

**CONSTITUTION**  
**OF**  
**MACQUARIE BANK LIMITED**  
**ACN 008 583 542**

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## 1. DEFINITIONS

In this Constitution:

"Article" means a particular article of this Constitution as amended from time to time;

"Board" means all or some of the Voting Directors acting as a board;

"business day" has the meaning assigned to it for the purpose of the Listing Rules;

"Company" means Macquarie Bank Limited ACN 008 583 542 and whatever its name may be from time to time;

"Constitution" means this constitution as amended from time to time;

"Corporations Act" means the Corporations Act 2001 (Cth) as amended, supplemented or replaced from time to time;

"CS Facility" has the same meaning as prescribed CS facility in the Corporations Act.

"CS Facility Operator" means the operator of a CS Facility.

"Director" means either a Voting Director (and where appropriate includes an alternate Voting Director) or a Non-Voting Director;

"Exchange" means Australian Stock Exchange Limited;

"Executive Voting Directors" means Voting Directors who are employees of the Company;

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

"Non-Executive Voting Directors" means Voting Directors who are not employees of the Company;

"Non-Voting Director" means a person appointed to be a Non-Voting Director pursuant to Article 53;

"Operating Rules" means the operating rules of a CS Facility regulating the settlement, clearing and registration of uncertificated shares as amended, varied or waived (whether in respect of the Company or generally) from time to time.

"seal" means the common seal of the Company and includes any official seal of the Company;

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

"share" means a share in the capital of the Company;

"subsidiary" has the meaning assigned to that word in the Corporations Act;

"Voting Directors" means the Directors granted power by this Constitution to manage the business of the Company as the Board; and

"Voting Share" has the same meaning as used in the Corporations Act.

## **2. INTERPRETATION**

(1) In this Constitution:

- (a) words importing any gender include all other genders;
- (b) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (c) the singular includes the plural and vice versa;
- (d) unless the contrary intention appears in this Constitution, a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provisions, whether by the State or the Commonwealth of Australia;
- (e) unless the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (f) headings are inserted for convenience and do not affect the interpretation of this Constitution.

(2) **Replaceable Rules not to Apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

(3) **Primacy of Corporations Act**

This Constitution is to be interpreted subject to the Corporations Act.

### 3. SHARES

- (1) Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares but subject to the Corporations Act and this Constitution, shares in the Company for the time being unissued are under the control of the Voting Directors who may issue, allot or otherwise dispose of the same to such persons on such terms and conditions and at such times and with such preferred, deferred or other special rights or such restrictions whether with regard to dividend, voting, return of capital or otherwise as the Voting Directors determine and for such consideration as the Voting Directors determine.
- (2) Without limiting the generality of paragraph (1) of this Article, issued shares shall include fully paid ordinary shares and partly paid ordinary shares.
- (3) The Voting Directors have the power to grant to any persons options or other securities with rights of conversion to shares or pre-emptive rights to any shares for any consideration and for any period.

4. (1) Subject to the Corporations Act, any preference shares may be issued on the terms that they are, or at the option of the Company are liable, to be redeemed.
- (2) While the share capital is divided into different classes of shares (and, for the purposes of this Article, shares which are partly paid shall be considered a different class) the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class or as otherwise provided by this Constitution) may, whether or not the Company is being wound up, be varied as provided in this Constitution, or with the consent in writing of the holders of three-quarters of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of the class.
- (3) The provisions of this Constitution relating to general meetings apply so far as they are capable of application and with any necessary changes to every separate meeting of the holders of a class of shares except that:
  - (a) a quorum is constituted by at least two persons who, between them, hold or represent one-third of the issued shares of the class (unless only one person holds all of the shares of the class, in which case that person constitutes a quorum); and
  - (b) any holder of shares of the class, present in person or by proxy, or attorney or representative, may demand a poll.
- (4) The Company is not bound to issue more than one certificate or statement for Shares held jointly by several persons.

## 5. PREFERENCE SHARES

- (1) In this Article 5:

**Fully Franked Dividend** means a dividend the whole of which is taken to have been franked under section 160AQF of the Tax Act.

**Holder** means the person or persons for the time being registered as the holder of a Preference Share.

**Issue Price** means the issue price of the Preference Share specified in the Terms of Issue.

**Ordinary Share** means an ordinary fully paid share in the Company.

**Preference Share** has the same meaning as used in the Corporations Act.

**Tax Act** means the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997 (as amended).

**Terms of Issue** means the terms of issue determined by the Directors under Article 3(1) and upon which a Preference Share is issued.

- (2) In the event of any inconsistency between this Article 5 and any other Article, this Article prevails.
- (3) The Voting Directors may in accordance with Article 3(1) issue and allot any share on the footing that it is a Preference Share which confers on the Holder the rights set out in this Article 5 and in its Terms of Issue.
- (4) The rights attached to a class of Preference Shares may not be varied or abrogated except:
- (a) with the consent in writing of the Holders of three-quarters of the Preference Shares in that class; or
  - (b) with the sanction of a special resolution passed at a meeting of the Holders of those Preference Shares.
- (5) Any:
- (a) issue of equity securities; or
  - (b) conversion of existing securities to other securities,

ranking in priority to an existing class of Preference Shares is for the purposes of this Article 5 a variation of the rights attaching to those Preference Shares.

- (6) Any Preference Shares may be issued on the terms that they are, or at the option of the Company are liable, to be redeemed. Subject to the Corporations Act and the Terms of Issue, the Company may, at any time and from time to time out of any profits or moneys of the Company which may be lawfully applied for that purpose, redeem all or any of the Preference Shares by paying to the Holder in respect of each Preference Share so redeemed an amount equal to the amount payable on redemption, determined under the Terms of Issue.
- (7) A Preference Share confers on the Holder the right to dividends specified in its Terms of Issue. The dividends may be cumulative or non-cumulative and may include base, supplementary and other components.
- (8) The Terms of Issue may also require the dividend to be a Fully Franked Dividend and provide for an adjustment of the amount of the dividend if it is not a Fully Franked Dividend.
- (9) If the Terms of Issue so provide, where a dividend on that class of Preference Shares is not paid in full on the due date, the Company must not without approval of a special resolution passed at a separate meeting of Holders:
  - (a) declare or pay a cash dividend or make any distribution in respect of shares or any class of shares other than that class of Preference Shares or any other class of Preference Share ranking ahead of that class for payment of dividends or distributions of that type;
  - (b) redeem, reduce, cancel or acquire for any consideration any share capital of the Company; or
  - (c) set aside any cash or property or establish any sinking fund for anything referred to in (a) or (b),until such time as is specified in the Terms of Issue.
- (10) Each Preference Share ranks ahead of all Ordinary Shares in the Company:
  - (a) for the payment of dividends; and
  - (b) in a winding up of the Company, for payment of an amount equal to its Issue Price.

