

# **Constitution**

**BlueScope Steel Limited**  
**ACN 000 011 058**

**A Company Limited by Shares**

(Consolidated as at 17 November 2011)

**Registered Office:**      **Level 24**  
                                 **181 William Street**  
                                 **Melbourne, Victoria, 3000**

---

# Constitution

---

<b>1</b>	<b>Share capital and variation of rights</b>	<b>10</b>
1.1	Directors to issue shares	10
1.2	Issue of further shares - no variation	10
1.3	Preference shares	10
1.4	Alteration of share capital	10
1.5	Conversion or reclassification of shares	10
1.6	Variation of rights - preference shares	11
1.7	Redeemable preference shares	11
1.8	Class Meetings	11
1.9	Non-recognition of interests	11
1.10	Joint holders of shares	11
<b>2</b>	<b>Certificates</b>	<b>12</b>
<b>3</b>	<b>Lien</b>	<b>12</b>
3.1	Lien on share	12
3.2	Lien on loans under employee incentive schemes	12
3.3	Lien on distributions	12
3.4	Exemption from rule 3.1 or 3.2	12
3.5	Extinguishment of lien	12
3.6	Company's rights to recover payments	12
3.7	Reimbursement is a debt due	13
3.8	Protection of lien	13
3.9	Sale under lien	13
3.10	Limitations on sale under lien	13
3.11	Transfer on sale under lien	13
3.12	Irregularity or invalidity	14
<b>4</b>	<b>Calls on shares</b>	<b>14</b>
4.1	Directors to make calls	14
4.2	Time of call	14
4.3	Members' liability	14
4.4	Joint holders' liability	15
4.5	Non-receipt of notice	15
4.6	Interest on default	15
4.7	Fixed instalments	15
4.8	Differentiation between shareholders as to calls	15

4.9	Prepayment of calls and interest	15
4.10	Proceedings to recover calls	16
<b>5</b>	<b>Forfeiture of shares</b>	<b>16</b>
5.1	Notice requiring payment of call	16
5.2	Contents of notice	16
5.3	Forfeiture for failure to comply with notice	16
5.4	Dividends and distributions included in forfeiture	17
5.5	Sale or re-issue of forfeited shares	17
5.6	Notice of forfeiture	17
5.7	Surrender instead of forfeiture	17
5.8	Cancellation of forfeiture	17
5.9	Effect of forfeiture on former holder's liability	17
5.10	Evidence of forfeiture	17
5.11	Transfer of forfeited share	18
5.12	Registration of transferee	18
5.13	Irregularity or invalidity	18
5.14	Forfeiture applies to non-payment of instalment	18
<b>6</b>	<b>Transfer of shares</b>	<b>18</b>
6.1	Forms of instrument of transfer	18
6.2	Execution and delivery of transfer	18
6.3	Effect of registration	19
6.4	Registration of Forms	19
6.5	Waiver of registration requirements	19
6.6	Power to refuse to register	19
6.7	Written notice to security holder of holding lock or refusal	20
6.8	Company to retain instrument of transfer	20
6.9	Refusal to register	20
6.10	Power to suspend registration of transfers	20
6.11	Computerised or electronic transfers	20
6.12	Resolution required for proportional takeover provisions	20
6.13	Procedure for resolution	21
6.14	Persons entitled to vote	22
6.15	Resolution passed or rejected	22
6.16	Resolution taken as passed	22
6.17	Takeover rules cease to have effect	22

<b>7</b>	<b>Transmission of shares</b>	<b>22</b>
7.1	Transmission of shares on death of holder	22
7.2	Information given by personal representative	22
7.3	Death of joint owner	23
7.4	Transmission of shares on bankruptcy	23
7.5	Transmission of shares on mental incapacity	23
7.6	Registration despite notice of transmission event	24
7.7	Joint transferees	24
<b>8</b>	<b>General meetings</b>	<b>24</b>
8.1	Annual general meeting	24
8.2	Convening general meeting	24
8.3	Notice of general meeting	24
8.4	Calculation of period of notice	25
8.5	Cancellation or postponement of a meeting	25
8.6	Notice of cancellation, postponement or change of place of a meeting	26
8.7	Contents of notice of postponement of meeting	26
8.8	Number of clear days for postponement of meeting	26
8.9	Technology	26
8.10	Business at postponed meeting	26
8.11	Proxy, attorney or Representative at postponed meeting	26
8.12	Non-receipt of notice	27
8.13	Director entitled to notice of meeting	27
<b>9</b>	<b>Proceedings at general meetings</b>	<b>27</b>
9.1	Membership at a specified time	27
9.2	Reference to a Member	28
9.3	Number for a quorum	28
9.4	Requirement for a quorum	28
9.5	Quorum and time	28
9.6	Adjourned meeting	28
9.7	Appointment and powers of chairman of general meeting	28
9.8	Absence of chairman at general meeting	29
9.9	Conduct of general meetings	29
9.10	Amendments to resolutions	29
9.11	Admission to general meetings	30
9.12	Adjournment or suspension of general meeting	30
9.13	Notice of adjourned meeting	31

9.14	Questions decided by majority	31
9.15	Equality of votes - no casting vote for chairman	31
9.16	Declaration of results	31
9.17	Demanding a poll	31
9.18	Poll	32
9.19	Entitlement to vote	32
9.20	Voting restrictions	32
9.21	Voting restrictions on proxies	33
9.22	Voting on a poll for partly paid shares	33
9.23	Fractions disregarded for a poll	33
9.24	Joint shareholders' vote	33
9.25	Vote of shareholder who is an infant	33
9.26	Vote of shareholder of unsound mind	33
9.27	Effect of unpaid call	34
9.28	Validity of vote in certain circumstances	34
9.29	Objection to voting qualification	34
9.30	Power of the chairman	35
<hr/>		
<b>10</b>	<b>Proxies, attorneys and representatives</b>	<b>35</b>
10.1	Appointment of a proxy or attorney	35
10.2	Appointment of a corporate representative	35
10.3	Powers of a proxy, attorney or Representative	35
10.4	Deposit of proxy forms and powers of attorney	36
10.5	Evidence of proxy forms, powers of attorney and other appointments	37
10.6	Standing appointments	37
10.7	Proxy or attorney's powers if Member present	37
10.8	Priority of conflicting appointments of attorney or representative	37
10.9	More than 2 current proxy appointments	38
10.10	Proof of appointment	38
<hr/>		
<b>11</b>	<b>The Directors</b>	<b>38</b>
11.1	Number of Directors	38
11.2	[not used]	<b>Error! Bookmark not defined.</b>
11.3	Retirement of Directors	39
11.4	Office held until, or taken from, conclusion of meeting	39
11.5	Selection of Director to retire	39
11.6	Director elected at general meeting	39
11.7	Eligibility for election as Director	39
11.8	Casual vacancy	40

11.9	Remuneration of Directors	40
11.10	Additional or special duties	40
11.11	Retirement benefit or compensation for loss of office	41
11.12	Expenses	41
11.13	Director's interests	41
11.14	Vacation of office of Director	42
<hr/>		
<b>12</b>	<b>Powers and duties of Directors</b>	<b>43</b>
12.1	Directors to manage Company	43
12.2	Specific powers of Directors	43
12.3	Appointment of delegates	43
12.4	Provisions in power of attorney	43
12.5	Signing of cheques	44
12.6	Directors' committees	44
12.7	Proceedings of Directors' committees	44
12.8	Powers delegated to Directors' committees	44
12.9	Delegation to a Director	44
12.10	Validity of acts	45
12.11	Appointment of Managing and Executive Directors	45
12.12	Ceasing to be Managing or Executive Director	45
12.13	One Managing Director exempt	45
12.14	Remuneration of Managing and Executive Directors	45
12.15	Powers of Managing and Executive Directors	45
12.16	Ceasing to be an employee	46
12.17	Validity of acts of executive officers	46
<hr/>		
<b>13</b>	<b>Proceedings of Directors</b>	<b>46</b>
13.1	Directors' meetings	46
13.2	Director may convene a meeting	46
13.3	Use of technology	46
13.4	Notice of meetings of Directors	46
13.5	Questions decided by majority	47
13.6	Alternate Director and voting	47
13.7	Chairman's casting vote	47
13.8	Appointment of Alternate Director	48
13.9	Alternate Director and meetings	48
13.10	Alternate Director's powers	48
13.11	Alternate Director responsible for own acts and defaults	48
13.12	Alternate Director and remuneration	48

13.13	Termination or suspension of appointment of Alternate Director	48
13.14	Appointment, termination or suspension in writing	49
13.15	Alternate Director and number of Directors	49
13.16	Quorum for Directors' meeting	49
13.17	Remaining Directors may act	49
13.18	Chairman of Directors	49
13.19	Absence of chairman at Directors' meeting	49
13.20	Circulating resolutions	50
13.21	Additional provisions concerning written resolutions	50
13.22	Minutes	51
13.23	Validity of acts of Directors	51
<hr/>		
<b>14</b>	<b>Secretary</b>	<b>51</b>
14.1	Appointment of Secretary	51
14.2	Suspension and removal of Secretary	51
14.3	Powers, duties and authorities of Secretary	51
<hr/>		
<b>15</b>	<b>Seals</b>	<b>51</b>
15.1	Safe custody of common seals	51
15.2	Use of common seal	51
<hr/>		
<b>16</b>	<b>Inspection of records</b>	<b>52</b>
16.1	Inspection by Members	52
16.2	Right of a Member to inspect	52
<hr/>		
<b>17</b>	<b>Dividends and reserves</b>	<b>52</b>
17.1	Payment of dividend	52
17.2	No interest on dividends	52
17.3	Reserves and profits carried forward	52
17.4	Source of dividends	53
17.5	Calculation and apportionment of dividends	53
17.6	Deductions from dividends	53
17.7	Distribution of specific assets	53
17.8	Resolution of distribution difficulties	54
17.9	Payment to holders and joint holders	54
17.10	Effectual receipt from one joint holder	54
17.11	Election to reinvest	55
17.12	Election to accept shares in lieu of dividend	55
17.13	Unclaimed dividends	55

<b>18</b>	<b>Capitalisation of profits</b>	<b>55</b>
18.1	Capitalisation of reserves and profits	56
18.2	Applying a sum for the benefit of Members	56
18.3	Effecting the resolution	56
<b>19</b>	<b>Service of documents</b>	<b>57</b>
19.1	Document includes notice	57
19.2	Methods of service	57
19.3	Post	57
19.4	Fax or electronic transmission	57
19.5	Evidence of service	57
19.6	Counting days	57
19.7	Notices to "lost" Members	58
19.8	Joint holders	58
19.9	Persons entitled to shares	58
19.10	Notices by the Company to Directors	58
19.11	Notices by Directors to the Company	58
<b>20</b>	<b>Winding up</b>	<b>59</b>
20.1	Distributing surplus	59
20.2	Distribution of assets	59
20.3	Powers of liquidator to vest property	59
20.4	Shares issued on special terms	60
<b>21</b>	<b>Indemnity and insurance</b>	<b>60</b>
21.1	Indemnity – Directors and Secretary	60
21.2	Indemnity – Executive Officers	60
21.3	Insurance	61
21.4	Contract	61
21.5	No Limit	62
<b>22</b>	<b>Restricted Securities</b>	<b>62</b>
22.1	Disposal during Escrow Period	62
22.2	Breach of Restriction Agreement or Listing Rules	62
<b>23</b>	<b>Small Holdings</b>	<b>62</b>
23.1	Divestment Notice	62
23.2	Relevant Period	63
23.3	Company can sell Relevant Shares	63
23.4	No obligation to sell	63

23.5	Company as Member's attorney	63
23.6	Conclusive evidence	63
23.7	Registering the purchaser	64
23.8	Payment of proceeds	64
23.9	Costs	64
23.10	Remedy limited to damages	64
23.11	Dividends and voting suspended	64
23.12	12 month limit	65
23.13	Effect of takeover bid	65
<hr/>		
<b>24</b>	<b>Definitions and Interpretation</b>	<b>65</b>
24.1	Definitions	65
24.2	Interpretation	67
24.3	Corporations Act	68
24.4	Listing Rules and ASX Settlement Rules - interpretation	68
24.5	Headings and Parts	69
24.6	Replaceable rules not to apply	69
24.7	Currency	69
24.8	Application of Listing Rules	69
24.9	Submission to jurisdiction	70
24.10	Prohibition and enforceability	70
<hr/>		
<b>Schedule 1 – Rights attaching to preference shares</b>		<b>71</b>

---

## **1 Share capital and variation of rights**

### **1.1 Directors to issue shares**

The issue of shares in the Company is under the control of the Directors who:

- (a) may issue or dispose of shares to any person at any time and on any terms and conditions and having attached to them any preferred, deferred or other special rights or restrictions, whether with regard to dividend, voting, return of capital or otherwise, as the Directors think fit;
- (b) may grant to any person an option over shares or pre-emptive rights at any time and for any consideration as they think fit; and
- (c) have the right to settle the manner in which fractions of a share, however arising, are to be dealt with,

subject to the Corporations Act, the Listing Rules and any special rights conferred on the holders of any shares or class of shares.

