

CONSTITUTION

OF

MAITLAND MUTUAL LIMITED

ABN 94 087 651 983
a company limited by Shares and Guarantee

**Including amendments to the Constitution that were adopted at the
Annual General Meeting held on 24th September 2020**

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Constitution

of

MAITLAND MUTUAL LIMITED

ABN 94 087 651 983

a company limited by Shares and Guarantee

1 Preliminary

Definitions

- 1.1 The following words have these meanings in this Constitution unless the contrary intention appears.

Alternate Director means an individual appointed as an alternate director under Article 16.9.

APRA means the Australian Prudential Regulation Authority.

Article means an article of this Constitution.

Board means the Board of Directors of the Company.

Borrower means a person who has obtained a Loan from the Company and includes 2 or more persons who have jointly obtained financial accommodation from the Company.

Company means Maitland Mutual Limited (ABN 94 087 651 983).

Constitution means this constitution as amended from time to time, and a reference to a particular Article has a corresponding meaning.

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

Deposit means a sum of money deposited with the Company.

Depositor means a person who has funds on deposit and includes 2 or more persons who jointly have funds on deposit.

Director means an individual holding office as a director of the Company and where appropriate includes an Alternate Director.

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

Executive Director means an individual appointed as an executive director under Article 14.41.

Guarantee Member means any person who is a member of the Company by way of guarantee.

Hunter Region includes the regions centred in or about the local government areas of Maitland, Cessnock, Newcastle, Lake Macquarie, Port Stephens, Gloucester, Dungog, Singleton, Muswellbrook, Scone, Merriwa, and Murrurundi.

Loan includes any form of financial accommodation.

Material Personal Interest has the same meaning as in Part 2D.1 of the Corporations Act.

MCI means “mutual capital instrument”, being a share as described in Part 5.

MCI Holder means a person who is the holder of an MCI and whose name is for the time being entered in the Register of Members as a member of the Company (within the meaning of the Corporations Act).

Member means a person who is a Guarantee Member or a Shareholder Member whose name is for the time being entered in the Register of Members as a member of the Company.

Officer has the same meaning as in the Corporations Act.

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 3% per annum.

Register of Members means the register of members (including any Members and MCI Holders) of the Company under the Corporations Act and if appropriate includes a branch register.

Registered Office means the registered office of the Company.

Representative means:

- (a) in the case of a Shareholder Member or a Voting MCI Holder that is a body corporate, a person appointed to represent that Shareholder Member or Voting MCI Holder at a general meeting of the Company in accordance with the Corporations Act; and
- (b) in the case of a Guarantee Member that is a body corporate, a person appointed to represent that Guarantee Member at a general meeting of the Company under Article 3.16.

Secretary means an individual appointed under Article 17.1 as secretary of the Company and includes the person holding the office of secretary at the time of the adoption of this Constitution, 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.

Section means a section of the Corporations Act.

Share means a share in the capital of the Company and, unless expressly stated otherwise, includes an MCI.

Shareholder Member means any person who is a member of the Company by way of both Shares (excluding MCIs) and guarantee.

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

Voting MCI Holder means an MCI Holder who has one vote at a general meeting of the Company either because such MCI Holder is also a Shareholder Member or because the MCI Holder has been granted one vote under the terms of issue of the MCIs he or she holds.

Voting Procedures means voting procedures for the election of Directors as determined by the Board under Article 14.15

Interpretation

- 1.2 In this Constitution unless the contrary intention appears:
- (a) words importing any gender include all other genders;
 - (b) the word “person” includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
 - (c) the singular includes the plural and vice versa;
 - (d) a reference to a law includes regulations and instruments made under the law;
 - (e) 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) a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting, a Member or a MCI Holder may be exercised at any time and from time to time; and
 - (g) a reference to an amount paid on a Share includes an amount credited as paid on that Share.
- 1.3 Unless the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.
- 1.4 Headings are inserted for convenience and are not to affect the interpretation of this Constitution.
- 1.5 This Constitution is divided into Parts as indicated by its contents.

Replaceable rules not to apply

- 1.6 Unless specifically stated to apply elsewhere in this Constitution, the provisions of the Corporations Act that apply as replaceable rules are

displaced by this Constitution and accordingly do not apply to the Company.

Intention to be an MCI mutual entity

- 1.7 The Company is intended to be an MCI mutual entity for the purposes of the Corporations Act.

2 Membership

- 2.1 Members of the Company shall consist of persons who are:
- (a) Shareholder Members; and
 - (b) Guarantee Members.
- 2.2 Unless expressly stated otherwise in this Constitution:
- (a) an MCI Holder is not a Member of the Company merely by virtue of holding an MCI;
 - (b) an MCI Holder may be (or become) a Member of the Company if they are otherwise admitted to membership in accordance with Parts 3 or 4; and
 - (c) an MCI Holder who is also a Member is not deemed to be a Member (and the provisions of this Constitution relating to membership do not apply) in respect of any MCIs held by that person.

If a Member is also an MCI Holder, they have no more than one vote at a general meeting of the Company, regardless of the applicable terms of issue of the MCI.

3 Guarantee Members

- 3.1 Every person who, according to the Company's records was a member of the Company as at 24 October 2000 is a Guarantee Member of the Company.
- 3.2 The Directors may admit any person as a Guarantee Member on the person complying with the requirements of Article 3.3 and agreeing to be bound by this Constitution.

Application for membership

- 3.3 A person who wishes to become a Guarantee Member must complete and lodge with the Company, at the Registered Office or any branch office or agency of the Company, an application in the form approved by the Board.
- 3.4 The Board may refuse any membership application and need not give a reason for refusal.

Approval of application and admission to membership

- 3.5 Subject to the Corporations Act, the Board or its delegate may approve applications for membership as a Guarantee Member in accordance with the procedures adopted by the Board.
- 3.6 On approval of an application for membership as a Guarantee Member the Board or the delegate approving the application must:
 - (a) allocate to the applicant a membership number; and
 - (b) enter in the Register of Members the name of the applicant and such other particulars as the Corporations Act requires.
- 3.7 Following approval of an application, a person becomes a Guarantee Member of the Company when their name is entered in the Register of Members.

Delegation

- 3.8 The Board may delegate to any committee of the Board or to any employee or employees of the Company the power to accept applications for membership.
- 3.9 The delegation of this power may be made concurrently to any number of employees of the Company and does not exclude the right of the Board to consider and to approve or reject any application for membership.

