed to be bound by the constitution of that corporation. Each member also appoints each Director and each Secretary their agent and attorney to:

- (a) agree to the member becoming a member of that corporation; and
- (b) agree to the member being bound by the constitution of that corporation; and
- (c) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that member.

33. **Currency for payments**

33.1 **Board may decide currency**

The Board may, with the agreement of the recipient or in accordance with the terms of issue of a share, pay:

- (a) dividends;
- (b) other amounts payable to members (including repayments of capital and distributions of capitalised amounts); or
- (c) remuneration of Directors or other officers,

in the currency of a country other than Australia.

33.2 **Conversion to Australian dollars**

If the Board decides to make a payment in a currency other than Australian dollars and it is necessary, for the purposes of these rules or for any other purpose, to calculate the Australian dollar equivalent of the payment, the Board must fix a time (earlier than the time for payment) and specify the buying or selling rate quoted by a particular financial institution as the time and rate that apply for that purpose.

34. **Winding up**

34.1 **Entitlement of Members**

Subject to the terms of issue of shares and this rule 34, the surplus assets of the Company remaining after payment of its debts are divisible among the members in proportion to the number of fully paid shares held by them and, for this purpose, a partly paid share is counted as a fraction of a fully paid share equal to the proportion which the amount paid on it bears to the total issue price of the share.

34.2 **Distribution of assets generally**

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

- (a) divide the assets of the Company among the members in kind;
- (b) for that purpose fix the value of assets and decide how the division is to be carried out as between the members and different classes of members; and
- (c) vest assets of the Company in trustees on any trusts for the benefit of the members as the liquidator thinks appropriate.

34.3 **No distribution of liabilities**

The liquidator cannot compel a member to accept marketable securities in respect of which there is a liability as part of a distribution of assets of the Company.

34.4 **Distribution not in accordance with legal rights**

If the liquidator decides on a division or vesting of assets of the Company under rule 34.2 which does not accord with the legal rights of the contributories, any contributory who would be prejudiced by it may dissent and has ancillary rights as if that decision were a special resolution passed under section 507.

35. **Notices**

35.1 **Overseas members**

A member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

35.2 **When notice is given**

- (a) A notice from the Company properly addressed and posted is taken to be served at 10.00am (Sydney time) on the day after the date it is posted.
- (b) Where the Company sends a notice by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the facsimile transmission report produced by the sender's fax machine.

- (c) Where the Company sends a notice by electronic transmission, the notice is taken as served at the time the electronic transmission is sent.
- (d) Where the Company gives a notice to a member by any other means permitted by the Corporations Act relating to the giving of notices and electronic means of access to them, the notice is taken as given at 10.00am (Sydney time) on the day after the date on which the member is notified that the notice is available.

A certificate in writing signed by a Director or Secretary stating that a notice was sent, and setting out the means by which and date on which it was sent, is conclusive evidence of those facts.

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

35.3 Notice to joint holders

Notice to joint holders of shares must be given to the joint member named first in the Register. Every person who becomes entitled to a share is bound by every notice in respect of that share that was properly given to a person registered as the holder of the share before the transfer or transmission of the share was entered in the Register.

35.4 Counting days

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

35.5 Notices to "lost" members

If:

- (a) on two or more consecutive occasions a notice served on a member in accordance with this rule is returned unclaimed or with an indication that the member is not known at the address to which it was sent; or
- (b) the Board believes on other reasonable grounds that a member is not at the address shown in the Register or notified to the Company under rule 35.1,

the Company may give effective notice to that member by exhibiting the notice at the Company's registered office for at least 48 hours.

This rule ceases to apply if the member gives the Company notice of a new address.

36. Unclaimed money

The Company must deal with unclaimed dividends and distributions and unclaimed proceeds of shares sold or re-issued under this document in accordance with the law relating to unclaimed money in the Company's jurisdiction of registration.

Schedule 1

Terms of issue of preference shares

1. **Definitions**

The following definitions apply in relation to a preference share issued under rule 22.2.

Dividend Amount for any Dividend Period means the amount calculated as

$$DA = \frac{AP \times DR \times N}{365}$$

where:

DA = Dividend Amount;

AP = amount paid on the share;

DR = Dividend Rate; and

N = number of days in the relevant Dividend Period.

Dividend Date means a date specified in the Issue Resolution on which a dividend in respect of that preference share is payable.

Dividend Period means:

- (a) the period that begins on and includes the Issue Date and ends on and includes the day before the first Dividend Date after the Issue Date; and
- (b) the period that begins on and includes each Dividend Date and ends on and includes the day before the next Dividend Date; and
- (c) the period that begins on and includes the last Dividend Date and ends on and includes the day before the Redemption Date.