### **1.2 Issue of further shares - no variation**

Subject to rule 1.6, the rights conferred on the holders of the shares of any class are not to be taken as varied by the issue of further shares ranking equally with the first-mentioned shares unless:

- (a) expressly provided by the terms of issue of the first-mentioned shares; or
- (b) required by the Corporations Act or the Listing Rules.

### **1.3 Preference shares**

The Company may issue preference shares and any issued shares may be converted into preference shares if the rights of the holders of the preference shares are as set out in schedule 1 or approved in accordance with the Corporations Act and the Listing Rules (as applicable).

### **1.4 Alteration of share capital**

Subject to the Corporations Act, the Directors may do anything required to give effect to any resolution altering the Company's share capital, including settling the manner in which fractions of a share, however arising, are to be dealt with.

### **1.5 Conversion or reclassification of shares**

Subject to the Corporations Act and rule 1.6, the Company may by resolution convert or reclassify shares from one class to another.

## **1.6 Variation of rights - preference shares**

Where the Company proposes to issue preference shares or to convert issued shares into preference shares and those preference shares are to rank in priority to preference shares already issued, unless expressly permitted by the conditions of issue of the preference shares already issued, the issue or conversion is taken to be a modification of the rights attached to the preference shares already issued.

## **1.7 Redeemable preference shares**

Subject to rule 1.3 and the Corporations Act, the Company may issue redeemable preference shares. The Directors may determine the terms and conditions of redemption before the issue of the shares.

## **1.8 Class Meetings**

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.

## **1.9 Non-recognition of interests**

Except as required by law, the Company is not required to recognise:

- (a) a person as holding a share on any trust; or
- (b) any other interest in any share or any other right in respect of a share except an absolute right of ownership in the registered holder,

whether or not it has notice of the trust, interest or right.

## **1.10 Joint holders of shares**

Where two or more persons are registered as the joint holders of shares then they are taken to hold the shares as joint tenants with rights of survivorship, but the Company is not bound:

- (a) to register more than three persons as joint holders of a share; or
- (b) to issue more than one certificate or holding statement in respect of shares jointly held.

---

## **2 Certificates**

The Directors may determine to issue certificates for shares or other securities of the Company, to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form it thinks fit.

---

## **3 Lien**

### **3.1 Lien on share**

The Company has a first and paramount lien on every share for:

- (a) all due and unpaid calls and instalments in respect of that share;
- (b) all money which the Company has been called on by law to pay, and has paid, in respect of that share;
- (c) interest at the Prescribed Interest Rate on the amount due from the date it becomes due until payment; and
- (d) reasonable expenses of the Company in respect of the default on payment.

### **3.2 Lien on loans under employee incentive schemes**

The Company also has a first and paramount lien on each share registered in the name of the Member for all money payable to the Company by the Member under loans made under an employee incentive scheme.

### **3.3 Lien on distributions**

A lien on a share under rule 3.1 or 3.2 extends to all distributions in respect of that share, including dividends, and to the proceeds of a sale of the share.

### **3.4 Exemption from rule 3.1 or 3.2**

The Directors may:

- (a) at any time exempt a share wholly or in part from the provisions of rule 3.1 or 3.2; or
- (b) waive or compromise all or part of any payment due to the Company under this rule 3.

### **3.5 Extinguishment of lien**

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.

### **3.6 Company's rights to recover payments**

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) obliged 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 obliged 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.

### **3.7 Reimbursement is a debt due**

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.

### **3.8 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 to by law or under this Constitution.

### **3.9 Sale under lien**

Subject to rule 3.10, the Company may sell, in any manner the Directors think fit, any share on which the Company has a lien.

### **3.10 Limitations on sale under lien**

A share on which the Company has a lien may not be sold by the Company unless:

- (a) an amount in respect of which the lien exists is presently payable; and
- (b) the Company has, not less than 14 days before the date of sale, given to the registered holder 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, the amount which is presently payable in respect of which the lien exists.

### **3.11 Transfer on sale under lien**

- (a) For the purpose of giving effect to a sale under rule 3.9, the Company may receive the consideration, if any, given for the share so sold and may execute a transfer of the share sold in favour of the purchaser of the share, or do all such other things as may be necessary or appropriate for it to do to effect the transfer.

- (b) A person to whom the Company sells shares under rule 3.9 need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration on the sale is applied. A sale of the share by the Company is valid even if a transmission event occurs to the Member before the sale.
- (c) The only remedy of a person who suffers a loss because of a sale of a share by the Company under rule 3.9 is a claim for damages against the Company.
- (d) The proceeds of a sale of shares by the Company under rule 3.9 must be applied in paying:
  - (i) first, the expenses of the sale;
  - (ii) secondly, all amounts payable (whether presently or not) by the former holder to the Company,and any balance must be paid to the former holder on the former holder delivering to the Company proof of title to the shares acceptable to the Directors.
- (e) The Company is not required to pay interest on money payable to a former holder under this rule 3.11.

### **3.12 Irregularity or invalidity**

The title of the purchaser to the share is not affected by any irregularity or invalidity in connection with the sale of the share.

---

## **4 Calls on shares**

### **4.1 Directors to make calls**

The Directors may:

- (a) make calls on a Member in respect of any money unpaid on the shares of that Member, if the money is not by the terms of issue of those shares made payable at fixed times;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call.

### **4.2 Time of call**

A call is taken to be made at the time when the resolution of the Directors authorising the call is passed.

### **4.3 Members' liability**

Each Member must upon receiving not less than 10 Business Days notice specifying the time or times and place of payment, pay to the Company at the time or times and place so specified the amount called on that Member's shares.

#### **4.4 Joint holders' liability**

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

#### **4.5 Non-receipt of notice**

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.

#### **4.6 Interest on default**

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 must pay interest on the sum to the time of actual payment at the Prescribed Interest Rate. Interest accrues daily and may be capitalised monthly or at such other intervals the Directors decide. The Directors may waive payment of that interest wholly or in part.

#### **4.7 Fixed instalments**

Subject to any notice requirements under the Listing Rules, 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 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.

#### **4.8 Differentiation between shareholders as to calls**

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

#### **4.9 Prepayment of calls and interest**

The Directors may:

- (a) accept from a Member the whole or a part of the amount unpaid on a share even if no part of that amount has been called; and
- (b) authorise payment by the Company of interest on the whole or any part of an amount so accepted, until the amount becomes payable, at such rate, not exceeding the Prescribed Interest Rate, as is agreed on between the Directors and the Member paying the sum.

#### **4.10 Proceedings to recover calls**

- (a) In a proceeding to recover a call, or an amount payable due to the failure to pay or late payment of a call, proof that:
- (i) the name of the defendant is entered in the register as the holder or one of the holders of the share on which the call is claimed;
  - (ii) the resolution making the call is recorded in the minute book; and
  - (iii) notice of the call was given to the defendant complying with this Constitution,
- is conclusive evidence of the obligation to pay the call and it is not necessary to prove the appointment of the Directors who made the call or any other matter.
- (b) In rule 4.10(a), **defendant** includes a person against whom the Company alleges a set-off or counterclaim, and a **proceeding** to recover a call or an amount is to be interpreted accordingly.

---

## **5 Forfeiture of shares**

### **5.1 Notice requiring payment of call**

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 Directors may, at any time afterwards during such time as any part of the call or instalment remains unpaid, give a notice on the Member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs and expenses that may have been incurred by the Company by reason of that non-payment.

### **5.2 Contents of notice**

The notice must 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 must 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.

### **5.3 Forfeiture for failure to comply with notice**

If a notice under rule 5.1 has not been complied with by the date specified in the notice, the Directors may, at any time before the payment required by the notice is made, resolved to forfeit the relevant shares.

#### **5.4 Dividends and distributions included in forfeiture**

A forfeiture under rule 5.3 includes all dividends and other distributions declared or to be made in respect of the forfeited shares and not actually paid or distributed before the forfeiture.

#### **5.5 Sale or re-issue of forfeited shares**

Subject to the Corporations Act, a share forfeited under rule 5.3 may be sold, re-issued or otherwise disposed of to whom and on such terms as the Directors think fit.

#### **5.6 Notice of forfeiture**

If any share is forfeited under rule 5.3, notice of the forfeiture must be given to the Member holding the share immediately before the forfeiture and an entry of the forfeiture and its date must be made in the Register.

#### **5.7 Surrender instead of forfeiture**

The Directors may accept the surrender of any share which they are entitled to forfeit on any terms they think fit and any share so surrendered is taken to be a forfeited share.

#### **5.8 Cancellation of forfeiture**

At any time before a sale or disposition of a share under rule 5.5, the forfeiture of that share may be cancelled on such terms as the Directors think fit.

#### **5.9 Effect of forfeiture on former holder's liability**

A person whose shares have been forfeited:

- (a) ceases to be a Member in respect of the forfeited shares;
- (b) loses all entitlement to dividends and other distributions or entitlements on the shares; and
- (c) remains liable to pay the Company all money that, at the date of forfeiture, was payable by that person to the Company in respect of the shares, plus interest at the Prescribed Interest Rate from the date of forfeiture and also reasonable expenses of sale unless the Company receives payment in full of all money (including interest and expenses) payable in respect of the shares.

#### **5.10 Evidence of forfeiture**

A statement in writing declaring that the person making the statement is a Director or a Secretary, and that a share in the Company has been forfeited in accordance with this Constitution on the 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.

### **5.11 Transfer of forfeited share**

The Company may receive the consideration (if any) given for a forfeited share on any sale or disposition of the share under rule 5.5 and may execute or effect a transfer of the share in favour of the person to whom the share is sold or disposed of.

### **5.12 Registration of transferee**

- (a) On the execution of the transfer, the transferee must be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.
- (b) Failure to record appropriate registrations following a forfeiture does not invalidate the forfeiture.

### **5.13 Irregularity or invalidity**

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.