Minors

- 3.10 The Company may admit a minor as a Guarantee Member.
- 3.11 A Guarantee Member who is a minor may not:
 - (a) vote at a meeting of the Company; or
 - (b) hold office in the Company.

Joint Guarantee Members

- 3.12 The Company may admit 2 or more persons to membership as joint Guarantee Members.
- 3.13 The persons constituting the joint Guarantee Member may determine the order in which their names are to appear in the Register of Members. If they do not determine the order, the Company may enter the names in the order it considers to be appropriate.
- 3.14 The joint Guarantee Member who is named first in the Register of Members will be the primary joint Guarantee Member. Notices or other documents may be given or sent to the primary joint Guarantee Member and for all purposes under this Constitution and, to the extent permissible, the Corporations Act, membership is taken to be solely that of the primary joint Guarantee Member.

Body corporate Guarantee Members

- 3.15 A body corporate may be a Guarantee Member of the Company and may by notice to the Company appoint a person to represent it at meetings of Members at which it is entitled to attend and vote.

- 3.16 The appointment of the Representative must be in writing duly executed by the body corporate or under the hand of a duly authorised attorney of the body corporate.
- 3.17 The original, or a copy certified as a true copy by an Officer of the body corporate, of:
- (a) the appointment; and
 - (b) any power of attorney under which the appointment is executed,
- must be lodged with the Secretary of the Company before any meeting at which the person is to represent the body corporate.
- 3.18 A person appointed under Article 3.15 is entitled to exercise the same rights of voting as a Guarantee Member of the Company and is eligible to be elected as a Director if the person holds the qualifications required for holding office as a Director.

Dormancy

- 3.19 The Board may, by resolution, determine a person's Deposit accounts to be dormant if:
- (a) no Member initiated transactions have been made within a period of at least 2 years; and
 - (b) the Board has sent to the Member, at the Member's last known address in the Register of Members, at least 1 months' notice of its intention to determine the Member's Deposit accounts dormant.
- 3.20 If a person's membership has been terminated for dormancy the person is entitled to have their Deposit accounts and membership(s) reinstated on application until such time as the Deposits have:
- (a) been paid to the person;
 - (b) been dealt with in accordance with the relevant law dealing with unclaimed money; or
 - (c) reduced to nil.

Cessation of membership

- 3.21 A Guarantee Member will cease to be a Member of the Company:
- (a) if the person resigns his or her membership in accordance with this Constitution;
 - (b) if the person's membership is terminated in accordance with this Constitution;
 - (c) where any contract of membership is rescinded on the ground of misrepresentation or mistake;
 - (d) where the Guarantee Member is a body corporate, if the Member is dissolved or otherwise ceases to exist, has a liquidator or

provisional liquidator appointed to it, or is unable to pay its debts;

- (e) if the person becomes bankrupt or insolvent or makes an arrangement or composition with his creditors generally; or
- (f) on death.

The Company is to record that a Guarantee Member has ceased to be a Member pursuant to this Article 3.22 promptly following the Company being aware of the event giving rise to the cessation of membership.

3.22 The Company may terminate a person's membership as a Guarantee Member if:

- (a) the person's Deposit accounts have been determined to be dormant under Article 3.19 and has not been reinstated; or
- (b) the person has no Deposit or Loan account open with the Company.

Death of a Guarantee Member

3.23 Subject to the Corporations Act, the estate of a deceased Guarantee Member:

- (a) remains liable to the Company for the amount of any unpaid financial accommodation provided by the Company to the deceased Guarantee Member; and
- (b) retains any entitlements due from the Company.

Termination of Guarantee Membership

3.24 A Guarantee Member may prior to the commencement of winding up of the Company by notice in writing to the Company, resign membership with immediate effect.

3.25 The Board may by notice in writing to the Guarantee Member, terminate the membership of any Guarantee Member where:

- (a) the Guarantee Member has failed to discharge their obligations to the Company whether under this Constitution or arising out of any contract; or
- (b) the Guarantee Member has been guilty of conduct detrimental to the Company.

3.26 Any money standing to the credit of a Guarantee Member who has been expelled, after satisfaction of all liabilities and obligations of the Guarantee Member, will be repaid to the Guarantee Member.

4 Shareholder Members

4.1 A person who acquires Shares (other than MCIs) and whose name is entered in the Register of Members as a holder of Shares shall be a Shareholder Member of the Company.

Directors to issue Shares

- 4.2 Subject to the Corporations Act, this Constitution, any requirements of APRA in prudential standards (where applicable) and any special rights conferred on the holders of any Shares or class of Shares:
- (a) the issue of Shares in the Company is under the control of the Directors and the Directors may issue or dispose of Shares to such persons at such times and on such terms and conditions and having attached to them such preferred, deferred or other special rights or such restrictions, whether with regard to dividend, voting, return of capital or otherwise as the Directors think fit;
 - (b) the Directors may grant to any person an option over Shares or pre-emptive rights during such time and for such consideration as they think fit; and
 - (c) the Directors have the right to settle the manner in which fractions of a Share, however arising, are to be dealt with.

Share and option certificates

- 4.3 The Company must issue to each Shareholder Member, MCI Holder and option holder one or more certificates for the Shares and options held by the person. The Company is not required to issue more than one certificate or statement for Shares or options held by several persons.
- 4.4 Delivery of a certificate for a Share or option to one of several joint holders is sufficient delivery to all such holders.

Joint holders of Shares

The provisions of this Constitution relating to joint Members apply so far as they are capable of application and with any necessary changes to joint holders of MCIs.

- 4.5 Where two or more persons are registered as the joint holders of Shares then they are deemed to hold the Shares as joint tenants with rights of survivorship.
- 4.6 The joint Shareholder Member who is named first in the Register of Members will be the primary joint Shareholder Member. Notices or other documents may be given or sent to the primary joint Shareholder Member and for all purposes under this Constitution and the Corporations Act membership is taken to be solely that of the primary joint Shareholder Member.
- 4.7 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 in respect of Shares jointly held.

Cessation of membership

- 4.8 A Shareholder Member ceases to be a Member immediately if the person ceases to hold any Shares and such person does not remain as a Guarantee Member alone.