- (11) Unless otherwise specified in the Terms of Issue, a Preference Share carries no right to participate in the profits or assets of the Company (whether surplus or otherwise) except for payment of dividends and, in a winding up, for payment of an amount equal to its Issue Price.
- (12) Unless otherwise specified in the Terms of Issue, a Preference Share carries no right to participate in any issues of Ordinary Shares or other securities.
- (13) Each Holder has the right to receive notices of all general meetings (and documents included with those notices) and to attend and speak at general meetings but with no right to move or second resolutions or vote at a general meeting, except in any one or more of the following circumstances:
  - (a) if at the time of commencement of the meeting a dividend (or part of a dividend) on the Preference Shares held by that Holder 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 attaching to a Preference Share held by that Holder;
  - (e) on a proposal to wind up the Company;
  - (f) on a proposal for the disposal of the whole of the Company property, business and undertaking;
  - (g) during the winding up of the Company; and
  - (h) on such other matters as are specified in the Terms of Issue and permitted by the Listing Rules.
- (14) A Preference Share converts or is convertible into an Ordinary Share (or, if specified in the Terms of Issue, other security of the Company) in the circumstances and on the terms set out in the Terms of Issue.

## **6. RECOGNITION OF INTERESTS**

- (1) Except as required by law, the Company shall not recognise a person as holding a share upon any trust.

- (2) The Company is not bound by or compelled in any way to recognise (whether or not it has notice of the interest or rights concerned) any equitable, contingent, future or partial interest in any share or unit of a share or (except as otherwise provided by this Constitution or by law) any other right in respect of a share except an absolute right of ownership in the registered holder.

## **7. LIEN**

- (1) The Company has a first and paramount lien on:
  - (a) a partly paid share for all unpaid calls or instalments that are due but unpaid on that share;
  - (b) all partly paid shares registered in the name of a sole holder for all money presently payable by him or his estate to the Company in respect of those shares;
  - (c) all money which the Company is required by law to pay, and has paid, in respect of that share;
  - (d) reasonable interest on the amount due from the date it becomes due until payment; and
  - (e) reasonable expenses of the Company in respect of the default on payment.
- (2) The Voting Directors may at any time exempt a share wholly or in part from the provisions of this Article.
- (3) The Company's lien (if any) on a share extends to all dividends and other distributions payable in respect of the share.
- (4) If the Company has a lien on shares the Company may apply a holding lock to the shares.
- (5) A member must reimburse the Company on demand in writing for all payments the Company makes to a government or taxing authority in respect of the member, the death of a member or the member's shares or any distributions on the member's shares, including dividends, where the Company is either:
  - (a) required by law to make the relevant payment; or
  - (b) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxing authority that the Company is required by law to make the relevant payment.

The Company is not obliged to advise the member in advance of its intention to make the payment.

- (6) The obligation of the member to reimburse the Company is a debt due to the Company as if it were a call on all the member's shares, duly made at the time when the written demand for reimbursement is given by the Company to the member. The provisions of this Constitution relating to non-payment of calls, including payment of interest and sale of the member's shares under lien, apply to the debt.

## **8. SALE UNDER A LIEN**

- (1) Subject to paragraph (2) of this Article, the Company may sell, in such manner as the Voting Directors think fit, any shares on which the Company has a lien.
  - (2) A share on which the Company has a lien shall not be sold unless:
    - (a) a sum in respect of which the lien exists is presently due and payable; and
    - (b) the Company has, not less than 14 days before the date of the sale, given to the registered holder for the time being of the share, or the person entitled to the share by reason of the death or bankruptcy of the registered holder, a notice in writing setting out and demanding payment of such part of the amount in respect of which the lien exists as is presently payable.
- 9.**
- (1) For the purpose of giving effect to a sale mentioned in Article 8, the Voting Directors may authorise a person to transfer the shares sold to the purchaser of the shares.
  - (2) The Company shall register the purchaser as the holder of the shares comprised in any such transfer and the purchaser is not bound to see to the application of the purchase money.
  - (3) The title of the purchaser to the shares is not affected by any irregularity or invalidity in connection with the sale.
  - (4) The Company's lien on a share is extinguished if a transfer of the share is registered without the Company giving notice of the lien to the transferee.
- 10.** The proceeds of a sale mentioned in Article 8 shall be applied by the Company in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue (if any) shall (subject to any like lien for sums not presently payable that existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

## **11. CALLS ON SHARES**

- (1) Subject to the terms of issue of any shares, the Voting Directors may make calls upon the members in respect of any money unpaid on the shares of the members and not by the terms of issue of those shares made payable at fixed times or by reference to a particular event.
- (2) The Voting Directors may revoke or postpone a call.
- (3) The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, a member does not invalidate the call.

**12.** A call shall be deemed to have been made at the date specified by the resolution of the Board or if there is no date specified the date when the resolution of the Voting Directors authorising the call was passed. A reference to a resolution of the Board or of Voting Directors includes a resolution of a Committee appointed for this purpose. A call may be required to be paid by instalments.

## **13. JOINT HOLDERS**

The joint holders of a share are jointly and severally liable to pay all calls in respect of the shares.

## **14. REMEDIES FOR UNPAID CALLS**

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment for the sum to the time of actual payment at such rate not exceeding 8% per annum or as the Voting Directors determine, but the Voting Directors may in their discretion waive payment of that interest wholly or in part.

**15.** Any sum that, by the terms of issue of a share, becomes payable on issue of the share or at a fixed date, is to be taken to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable. In the case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

## **16. DIFFERENTIATION BETWEEN SHAREHOLDERS AS TO CALLS**

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

## **17. PAYMENT OF CALLS**

- (1) The Voting Directors shall accept from a member the whole or a part of the amount unpaid on a share at any time although no part of that amount has been called up.
- (2) The Voting Directors may authorise payment by the Company of interest upon the whole or any part of an amount so accepted until the amount becomes payable at such rate, not exceeding 8% per annum or as the Voting Directors determine.