### **5.14 Forfeiture applies to non-payment of instalment**

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, as if that sum had been payable by virtue of a call duly made and notified.

---

## **6 Transfer of shares**

### **6.1 Forms of instrument of transfer**

Subject to the Listing Rules and to this Constitution, shares in the Company are transferable:

- (a) in the case of CHESS Approved Securities, in accordance with the CHESS Rules;
- (b) by instrument in writing in any usual or common form or in any other form that the Directors approve; or
- (c) by any other method of transfer of marketable securities which is recognised by the Corporations Act, ASX Settlement and ASX and is approved by the Directors.

### **6.2 Execution and delivery of transfer**

If an instrument of transfer is to be used to transfer a share in accordance with rule 6.1(b), it must be:

- (a) a proper instrument of transfer within the meaning of the Corporations Act;
- (b) executed by or on behalf of both the transferor and the transferee unless it is a sufficient transfer of marketable securities within the meaning of the Corporations Act; and

- (c) left for registration at the share registry of the Company, accompanied by the information the Directors properly require to show the right of the transferor to make the transfer,

and in that event the Company must, subject to the powers vested in the Directors by this Constitution, register the transferee as the holder of the share.

### **6.3 Effect of registration**

Except as provided by the CHES Rules, a transferor of a share remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the share and a transfer of a share does not pass the right to any dividends declared on the share until registration.

### **6.4 Registration of forms**

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 charge except where permitted by the Listing Rules.

### **6.5 Waiver of registration requirements**

The Directors may, to the extent the law permits, waive any of the requirements of rules 6.1, 6.2, 6.3 and 6.4 and prescribe alternative requirements instead, whether to give effect to rule 6.11 or for another purpose.

### **6.6 Power to refuse to register**

If permitted to do so by the Listing Rules the Directors may:

- (a) request ASX Settlement to apply a holding lock to prevent a transfer of CHES Approved Securities from being registered on the CHES sub-register; or
- (b) refuse to register a transfer of shares in the Company to which paragraph (a) does not apply,

whenever they see fit, including without limitation, where:

- (c) the Company has a lien on any of the shares transferred;
- (d) the transfer is paper-based and registration of the transfer will create a new holding which, at the time the transfer is lodged, is less than a marketable parcel;
- (e) the transfer is not permitted under the terms of an employee share plan; or
- (f) the transfer is in breach of the Listing Rules or a Restriction Agreement.

**6.7 Written notice to security holder of holding lock or refusal**

If in the exercise of their right under rule 6.6 the Directors request application of a holding lock to prevent a transfer of CHESS Approved Securities or refuse to register a transfer of a security they must within 5 Business Days, give written notice of the request or refusal to the holder of the Security, the transferee and the broker lodging the transfer, if any. Failure to give such notice does not invalidate the decision of the Directors.

**6.8 Company to retain instrument of transfer**

The Company must retain every instrument of transfer which is registered for such period as the Directors determine.

**6.9 Refusal to register**

If the Directors refuse registration of a transfer, the transfer must be returned to the person who deposited it if demand is made by that person 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.

**6.10 Power to suspend registration of transfers**

The Directors may suspend the registration of transfers at any times, and for any periods, permitted by the ASX Settlement Rules that they decide.

**6.11 Computerised or electronic transfers**

The Directors may do anything that is necessary or desirable for the Company to participate in any computerised, electronic or other system for facilitating the transfer of shares or operation of the Company's registers that may be owned, operated or sponsored by ASX or a related body corporate of ASX.

**6.12 Resolution required for proportional takeover provisions**

Notwithstanding rules 6.1, 6.2 and 6.3, if offers are made under a proportional takeover bid for securities of the Company in accordance with the Corporations Act:

- (a) rules 6.12 to 6.16 apply;
- (b) the registration of a transfer giving effect to a takeover contract resulting from acceptance of an offer made under the takeover bid is prohibited unless and until a resolution (an "approving resolution") to approve the bid is passed in accordance with rule 6.15 or rule 6.16; and
- (c) the Directors must ensure that an approving resolution is voted on in accordance with rules 6.13 to 6.14 before the fourteenth day before the last day of the bid period.

### 6.13 Procedure for resolution

The Directors may determine whether the approving resolution is voted on:

- (a) at a meeting of persons entitled to vote on the resolution convened and conducted, subject to the provisions of rule 6.14, as if it were a general meeting of the Company convened and conducted in accordance with this Constitution and the Corporations Act with such modifications as the Directors determine the circumstances require; or
- (b) by means of a postal ballot conducted in accordance with the following procedure:
  - (i) a notice of postal ballot and ballot paper must be sent to all persons entitled to vote on the resolution not less than 14 days before the date specified in the notice for closing of the postal ballot, or such lesser period as the Directors determine the circumstances require;
  - (ii) the non-receipt of a notice of postal ballot or ballot paper by, or the accidental omission to give a notice of postal ballot or ballot paper to, a person entitled to receive them does not invalidate the postal ballot or any resolution passed under the postal ballot;
  - (iii) the notice of postal ballot must contain the text of the resolution and the date for closing of the ballot and may contain any other information the Directors consider appropriate;
  - (iv) each ballot paper must specify the name of the person entitled to vote;
  - (v) a postal ballot is only valid if the ballot paper is duly completed and:
    - (A) if the person entitled to vote is an individual, signed by the individual or a duly authorised attorney; or
    - (B) if the person entitled to vote is a corporation, executed under seal or as permitted by the Corporations Act or under the hand of a duly authorised officer or duly authorised attorney;
  - (vi) a postal ballot is only valid if the ballot paper and the power of attorney or other authority, if any, under which the ballot paper is signed or a copy of that power or authority certified as a true copy by statutory declaration is or are received by the Company before close of business on the date specified in the notice of postal ballot for closing of the postal ballot at the Registered Office or share registry of the Company or at such other place as is specified for that purpose in the notice of postal ballot; and

- (vii) a person may revoke a postal ballot vote by notice in writing to be received by the Company before the close of business on the date for closing of the postal ballot.

#### **6.14 Persons entitled to vote**

The only persons entitled to vote on the approving resolution are those persons who, as at the end of the day on which the first offer under the bid was made, held bid class securities. Each person who is entitled to vote is entitled to one vote for each bid class security held by that person at that time.

Neither the bidder nor any associate of the bidder is entitled to vote on the resolution.

#### **6.15 Resolution passed or rejected**

If the resolution is voted on in accordance with rules 6.12 to 6.14 then it is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is to be taken to have been rejected.

#### **6.16 Resolution taken as passed**

If a resolution to approve the bid has not been voted on as at the end of the day before the fourteenth day before the last day of the offer period, then a resolution to approve the bid is taken to have been passed in accordance with rules 6.13 to 6.15.

#### **6.17 Takeover rules cease to have effect**

Rules 6.12 to 6.16 cease to have effect on the day three years after the later of their adoption or last renewal.

---

## **7 Transmission of shares**

### **7.1 Transmission of shares on death of holder**

If a Member, who does not own shares jointly, dies, the Company is to recognise only the personal representative of the Member as being entitled to the Member's interest in the shares.

### **7.2 Information given by personal representative**

If the personal representative gives the Directors the information they reasonably require to establish the representative's entitlement to be registered as a holder of the shares:

- (a) the personal representative 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 personal representative 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 personal representative as the holder of the shares.

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

### **7.3 Death of joint owner**

If a Member, who owns shares jointly, dies, the Company will recognise only the survivor as being entitled to the Member's interest in the shares. The estate of the Member is not released from any liability in respect of the shares.

### **7.4 Transmission of shares on bankruptcy**

If a person entitled to shares because of the bankruptcy of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as holder of the shares, the person may:

- (a) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
- (b) by giving a completed transfer form to the Company, transfer the shares to another person.

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

A transfer under paragraph (b) is subject to the rules that apply to transfers generally.

This rule has effect subject to the Bankruptcy Act 1966 (Cwlth).

### **7.5 Transmission of shares on mental incapacity**

If a person entitled to shares because of the mental incapacity of a Member gives the 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 rules that apply to transfers generally.

## **7.6 Registration despite notice of transmission event**

- (a) For the purposes of rules 3.11(b), 7.6 and 7.7, **transmission event** means:
- (i) for a Member who is an individual:
    - (A) the Member's death;
    - (B) the Member's bankruptcy; or
    - (C) the Member becoming of unsound mind or a person who, or whose estate, is liable to be dealt with in any way under the law relating to mental health; and
  - (ii) for a Member who is a body corporate, the dissolution of the Member or the succession by another body corporate to the assets and liabilities of the Member.
- (b) The Directors may register a transfer of shares signed by a Member before a transmission event even though the Company has notice of the transmission event.

## **7.7 Joint transferees**

The Directors are entitled to treat joint transferees under a transmission event as joint holders of the transferred shares.

---

# **8 General meetings**

## **8.1 Annual general meeting**

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

## **8.2 Convening general meeting**

A Director or the Directors may convene and arrange to hold a general meeting of the Company whenever they think fit and must do so if required to do so under the Corporations Act.

## **8.3 Notice of general meeting**

- (a) Notice of a meeting of Members must be given to the Members, Directors and Auditor in accordance with Part 19 and the Corporations Act.
- (b) The content of a notice of general meeting called by the Directors is to be decided by the Directors, but the notice must state the general nature of the business to be transacted at the meeting and any other matters required by the Corporations Act.

- (c) Unless the Corporations Act provides otherwise, no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting.

#### **8.4 Calculation of period of notice**

In computing the period of notice under rule 8.3, the day on which the notice is given or taken to be given is to be disregarded.

#### **8.5 Cancellation or postponement of a meeting**

- (a) Where a meeting of Members (including an annual general meeting) is convened, the Directors may whenever they think fit, by notice cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

The notice must be:

- (i) published in a daily newspaper circulating in Australia;
  - (ii) given to the ASX; or
  - (iii) subject to the Corporations Act and the Listing Rules, given in any other manner determined by the Directors.
- (b) Without limiting the circumstances in which the Directors may cancel a meeting, postpone the holding of a meeting or change the place for the meeting under rule 8.5(a), the Directors may do so (giving notice in the manner described in rule 8.5(a)) if they consider:
    - (i) the meeting has become unnecessary,
    - (ii) the announced venue would be unreasonable or impractical; or
    - (iii) taking such action is necessary in the interests of conducting the meeting efficiently.
  - (c) In addition to the powers of the Directors under rules 8.5(a) and 8.5(b), the chairman may postpone a meeting of Members before it has started, whether or not a quorum is present, if, at the time and place appointed for the meeting, he or she considers that:
    - (i) there is not enough room for the number of Members who wish to attend the meeting; or
    - (ii) a postponement is necessary in light of the behaviour of persons present or for any other reason so that the business of the meeting can be properly carried out.
  - (d) Rule 8.5 does not apply:
    - (i) to a meeting convened by the Court; or
    - (ii) to a meeting convened in accordance with the Corporations Act by a single Director, unless that Director consents to the cancellation or postponement.

**8.6 Notice of cancellation, postponement or change of place of a meeting**

Notice of cancellation, postponement or a change of place of a general meeting given under rule 8.5(a) or 8.5(b) must state the reason for cancellation, postponement or change of place.

**8.7 Contents of notice of postponement of meeting**

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.

**8.8 Number of clear days for postponement of meeting**

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days notice of the general meeting required to be given by this Constitution or the Corporations Act.