Variation of rights

- 4.9 If the Share capital is divided into different classes of Shares, the rights attached to a class, unless otherwise provided by the terms of issue of the Shares of that class, may be varied or cancelled in any way with:
- (a) the consent in writing of the holders of at least three-quarters of the issued Shares of that class; or
 - (b) the sanction of a special resolution passed at a separate meeting of the holders of the Shares of that class.
- 4.10 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 otherwise:
- (a) expressly provided by the terms of issue of the first-mentioned Shares; or
 - (b) required by the Corporations Act.
- 4.11 The provisions of this Constitution relating to general meetings apply so far as they are capable of application and with the necessary changes to every separate meeting of the holders of a class of Shares except that:
- (a) a quorum is constituted by at least ten persons who, between them, hold or represent at least one-third of the issued Shares of the class (unless only one person holds a Share 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 Representative, may demand a poll.
- 4.12 In relation to MCIs, these provisions are subject to Part 5 (which applies to MCIs to the extent of any inconsistency).

5 MCIs

Share capital from MCIs

- 5.1 Subject to compliance with the Corporations Act and satisfying the requirements of APRA in prudential standards (where applicable), the Company may raise capital by issuing MCIs or capital instruments convertible into MCIs.
- 5.2 The Company may create or issue MCIs at any time. The creation or issue of MCIs does not vary the rights attached to MCIs or any other Shares that the Company has already issued (or may issue in future).

Issue

- 5.3 The subscription price for an MCI, or a capital instrument convertible to an MCI, will be determined by the Board.
- 5.4 Each MCI must be issued as a fully paid up share.
- 5.5 Any dividends in respect of an MCI are non-cumulative.

Rights of MCI Holders

- 5.6 The terms of issue of an MCI (including any terms, conditions or rights attaching to the MCI) will be determined by the Board in its sole discretion, subject to the requirements of this Constitution, the requirements for MCIs in the Corporations Act and any applicable prudential standards.
- 5.7 Subject to the terms of issue of an MCI, an MCI Holder is entitled to a claim on the surplus assets and profits of the Company in a winding-up of the Company after all senior claims, including the aggregate subscription price paid for any Shares by Shareholder Members, have been satisfied and:
- (a) the MCI Holder's claim ranks equally and proportionately with the claims of all other MCI Holders in the same class of MCIs; and
 - (b) the amount of the MCI Holder's claim cannot exceed the subscription price of the MCI.
- 5.8 Notwithstanding anything to the contrary in this Constitution, but subject to the requirements for MCIs in the Corporations Act, the Board may determine that the terms of issue of any MCIs contain such terms and conditions or attach such rights as the Board considers necessary or desirable for those MCIs to be eligible for inclusion as regulatory capital under any applicable prudential standards.
- 5.9 The rights attached to MCIs (or a class of MCIs) may only be varied or cancelled by special resolution of the Company and:
- (a) by a special resolution passed at a meeting of MCI Holders holding MCIs in the relevant class; or
 - (b) with the written consent of MCI Holders of at least 75% of the issued MCIs of that class.
- Any variation of the rights attached to MCIs which constitute Common Equity Tier 1 Capital (as defined by APRA from time to time) of the Company is subject to the prior written approval of APRA, if the variation may affect the eligibility of such MCIs for inclusion as Common Equity Tier 1 Capital of the Company.
- 5.10 Except as provided by the rules of a licensed CS facility (as defined in the Corporations Act) which apply in relation to an MCI, a person becomes registered as an MCI Holder upon entry by the Company in its Register of Members of the person's particulars in relation to the MCI as required by the Corporations Act.

6 Lien

This Part 6 does not apply to MCIs.

Lien on Share

- 6.1 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 may be called on by law to pay in respect of that Share;
- (c) all money payable by the Shareholder Member to the Company;
- (d) interest at the Prescribed Interest Rate on the amount due from the date it becomes due until payment; and
- (e) reasonable expenses of the Company in respect of the default on payment,

and the lien extends to all dividends, rights and other distributions from time to time declared paid or made in respect of that Share.

- 6.2 Nothing in this Constitution prejudices or affects any right or remedy which any law may confer on the Company, and as between the Company and every Shareholder Member, Shareholder Member's executors, administrators and estate wherever constituted or situated any right or remedy which any law confers on the Company is enforceable by the Company.
- 6.3 The Directors may at any time exempt a Share wholly or in part from the provisions of Article 6.1.

Sale under lien

- 6.4 Subject to Article 6.5, the Company may sell, in any manner the Directors think fit, any Share on which the Company has a lien.
- 6.5 A Share on which the Company has a lien may not be sold by the Company unless:
 - (a) a sum 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, such part of the amount in respect of which the lien exists as is presently payable.

Transfer on sale under lien

- 6.6 For the purpose of giving effect to a sale under Article 6.4, 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.
- 6.7 The Company must register the purchaser as the holder of each Share comprised in any such transfer and the purchaser is not bound to see to the application of the purchase money.

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

Proceeds of sale

- 6.9 The proceeds of a sale under Article 6.4 must be applied by the Company in payment of the amount in respect of which the lien exists as is presently payable, and the residue, if any, must be paid to the person entitled to the Share immediately before the sale.

7 Calls on Shares

This Part 7 does not apply to MCIs.

Directors to make calls

- 7.1 The Directors may make calls on a Shareholder Member in respect of any money unpaid on the Shares of that Shareholder Member, if the money is not by the terms of issue of those Shares made payable at fixed times.
- 7.2 A call may be made payable by instalments.
- 7.3 The Directors may revoke or postpone a call.

Time of call

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

Members' liability

- 7.5 Each Shareholder Member must pay to the Company the amount called on the Shares at the time or times and place specified by the Directors.
- 7.6 The joint holders of a Share are jointly and severally liable to pay all calls in respect of the Share.
- 7.7 The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, a Shareholder Member does not invalidate the call.

Interest on default

- 7.8 If a sum called in respect of a Share is not paid before or on the day appointed for payment of the sum and at the place specified by the Directors, 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. The Directors may waive payment of that interest wholly or in part.

Fixed instalments deemed calls

- 7.9 Any sum that, by the terms of issue of a Share, becomes payable on allotment or at a fixed date, is deemed for the purposes of this Constitution to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable, and, 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.

Differentiation between Shareholders as to calls

- 7.10 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.