## **18. TRANSFER OF SHARES**

- (1) Subject to this Constitution and the Listing Rules, a member may transfer all or any of the member's shares:
  - (a) as provided by the Operating Rules of a CS Facility, if applicable; or
  - (b) by any other method of transfer which is required or permitted by the Corporations Act and the Exchange.
- (2) If a duly completed instrument of transfer:
  - (a) is used to transfer a share in accordance with Article 18(1)(b); and
  - (b) is left for registration at the share registry of the Company, accompanied by any information that the Voting Directors properly require to show the right of the transferor to make the transfer,

the Company must, subject to the powers vested in the Voting Directors by this Constitution, register the transferee as the holder of the share.
- (3) Except as provided by any applicable Operating Rules of a CS Facility, a transferor of a share remains the holder of the share transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the share.
- (4) The Company must register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and mark or note transfer forms without imposing a charge except where a charge is permitted by the Listing Rules.

## **19. THE BOARD'S POWERS TO DECLINE TO REGISTER**

If permitted by the Listing Rules the Voting Directors may:

- (a) request any applicable CS Facility Operator to apply a holding lock to prevent a transfer of shares in the Company from being registered on the CS Facility's subregister; or
  - (b) refuse to register a transfer of shares in the Company to which paragraph (a) does not apply.
- 20.** (1) If, in the exercise of their rights under Article 19, the Voting Directors refuse to register a transfer of shares or request any applicable CS Facility Operator to apply a holding lock they must give in accordance with the Listing Rules, in the case of refusal to register, a written notice of the refusal to the transferee and the broker lodging the transfer (if any) and, in the case of application of a holding lock, a written notice to the holder of the affected securities. Failure to give such notice will not invalidate the decision of the Voting Directors.
- (2) The Voting Directors must:
- (a) request any applicable CS Facility Operator to apply a holding lock to prevent transfer of shares in the Company from being registered on the CS Facility's subregister; or
  - (b) refuse to register any transfer of shares in the Company to which paragraph (a) of this Article does not apply,
- if:
- (c) the Listing Rules require the Company to do so; or
  - (d) the transfer is in breach of the Listing Rules or a Restriction Agreement.
- (3) The Company must retain every instrument of transfer which is registered for two (2) years or for such other period as the Voting Directors determine.
- (4) If the Voting Directors refuse registration of a transfer the transfer must be returned to the person who deposited it if demand is made within 12 months of the giving of notice of refusal to register unless there has been an allegation of fraud concerning the transfer or the transaction to which it relates.

## **21. CLOSURE OF THE REGISTER**

The registration of transfers may be suspended at such times and for such periods as the Voting Directors from time to time determine, not exceeding in the whole 30 days in any year. Closure of the register must be effected in accordance with the Listing Rules and the Operating Rules.

## **22. TRANSMISSION OF SHARES**

In the case of the death of a member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognised by the Company as having any title to his interest in the shares, but this Article does not release the estate of a deceased joint holder from any liability in respect of a share that had been jointly held by him with other persons.

- 23.** (1) Subject to the Bankruptcy Act, 1966 of the Commonwealth and this Constitution, a person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such information being produced as is properly required by the Voting Directors, elect either to be registered himself as holder of the share or to have some other person nominated by him registered as the transferee of the share.
- (2) If the person becoming entitled elects to be registered himself he shall deliver or send to the Company a notice in writing signed by him stating that he so elects.
- (3) If he elects to have another person registered he shall effect a transfer of the share to that other person.
- (4) All the limitations, restrictions and provisions of this Constitution relating to the right to transfer, and the registration of transfers of, shares are applicable to any such notice or transfer as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.
- 24.** (1) Where the registered holder of a share dies or becomes bankrupt, his personal representative or the trustee of his estate, as the case may be, is, upon the production of such information as is properly required by the Voting Directors, but subject to this Constitution and the terms of issue of such shares, entitled to the same dividend and other advantages, and to the same rights, duties and obligations (whether in relation to meetings of the Company, or to voting or otherwise), as the registered holder would have been entitled to if he had not died or become bankrupt.
- (2) Where 2 or more persons are jointly entitled to any share in consequence of the death of the registered holder they shall, for the purpose of this Constitution, be deemed to be joint holders of the share.
- 25.** If a person entitled to shares because of the mental incapacity of a member gives the Voting Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares:

- (a) the person may:
  - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the member.

On receiving an election under paragraph (a)(i), the Company must register the person as the holder of the shares.

A transfer under paragraph (a)(ii) is subject to the Articles that apply to transfers generally.

## **26. FORFEITURE OF SHARES**

- (1) If a member fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment the Voting Directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued.
- (2) The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

- 27.** (1) If the requirements of a notice served under Article 26 are not complied with any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Voting Directors to that effect.
- (2) Such a forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- (3) If any share is forfeited under this Article notice of the forfeiture must be given to the member holding the share immediately prior to the forfeiture and an entry of the forfeiture with the date thereof must be made in the register. Any failure to give notice or enter the forfeiture in the register does not invalidate the forfeiture.

- 28.** (1) A forfeited share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Voting Directors think fit. At any time before a sale, re-allotment or disposition of a share the forfeiture may be cancelled on such terms as the Voting Directors think fit.
- (2) The Voting Directors may accept the surrender of any share which they are entitled to forfeit on such terms as they think fit and any share so surrendered is deemed to be a forfeited share.
- 29.** A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares but remains liable to pay to the Company all money that, at the date of forfeiture, was payable by him to the Company in respect of the shares (including interest at the rate of 8% per annum from the date of forfeiture on the money for the time being unpaid if the Voting Directors think fit to enforce payment of the interest and also expenses owing) but his liability ceases if and when the Company receives payment in full of all the money (including interest and expenses) so payable in respect of the shares.
- 30.** A statement in writing declaring that the person making the statement is a Voting Director or a Secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the statement, is prima facie evidence of the facts stated in the statement as against all persons claiming to be entitled to the share.
- 31.** (1) The Company may receive the consideration (if any) given for a forfeited share on any sale or disposition of the share and may effect a transfer of the share in favour of the person to whom the share is sold or disposed of.
- (2) Upon the transfer being completed, the transferee shall be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.
- (3) The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.
- 32.** The provisions of this Constitution as to forfeiture apply in the case of non-payment of any sum that, by the terms of issue of a share, becomes payable at a fixed time or by reference to a particular event, as if that sum had been payable by virtue of a call duly made and notified.
- 33.** The Voting Directors may, as a term of the issue of a share, resolve that such share shall be exempted wholly or in part from the provisions of this Constitution as to forfeiture.