**8.9 Technology**

- (a) The Company may hold a meeting of Members at two or more places using any technology that gives the Members as a whole a reasonable opportunity to participate.
- (b) If, before or during a meeting of Members any technical difficulty occurs where all Members may not be able to participate, the chairman of the meeting may:
  - (i) adjourn the meeting until the difficulty is remedied; or
  - (ii) where a quorum remains present (in the venue at which the chairman is present) and able to participate, subject to the Corporations Act, continue the meeting.

**8.10 Business at postponed meeting**

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.

**8.11 Proxy, attorney or Representative at postponed meeting**

Where:

- (a) by the terms of an instrument appointing a proxy or attorney or of an appointment of a Representative, a proxy or an attorney or a Representative is authorised to attend and vote

at a general meeting to be held on a specified date or 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 rule, 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 notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

#### **8.12 Non-receipt of notice**

- (a) The non-receipt of notice of a general meeting or proxy form, or cancellation or postponement of a general meeting by, or the accidental omission to give notice or inadvertent error in giving 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.
- (b) A person may waive notice of any general meeting by written notice to the Company.
- (c) A person who has not duly received notice of a general meeting may, before or after the meeting, notify the Company of the person's agreement to any thing done or resolution passed at the general meeting.
- (d) A persons' attendance at a general meeting waives any objection that person may have had to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting.

#### **8.13 Director entitled to notice of meeting**

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

---

## **9 Proceedings at general meetings**

### **9.1 Membership at a specified time**

The 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.

**9.2 Reference to a Member**

Unless the contrary intention appears, a reference to a Member in Part 9 means a person who is a Member, or is a proxy, attorney or Representative of that Member.

**9.3 Number for a quorum**

Subject to rule 9.6, three Members present in person or by proxy, attorney or Representative and entitled to vote, are a quorum at a general meeting. Each individual present may only be counted once towards a quorum. If a Member has appointed more than one proxy or Representative only one of them may be counted towards a quorum.

**9.4 Requirement for a quorum**

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the chairman of the meeting (on the chairman's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

**9.5 Quorum and time**

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or at the request of Members, is dissolved; and
- (b) in any other case stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

**9.6 Adjourned meeting**

At a meeting adjourned under rule 9.5(b), two persons each being a Member, proxy, attorney or Representative present at the meeting are a quorum and, if a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

**9.7 Appointment and powers of chairman of general meeting**

If the Directors have elected one of their number as chairman of their meetings, that person is entitled to preside as chairman at a general meeting.

### **9.8 Absence of chairman at general meeting**

If a general meeting is held and:

- (a) a chairman has not been elected by the Directors; or
- (b) the elected chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chairman of the meeting (in order of precedence):

- (c) the deputy chairman (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present;
- (f) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative who are entitled to vote at the meeting.

### **9.9 Conduct of general meetings**

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;
- (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;
- (d) may, subject to the Corporations Act, eject a Member from the meeting, at any time the chairman considers it is necessary or desirable for the proper and orderly conduct of the meeting; and
- (e) may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by him or her,

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

### **9.10 Amendments to resolutions**

Except with the approval of the chairman, no person may move any amendment to a:

- (a) proposed resolution the terms of which are set out in the notice calling the meeting; or

- (b) document which relates to such a resolution and a copy of which has been made available to Members to inspect or obtain.

#### **9.11 Admission to general meetings**

- (a) The chairman of a general meeting may take any action the chairman 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:
  - (i) in possession of a pictorial-recording or sound-recording device;
  - (ii) in possession of a placard or banner;
  - (iii) in possession of an article considered by the chairman to be dangerous, offensive or liable to cause disruption;
  - (iv) who refused to produce or to permit examination of any article, or the contents of any article, in the person's possession;
  - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive way; or
  - (vi) who is not entitled to receive notice of the meeting.
- (b) The chairman may delegate the powers conferred by rule 9.11(a) to any person he or she thinks fit.
- (c) A person, whether a Member or not, requested by the Directors or the chairman to attend a general meeting is entitled to be present and, at the request of the chairman, to speak at the meeting.

#### **9.12 Adjournment or suspension of general meeting**

- (a) 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:
  - (i) 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 who are entitled to vote at the meeting; and
  - (ii) only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) Unless permitted by the chairman, a vote may not be taken or demanded by the Members present in respect of any adjournment.

- (c) The chairman of a general meeting may at any time during the meeting, for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period or periods as he or she decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chairman otherwise allows.

#### **9.13 Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

#### **9.14 Questions decided by majority**

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.

#### **9.15 Equality of votes - no casting vote for chairman**

If there is an equality of votes, either on a show of hands or on a poll, the chairman of the meeting is not entitled to a casting vote in addition to any votes to which the chairman is entitled as a Member or proxy or attorney or Representative. If an equal number of votes is cast for and against a resolution, the matter is decided in the negative.

#### **9.16 Declaration of results**

- (a) At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.
- (b) 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. Neither the chairman nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution where the resolution is decided on a show of hands.

#### **9.17 Demanding a poll**

- (a) A poll may be demanded:
  - (i) before the show of hands is taken;
  - (ii) before the result of the show of hands is declared; or
  - (iii) immediately after the result of the show of hands is declared.
- (b) A poll may be demanded by:

- (i) the chairman of the meeting; or
- (ii) otherwise in accordance with the Corporations Act.

#### **9.18 Poll**

If a poll is demanded:

- (a) subject to rule 9.18(b) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is the resolution of the meeting at which the poll was demanded;
- (b) votes which the Corporations Act require to be cast in a given way must be treated as cast in that way;
- (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.

A poll permitted by the Chairman under rule 9.12(b) must be taken immediately.

#### **9.19 Entitlement to vote**

Subject to any rights or restrictions for the time being attached to any class or classes of shares and to this Constitution:

- (a) on a show of hands, each Member present in person and each other person present as a proxy, attorney or Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote for each fully paid share held by the Member and each person present as proxy, attorney or Representative of a Member has one vote for each fully paid share held by the Member that the person represents.

A Member is not entitled to vote at a general meeting in respect of shares which are the subject of a current Restriction Agreement for so long as any breach of that agreement subsists.

#### **9.20 Voting restrictions**

If:

- (a) the Corporations 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.

### **9.21 Voting restrictions on proxies**

If a Member has appointed two proxies and each attends the meeting, on a show of hands, neither of those proxies may vote. If a proxy purports to vote in a way or in circumstances that contravene the Corporations Act, on a show of hands the vote is invalid and the Company must not count it and on a poll rule 9.18 applies.

### **9.22 Voting on a poll for partly paid shares**

Subject to rule 9.27 and the terms on which shares are issued, if a Member holds partly paid shares, the number of votes the Member has in respect of those shares on a poll is determined as follows:

$$\frac{A \times B}{C} = D$$

where:

A is the number of those shares held by the Member;

B is the amount paid on each of those shares excluding any amount:

- (a) paid or credited as paid in advance of a call; and
- (b) credited as paid on those shares to the extent that it exceeds the value (ascertained at the time of issue of those shares) of the consideration received for the issue of those shares;

C is the issue price of each of these shares; and

D is the number of votes the Member has.

### **9.23 Fractions disregarded for a poll**

On the application of rule 9.22, disregard any fraction which arises.

### **9.24 Joint shareholders' vote**

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 counts.

### **9.25 Vote of shareholder who is an infant**

The parent or guardian of an infant Member may vote at any general meeting upon such evidence being produced of the relationship or of the appointment of the guardian as the Directors may require and any vote so tendered by a parent or guardian of an infant Member must be accepted to the exclusion of the vote of the infant Member.

### **9.26 Vote of shareholder of unsound mind**

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, then the Member's committee or trustee or any other person

who properly has the management of the Member's 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, provided at least 48 hours before the meeting (or such shorter time as the Directors determine), the Directors:

- (a) admitted that person's right to vote at that meeting in respect of the share; or
- (b) were satisfied of that person's right to be registered as the holder of, or to transfer, the share.

Any vote duly tendered by that person must be accepted and the vote of the registered holder of that share must not be counted.

#### **9.27 Effect of unpaid call**

A Member is not entitled at a general meeting to cast a vote attached to a share on which a call is due and payable and has not been paid.

#### **9.28 Validity of vote in certain circumstances**

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated;
- (c) the Member revokes the appointment or authority;
- (d) the Member revokes the authority under which the appointment was made by a third party; or
- (e) the Member transfers the share in respect of which the appointment or authority was given and the transfer is not registered by the time at which the instrument appointing the proxy, attorney or Representative is required to be received under rule 10.4.

#### **9.29 Objection to voting qualification**

- (a) An objection to the right of a person to attend or vote at the meeting or adjourned meeting:
  - (i) may not be raised except at that meeting or adjourned meeting; or
  - (ii) the validity of a vote tendered at the meeting must be raised before or immediately after the result of the vote is declared.
- (a) An objection under rule 9.29(a) must be referred to the chairman of the meeting, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

### **9.30 Power of the chairman**

The chairman may decide any difficulty or dispute which arises as to the number of votes which may be cast by or on behalf of any Member and the decision of the chairman is final.

---

## **10 Proxies, attorneys and representatives**

### **10.1 Appointment of a proxy or attorney**

- (a) A Member may appoint up to 2 proxies to attend and act for the Member at a meeting of Members.
- (b) An appointment of a proxy must be made by written notice lodged or deposited with the Company as required by rule 10.4:
  - (i) that complies with the Corporations Act; or
  - (ii) in any other form and mode that complies with the Listing Rules and is signed or acknowledged by the Member (including in respect of appointments lodged or deposited electronically) in a manner satisfactory to the Directors.
- (c) In respect of the appointment of an attorney, if the appointor is an individual, the power of attorney must be signed in the presence of a witness. An attorney, if authorised by the power, may appoint a proxy to act at a meeting of the Company.
- (b) If a Member appoints 2 proxies to vote at the same general meeting and if the appointment does not specify the proportion or number of the Member's votes each proxy may exercise (subject to rule 10.9), each proxy may exercise half of those votes.
- (c) Any instrument of proxy deposited under this rule 10 in which no person is named as the proxy, is treated as having been given in favour of the chairman of the meeting.

### **10.2 Appointment of a corporate representative**

A Member that is a body corporate may appoint an individual to act as its Representative at meetings of Members as permitted by the Corporations Act. Evidence of the appointment may be deposited with the Company in any form satisfactory to the Directors.

### **10.3 Powers of a proxy, attorney or Representative**

- (a) Unless otherwise provided in the instrument or resolution appointing a proxy, attorney or Representative, the proxy, attorney or Representative has the same rights to speak, demand a poll, join in demanding a poll or act generally at the meeting as the Member would have had if the Member was present.

- (b) Unless otherwise provided in the instrument or resolution appointing a proxy, attorney or Representative, an appointment will be taken to confer authority:
  - (i) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
    - (A) to vote on any amendment moved, subject to rule 9.10, to a proposed resolution and on any motion that a proposed resolution not be put or any similar motion;
    - (B) to vote on any procedural motion, including any motion to elect the chairman, to vacate the chair or, subject to rule 9.12(b), to adjourn the meeting; and
    - (C) to act generally at the meeting; and
    - (D) even though the instrument may refer to a specific meeting to be held at a specified time or place, where the meeting is rescheduled, postponed or adjourned to another time or changed to another place, to attend and vote at the rescheduled, postponed or adjourned meeting or at the new place.
- (c) A vote given in accordance with an instrument appointing a proxy or attorney is valid despite the transfer of the share in respect of which the vote was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be received under rule 10.4.