Prepayment of calls

- 7.11 The Directors may accept from a Shareholder Member the whole or a part of the amount unpaid on a Share although no part of that amount has been called.
- 7.12 The Directors may 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 Shareholder Member paying the sum.

8 Transfer of Shares

Forms of instrument of transfer

- 8.1 Subject to this Constitution, a Shareholder Member or MCI Holder may transfer all or any of the Shareholder Member's or the MCI Holder's Shares by instrument in writing in any usual or common form or in any other form that the Directors approve.

Registration procedure

- 8.2 The instrument of transfer:
- (a) must be executed by or on behalf of both the transferor and the transferee; and
 - (b) must be left for registration at the Registered Office, or any place of business of the Company, accompanied by the certificate for the Shares to which it relates and the information the Directors require to show the right of the transferor to make the transfer.
- 8.3 A transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register of Members in respect of the Shares and a transfer of Shares does not pass the right to any dividends declared on the Shares until registration.

Directors' powers to decline to register

- 8.4 The Directors may decline to register any transfer of Shares, without being bound to give any reason whatsoever for so doing. This Article 8.4 does not apply to MCIs.

Transfer of an MCI through a licensed CS facility

- 8.5 Subject to the Corporations Act, the provisions of this Part 8 do not apply to a transfer of an MCI effected through a licensed CS facility (as defined in the Corporations Act) to the extent provided in the terms of issue applicable to the MCI.

9 Transmission of Shares

Transmission of Shares on death of holder

- 9.1 In the case of the death of a Shareholder Member or MCI Holder:
- (a) the survivor or survivors where the deceased was a joint holder; and
 - (b) the legal personal representatives of the deceased where the deceased was a sole holder,

are the only persons recognised by the Company as having any title to the deceased's interest in Shares held by that Shareholder Member or MCI Holder, but this Article does not release the estate of a deceased joint holder from any liability in respect of a Share held jointly by the deceased with other persons.

Right to registration on death or bankruptcy

- 9.2 Subject to any applicable legislation, a person becoming entitled to a Share in consequence of the death or bankruptcy of a Shareholder Member or MCI Holder may, on such information being produced as is properly required by the Directors, either elect to be registered as holder of the Share or nominate another person to be registered as the transferee of the Share. Where the surviving joint holder becomes entitled to a Share in consequence of the death of a Shareholder Member or MCI Holder the Directors must, on satisfactory evidence of that death being produced to them, direct the Register of Members to be altered accordingly.
- 9.3 If the person becoming entitled elects to be registered as holder of the Share under Article 9.2, the person must deliver or send to the Company a notice in writing signed by the person, in such form as the Directors approve, stating that the person so elects.
- 9.4 If the person becoming entitled nominates another person to be registered as the transferee of the Share under Article 9.2, the person must execute a transfer of the Share to the other person.
- 9.5 All the limitations, restrictions and provisions of this Constitution relating to the right to transfer, and the registration of transfer of, Shares are applicable to any such notice or transfer as if the death or bankruptcy of the Shareholder Member or MCI Holder had not occurred and the notice or transfer was a transfer signed by that Shareholder Member or MCI Holder.

Effect of transmission

- 9.6 If the registered holder of a Share dies or becomes bankrupt, the personal representative or the trustee of the estate of the registered holder, as the case may be, is, on the production of such information as is properly required by the Directors, entitled to the same dividends, distributions and other advantages, and to the same rights, whether in relation to meetings of the Company, or to voting or otherwise, as the registered holder would have been entitled to if the registered holder had not died or become bankrupt.

- 9.7 If two or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they are, for the purpose of this Constitution, deemed to be joint holders of the Share.

10 Forfeiture of Shares

This Part 10 does not apply to MCIs (which must be issued fully paid).

Notice requiring payment of call

- 10.1 If a Shareholder Member fails to pay a call or instalment of a call on the day and at the place 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, serve a notice on the Shareholder 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.
- 10.2 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.

Forfeiture for failure to comply with notice

- 10.3 A Share in respect of which the notice under Article 10.1 has not been complied with may at any time, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.
- 10.4 A forfeiture under Article 10.3 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.
- 10.5 Subject to the Corporations Act a Share forfeited under Article 10.3 may be sold, re-issued or otherwise disposed of to whom and on such terms as the Directors think fit.
- 10.6 If any Share is forfeited under Article 10.3 notice of the forfeiture must be given to the Shareholder Member holding the Share immediately prior to the forfeiture and an entry of the forfeiture and its date must be made in the Register of Members.
- 10.7 The Directors may accept the surrender of any Share which they are entitled to forfeit on such terms as they think fit and any Share so surrendered is deemed to be a forfeited Share.

Cancellation of forfeiture

- 10.8 At any time before a sale or disposition of a Share, the forfeiture of that Share may be cancelled on such terms as the Directors think fit.

Effect of forfeiture on former holder's liability

- 10.9 A person whose Shares have been forfeited:

- (a) ceases to be a Shareholder Member in respect of the forfeited Shares and loses all entitlement to dividends and other distributions or entitlements on the Shares;
- (b) ceases to be a Member and does not remain as a Guarantee Member alone; 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.

Evidence of forfeiture

- 10.10 A statement in writing declaring that the person making the statement is a Director or the 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.

Transfer of forfeited Share

- 10.11 The Company may receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share and may execute or effect a transfer of the Share in favour of the person to whom the Share is sold or disposed of.
- 10.12 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.
- 10.13 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.

Forfeiture applies to non-payment of instalment

- 10.14 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.

11 Rights and Liabilities of Members

Recognition of interests

- 11.1 The Company is not required to recognise a person as holding a Share on any trust, except as required by law.
- 11.2 The Company is not required to recognise any equitable, contingent, future or partial interest in any Share or unit of a 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 interest or right concerned, except as required by law.
- 11.3 Where Shares (other than MCIs) are held on trust for any person, the trustee (or the trustees who are registered jointly as a Shareholder Member) will for all the purposes of the Company be regarded as a Shareholder Member of the Company.

Liability of Members

- 11.4 Subject to Article 11.6, the liability of Members is limited and each Member undertakes to contribute to the Company's property if the Company is wound up while they are a Member or within one year after they cease to be a Member, for payment of the Company's debts and liabilities contracted before they cease to be a Member and of the costs, charges and expenses of the winding up and for adjustment of the rights of the contributories among themselves, an amount not exceeding the sum of \$5.00.
- 11.5 In addition to the amount referred to in Article 11.4, Shareholder Members are also liable to pay the amount (if any) unpaid on any Shares held by them.
- 11.6 Article 11.4 does not apply to those Guarantee Members who are Guarantee Members by virtue of Article. 3.1.