Dividend Rate means the rate specified in the Issue Resolution for the calculation of the amount of dividend to be paid on that preference share on any Dividend Date.

franked dividend means a distribution franked in accordance with section 202-5 of the Tax Act.

Issue Date means the date on which the share is issued.

Issue Resolution means the resolution passed under clause 2 of this schedule.

redeemable preference share means a preference share which the Issue Resolution specifies is liable to be redeemed:

- (a) at a fixed time or on the happening of a particular event;
- (b) at the Company's option; or
- (c) at the holder's option.

Redemption Amount in relation to a redeemable preference share means the amount specified in the Issue Resolution to be paid on redemption of that share.

Redemption Date in relation to a redeemable preference share, means the date on which the Issue Resolution requires the Company to redeem that share.

Tax Act means the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth), or both, as applicable.

2. **Issue Resolution**

If the Board resolves to issue a preference share, it must pass a resolution which specifies:

- (a) the Dividend Date;
- (b) the Dividend Rate;
- (c) whether dividends are cumulative or non-cumulative;
- (d) the priority with respect to payment of dividends and repayment of capital over other classes of shares;
- (e) whether the share is a redeemable preference share or not, and if so:
 - (i) the Redemption Amount; and
 - (ii) if the share is redeemable at the end of a fixed period, the Redemption Date, or otherwise the circumstances (if any) in which the share is redeemable at the option of the holder or of the Company, the way in which that option must be exercised and the way in which the resulting Redemption Date is ascertained; and
- (f) such other terms as the Board may determine.

3. **Franked dividends**

If the Issue Resolution specifies that the dividend on preference shares must be a franked dividend, it may also specify:

- (a) the extent to which the dividend must be franked (within the meaning of the Tax Act); and
- (b) the consequences of the dividend not being franked to that extent, which may include an increase of the dividend by an amount equal to the additional amount of franking credit which would have been imputed to the holder of the share under the Tax Act if the dividend had been franked in accordance with the Issue Resolution.

4. **Dividend entitlement**

The holder of a preference share is entitled to be paid on each Dividend Date or, in the case of the final dividend payable on the share, on the Redemption Date, in priority to any payment of dividend on any other class of shares over which the relevant Issue Resolution or rights conferred under rule 22.2 give it priority, a preferential dividend of the Dividend Amount for the Dividend Period ending on the day before that Dividend Date or the Redemption Date (as the case may be).

The dividend entitlement is cumulative if the Issue Resolution states that it is cumulative and otherwise is non-cumulative.

5. **Priority on winding up**

The holder of a preference share is entitled, on a winding up, to payment in cash of:

- (a) the amount then paid up on the share; and
- (b) if the Issue Resolution states that dividends are cumulative, any arrears of dividend,

in priority to any payment to the holders of ordinary shares and any other class of preference share over which the relevant Issue Resolution or rights conferred under rule 22.2 give it priority, but has no right to participate in surplus assets and profits of the Company.

6. **Voting**

The holder of a preference share has no right to vote at any meeting of members except:

- (a) if the Issue Resolution states that dividends are cumulative, during a period during which a dividend (or part of a dividend) on the share is in arrears;
- (b) on a proposal to reduce the Company's share capital;
- (c) on a resolution to approve the terms of a buy-back agreement;
- (d) on a proposal that affects rights attached to the share;
- (e) on a proposal to wind up the Company;
- (f) on a proposal for the disposal of the whole of the Company's property, business and undertaking;
- (g) during the winding up of the Company; and
- (h) in any other circumstances as the Board determines prior to the allotment of preference shares.

7. **Notices and financial reports**

The Company must give the holder of a preference share notice of each meeting of members in accordance with rule 13 and send the holder financial reports in accordance with rule 21.2.

8. **Redemption of redeemable preference shares**

Subject to the Act, the Company must redeem a redeemable preference share on the Redemption Date by paying the Redemption Amount to the holder in cash, by cheque or in any other form that the Board decides. If the Company sends the holder of a redeemable preference share a cheque for the Redemption Amount, the share is redeemed on the date on which rule 35.2 would treat the cheque as being received by the holder, whether or not the holder has presented the cheque. If the holder of a redeemable preference share does not present a cheque for the Redemption Amount within a reasonable period after it is sent, the Company must deal with the Redemption Amount in accordance with rule 36.

9. **Equal ranking issues**

Subject to the terms of issue of any particular class of preference share, the issue of further preference shares that rank equally with any issued preference shares is not taken to affect the rights of the holders of the existing preference share whether or not the Dividend Rate for the new preference share is the same as or different from that applicable to that preference share.