#### **10.4 Deposit of proxy forms and powers of attorney**

An appointment of a proxy or an attorney, the revocation of the appointment of a proxy or attorney, or the appointment of a Representative of a proxy which is a body corporate, is not effective for a particular meeting of Members unless the instrument effecting the appointment, together with any evidence required under rule 10.5, is received by the Company at its Registered Office or is transmitted to and received at a fax number at that office (or another address (including electronic address) specified for the purpose in the relevant notice of meeting):

- (a) at least 48 hours before the time for which the meeting was called; or
- (b) if the meeting has been adjourned, at least 48 hours before the resumption of the meeting; or
- (c) in either case, within any greater time before the meeting permitted by the Corporations Act.

## **10.5 Evidence of proxy forms, powers of attorney and other appointments**

The Directors may require evidence of:

- (a) in the case of a proxy form executed by an attorney, the relevant power of attorney 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 Representative, the appointment of the Representative in accordance with the Corporations Act (for example, a copy of the minute recording the resolution by which the Representative was appointed, certified as true and correct by a director or secretary of the body corporate, or a certificate duly executed by the body corporate certifying the appointment of the Representative); or
- (d) in the case of any appointment under this Part 10 which is transmitted to the Company electronically, the identity of the person who transmitted the message containing the appointment.

## **10.6 Standing appointments**

- (a) 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.
- (b) A proxy, attorney or Representative need not be a Member.

## **10.7 Proxy or attorney's powers if Member present**

- (a) The appointment of a proxy or attorney is not revoked by the Member attending and taking part in the general meeting, but 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.
- (b) The appointment of a proxy is not revoked by the Member attending by attorney and that attorney taking part in the general meeting, but if the attorney votes on a resolution, the proxy is not entitled to vote, and must not vote, as the Member's proxy on the resolution.

## **10.8 Priority of conflicting appointments of attorney or representative**

If more than 1 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 10.8(a), an attorney or Representative appointed under the most recent appointment may act to the

exclusion of an attorney or Representative appointed earlier in time.

### **10.9 More than 2 current proxy appointments**

An appointment of a 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 a proxy from that Member which would result in there being more than 2 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.

### **10.10 Proof of appointment**

- (a) The chairman of a meeting may:
  - (i) permit a person claiming to be a Representative to exercise the powers of a Representative, even if the person is unable to establish to the chairman's satisfaction that he or she has been validly appointed; or
  - (ii) permit the person to exercise those powers on the condition that, if required by the Company, he or she produce evidence of the appointment within the time set by the chairman.
- (b) The chairman of a meeting may require a person acting as a proxy, attorney or Representative to establish to the chairman's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy the requirement, the chairman may exclude the person from attending or voting at the meeting.
- (c) The chairman may delegate his or her powers under this rule 10.10 to any person.

---

## **11 The Directors**

### **11.1 Number of Directors**

The number of Directors is to be not less than five nor more than:

- (a) 10 or such other number as the Company may resolve in general meeting; or
- (b) subject to the Corporations Act, any lesser number than 10 determined by the Directors (but the number must not be less than the number of Directors in office at the time the determination takes effect).

The Directors in office at the time of adoption of this Constitution continue in office subject to this Constitution.

## **11.2 [not used]**

## **11.3 Retirement of Directors**

- (a) At each annual general meeting any Director who has held office for three years or more since last being elected or re-elected, must retire from office.
- (b) A Director may choose to retire and seek re-election at an annual general meeting before the time required by rule 11.3(a), provided at least 45 Business Days (or any other period as the Directors 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 11.3(a), 11.3(b) or 11.8, then one Director must retire from office at the annual general meeting.
- (d) A Director who retires under this rule 11.3 is eligible for re-election.

## **11.4 Office held until, or taken from, conclusion of meeting**

The retirement of a Director from office under this Constitution and re-election of the Director or the election of another person to that office (as the case may be) take effect at the conclusion of the meeting at which the retirement and re-election or election occur.

## **11.5 Selection of Director to retire**

The Director to retire under rule 11.3(c) is the Director who has been longest in office since their last election. As between persons who were last elected as Directors on the same day, the one to retire must be determined by lot, unless they otherwise agree among themselves.

## **11.6 Director elected at general meeting**

Subject to the Corporations Act and to the number of Directors set under rule 11.1 not being exceeded the Company may, at a general meeting at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.

## **11.7 Eligibility for election as Director**

Except for a person who is eligible for election or re-election under rule 11.3 or 11.8, a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the person has been lodged at the Registered Office at least:

- (a) in the case of a person recommended for election by the Directors, at any time before the general meeting; and
- (b) in any other case, 45 Business Days before the general meeting (or such lesser number of days before the general meeting required by the Listing Rules or otherwise determined by the Directors) but no more than 90 Business Days before the general meeting.

A partner, employer or employee of an auditor of the Company may not be appointed or elected as a Director.

#### **11.8 Casual vacancy**

The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number determined in accordance with rule 11.1.

A Director appointed under this rule holds office until the conclusion of the next annual general meeting of the Company but is eligible for election at that meeting. This provision does not apply to one Managing Director nominated by the Directors under rule 12.13.

#### **11.9 Remuneration of Directors**

- (a) The Directors are entitled to be remunerated for their services as Directors and the total amount or value of the remuneration must not exceed \$1,750,000 per annum (inclusive of superannuation contributions) or any other amount per annum determined by the Company in general meeting. The remuneration is to be divided among the Directors in the proportion and manner agreed between them or, in default of agreement, equally. The remuneration may be provided in any manner the Directors decide, which may include provision of non cash benefits (and, to avoid doubt, such non cash benefit may include the issue or purchase of shares in the Company or the grant of options over shares in the Company).
- (b) If the Directors decide to include non cash benefits in a Director's remuneration the Directors must also decide the manner in which the value of those benefits is to be calculated for the purposes of this rule.
- (c) The remuneration of a Director is taken to accrue from day to day, except that remuneration in the form of non cash benefit is taken to accrue at the time that the benefit is provided to the Director, subject to the terms on which the benefit is provided. This rule does not apply to the remuneration of a Managing Director or an Executive Director in either capacity.

#### **11.10 Additional or special duties**

If a Director at the request of the Directors performs additional or special duties for the Company, the Company may remunerate that Director as determined by the Directors and that remuneration may

be either in addition to or in substitution for that Director's remuneration under rule 11.9.

#### **11.11 Retirement benefit or compensation for loss of office**

Subject to the Listing Rules and Corporations Act:

- (a) the Company may pay a former Director, or the personal representatives of a Director who dies in office, a retirement benefit in recognition of past services of an amount determined by the Directors. The Company may also enter into a contract with a Director providing for payment of a retiring benefit; and
- (b) the Company may pay a former Director a payment as to compensation for loss of office.

A retirement benefit paid under this rule is not remuneration to which rule 11.9 applies.

#### **11.12 Expenses**

A Director is also entitled to be reimbursed out of the funds of the Company such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company. An expense paid under this rule is not remuneration to which rule 11.9 applies.

#### **11.13 Director's interests**

- (a) Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
  - (i) hold any office or place of profit in the Company, except that of auditor;
  - (ii) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
  - (iii) be a member or creditor of any corporation (including the Company) or partnership other than the auditor;
  - (iv) enter into any contract or arrangement with the Company;
  - (v) participate in any association, institution, fund, trust or scheme for past or present employees of the Company or Directors or persons dependent on or connected with them;
  - (vi) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
  - (vii) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors

and may be present at any meeting where any matter is being considered by the Directors;

- (viii) sign or participate in the execution of a document by or on behalf of the Company; and
- (ix) do any of the above despite the fiduciary relationship of the Director's office:
  - (A) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (B) without affecting the validity of any contract or arrangement.
- (b) A reference to the Company in this rule 11.13 is also a reference to each related body corporate of the Company.
- (c) The Directors may make regulations requiring the disclosure of interests that a Director, and any person deemed by the Directors to be related to or associated with the Director, may have in any matter concerning the Company or a Subsidiary. Any regulations made under this rule 11.13(c) bind all Directors.
- (d) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any regulation made under rule 11.13(c).

#### **11.14 Vacation of office of Director**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) 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;
- (b) resigns from the office by notice in writing to the Company;
- (c) is not present personally or by Alternate Director at meetings of the Directors for a continuous period of three months without leave of absence from the Directors and a majority of the other Directors have not, within 14 days of having been given a notice by the Secretary giving details of the absence, resolved that leave of absence be granted;
- (d) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally; or
- (e) is convicted on indictment of an offence and the Directors do not within one month after that conviction resolve to confirm the Director's appointment or election (as the case may be) to the office of Director.

---

## **12 Powers and duties of Directors**

### **12.1 Directors to manage Company**

The business of the Company is to be managed by the Directors, who 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.

### **12.2 Specific powers of Directors**

Without limiting the generality of rule 12.1:

- (a) the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (b) debentures or other securities may be issued on the terms and at prices decided by the Directors, including bearing interest or not, with rights to subscribe for, or exchange into, shares or other securities in the Company or a Subsidiary or with special privileges as to redemption, participating in share issues, attending and voting at general meetings and appointing Directors.

### **12.3 Appointment of delegates**

- (a) The Directors may delegate any of their powers to:
  - (i) a Director – in which case rule 12.9 applies to that delegation;
  - (ii) a committee established under rule 12.6 – in which case rule 12.8 applies to that delegation;
  - (iii) any other person or persons; or
  - (iv) an attorney,and may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.
- (b) A delegation of powers under rule 12.3(a) may be made:
  - (i) for a specified period or without specifying a period; and
  - (ii) on the terms (including power to further delegate) and subject to any restrictions the Directors decide.

Power exercised in accordance with a delegation of the Directors is treated as exercised by the Directors.

### **12.4 Provisions in power of attorney**

A power of attorney granted under rule 12.3(a)(iv) may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise

the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

#### **12.5 Signing of cheques**

The Directors may determine the manner in which and persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

#### **12.6 Directors' committees**

The Directors may establish a committee or committees consisting of at least one Director and such other persons as they think fit.

#### **12.7 Proceedings of Directors' committees**

- (a) The members of a committee may elect one of their number as chairman of their meetings. If a meeting of a committee is held and:
  - (A) a chairman has not been elected; 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 involved may elect one of their number to be chairman of the meeting.
- (b) A committee may meet and adjourn as it thinks proper.
- (c) Questions arising at a meeting of a committee are to be determined by a majority of votes of the members involved and voting. In the event of an equality of votes the chairman of the meeting has a casting vote, unless only two members of the committee are present and entitled to vote at the meeting on the question.

#### **12.8 Powers delegated to Directors' committees**

A committee to which any powers have been delegated under rule 12.3(a)(ii) must exercise those powers in accordance with any directions of the Directors.

#### **12.9 Delegation to a Director**

- (a) The Directors may delegate any of their powers to one Director.
- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (c) The acceptance of a delegation of powers by a Director may, if the Directors so resolve, be treated as an additional or

special duty performed by the delegate for the purposes of rule 11.10.

#### **12.10 Validity of acts**

An act done by a meeting of Directors, a committee of Directors or a person acting as a Director is not invalidated by:

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

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

#### **12.11 Appointment of Managing and Executive Directors**

The Directors may:

- (a) appoint one or more of their number to the office of Managing Director or as an Executive Director or to any other office, except auditor, or employment under the Company for the period and on the terms they think fit;
- (b) subject to the terms of any contract between the relevant Director and the Company, at any time remove or dismiss any Managing Director or Executive Director from that office; and
- (c) appoint another Director to that office.