12 General meetings

General meeting

- 12.1 The Directors may convene a general meeting of the Company.

Postponement or cancellation of meeting

- 12.2 Where a general meeting (including an annual general meeting) is convened by the Directors they may, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them.
- 12.3 Written notice of cancellation or postponement of a general meeting must be given to each Member and Voting MCI Holder individually and to each other and such other person as is entitled under the Corporations Act or this Constitution and must specify the reason for cancellation or postponement (as the case may be).
- 12.4 A notice postponing the holding of a general meeting must specify:
 - (a) a date and time for the holding of the general meeting; and
 - (b) a place for the holding of the general meeting which may be either the same as or different from the place specified in the notice convening the general meeting; and
 - (c) if the general meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the general meeting in that manner.
- 12.5 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 general meeting must not be less than the number of clear days' notice of the meeting required to be given by this Constitution or the Corporations Act.
- 12.6 The only business that may be transacted at a general meeting the holding of which is postponed is the business specified in the notice convening the postponed general meeting.

- 12.7 The accidental omission to give notice of the cancellation or postponement of a meeting to, or the non-receipt of any such notice by, any Member, Voting MCI Holder or person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.
- 12.8 Where:
- (a) by the terms of an instrument appointing a proxy or of an appointment of a Representative, a proxy 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 or appointment of Representative,
- then, by force of this Article, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy or appointment of Representative unless the Member or Voting MCI Holder appointing the proxy 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.
- 12.9 Articles 12.2 to 12.8 (both inclusive) do not apply to a general meeting convened by Members and/or Voting MCI Holders under Section 249F or by the Directors pursuant to a requisition of Members and/or Voting MCI Holders under the Corporations Act.

13 Proceedings at general meetings

Representation of Member and Voting MCI Holder

- 13.1 Unless the contrary intention appears, a reference to a Member or Voting MCI Holder in Part 13 means a person who is a Member or Voting MCI Holder, or is a proxy or Representative of that Member or Voting MCI Holder.

Quorum

- 13.2 Subject to Article 13.5, the quorum for a general meeting is ten (10) individuals present in person who are entitled to attend and vote at the meeting as a Member, or as a proxy or Representative of 1 or more Members.
- 13.3 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 to be deemed present throughout the meeting unless the chairman of the meeting otherwise declares.
- 13.4 If within 30 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by, or on requisition of, Members and/or Voting MCI Holders, 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 Voting MCI Holders and others entitled to notice of the meeting.
- 13.5 The quorum for a meeting adjourned under Article 13.4(b) is two individuals present in person who are entitled to attend and vote at the meeting as a Member, or a proxy or Representative of 1 or more Members and if a quorum is not present within 10 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

Appointment and powers of chairman of general meeting

- 13.6 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.
- 13.7 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 10 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): the deputy chairman (if any); a Director chosen by a majority of the Directors present; the only Director present; a Member chosen by a majority of the Members present in person or by proxy or Representative.
- 13.8 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 determine any dispute about the admission or rejection of a vote (including a vote recorded in a form of proxy);
 - (c) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
 - (d) may, having regard where necessary to Sections 250S and 250T, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this Article 13.8 is final.

Adjournment of general meetings

- 13.9 The chairman may, and must if so directed by the meeting, adjourn the meeting to a new day, time or place, but no business may be transacted

at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- 13.10 When a meeting is adjourned for one month or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- 13.11 Except as provided by Article 13.10, it is not necessary to give any notice of an adjournment of, or of the business to be transacted at, any adjourned meeting.
- 13.12 A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

Voting on a resolution

- 13.13 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 demanded.

On a show of hands, a declaration by the chairman is conclusive evidence of the result.

Questions decided by majority

- 13.14 Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of votes cast by those Members and Voting MCI Holders (or the proxies or Representatives of those Members or Voting MCI Holders) entitled to attend and vote on the resolution are in favour of it.

Poll

- 13.15 If a poll is properly demanded, 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.
- 13.16 Subject to Article 13.17, a demand for a poll 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.
- 13.17 A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.
- 13.18 A demand for a poll may be withdrawn.

Equality of votes – no chairman's casting vote

- 13.19 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 Voting MCI Holder or as a proxy or Representative of a Member or Voting MCI Holder. In the event of an equal vote the matter will be decided in the negative.

Offensive material

- 13.20 A person may be refused admission to, or required to leave and not return to, a meeting if the person:
 - (a) refuses to permit examination of any article in the person's possession; or

- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article;

which the chairman considers to be dangerous, offensive or liable to cause disruption.

Entitlement to vote

- 13.21 Subject to any rights or restrictions for the time being attached to any class or classes of Shares and irrespective of the number of accounts or Shares held or whether the person is the primary joint Guarantee Member or primary joint Shareholder Member:
 - (a) on a show of hands, each Member and Voting MCI Holder present in person and each other person present as a proxy or Representative of a Member or Voting MCI Holder has one vote;
 - (b) on a poll, each Member and Voting MCI Holder present in person has one vote and each person present as proxy or Representative of a Member or Voting MCI Holder has one vote for each Member or Voting MCI Holder that the person represents.
- 13.22 If a Member or Voting MCI Holder has been appointed to act as a Representative or proxy of another Member or Voting MCI Holder that person may vote both as a Member or Voting MCI Holder and for that other Member or Voting MCI Holder.
- 13.23 A proxy's authority to speak and vote for a Member or Voting MCI Holder at a meeting is suspended while the Member or Voting MCI Holder is present at the meeting in person or by Representative.

Joint Members' vote

- 13.24 In the case of joint Members the vote of the primary joint Guarantee Member or the primary joint Shareholder Member (as the case may be) if they tender a vote, whether in person or by proxy or Representative, must be accepted to the exclusion of the votes of the other joint holders. If the primary joint Guarantee Member or the primary joint Shareholder Member (as the case may be) does not tender a vote then the vote of the senior Member who tenders a vote, whether in person, proxy or Representative will be accepted and, for this purpose, seniority is determined by the order in which the names stand in the Register of Members.