### 34. GENERAL MEETINGS

- (1) The Voting Directors may convene a general meeting whenever they think fit.
- (2) Notice of a general meeting must be given in accordance with Article 88 and may be given as set out below.

If a member nominates:

- (a) an electronic means by which the member may be notified that notices of meeting are available; and
- (b) an electronic means the member may use to access notices of meeting,

the Company may give the member notice of the meeting by notifying the member (using the notification means nominated by the member):

- (c) that the notice of meeting is available; and
- (d) how the member may use the electronic means nominated by the member to access the notice of meeting.

A notice of meeting given to a member by this electronic means is taken to be given on the business day after the day on which the member is notified that the notice of meeting is available.

- (3) Where a general meeting (including an annual general meeting) is convened by the Voting Directors they may by notice, whenever they think fit:
  - (a) cancel the meeting;
  - (b) subject to Article 34(5), postpone the holding of the meeting to such date and time reasonably determined by them; or
  - (c) change the place for the meeting.

This Article 34(3) does not apply to a meeting convened in accordance with the Corporations Act by a single Voting Director, by members, by the Voting Directors on the request of members or to a meeting convened by a court.

- (4) Notice of cancellation or postponement or change of place of a general meeting must state the reason for cancellation or postponement and be:

- (a) published in a daily newspaper circulating in Australia;
  - (b) given to ASX; or
  - (c) subject to the Corporations Act, given in any other manner determined by the Voting Directors.
- (5) A notice of postponement of a general meeting must specify:
- (a) the postponed date and time for the holding of the meeting;
  - (b) a place for the holding of the meeting which may be either the same as, or different from, the place specified in the notice convening the meeting; and
  - (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.
- (6) The number of clear days from the giving of a notice postponing the holding of a general meeting under Article 34(4) to the date specified in that notice for the holding of the postponed meeting must not be less than 14 days.
- (7) The only business that may be transacted at a general meeting the holding of which is postponed is the business specified in the original notice convening the meeting.
- (8) Where by the terms of an instrument appointing a proxy or attorney or an appointment of a representative of a member:
- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
  - (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of representative,
- then, by force of this Article, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of representative unless the member appointing the proxy, attorney or representative gives to the Company at its registered office or in such other manner as the Company determines, notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.
- (9) The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or

cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

- (10) A Voting Director is entitled to receive notice of and to attend all general meetings and all separate meetings of the holders of any class of shares in the capital of the Company and is entitled to speak at those meetings.

### **35. PROCEEDINGS AT GENERAL MEETINGS**

- (1) The Voting Directors may determine, for the purposes of a particular general meeting, that all the shares that are quoted on ASX at a specified time before the meeting are taken to be held at the time of the meeting by the persons who hold them at the specified time. The determination must be made and published in accordance with the Corporations Act.

- (2) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as otherwise provided by this Constitution either:

- (a) five (5) members of the Company entitled to vote; or
- (b) one or more members of the Company with at least 50% of the votes that may be cast at the meeting,

personally present or represented, constitute a quorum.

- (3) For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a corporation that is a member, shall be deemed to be a member.

### **36. If a quorum is not present within half an hour from the time appointed for the meeting:**

- (a) where the meeting was convened upon the requisition of members the meeting shall be dissolved; or

- (b) in any other case:

- (i) the meeting stands adjourned to such day, and at such time and place, as the Voting Directors determine or, if no determination is made by the Voting Directors, to the same day in the next week at the same time and place; and

- (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting shall be dissolved.

- 37.** (1) If the Voting Directors have elected one of their number as Chairman of their meetings (who may be an Executive Chairman as provided in Article 69) he shall preside as Chairman at every general meeting.
- (2) The chairman of a general meeting:
- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
  - (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
  - (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,
- and a decision by the chairman under this Article is final.
- (3) Where a general meeting is held and:
- (a) a Chairman has not been elected as provided by paragraph (1) hereof; or
  - (b) the Chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the Voting Directors present must elect one of their number to be Chairman of the meeting or, if no Voting Director is present or if the Voting Directors present decline to take the chair, the members present shall elect one of their number to be Chairman of the meeting.
- 38.** (1) The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:
- (a) in exercising the discretion to do so, the chairman may, but need not, seek the approval of the members present in person or by proxy, attorney or representative; and
  - (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chairman, a vote may not be taken or demanded by the members present in person or by proxy, attorney or representative in respect of any adjournment.

- (2) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
  - (3) Except as provided by paragraph (2), it is not necessary to give any notice of any adjournment or of the business to be transacted at an adjourned meeting.
- 39.** (1) At a general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded.
- (2) Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.
  - (3) Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the member or proportion of the votes recorded in favour of or against the resolution.
- 40.** If a poll is effectively demanded:
- (a) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is a resolution of the meeting at which the poll was demanded;
  - (b) on the election of a chairman or on a question of adjournment, it must be taken immediately;
  - (c) the demand may be withdrawn; and
  - (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.
- 41.** In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, has a casting vote in addition to any deliberative vote.
- 42.** Subject to any rights or restrictions for the time being attached to any share and to this Constitution:

- (a) a proxy's authority to speak and vote for a member is not suspended while the member is present at any meeting; and
  - (b) on a show of hands every person present who is a member or a representative of a member has one vote and on a poll every member present in person or by proxy or attorney has:
    - (i) one vote for each fully paid share held; and
    - (ii) that proportion of a vote for any partly paid share held that the amount paid on the partly paid share bears to the total issue price of the share.
- 43.** If a share is held jointly and more than one member votes in respect of that share, only the vote of the member whose name appears first in the register of members counts.
- 44.** If a member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the member's committee or trustee or such other person as properly has the management of their estate may exercise any rights of the member in relation to a general meeting as if the committee, trustee or other person were the member.
- 45.** A member is not entitled to exercise votes attaching to the member's shares at a general meeting unless all calls and other sums presently payable by the member in respect thereof have been paid.
- 46.** A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness or mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, or the transfer of the share in respect of which the instrument or power is given, if no intimation in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at the registered office or at such other place as is specified for that purpose in the notice convening the meeting before commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.
- 47.** An objection to the right of a person to attend or vote at the meeting or adjourned meeting:
- (a) may not be raised except at that meeting or adjourned meeting; and
  - (b) must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

**48. NUMBER OF VOTING DIRECTORS**

Subject to this Constitution the Voting Directors may, by resolution, increase or reduce the maximum or minimum number of Voting Directors (but until so increased or reduced, the maximum number of Voting Directors shall be ten). The Company may also appoint any person to be a Voting Director by resolution passed in general meeting.