#### **12.12 Ceasing to be Managing or Executive Director**

A Managing Director or Executive Director automatically ceases to be a Managing Director or Executive Director on ceasing to be a Director.

#### **12.13 One Managing Director exempt**

One Managing Director, nominated by the Directors, is exempt from the election requirements under rule 11.8 and rule 11.3.

#### **12.14 Remuneration of Managing and Executive Directors**

The remuneration of a Managing Director or an Executive Director may be fixed by the Directors and may be by way of salary or commission or participation in profits or by all or any of those modes, but may not be by a commission on or percentage of operating revenue.

#### **12.15 Powers of Managing and Executive Directors**

The Directors may:

- (a) confer on a Managing Director or an Executive Director such of the powers exercisable by them, on such terms and conditions and with such restrictions, as they think fit; and

- (b) withdraw or vary any of the powers conferred on a Managing Director or an Executive Director.

#### **12.16 Ceasing to be an employee**

Unless the Directors decide differently, the office of a Director who is employed by the Company or by a Subsidiary automatically becomes vacant if the Director ceases to be so employed.

#### **12.17 Validity of acts of executive officers**

An act done by a person acting as an executive officer is not invalidated by:

- (a) a defect in the person's appointment as an executive officer;
- (b) the person being disqualified to be an executive officer; or
- (c) the person having vacated office,

if the person did not know that circumstance when the act was done.

---

### **13 Proceedings of Directors**

#### **13.1 Directors' meetings**

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

#### **13.2 Director may convene a meeting**

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

#### **13.3 Use of technology**

- (a) Subject to the Corporations Act, a meeting of the Directors may be held using any technology, provided the quorum requirements set out in this Constitution are satisfied. A meeting of the Directors 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 2 or more places, at the place where the chairman of the meeting is located.
- (b) If, before or during a meeting, any technical difficulty occurs where one or more Directors cease to participate, the Chairman may adjourn the meeting until the difficulty is remedied or may, where a quorum of Directors remains present, continue the meeting.

#### **13.4 Notice of meetings of Directors**

- (a) Notice of a meeting of Directors must be given to each person who is at the time the notice is given:
  - (i) a Director, except a Director on leave of absence approved by the Directors; or

- (ii) an Alternate Director appointed under rule 13.8 by a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of Directors:
  - (i) must specify the time and place of the meeting;
  - (ii) need not state the nature of the business to be transacted at the meeting;
  - (iii) may, if necessary, be given immediately before the meeting;
  - (iv) may be given in person or by post or by telephone, fax or other electronic means; and
  - (v) will be taken to have been given to an Alternate Director if it is given to the Director who appointed that Alternate Director.
- (c) A Director or Alternate Director may waive notice of a meeting of Directors by giving notice to that effect in person or by post or by telephone, fax or other electronic means.
- (d) Failure to give a Director or Alternate Director notice of a meeting of Directors does not invalidate anything done or any resolution passed at the meeting if:
  - (i) the failure occurred by accident or inadvertent error; or
  - (ii) the Director or Alternate Director attended the meeting or waived notice of the meeting (whether before or after the meeting).
- (e) A person who attends a meeting of Directors waives any objection that person may have to a failure to give notice of the meeting.

### **13.5 Questions decided by majority**

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

### **13.6 Alternate Director and voting**

A person who is present at a meeting of Directors as an Alternate Director for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director and, if that person is also a Director, has one vote as a Director in that capacity.

### **13.7 Chairman's casting vote**

In the event of an equality of votes cast for and against a question:

- (a) the chairman of the meeting has a second or casting vote, unless:

- (i) only two Directors are present and entitled to vote at the meeting on the question; or
  - (ii) the chairman of the meeting is not entitled to vote; and
- (b) if the chairman does not have a second or casting vote under rule 13.7(a), the question is decided in the negative.

### **13.8 Appointment of Alternate Director**

- (a) Subject to the Corporations Act, a Director may appoint a person, approved by a majority of the other Directors to be an Alternate Director in the Director's place during such period as the Director thinks fit.
- (b) An Alternate Director may, but need not, be a Member or Director.

### **13.9 Alternate Director and meetings**

An Alternate Director is entitled to notice of all meetings of the Directors only if the appointer requests notices to be sent and if the appointer does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointor's place.

### **13.10 Alternate Director's powers**

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor except if the appointor has exercised or performed them.

### **13.11 Alternate Director responsible for own acts and defaults**

Whilst acting as a Director, an Alternate 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 Director's own acts and defaults.

### **13.12 Alternate Director and remuneration**

An Alternate Director is not entitled to receive from the Company any remuneration or benefit under rule 11.9 or 11.11 but is entitled to such reasonable travelling, accommodation and other expenses as the Alternate Director may incur when travelling to or from meetings of the Directors or a committee of Directors (at which the appointor is not present) or when otherwise engaged on the business of the Company.

### **13.13 Termination or suspension of appointment of Alternate Director**

- (a) The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and

terminates in any event if the appointor ceases to be a Director.

- (b) The appointment of an Alternate Director may be suspended at any time by:
  - (i) the Director who makes or made the appointment; or
  - (ii) a majority of the other Directors.

#### **13.14 Appointment, termination or suspension in writing**

- (a) An appointment, termination or suspension of an appointment of an Alternate Director must be effected by a notice in writing to the Company signed by the person or persons effecting the appointment, termination or suspension.
- (b) An appointment, or the termination or suspension of an appointment of an Alternate Director takes effect only when the Company has received notice in writing of the appointment, termination or suspension.

#### **13.15 Alternate Director and number of Directors**

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

#### **13.16 Quorum for Directors' meeting**

- (a) The number of Directors whose presence is necessary to constitute a quorum for a meeting of Directors is three or any greater number determined by the Directors and a quorum must be present at each time business of the meeting is transacted.
- (b) In determining whether a quorum is present at a meeting of Directors, an Alternate Director who attends the meeting is to be counted as a Director for each Director on whose behalf the Alternate Director is attending the meeting.

#### **13.17 Remaining Directors may act**

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by rule 11.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

#### **13.18 Chairman of Directors**

The Directors may elect one of their number as chairman of their meetings and may also determine the period for which the person elected as chairman is to hold office.

#### **13.19 Absence of chairman at Directors' meeting**

If a Directors' meeting is held and:

- (a) a chairman has not been elected under rule 13.18; 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 Directors present must elect one of their number to be a chairman of the meeting.

### **13.20 Circulating resolutions**

- (a) If:
  - (i) each Director, and each Alternate Director in respect of whom the appointor has given notice under rule 13.9, is given a document setting out a proposed resolution; and
  - (ii) at least two-thirds of the Directors who are entitled to vote on the resolution state that they are in favour of the resolution by signing the document,

a Directors' resolution in those terms is passed at the time when the last of the Directors who constitute the majority signs.

- (b) For the purposes of rule 13.20(a)(ii), the number of Directors who are entitled to vote on the resolution does not include any Director on leave of absence approved by the Directors, any Director who disqualifies himself or herself from considering the resolution in question, or any Director who would be prohibited by the Corporations Act from voting on the resolution in question.

### **13.21 Additional provisions concerning written resolutions**

For the purpose of rule 13.20:

- (a) a document may be given to a Director or Alternate Director by sending it to the place or address (including electronic address) notified by the Director or Alternate Director from time to time;
- (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 Director is not required if the appointor of that Alternate Director has signed the document;
- (d) signature of a document by the appointor of an Alternate Director is not required if that Alternate Director has signed the document in that capacity;
- (e) a telex, telegram or facsimile or a message in electronic form containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document deemed to be signed by that Director at the time of its receipt by the Company; and

- (f) accidental failure to give notice of a document under rule 13.20, or non-receipt of such document by a Director, does not result in the resolution being invalid.

### **13.22 Minutes**

The Directors must cause minutes of meetings to be made and kept in accordance with the Corporations Act.

### **13.23 Validity of acts of Directors**

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

---

## **14 Secretary**

### **14.1 Appointment of Secretary**

There must be at least one Secretary of the Company who is to be appointed by the Directors.

### **14.2 Suspension and removal of Secretary**

The Directors may suspend or remove a Secretary from that office.

### **14.3 Powers, duties and authorities of Secretary**

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

---

## **15 Seals**

### **15.1 Safe custody of common seals**

The Directors must provide for the safe custody of any seal of the Company.

### **15.2 Use of common seal**

Without limiting the ways in which the Company can execute documents under the Corporations Act and subject to this Constitution, if the Company has a common seal or duplicate common seal, unless

a different procedure is decided by the Directors, every document to which it is affixed must be signed by:

- (a) 2 Directors;
- (b) a Director and a Secretary; or
- (c) a Director and another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

The Directors may decide either generally or in a particular case that the seal and signature of any Director, Secretary or other person is to be printed on or affixed to any certificates for securities in the Company by some mechanical or other means.

---

## **16 Inspection of records**

### **16.1 Inspection by Members**

Subject to the Corporations Act, the Directors may 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 Directors).

### **16.2 Right of a Member to inspect**

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

---

## **17 Dividends and reserves**

### **17.1 Payment of dividend**

Subject to the Corporations Act, this Constitution and the rights of persons (if any) entitled to shares with special rights to dividend, the Directors may determine that a dividend is payable, fix a record date and 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.

### **17.2 No interest on dividends**

Interest is not payable by the Company on a dividend.

### **17.3 Reserves and profits carried forward**

The Directors may:

- (a) set aside out of the profits of the Company such sums as they think proper as a reserve, to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied; and

- (b) 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.

Pending application, any sum set aside as a reserve may, at the discretion of the Directors, be used in the business of the Company or be invested as the Directors think fit.

#### **17.4 Source of dividends**

Subject to the Corporations Act and the Listing Rules, the Directors may resolve to pay a dividend to some Members from a particular source and pay the same dividend to other Members entitled to it out of another source.

#### **17.5 Calculation and apportionment of dividends**

Subject to the rights of any persons entitled to shares with special rights as to dividend and to the terms of any shares issued to the contrary, the funds of the Company available for distribution as dividends are divisible among the Members so that, on each occasion on which a dividend is paid:

- (a) the same sum is paid on each share on which all amounts payable have been paid; and
- (b) the sum paid on a share on which all amounts payable have not been paid is the proportion of the sum referred to in paragraph (a) that the amount paid on the shares bears to the total of the amounts paid and payable on the share.

To determine the amount paid on a share, exclude any amount:

- (c) paid or credited as paid in advance of a call; and
- (d) credited as paid on a share to the extent that it exceeds the value (ascertained at the time of issue of the share) of the consideration received for the issue of the share.

#### **17.6 Deductions from dividends**

The Directors may deduct from any dividend payable to, or at the direction of, a Member all sums of money (if any) presently payable by that Member to the Company on account of calls or otherwise in relation to shares in the Company.

#### **17.7 Distribution of specific assets**

When resolving to pay a dividend, the Directors may:

- (a) resolve that the dividend be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend, including fully paid shares in or debentures of the Company or fully paid shares in or debentures of any other body corporate; and
- (b) direct that the dividend payable in respect of any particular shares be satisfied wholly or partly by such a distribution and

that the dividend payable in respect of other shares be paid in cash.

#### **17.8 Resolution of distribution difficulties**

If a difficulty arises in regard to a distribution under rule 17.7, the Directors may:

- (a) settle the matter as they consider expedient;
- (b) fix the value for distribution of the specific assets or any part of those assets;
- (c) determine that cash payments will be made to, or at the direction of, any Members on the basis of the value so fixed in order to adjust the rights of all parties; and
- (d) vest any such specific assets in trustees as the Directors consider expedient.