Vote of Member or Voting MCI Holder of unsound mind

- 13.25 If a Member or Voting MCI Holder 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 or the Voting MCI Holder's committee or trustee or such other person as properly has the management of the Member's or Voting MCI Holder's estate may exercise any rights of the Member or Voting MCI Holder in relation to a

general meeting as if the committee, trustee or other person were the Member or Voting MCI Holder.

Objection to voting qualification

- 13.26 An objection may not be raised to the right of a person to attend or vote at the meeting or adjourned meeting except at that meeting or adjourned meeting. Any such objection must be referred to the chairman of the meeting, whose decision is final. The chairman may adjourn the meeting to allow time to assess the eligibility of Members or Voting MCI Holders to vote. A vote not disallowed under such an objection is valid for all purposes.

Validity of vote in certain circumstances

- 13.27 A vote given in accordance with the terms of an instrument of proxy is valid notwithstanding:
- (a) the previous death or unsoundness of mind of the principal;
 - (b) the revocation of the instrument, or of the authority under which the instrument was executed, or of the power; or
 - (c) the execution of a transfer of the Share in respect of which the instrument or power is given,

if notice in writing of the death, unsoundness of mind, revocation or transfer has not been received by the Company at the Registered Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

14 The Directors

Number of Directors

- 14.1 The number of Directors is as fixed by the Directors from time to time, subject to a minimum of five.

Election of Director

- 14.2 Subject to Corporations Act, Directors of the Company will be elected at the annual general meeting of the Company.
- 14.3 The Board of Directors as constituted shall consist of a majority of Directors who ordinarily reside in the Hunter Region. No person may be appointed as a Director if their appointment would result in contravention of this Article 14.3. If a Director ceases to be ordinarily resident in the Hunter Region or a person who is a Director ordinarily resident in the Hunter Region ceases to hold office as a Director so as to result in a contravention of this Article 14.3 the remaining Directors must take all reasonable steps to remedy the contravention as soon as practicable.
- 14.4 If a Director ceases to be ordinarily resident in the Hunter Region so as to precipitate a contravention of Article 14.3 the office of that Director shall become vacant.
- 14.5 An election of the Directors of the Company is to be held by ballot, except where nominations equal or are less than the number of positions

to be filled. If a ballot is not held, Directors will be appointed by separate resolution for each candidate.

Appointment of returning officers

- 14.6 The returning officer shall be the Auditor of the Company or if he is not available the Board must appoint a returning officer who may appoint assistant returning officers, none of whom can be a Director, employee of the Company or a person who intends to accept a nomination for the office of Director.

Nominations

- 14.7 Nominations for the office of Director shall be lodged at the Company's registered office on or before 31 May in each year.
- 14.8 In order to be nominated, a nominee must:
- (a) qualify under Article 14.29; and
 - (b) be eligible for appointment under the Corporations Act; and
 - (c) be nominated by at least ten members; and
 - (d) consent to the nomination.
- 14.9 A retiring Director may seek re-election without a nomination, but must be eligible for election under this Constitution. A retiring Director shall be deemed to be seeking re-election unless he or she has notified the contrary to the Secretary.

Assessing eligibility to stand for election

- 14.10 A nominee or retiring Director seeking re-election must furnish to the Company such information, declarations and consents, and in such form, as the Board may reasonably request to allow the Company to determine if the person:
- (a) is eligible for election as Director under this Constitution and the law;
 - (b) has the appropriate fitness and propriety to be a Director in accordance with the Company's Fit & Proper Policy.
- 14.11 A nominee or retiring Director seeking re-election only becomes a candidate for election if and when:
- (a) the person has provided the Company with all information, declarations and consents requested under Article 14.10;
 - (b) the person has submitted himself or herself, and given such consents, to the checks that are referred to in the Company's Fit & Proper Policy; and
 - (c) the Board has determined that the person has the appropriate fitness and propriety to be a Director in accordance with the Company's Fit & Proper Policy.

The Board may determine cut-off dates by which a person must satisfy the above requirements, after which time the person is not eligible to stand as a candidate.

Rejection of nominations

- 14.12 The returning officer must scrutinise nominations and reject a nomination where it appears to the returning officer that the nominee is not eligible under the Company's Constitution.
- 14.13 Upon rejecting a nomination, the returning officer is to notify the nominee and the Board.

Voting Procedures

- 14.14 Voting in the election of Directors will be conducted by ballot according to:
 - (a) if the Board has approved Voting Procedures to apply to the election – those Voting Procedures;
 - (b) otherwise – the postal ballot procedures set out in Part 26 (Articles 26.1 to 26.10) of this Constitution.
- 14.15 The Board may approve Voting Procedures to apply to the election of Directors. The Board's approval may be standing approval.
- 14.16 To avoid any doubt, the Voting Procedures may allow for Members to cast votes in the ballot by electronic means.
- 14.17 In determining the Voting Procedures the Board must take reasonable steps to address the following matters:
 - (a) each Member entitled to vote should have a reasonable opportunity to participate in the ballot;
 - (b) precautions to ensure that each Member may only vote once in the ballot;
 - (c) procedures enabling the returning officer to detect fraud or impropriety in the voting process;
 - (d) procedures to protect the anonymity of the voter;
 - (e) instructions for voting must be legible and clearly expressed so as to accurately inform Members how to complete and cast a vote;
 - (f) to the extent applicable – provisions for issuing a duplicate ballot paper when the original has been lost or spoiled;
 - (g) rules to apply to determine if a ballot paper or other method of casting a vote is informal;
 - (h) procedures for receiving, checking, scrutinising and counting votes cast;
 - (i) the conduct, duties and responsibilities of the returning officer;

- (j) the conduct, duties and responsibilities of scrutineers; and
- (k) the retention and destruction of documents and records relating to the ballot after the election.

14.18 The Company must provide a copy of the Voting Procedures:

- (a) to each candidate;
- (b) to a Member on request.