**49. APPOINTMENT OF VOTING DIRECTORS**

The Voting Directors may at any time appoint any person to be a Voting Director, either to fill a casual vacancy or as an addition to the existing Voting Directors, but so that the total number of Voting Directors never exceeds the number determined in accordance with this Constitution.

**50. RETIREMENT OF VOTING DIRECTORS**

The Company may by resolution remove any Voting Director and by resolution appoint another person in his stead in the manner prescribed by the Corporations Act.

**51. REMUNERATION OF VOTING DIRECTORS**

(1) The remuneration for the services of any Director shall be fixed by the Board of Directors.

(2) Subject to the Corporations Act, the Company may pay a former Executive Voting Director, or the personal representatives of an Executive Voting Director who dies in office, a retirement benefit in recognition of past services of an amount determined by the Voting Directors. The Company may also enter into a contract with an Executive Voting Director providing for payment of a retirement benefit. A retirement benefit paid under this article is not remuneration to which article 51(1) applies.

~~(1) The Voting Directors shall be remunerated for acting as such and the total amount or value of such remuneration shall not exceed the maximum aggregate sum from time to time determined by the Company in general meeting and that remuneration shall be divided amongst the Voting Directors in such proportions and manner as the Voting Directors may determine and in default of such determination equally. The remuneration shall be deemed to accrue from day to day.~~

~~(2) A person who ceases to be an Executive Voting Director may be paid a benefit in connection with the person's retirement in recognition of past services in an amount determined by the Voting Directors but not exceeding the amount permitted by the Corporations Act. The benefit may take any form that the Voting Directors may determine~~

~~and may be conferred directly or indirectly to associates and relatives. In this Article 51(2) the term benefit has the same meaning as used in Part 2D.2 of the Corporations Act.~~

- (3) A person who ceases to be a Non-Executive Voting Director may be paid Superannuation Amounts (but only Superannuation Amounts) in connection with the person's retirement in recognition of past services in an amount determined by the Voting Directors but not exceeding the amount permitted by the Corporations Act. Any payment of a Superannuation Amount under this Article will be included in the calculation of the maximum aggregate sum of remuneration in Article 51(1) above. In this Article 51(3) the term Superannuation Amount means the conferring of a benefit directly or payment of a contribution to a fund or entity for the purpose of that fund or entity conferring a benefit in the form of superannuation payments, retiring allowance payments, superannuation gratuity payments or similar payments and includes the making of such arrangements outside Australia. The Superannuation Amount may be paid directly or indirectly to associates or relatives.
- (4) The Voting Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Voting Directors or any committee appointed pursuant to Article 66 or general meetings of the Company or otherwise in connection with the business of the Company and, if any Voting Director being willing renders or is called upon to perform extra services or to make any special exertions in going or residing abroad or otherwise for any business or purposes of the Company, the Voting Directors may arrange with that Voting Director for a special remuneration to be provided and that special remuneration may be either in addition to or in substitution for his share in the remuneration provided in this Constitution.

## **52. SHARE QUALIFICATIONS**

A Director is not required to have any share qualification.

## **53. APPOINTMENT OF NON-VOTING DIRECTORS**

- (1) The Voting Directors or the Company in general meeting may, without limitation as to number, from time to time appoint any person to be a Non-Voting Director and may from time to time terminate any such appointment.
- (2) The Voting Directors or the Company in general meeting may from time to time determine (without limiting the power or duties of the Voting Directors) the powers, duties and remuneration of any person so appointed.

- (3) A Non-Voting Director, except by the invitation and with the consent of the Voting Directors, does not have any right to attend any meeting of Voting Directors (and in any case has no right to vote thereat).

#### **54. VACATION OF OFFICE**

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act, or as may otherwise be provided for in this Constitution, the office of a Director becomes vacant if the Director:

- (a) becomes an insolvent under administration;
- (b) becomes prohibited from being a Director by reason of an order made under the Corporations Act;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) resigns the office by notice in writing to the Company;
- (e) in the case of a Voting Director, is absent either personally or by alternate Voting Director without the consent of the Voting Directors from meetings of the Voting Directors held during a period of 6 months; or
- (f) in the case of a Non-Voting Director, ceases to remain in the employment of the Company.

#### **55. POWERS AND DUTIES OF DIRECTORS**

- (1) Subject to the Corporations Act and to any other provision of this Constitution the business of the Company shall be managed by the Voting Directors (who may delegate such authority as they see fit), who may pay all expenses incurred in promoting and forming the Company and may exercise all such powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.
- (2) Without limiting the generality of paragraph (1) hereof, the Voting Directors may exercise all the powers of the Company to borrow money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or to give any other security for a debt, liability or obligation of the Company or of any other person.

**56. APPOINTMENT OF AN ATTORNEY**

- (1) The Voting Directors may, by power of attorney or other written instrument, appoint any person or persons to be the attorney or attorneys of, or to be an authorised person to otherwise act for or on behalf of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Voting Directors) for such period and subject to such conditions as they think fit.
- (2) Any such power of attorney or instrument may contain such provisions for the protection and convenience of persons dealing with the attorney or such otherwise authorised persons as the Voting Directors think fit and may also authorise the attorney or authorised persons to delegate all or any of the powers, authorities and discretions vested in the attorney.

**57.** All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 Directors or in such other manner as the Voting Directors determine from time to time.