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

#### **17.9 Payment to holders and joint holders**

A dividend, interest or other money payable in cash in respect of shares may be paid using any payment method determined by the Directors including:

- (a) by cheque sent through the post directed to the address in the Register of the Member (or in the case of a jointly held share, 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 Member (or in the case of a jointly held share, all joint holders) directs in writing; or
- (c) by some method of direct credit determined by the Directors to the holder or holders shown on the Register or to such person or place directed by them.

If the Directors determine that payment will be made by a method of direct credit, and a Member has not nominated a bank account acceptable to the Directors, the Company may hold the amount payable in an account of the Company until the Member nominates a bank account acceptable to the Directors. An amount dealt with in that way is to be treated as having been paid to the Member at the time it is credited to that account. No interest will accrue on the amount.

#### **17.10 Effectual receipt from one joint holder**

Any one of two or more joint holders may give an effectual receipt for any dividend, interest or other money payable in respect of the shares held by them as joint holders.

### **17.11 Election to reinvest**

Subject to the Listing Rules, the Directors may grant to Members, any class of Members, holders of any other securities of the Company (including convertible securities) or any class of holders of any other securities of the Company (including convertible securities), the right to elect to reinvest cash dividends or interest paid by the Company, by subscribing for shares or other securities in the Company (including convertible securities) on such terms and conditions as the Directors think fit.

### **17.12 Election to accept shares in lieu of dividend**

Subject to the Listing Rules, the Directors may determine in respect of any dividend or interest which it is proposed to pay on any shares or other securities of the Company (including convertible securities) that holders of the securities may elect:

- (a) to forego the right to share in the proposed dividend or interest or part of such proposed dividend or interest; and
- (b) to receive instead an issue of shares or other securities in the Company (including convertible securities) credited as fully paid on such terms as the Directors think fit.

### **17.13 Unclaimed dividends**

- (a) Unclaimed dividends may be invested by the Directors as they think fit for the benefit of the Company until claimed or until dealt with by the Directors in accordance with the provisions of this rule 17.13 or required to be dealt with in accordance with any law relating to unclaimed moneys.
- (b) If a cheque for an amount payable is not presented for payment for 5 calendar months after issue or an amount is held in an account under rule 17.9(c) for 5 calendar months, the Directors may at any time thereafter, reinvest the amount, after deducting reasonable expenses, into Shares on behalf of, and in the name of, the Member concerned and may stop payment on the cheque. The Shares may be acquired on market or by way of new issue at a price the Directors determine as market price at the time. Any residual sum which arises from the reinvestment described in this rule may be carried forward or donated to charity on behalf of the Member as the Directors determine. The Company's liability to pay the relevant amount is discharged by an application under this rule 17.13(b).
- (c) The Directors may do anything necessary or desirable (including executing any document) on behalf of the Member to effect the application of an amount under this rule 17.13. The Directors may determine other rules to regulate the operation of this rule 17.13 and may delegate their power under this rule to any person.

---

## **18 Capitalisation of profits**

### **18.1 Capitalisation of reserves and profits**

The Directors:

- (a) may resolve to capitalise any sum, being the whole or a 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
- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in rule 18.2, for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

### **18.2 Applying a sum for the benefit of Members**

The ways in which a sum may be applied for the benefit of Members under rule 18.1 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).

### **18.3 Effecting the resolution**

The Directors may do all things necessary to give effect to the resolution 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;
- (c) fix the value of specific assets; and
- (d) vest cash or specific assets in trustees,

and any agreement so made is effective and binding on all the Members concerned.

---

## **19 Service of documents**

### **19.1 Document includes notice**

In Part 19, a reference to a document includes a notice.

### **19.2 Methods of service**

Without limiting any other way in which a document may be given to a Member under this Constitution, the Corporations Act or the Listing Rules, 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 or an alternative address nominated by the Member; or
- (c) by sending it to a fax number or electronic address nominated by the Member.

### **19.3 Post**

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 by the addressee, if it is a notice concerning a general meeting, at 10.00am (Melbourne time) on the day after the date it is posted, and in any other case, on the day after the date of its posting.

### **19.4 Fax or electronic transmission**

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 received by the addressee, if it is a notice concerning a general meeting, at 10.00am (Melbourne time) on the day after the date it is transmitted, and in any other case, on the day following its transmission.

### **19.5 Evidence of service**

A certificate in writing signed by a Director or Secretary of the Company stating that a notice was sent is conclusive evidence of service.

### **19.6 Counting days**

Subject to rule 8.4, the Corporations Act and the Listing Rules, if a specified period must pass after a notice is given before an action

may be taken, the day on which the notice is given is excluded in reckoning the period.

#### **19.7 Notices to "lost" Members**

If:

- (a) on 2 or more consecutive occasions a notice posted to a Member is returned unclaimed or with an indication that the Member is not known at the address to which it was sent; or
- (b) the Directors believe on other reasonable grounds that a Member is not at the address shown in the Register,

the Company may give effective notice and future notices to that Member by exhibiting the notice of 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.

#### **19.8 Joint holders**

A document may be given by the Company to the joint holders of a share by giving it to the joint holder first named in the Register in respect of the share.

#### **19.9 Persons entitled to shares**

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 rule to the person from whom that person derives title prior to registration of that person's title in the Register.

#### **19.10 Notices by the Company to Directors**

Without limiting rule 13.4, the Company may give a notice to a Director or Alternate Director by:

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

#### **19.11 Notices by Directors to the Company**

A Director or Alternate Director may give a notice to the Company by:

- (a) delivering it to the Company's registered office;
- (b) sending it by prepaid post to the Company's registered office; or

- (c) sending it by fax or other electronic means to the principal fax number or electronic address at the Company's registered office.

---

## **20 Winding up**

### **20.1 Distributing surplus**

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

- (a) if the Company is wound up and the property of the Company available for distribution among the Members is more than sufficient to pay:
  - (i) all the debts and liabilities of the Company; and
  - (ii) the costs, charges and expenses of the winding up,the excess must be divided among the Members in proportion to the number of shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in rule 20.1(a), any amount unpaid on a share is to be treated as property of the Company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 20.1(a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under rule 20.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the Company.

### **20.2 Distribution of assets**

If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company, 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 the liquidator considers fair on 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.

### **20.3 Powers of liquidator to vest property**

The liquidator may, with the sanction of a special resolution of the Company, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories 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 on the part of the holder.

## **20.4 Shares issued on special terms**

Rules 20.1 and 20.3 do not prejudice or affect the rights of a Member holding shares issued on special terms and conditions.

---

## **21 Indemnity and insurance**

### **21.1 Indemnity – Directors and Secretary**

- (a) The Company, to the maximum extent permitted by law must:
  - (i) indemnify any current or former Director or Secretary of the Company or any of its Subsidiaries, against all losses, liabilities, costs, charges or expenses (**Liabilities**) incurred as such a Director or Secretary to a person including a Liability incurred as a result of appointment or nomination by the Company or Subsidiary as a trustee or as a director, officer or employee of another corporation; and
  - (ii) make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by a current or former Director or Secretary in defending an action for a Liability incurred as such an officer or in resisting or responding to actions taken by a government agency, a duly constituted Royal Commission or other official inquiry, a liquidator, administrator, trustee in bankruptcy or other authorised official.
- (b) An indemnity paid under this rule:
  - (i) is not remuneration to which rule 11.9 applies;
  - (ii) is enforceable without the Director or Secretary having to first incur any expense or make any payment; and
  - (iii) applies to Liabilities incurred both before and after this rule became effective.

### **21.2 Indemnity – Executive Officers**

- (a) The Company, to the maximum extent permitted by law may:
  - (i) indemnify any current or former executive officer of the Company or any of its Subsidiaries, against all Liabilities incurred as such an executive officer to a person including a Liability incurred as a result of appointment or nomination by the Company or Subsidiary as trustee or as a director, officer or employee of another corporation; and
  - (ii) make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by a current or former executive officer in defending an action for a Liability incurred as such an officer or in resisting or responding to actions taken by a

government agency, a duly constituted Royal Commission or other official inquiry, a liquidator, administrator, trustee in bankruptcy or other authorised official.

- (b) An indemnity paid under this rule:
  - (i) is enforceable without the executive officer having to first incur any expense or make any payment; and
  - (ii) applies to Liabilities incurred both before and after this rule became effective.
- (c) For the purposes of rules 12.17 and 21, **executive officer** means:
  - (i) a senior manager or former senior manager of the Company or of a Subsidiary; or
  - (ii) any other person,who is designated from time to time by the Directors as an executive officer for the purposes of this Constitution.

### **21.3 Insurance**

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, Secretary or executive officer of the Company or of a Subsidiary 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 statute.

An insurance premium paid under this rule is not remuneration to which rule 11.9 applies.

### **21.4 Contract**

The Company may enter into a contract with a person who is or has been a Director, Secretary or an executive officer of the Company or a Subsidiary to give:

- (a) effect to the rights of the person conferred by this rule 21; and
- (b) the person access to papers, including those documents provided from or on behalf of the Company or a Subsidiary to the person during their appointment and those documents which were referred to in such documents or were made available to the person for the purposes of carrying out their duties as a Director, Secretary or an executive officer of the Company or a Subsidiary.

## **21.5 No Limit**

This rule 21 does not limit any right a person who is or has been a Director, Secretary or an executive officer of the Company or a Subsidiary otherwise has.

---

## **22 Restricted Securities**

### **22.1 Disposal during Escrow Period**

Restricted Securities cannot be disposed of during the Escrow Period except as permitted by the Listing Rules or ASX.

The Company must not acknowledge a disposal (including by registering a transfer) of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.

### **22.2 Breach of Restriction Agreement or Listing Rules**

During a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the holder of the Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.

---

## **23 Small Holdings**

### **23.1 Divestment Notice**

If the Directors determine that a Member is a Small Holder or a New Small Holder the Company may give the Member a Divestment Notice to notify the Member:

- (a) that the Member is a Small Holder or a New Small Holder, the number of Shares making up and the Market Value of the Small Holding or New Small Holding and the date on which the Market Value was determined;
- (b) that the Company intends to sell the Relevant Shares in accordance with this rule after the end of the Relevant Period specified in the Divestment Notice;
- (c) if the Member is a Small Holder, that the Member may at any time before the end of the Relevant Period notify the Company in writing that the Member desires to retain the Relevant Shares and that if the Member does so the Company will not be entitled to sell the Relevant Shares under that Divestment Notice; and
- (d) after the end of the Relevant Period the Company may for the purpose of selling the Relevant Shares that are in a CHESS Holding initiate a Holding Adjustment to move those Shares from that CHESS Holding to an Issuer Sponsored or Certificated Holding.

If the ASX Settlement Rules apply to the Relevant Shares, the Divestment Notice must comply with the ASX Settlement Rules.

### **23.2 Relevant Period**

For a Divestment Notice given to a Small Holder, the Relevant Period must be at least six weeks from the date the Divestment Notice was given. For a Divestment Notice given to a New Small Holder, the Relevant Period must be at least seven days from the date the Divestment Notice was given.

### **23.3 Company can sell Relevant Shares**

At the end of the Relevant Period the Company is entitled to sell on-market or in any other way determined by the Directors:

- (a) the Relevant Shares of a Member who is a Small Holder, unless that Member has notified the Company in writing before the end of the Relevant Period that the Member desires to retain the Relevant Shares, in which event the Company must not sell those Relevant Shares under that Divestment Notice; and
- (b) the Relevant Shares of a Member who is a New Small Holder.