14.19 If Voting Procedures apply to the election of Directors then:

- (a) the ballot opens on a day determined by the Board that is at least 21 days before the annual general meeting;
- (b) the ballot paper, or other method under the Voting Procedures by which a Member may cast a vote in the ballot, must:
 - (i) list all the candidates in an order determined by the returning officer by lot; and
 - (ii) require the Member to vote for the exact number of candidates equal to the number of vacancies to be filled;
- (c) a Member may only cast a vote in the ballot in accordance with the Voting Procedures;
- (d) the ballot closes on a day and time determined by the Board that is on a date at least:
 - (i) 14 days after the ballot opens; and
 - (ii) 7 days before the annual general meeting;
- (e) after the close of the ballot, the returning officer must:
 - (i) check, scrutinise and count votes cast in accordance with the Voting Procedures;
 - (ii) sign a declaration of the ballot as to the:
 - (A) names of the candidates elected as Directors;
 - (B) votes cast for each candidate; and
 - (C) number of votes rejected as informal; and
 - (iii) deliver the declaration to the chairman of the annual general meeting; and
- (f) the candidates that the returning officer declares to have been appointed are appointed.

Voting system

- 14.20 The vacancy or vacancies shall be filled by the candidate or candidates receiving the greatest number of votes and such candidate or candidates shall be deemed elected.
- 14.21 In the event of equality of votes in favour of two or more candidates, the successful candidate shall be determined by lot conducted by the chairman of the annual general meeting in such manner as the chairman shall determine.
- 14.22 A declaration of the result of the election will be made at the annual general meeting.

Retirement by rotation

- 14.23 At each annual general meeting one third of the elected Directors or, if their number is not a multiple of three, then the number nearest to but not greater than one third will retire from office.
- 14.24 The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election.
- 14.25 Directors elected on the same day may agree among themselves or determine by lot which of them must retire.

Maximum term of office

- 14.26 A Director must retire from office at the start of the third annual general meeting after the Director was last elected, even if his or her retirement results in more than one third of all Directors retiring from office.

Appointment of Director

- 14.27 Subject to Article 14.1, 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. The term of office of a Director appointed under this Article will end at the start of the next annual general meeting of the Company at which meeting the retiring Director is eligible for appointment. Such retiring Director will not be taken into account in determining the number of Directors who must retire by rotation.
- 14.28 Article 14.29 does not apply to a Director appointed to fill a casual vacancy. However within five days of the appointment, the appointed Director must have and maintain with the Company a minimum deposit of \$5,000.00 for the term of the appointment.

Share qualification of Directors

- 14.29 A Director is not required to hold a Share in the Company, but must be a Member with a minimum of \$5,000.00 invested for a period of not less than 18 months prior to appointment as a Director. Each Director must maintain that minimum deposit of \$5,000.00 throughout the Directors' period of office.
- 14.30 The Directors may in their absolute discretion vary or waive some or all of the requirements of Article 14.29 in relation to a particular Director.

Remuneration of Directors

- 14.31 Subject to Article 14.33, the Directors (excluding any Executive Director) are entitled to be paid out of the funds of the Company as remuneration for their services as Directors such sum accruing from day to day as the Company in general meeting determines.
- 14.32 In the absence of apportionment determined by the meeting, the Directors may determine how the sum for their remuneration is to be apportioned among them (excluding the remuneration of any Executive Director) and how and when it is to be paid.
- 14.33 Excluding any Executive Director, if the number of Directors in office is greater than the number in office when the Directors' remuneration was last determined each additional Director is entitled, until the remuneration of the Directors is next determined at a general meeting, to be paid as remuneration for services as a Director an amount per annum up to the limit obtained by dividing the aggregate amount per annum of Directors' remuneration last determined by the number of Directors in office when the Directors' remuneration was last determined.
- 14.34 If a Director at the request of the Directors performs additional or special duties for the Company, the Company may remunerate that Director by payment of a fixed sum or salary to be determined by the Directors and that remuneration may be either in addition to or in substitution for that Director's remuneration under the preceding Articles.
- 14.35 The Company may, with the approval of the Board, pay a former Director (after completing five years continuous service), or the estate of a Director who dies in office (after completing three years continuous service), a retirement benefit in recognition of past services in the maximum amount determined in accordance with the Corporations Act without member approval. If the Directors determine that a higher amount than that so determined should be paid to a former Director or the estate of a Director who dies in office, then the maximum amount that can be paid to that Director or the estate of that Director is three times the average of the previous three years remuneration paid to that Director. Any amount which is above the maximum allowed under the Corporations Act must be approved by members at a General Meeting..

Travelling expenses

- 14.36 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.

Director's interests

- 14.37 If:
- (a) a Director has an interest or duty in relation to a matter that is not a Material Personal Interest; or
 - (b) if a Director with a Material Personal Interest in relation to the Company's affairs:

- (i) complies with the requirements of the Corporations Act in relation to disclosure of the nature and extent of the interest and its relation to the Company's affairs before acting in a matter that relates to the interest; and
- (ii) may be present and vote on the matter under the Corporations Act.

then:

- (c) the Director is not in breach of his or her duties to the Company merely because he or she acts in matters that relate to the Director's interest;
- (d) the Director may vote on matters that relate to the Director's interest; and
- (e) in relation to any transactions that relate to the Director's interest:
 - (i) the transactions may proceed;
 - (ii) the Company cannot avoid the transactions merely because of the Director's interest; and
 - (iii) the Director may retain benefits under the transactions despite the Director's interest.

14.38 If a Director with a Material Personal Interest in relation to a matter:

- (a) complies with the requirements of the Corporations Act in relation to disclosure of the nature and extent of the interest and its relation to the Company's affairs; but
- (b) must not be present and vote on the matter under the Corporations Act,

then:

- (c) the Director is not in breach of duty to the Company merely because he or she does not act in relation to the matter;
- (d) the Board may vote on matters that relate to the Director's interest in the Director's absence; and
- (e) in relation to any transactions that relate to the Director's interest:
 - (i) the transactions may proceed;
 - (ii) the Company cannot avoid the transactions merely because of the Director's interest; and
 - (iii) the Director may retain benefits under the transactions despite the Director's interest.

- 14.39 A Director may participate in the execution of an instrument for the Company, regardless of any interest or duty that the Director may have:
- (a) whether or not the Director has complied with the requirements of the Corporations Act in relation to disclosure of the nature and extent of the interest and its relation to the Company's affairs; and
 - (b) whether or not the Director may be present and vote in relation to the execution of the instrument under the Corporations Act.

Vacation of office of Director

- 14.40 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 absent from 3 consecutive ordinary meetings of the Board without its leave;
 - (d) dies;
 - (e) ceases to be a Member of the Company;
 - (f) fails to maintain at a minimum, the Deposit requirements specified in Article 14.28 or 14.29 and the situation is not rectified within 5 business days of the breach being notified to the Director;
 - (g) is 3 months in arrears in relation to any money due to the Company and has failed to make arrangements for payment satisfactory to the Company; or
 - (h) changes his residential address and precipitates a contravention of Article 14.3.