- 58.**
- (1) The Voting Directors shall cause minutes of all proceedings of general meetings and of meetings of the Voting Directors to be entered in accordance with the Corporations Act after the relevant meeting is held in books kept for that purpose.
  - (2) Except in the case of documents that are deemed to constitute minutes by virtue of Article 67, those minutes shall be signed by the Chairman of the meeting at which the proceedings took place or by the Chairman of the next succeeding meeting.

**59. PROCEEDINGS OF VOTING DIRECTORS**

- (1) The Voting Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (2) A Voting Director may at any time, and the Secretary shall on the requisition of a Voting Director, convene a meeting of the Voting Directors.
- (3) Without limiting the discretion of the Voting Directors to regulate their meetings under paragraph (1) hereof, the Voting Directors may, if they think fit, confer by radio, telephone, closed circuit television or other electronic means of audio or audio-visual communication and a resolution passed by such a conference shall, notwithstanding the Voting Directors are not present together in one place at the time of the conference, be deemed to have been passed at a meeting of the Voting Directors held on the day on which and at the time at which the conference was held. The provisions of this Constitution relating to proceedings

of Voting Directors apply so far as they are capable of application and mutatis mutandis to such conferences.

- 60.** (1) Subject to this Constitution, questions arising at a meeting of Voting Directors shall be decided by a majority of votes of Voting Directors present and voting and any such decision shall for all purposes be deemed a decision of the Voting Directors.
- (2) In the case of an equality of votes, the Chairman of the meeting has a casting vote in addition to any deliberative vote.

**61. OTHER INTERESTS OF DIRECTORS**

- (1) A Director may hold any other office or place of profit (except that of Auditor) in the Company in conjunction with the office of Director and on such terms as to remuneration and otherwise as the Voting Directors or the Company by resolution may determine.
- (2) A Director of the Company may be or become a Director or other officer of or otherwise interested in any corporation promoted by the Company or in which the Company may be interested as a shareholder or otherwise and shall not be accountable to the Company for any remuneration or other benefits received as a Director or officer of or from their interest in the other corporation.
- (3) A Director shall not be disqualified by that Director's office from contracting with the Company either as vendor, purchaser or otherwise nor shall such a contract or any contract or arrangement entered into by or on behalf of the Company in which a Director is in any way, whether directly or indirectly, interested be avoided nor shall a Director be liable, by reason of holding his office, to account to the Company for any profit arising from such a contract or from such contracts or arrangements.
- (4) A Voting Director may vote in respect of any contract or arrangement or proposed contract or arrangement in which that Voting Director is in any way, whether directly or indirectly, interested or in respect of any matter arising out of such a contract or arrangement or proposed contract or arrangement and may attest the affixing of the seal to a contract or other document notwithstanding that the Voting Director is in any way, whether directly or indirectly, interested in that contract or other document or in the matter to which that contract or other document relates.
- (5) This Article does not affect the duty of a Voting Director:

- (a) who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company to declare the nature of the Voting Director's interest at a meeting of the Voting Directors; or
- (b) who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with the Voting Director's duties or interest as a Voting Director of the Company to declare at a meeting of the Voting Directors the facts and the nature, character and extent of the conflict.

## **62. ALTERNATE DIRECTORS**

- (1) A Voting Director may appoint a person (whether a member of the Company or not) to be an alternate Voting Director in the Voting Director's place during such period as the Voting Director thinks fit, if the Voting Directors approve of the appointment.
- (2) An alternate Voting Director is entitled to notice of meetings of the Voting Directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in the appointor's stead but not otherwise.
- (3) An alternate Voting Director may exercise all the powers of the appointor except the power to appoint an alternate Voting Director, and subject to the Corporations Act, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.
- (4) An alternate Voting Director is not required to have any share qualification.
- (5) The appointment of an alternate Voting Director may be effected by:
  - (a) a notice in writing to the Company signed by the appointor; and
  - (b) Board approval (where the appointor abstains from voting) of the appointment as set out in the notice from the appointor.
- (6) The termination of an appointment of an alternate Voting Director shall be effected by a notice in writing signed by the Voting Director who makes or made the appointment and served on the Company.
- (7) Whilst acting as a Voting Director, an alternate Voting Director:
  - (a) is an officer of the Company and not the agent of the appointor; and

- (b) is responsible to the exclusion of the appointor for the alternate Voting Director's own acts and defaults.
- (8) An alternate Voting Director is not entitled to receive from the Company any remuneration or benefit under Article 51.
- (9) The appointment of an alternate Voting Director may be terminated at any time by the appointor even if the period of the appointment of the alternate Voting Director has not expired, and terminates in any event if the appointor ceases to be a Voting Director.
- (10) An alternate Voting Director is not to be taken into account separately from the appointor in determining the number of Voting Directors.
- (11) A person who is present at a meeting of Voting Directors as an alternate Voting Director has one vote for each absent Voting Director who would be entitled to vote if present at the meeting and for whom that person is an alternate Voting Director and, if that person is also a Voting Director, has one vote as a Voting Director in that capacity.

### **63. QUORUM**

At a meeting of Voting Directors, the number of Voting Directors whose presence is necessary to constitute a quorum shall be not less than one-third of the Voting Directors appointed at such time and provided that at all times the number of Non-Executive Voting Directors present shall be greater than the number of Executive Voting Directors present.

- 64.** In the event of a vacancy or vacancies in the office of a Voting Director or offices of Voting Directors, the remaining Voting Directors may act but, if the number of remaining Voting Directors is not sufficient to constitute a quorum at a meeting of Voting Directors, they may act only for the purpose of increasing the number of Voting Directors to a number sufficient to constitute a quorum or of convening a general meeting of the Company.
- 65.** (1) The Voting Directors shall elect one of their number as Chairman of their meetings and may determine the period for which that person is to hold office. In the case of such a person holding an office or place of profit, as provided under paragraph (1) of Article 61, such person may be styled the "Executive Chairman".
  - (2) Where such a meeting is held and:
    - (a) a Chairman has not been elected as provided by paragraph (1) hereof; or

- (b) the Chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Voting Directors present shall elect one of their number to be a Chairman of the meeting.