### **23.4 No obligation to sell**

The Company is not bound to sell any Relevant Shares which it is entitled to sell under this Part but unless the Relevant Shares are sold within six weeks after the end of the Relevant Period the Company's right to sell the Relevant Shares under the Divestment Notice relating to those Shares lapses and it must notify the Member to whom the Divestment Notice was given accordingly.

### **23.5 Company as Member's attorney**

To effect the sale and transfer by the Company of Relevant Shares of a Member, the Member appoints the Company and each Director and Secretary jointly and severally as the Member's attorney in the Member's name and on the Member's behalf to do all acts and things which the Company considers necessary or appropriate to effect the sale or transfer of the Relevant Shares and, in particular:

- (a) to initiate a Holding Adjustment to move the Relevant Shares from a CHESS Holding to an Issuer Sponsored Holding or a Certificated Holding; and
- (b) to execute on behalf of the Member all deeds instruments or other documents necessary to transfer the Relevant Shares and to deliver any such deeds, instruments or other documents to the purchaser.

### **23.6 Conclusive evidence**

A statement in writing by or on behalf of the Company under this rule is binding on and conclusive against (in the absence of manifest error) a Member. In particular, a statement that the Relevant Shares specified in the statement have been sold in accordance with this Part is conclusive against all persons claiming to be entitled

to the Relevant Shares and discharges the purchaser from all liability in respect of the Relevant Shares.

### **23.7 Registering the purchaser**

The Company must register the purchaser of Relevant Shares as the holder of the Relevant Shares transferred to the purchaser under this rule. The purchaser is not bound to see to the application of any money paid as consideration. The title of the purchaser to the Relevant Shares transferred to the purchaser is not affected by any irregularity or invalidity in connection with the actions of the Company under this Part.

### **23.8 Payment of proceeds**

Subject to rule 23.9, where:

- (a) Relevant Shares of a Member are sold by the Company on behalf of the Member under this rule; and
- (b) the certificate for the Relevant Shares (unless the Company is satisfied that the certificate has been lost or destroyed or the Relevant Shares are Uncertificated Securities) has been received by the Company,

the Company must, within 60 days of the completion of the sale, send the proceeds of sale to the Member entitled to those proceeds by sending a cheque payable to the Member through the post to the address of the Member shown in the Register, or in the case of joint holders, to the address shown in the Register as the address of the Member whose name first appears in the Register. Payment of any money under this rule is at the risk of the Member to whom it is sent.

### **23.9 Costs**

In the case of a sale of the Relevant Shares of a New Small Holder in accordance with this rule, the Company is entitled to deduct and retain from the proceeds of sale, the costs of the sale as determined by the Company. In any other case, the Company or a purchaser must bear the costs of sale of the Relevant Shares. The costs of sale include all stamp duty, brokerage and government taxes and charges (except for tax on income or capital gains of the Member) payable by the Company in connection with the sale and transfer of the Relevant Shares.

### **23.10 Remedy limited to damages**

The remedy of a Member to whom this rule applies, in respect of the sale of the Relevant Shares of that Member is expressly limited to a right of action in damages against the Company to the exclusion of any other right, remedy or relief against any other person.

### **23.11 Dividends and voting suspended**

Unless the Directors determine otherwise, where a Divestment Notice is given to a New Small Holder in accordance with this rule,

then despite any other provision in this Constitution, the rights to receive payment of dividends and to vote attached to the Relevant Shares of that Member are suspended until the Relevant Shares are transferred to a new holder or that Member ceases to be a New Small Holder. Any dividends that would, but for this rule, have been paid to that Member must be held by the Company and paid to that Member within 60 days after the earlier of the date the Relevant Shares of that Member are transferred and the date that the Relevant Shares of that Member cease to be subject to a Divestment Notice.

#### **23.12 12 month limit**

If it is a requirement of the Listing Rules, the Company must not give a Small Holder more than one Divestment Notice in any 12 month period (except as contemplated by rule 23.13).

#### **23.13 Effect of takeover bid**

From the date of the announcement of a takeover bid for the Shares until the close of the offers made under the takeover bid, the Company's powers under this rule to sell Relevant Shares of a Member cease. After the close of the offers under the takeover bid, the Company may give a Divestment Notice to a Member who is a Small Holder or a New Small Holder, despite rule 23.12 and the fact that it may be less than 12 months since the Company gave a Divestment Notice to that Member.

---

## **24 Definitions and Interpretation**

### **24.1 Definitions**

In this Constitution unless the contrary intention appears:

**Alternate Director** means a person appointed as an alternate director under rule 13.8.

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532);

**ASX Settlement Rules** means the operating rules of ASX Settlement and, to the extent that they are applicable, the operating rules of ASX and the operating rules of ASX Clear Pty Limited (ABN 48 001 314 503);

**ASX** means ASX Limited (ABN 98 008 624 691).

**Auditor** means the appointed auditor of the Company.

**Business Day** means a day other than a Saturday, Sunday or public holiday in Melbourne.

**CHES** means Clearing House Electronic Sub-register System.

**CHES Rules** means the ASX Settlement Rules and the provisions of the Corporations Act and Listing Rules concerning the electronic share registration and transfer system as and to the extent that they apply to the Company.

**CHES Approved Securities** means securities of the Company which are approved by ASX Settlement in accordance with the ASX Settlement Rules.

**Company** means BlueScope Steel Limited (ACN 000 011 058), whatever its name is for the time being.

**Constitution** means this constitution as amended from time to time, and a reference to an rule is a reference to a rule of this Constitution.

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

**Director** means a person holding office as a director of the Company, and includes an Alternate Director.

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

**Divestment Notice** is a notice given under rule 23.1 to a Small Holder or a New Small Holder.

**Executive Director** means a person appointed as an executive director under rule 12.11.

**Listing Rules** means the Listing Rules of ASX and any other rules of ASX which are applicable to the Company 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 person appointed as a managing director (by any title approved by the Directors) under rule 12.11.

**Market Value** in relation to a Share means the market price of the Share.

**Member** means a person entered in the Register as a holder of shares in the capital of the Company.

**New Small Holder** is a Member who is the holder or a joint holder of a New Small Holding.

**New Small Holding** is a holding of Shares created after the date on which this rule came into effect by the transfer of a parcel of Shares the aggregate Market Value of which at the time a proper ASTC transfer was initiated or a paper based transfer was lodged, was less than a marketable parcel of Shares as provided under the Listing Rules.

**Part** means a part of this Constitution.

**Prescribed Interest Rate** means the rate determined by the Directors for the purpose of this Constitution, and in the absence of a determination means 20% per annum.

**Register** means the register of Members of the Company under the Corporations Act and if appropriate includes a branch register.

**Registered Office** means the registered office of the Company.

**Relevant Period** is the period specified in a Divestment Notice under rules 23.1 and 23.2.

**Relevant Shares** are the Shares specified in a Divestment Notice.

**Representative** means a person appointed to represent a corporate Member at a general meeting of the Company in accordance with the Corporations Act.

**Restriction Agreement** means a restriction agreement within the meaning and for the purposes of the Listing Rules.

**Secretary** means a person appointed under rule 14.1 as a secretary of the Company and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

**Shares** for the purposes of rule 23 are shares in the Company all of the same class.

**Small Holder** is a Member who is the holder or a joint holder of a Small Holding.

**Small Holding** is a holding of Shares the aggregate Market Value of which at the relevant date is less than a marketable parcel of Shares as provided under the Listing Rules.

**State** means the State or Territory in which the Company is for the time being registered.

**Subsidiary** means an entity which is a subsidiary of the Company as defined in the Corporations Act or is a subsidiary or otherwise controlled by the Company within the meaning of any approved accounting standard.

## 24.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;

- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (e) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (f) **(from time to time)** a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time; and
- (g) **(amount paid)** a reference to an amount paid on a share includes an amount credited as paid on that share;
- (h) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that a requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors; and
- (i) **(writing)** “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise.

#### **24.3 Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) 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
- (b) “section” means a section of the Corporations Act.

#### **24.4 Listing Rules and ASX Settlement Rules - interpretation**

In this Constitution, unless the contrary intention appears:

- (a) the expressions “Certificated Holding”, “CHESS Holding”, “Holding Adjustment” and “Issuer Sponsored Holding” have the same meanings as in the ASX Settlement Rules; and
- (b) the expressions “market price”, “Takeover Bid”, “Uncertificated Securities”, “disposed of”, “disposed”, “Escrow Period” and “Restricted Securities” have the same meaning as in the Listing Rules.

#### **24.5 Headings and Parts**

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

This Constitution is divided into Parts as indicated by its Contents.

#### **24.6 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.

#### **24.7 Currency**

The Directors may:

- (a) differentiate between Members as to the currency in which any amount payable to a Member is paid (whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution in a currency other than Australian and the amount payable will be converted from Australian currency in any manner, at any time and at any exchange rate as the Directors think fit; and
- (c) in deciding the currency in which a payment is to be made to a Member, have regard to the registered address of the Member, the register on which a Member's shares are registered and any other matters as the Directors consider appropriate.

#### **24.8 Application of Listing Rules**

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

While the Company is on the official list of ASX:

- (a) despite anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done as the case may be;
- (d) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is taken to contain that provision;
- (e) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is taken not to contain that provision; and

- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is taken not to contain that provision to the extent of the inconsistency.

#### **24.9 Submission to jurisdiction**

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

#### **24.10 Prohibition and enforceability**

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

---

## Schedule 1 – Rights attaching to preference shares

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

- (iii) during a period in which a dividend or part of a dividend on the share is in arrears;
  - (iv) during the winding up of the Company; or
  - (v) in any other circumstances the Directors determine at the time of issue, or in which the Listing Rules require holders of preference shares to be entitled to vote.
- (i) The holder of a preference share who is entitled to vote in respect of that share under (h) is, on a poll, entitled to the number of votes specified in, or determined in accordance with, the terms of issue for the share.
  - (j) In the case of a redeemable preference share, the Company must, at the time and place for redemption specified in, or determined in accordance with, the terms of issue for the share, redeem the share and, on receiving a redemption notice under the terms of issue, pay to or at the direction of the holder the amount payable on redemption of the share.
  - (k) A holder of a preference share must not transfer or purport to transfer, and the Directors, to the extent permitted by the Listing Rules, must not register a transfer of, the share if the transfer would contravene any restrictions on the right to transfer the share set out in the terms of issue for the share.

#### B Foreign currency

Where any amount is payable by the Company to the holder of a preference share in a currency other than Australian dollars, and the amount is not paid when due or at the commencement of the Company's winding up, the holder may give notice to the Company requiring payment of an amount in Australian dollars equal to the foreign currency amount calculated by applying the reference rate on the date of payment for the sale of the currency in which the payment is to be made for Australian dollars. Reference rate means the rate applicable in the market and at the time determined by the Directors before allotment of those preference shares and specified in the terms of issue for those preference shares.

#### C Conversion to ordinary shares

A preference share which, in accordance with its terms of issue, may be converted into an ordinary share will, at the time of conversion and without any further act, have the same rights as a fully paid ordinary share and rank equally with other fully paid ordinary shares on issue. This is subject to the terms of issue of the preference share in relation to entitlement to ordinary dividends paid after conversion. In addition, the terms of issue of the preference share may provide for the issue of additional ordinary shares on conversion as determined by the Directors.