- 66.**
- (1) The Voting Directors may delegate any of their powers to a committee or committees consisting of such of their number or such number of the Non-Voting Directors or such other persons as they think fit. Such a committee or committees may consist of only one Director.
  - (2) The Voting Directors may elect a Chairman of the meetings of such a committee.
  - (3) A committee to which any powers have been so delegated shall exercise the powers delegated in accordance with any directions of the Voting Directors and a power so exercised shall be deemed to have been exercised by the Voting Directors.
  - (4) Where the Voting Directors have not elected a Chairman in accordance with paragraph (2) above the members of such a committee may elect one of their number as Chairman of their meetings.
  - (5) Where such a meeting is held and:
    - (a) a Chairman has not been elected as provided by paragraph (2) or (4) hereof; or
    - (b) the Chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,the members present may elect one of their number to be Chairman of the meeting.
  - (6) A committee may meet in person or by the means set out in Article 59(3) (or by any combination of those means) and adjourn and otherwise regulate its meetings as it may determine.
  - (7) Questions arising at a meeting of a committee shall be determined by a majority of votes of the members present and voting.
  - (8) In the case of an equality of votes the Chairman has a casting vote in addition to any deliberative vote.

- 67.** ~~(1) If all the Voting Directors have signed a document containing a statement that they are in favour of a resolution of the Voting Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Voting Directors held~~

~~on the day on which the document was signed and at the time at which the document was last signed by a Voting Director or, if the Voting Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Voting Director. Where a document is so signed, the document shall be deemed to constitute a minute of that meeting.~~

~~(2) For the purposes of paragraph (1) hereof, two (2) or more separate documents containing statements in identical terms each of which is signed by one or more Voting Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Voting Directors on the respective days on which they signed the separate documents.~~

~~(3) A reference in paragraph (1) hereof to all the Voting Directors does not include a reference to a Voting Director who, at a meeting of Voting Directors, would not be entitled to vote on the resolution, or a reference to an alternate Voting Director whose appointor has signed the document mentioned in paragraph (1).~~

The Voting Directors and any Committee appointed by the Voting Directors may pass a resolution without a meeting being held if at least three quarters of the persons entitled to vote on the resolution (and for the avoidance of doubt persons who have declared a conflict of interest in the resolution and not participated in the vote are taken to not be entitled to vote) sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing if the wording of the resolution and statement is identical in each copy. The resolution is passed when at least three quarters of the persons entitled to vote have signed and the number of Non-Executive Directors having signed is greater than the number of Executive Voting Directors having signed.

**68.** All acts done by any meeting of the Voting Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of the committee, or to act as a Director, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

**69. SENIOR EXECUTIVES**

(1) The Voting Directors may from time to time appoint one or more of the Directors to senior executive offices (to be known by such style or title as the Voting Directors determine which may include "Executive Chairman" or "Managing Director" ("Senior Executives"))

for such period and on such terms as they think fit and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.

(2) Any such appointment automatically terminates if he ceases from any cause to be a Director.

**70.** A Senior Executive shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Voting Directors determine.

**71.** (1) The Voting Directors may, upon such terms and conditions and with such restrictions as they think fit, confer upon a Senior Executive any of the powers exercisable by them.

(2) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Voting Directors.

(3) The Voting Directors may at any time withdraw or vary any of the powers so conferred on a Senior Executive.

**72. SECRETARY**

(1) The Voting Directors shall appoint at least one Secretary of the Company and may terminate any such appointment or appointments.

(2) A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Voting Directors determine.

**73. SEAL**

(1) The Voting Directors shall provide for the safe custody of the seal.

(2) The seal shall be used only by the authority of the Voting Directors, or of a committee of one or more Directors authorised by the Voting Directors to authorise the use of the seal, and every document to which the seal is affixed shall be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Voting Directors to countersign that document or a class of documents in which that document is included.

(3) The Company may have for use in particular places in place of its common seal one or more official seals whose impression shall be identical to that of the common seal of the Company with the addition on its face of the name of every place where it is to be used.

- (4) The Company may have a duplicate common seal, which shall be a facsimile of the common seal of the Company with the addition on its face of the words "Share Seal" or "Certificate Seal" and a certificate referring to or relating to securities of the Company sealed with such a duplicate seal shall be deemed to be sealed with the common seal of the Company.

#### **74. INSPECTION OF RECORDS**

Subject to the requirements of the Corporations Act, the Voting Directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of members other than Voting Directors and a member (or any other person) other than a Voting Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Voting Directors or by the Company in general meeting.

#### **75. DIVIDENDS AND RESERVES**

The Voting Directors may declare a dividend.

- 76.** Subject to the Corporations Act, this Constitution and the rights of persons (if any) entitled to shares with special rights to dividend, the Voting Directors may determine that a dividend is payable, fix the amount and the time for payment and authorise the payment or crediting by the Company to, or at the direction of, each member entitled to that dividend.
- 77.** No dividend shall be payable except out of profits. Interest is not payable by the Company in respect of any dividend.
- 78.** (1) The Voting Directors may, before determining that any dividend is payable, set aside out of the profits of the Company such sums as they think proper as reserves to be applied, at the discretion of the Voting Directors, for any purpose for which the profits of the Company may be properly applied.
- (2) Pending any such application the reserves may, at the discretion of the Voting Directors, be used in the business of the Company or be invested in such investments as the Voting Directors think fit.
- (3) The Voting Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.
- 79.** (1) Subject to the rights of persons (if any) entitled to shares with special or restricted rights as to dividends having regard to their terms of issue or this Constitution and subject to

paragraph (4) of Article 86, all dividends shall be paid on all of the shares of a particular class.

- (2) All dividends shall be apportioned and paid having regard to any portion or portions of the period in respect of which the dividend is paid but, if any share is issued on terms providing that it will rank for dividend as from a particular date, that share ranks for dividend accordingly.
- 80.** The Voting Directors may deduct from any dividend payable to a member all sums of money (if any) presently payable by him to the Company in relation to shares in the Company.
- 81.** (1) The Voting Directors when determining that a dividend is payable may, by resolution, direct payment of the dividend wholly or partly by the distribution of specific assets, including paid up shares in, or debentures of, any other corporation and the Voting Directors shall give effect to such a resolution.

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

(3) If a distribution of specific assets to a particular member or members is illegal or, in the Board's opinion, impractical the Board may make a cash payment to the member or members on the basis of the cash amount of the dividend instead of the distribution of specific assets.
- 82.** A dividend, interest or other money payable in cash in respect of shares may be paid using any payment method chosen by the Company, including:

  - (a) by cheque sent through the post directed to the address in the register of the holder or, in the case of joint holders, to the address of the joint holder first named in the register;
  - (b) by cheque sent through the post directed to such other address as the holder or joint holder in writing directs; or
  - (c) by some other method of direct credit determined by the Voting Directors to the holder or holders shown on the register or to such person or place directed by them.

**83. ELECTION TO REINVEST DIVIDEND**

The Voting Directors may grant to members or any class of members the right to elect to reinvest cash dividends paid by the Company by subscribing for shares in the Company on such terms and conditions as the Voting Directors think fit.

**84. ELECTION TO ACCEPT BONUS SHARES IN LIEU OF DIVIDEND**

The Voting Directors may determine in respect of any dividend which it is proposed to pay or to declare on any shares of the Company that holders of the shares may elect to forego the right to share in the proposed dividend or part of such proposed dividend and to receive instead an issue of shares credited as fully paid on such terms as the Voting Directors think fit.

**85. UNCLAIMED DIVIDENDS**

All dividends declared but unclaimed may be invested by the Voting Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed moneys.

**86. CAPITALISATION OF PROFITS AND RESERVES**

- (1) Subject to paragraphs (3) and (6) hereof the Voting Directors or the Company in general meeting may resolve that it is desirable to capitalise any sum, being the whole or part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to members, and that the sum be applied, in any of the ways mentioned in paragraph (3) hereof, for the benefit of members in the proportions which those members hold fully paid shares in the Company or in accordance with the terms of issue of any shares or in accordance with the terms of paragraph (6) hereof.
- (2) The Company shall not pass a resolution as mentioned in paragraph (1) unless the resolution has been recommended by the Voting Directors.
- (3) The ways in which a sum may be applied for the benefit of members under paragraph (1) are:
  - (a) in paying up any amounts unpaid on shares held by members;
  - (b) in paying up in full unissued shares or debentures to be issued to members as fully paid; or
  - (c) partly as mentioned in paragraph (a) and partly as mentioned in paragraph (b).

- (4) The Voting Directors may, at their absolute discretion, when recommending a resolution to be passed pursuant to paragraph (1) determine that each member or some only of the members (to the exclusion absolute or otherwise of any other member or members) shall have the right, subject to such conditions as the Voting Directors may in any particular case specify, to elect to forego that member's entitlement to shares in the sum to be applied for the benefit of members as aforesaid, in respect of all or some of that member's shares, and to participate mutatis mutandis in the capitalisation of another account as referred to in paragraph (1) or to receive a dividend in respect of such shares of such amount as may be determined by the Voting Directors. If the Voting Directors resolve to allow a member or members to make such election each such member may by notice in writing to the Company, given in such form and within such period as the Voting Directors specify, elect to participate in such other account or to receive a dividend in lieu of participation of the sum to be applied for the benefit of members as aforesaid subject to those conditions (if any) as may have been specified by the Voting Directors.
- (5) The Voting Directors may do all things necessary to give effect to the resolution under paragraph (1) and, in particular, to the extent necessary to adjust the rights of the members among themselves, may:
- (a) make cash payments in cases where shares or debentures become issuable in fractions;
  - (b) authorise any person to make, on behalf of all or any of the members entitled to any further shares or debentures on the capitalisation, an agreement with the Company providing for:
    - (i) the issue to them, credited as fully paid up, of any further shares or debentures;  
or
    - (ii) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,and any agreement so made is effective and binding on all the members concerned;
  - (c) fix the value of specified assets; or
  - (d) vest property in trustees.
- (6) The Voting Directors may, at their absolute discretion, resolve to apply any sum, being the whole or part of the amount standing to the credit of any reserve account or the profit and

loss account or otherwise available for distribution to members, in paying up unissued shares to be issued to certain members of the Company and not to other members of the Company, as fully paid bonus shares, under the terms of any employee incentive scheme of the Company.

## **87. NOTICES**

- (1) The Company may give a document to a member:
  - (a) personally;
  - (b) by sending it by post to the address for the member in the register of members or an alternative address nominated by the member;
  - (c) by sending it to a fax number or electronic address nominated by the member; or
  - (d) by sending it to the member by other electronic means nominated by the member.
- (2) A document sent by post:
  - (a) if sent to an address in Australia, may be sent by ordinary post; and
  - (b) if sent to an address outside Australia, must be sent by airmail,and in either case is taken to have been received on the day after the date of its posting.
- (3) If a document is sent by fax or electronic transmission, delivery of the document is taken:
  - (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
  - (b) to have been delivered on the day following its transmission.
- (4) A document may be given by the Company to the joint holders of a share by giving the document to the joint holder first named in the register of members in respect of the share.
- (5) A person who by operation of law, transfer or other means whatsoever becomes entitled to any share is absolutely bound by every document given in accordance with this Article 87 to the person from whom that person derives title prior to registration of that person's title in the register.

(6) A certificate in writing signed by a Voting Director or a Secretary stating that a document was sent to a member by post or by fax or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

**88.** Notice of every general meeting shall be given in the manner authorised by Article 87 and in accordance with the Corporations Act to persons entitled to receive that notice.

**89. WINDING UP**

(1) If the Company is wound up the liquidator may, with the sanction of a special resolution, divide among the members in kind the whole or any part of the property of the Company and may for that purpose set such value as he considers fair upon any property to be so divided and may determine how the division is to be carried out as between the members or different classes of members.

(2) The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributors as the liquidator thinks fit but so that no member is compelled to accept any shares or other securities in respect of which there is any liability.

**90. INDEMNITY AND INSURANCE**

**Indemnity of officers**

(1) Every person who is or has been:

- (a) a director of the Company or of a wholly-owned subsidiary of the Company; or
- (b) a secretary of the Company or of a wholly-owned subsidiary of the Company;

is entitled to be indemnified out of the property of the Company against:

- (c) any liability incurred by the person in that capacity (except a liability for legal costs); and
- (d) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and
- (e) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or of a wholly-owned subsidiary of the Company, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

- (f) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
  - (g) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.
- (2) The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director or secretary of the Company or of a wholly owned subsidiary of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:
- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
  - (b) the contract would, if the Company paid the premium, be made void by law.