Executive Directors

- 14.41 The Board may appoint the Chief Executive Officer of the Company as an Executive Director for such term of office and on such terms and conditions as determined by the Board. The Executive Director is entitled to be paid such remuneration as determined by the Board. The Executive Director will automatically cease to hold office as a Director if he or she ceases to be the Chief Executive Officer of the Company. Article 14.29 does not apply to the Executive Director.

15 Powers and duties of Directors

Directors to manage Company

- 15.1 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.
- 15.2 Without limiting the generality of Article 15.1, 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.

Power to delegate

- 15.3 Without limiting Article 15.4, the Directors may delegate all or any of their powers, authorities or discretions.

Appointment of attorney

- 15.4 The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.
- 15.5 Any such power of attorney 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 all or any of the powers, authorities and discretions vested in the attorney.

Minutes

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

Execution of Company cheques, etc

- 15.7 All cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner and by such persons as the Directors determine from time to time.

Confidentiality

- 15.8 Except as otherwise required by law, every Director and other agent or Officer of the Company must:
 - (a) keep secret all aspects of all transactions of the Company except:
 - (i) to the extent necessary to enable the Director, agent or Officer to perform their duties to the Company; and
 - (ii) as required by law; and
 - (b) if requested by the Directors, sign and make a declaration not to disclose or publish any aspect of any transaction of the Company.

Custody of papers

- 15.9 All books of account, securities, documents and papers of the Company other than such (if any) as the Board may direct to be kept elsewhere will be kept at the Registered Office of the Company in such manner and with such provisions for their security as the Board directs.

16 Proceedings of Directors

Directors' meetings

- 16.1 The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- 16.2 A Director may at any time, and the Secretary must on the written request of a Director, convene a Directors' meeting.
- 16.3 Reasonable notice must be given to each Director of all Directors' meetings.
- 16.4 Directors' meetings shall be held at least 11 times each calendar year.

Notice of Meeting

- 16.5 It is not necessary to give notice of a Directors' meeting to a Director who the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia, and will not be returning before the date of the Directors' meeting.

Questions decided by majority

- 16.6 Questions arising at a Directors' meeting are to be decided by a majority of votes of Directors present and entitled to vote and any such decision is for all purposes to be deemed a decision of the Directors.
- 16.7 A person who is present at a Directors' meeting as an Alternate Director and is entitled to vote under Article 16.10, is entitled to one vote on any motion, the same as any other Director, irrespective of the number of Directors who have appointed the person as an Alternate Director

Chairman's casting vote

- 16.8 In the event of an equality of votes, the chairman of the Directors' meeting has a casting vote.

Alternate directors

- 16.9 Subject to the Corporations Act, a Director may appoint a person (other than another Director) 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.
- 16.10 An Alternate Director is entitled to notice of all Directors' meetings and, if the appointor does not attend a Directors' meeting, is entitled to attend and vote in the appointor's stead.
- 16.11 An Alternate Director may exercise all the powers except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor in so far as the appointor has not exercised or performed them.

- 16.12 Whilst acting as a Director, an Alternate Director is responsible to the Company for the Alternate Director's own acts and defaults and the appointor is not responsible for them.
- 16.13 An Alternate Director is not entitled to receive from the Company any remuneration or benefit under Article 14.31, 14.33 or 14.35.
- 16.14 The appointment of an Alternate Director may be terminated at any time by the appointor notwithstanding that 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.
- 16.15 An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and delivered to the Company.
- 16.16 An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

Quorum for Directors' meeting

- 16.17 At a Directors' meeting, the number of Directors (including Alternative Directors entitled to attend under Article 16.10) whose presence is necessary to constitute a quorum is half the number of Directors on the Board. The Board can only pass a resolution on a matter at a Board meeting if the number of Directors present who are entitled to vote on the resolution satisfies the quorum rule.

If, within 30 minutes of the time appointed for a Directors' meeting, a quorum is not present the meeting will stand adjourned to the same day, time and place in the next week.

Remaining Directors may act

- 16.18 The continuing Directors may act notwithstanding a vacancy in their number but, if and so long as their number is reduced below the minimum fixed by Article 14.1, 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 of convening a general meeting.

Chairman and Deputy Chairman

- 16.19 The Directors must elect a Director as chairman of Directors' meetings and may determine the period for which the chairman will hold office.
- 16.20 The Directors may also elect a Director as deputy chairman of Directors' meetings to act in the chairman's absence and may determine the period for which the deputy chairman will hold office.
- 16.21 The chairman or deputy chairman, whilst remaining qualified to act as a Director, may only be removed from office by resolution of which notice has been given to all Directors not less than 14 days before the Directors' meeting at which the resolution is proposed. The Directors' meeting must be one which the chairman and deputy chairman attends unless the chairman or deputy chairman wilfully absents himself or herself from that meeting.

- 16.22 If no chairman or deputy chairman is elected or if the chairman and deputy chairman (if any) are not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the directors present must elect a Director to be chairman of the meeting.
- 16.23 A chairman or deputy chairman who ceases to be a Director, also ceases to be the chairman or deputy chairman.

Directors' committees

- 16.24 The Directors may delegate any of their powers, other than powers required by law to be dealt with by directors as a board, to a committee or committees consisting of at least one of their number and such other persons as they think fit.
- 16.25 A committee to which any powers have been delegated under Article 16.24 must exercise the powers delegated in accordance with any directions of the Directors and a power so exercised is deemed to have been exercised by the Directors.
- 16.26 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 of the committee present may elect one of their number to be chairman of the meeting.
- 16.27 A committee may meet and adjourn as it thinks proper.
- 16.28 Questions arising at a meeting of a committee are to be determined by a majority of votes of the members involved and voting. The chairman, in addition to the chairman's deliberative vote, has a casting vote.

Resolution by Directors without Meeting

- 16.29 The Directors may pass a resolution without a Board meeting if all Directors who are entitled to vote on the resolution, excluding any Directors on Board approved leave of absence, approve the resolution by:
- (a) signing a written copy or copies of the resolution; or
 - (b) such other means as determined by the Board from time to time, including without limitation, by electronic means.
- The resolution is passed when the last eligible Director signs or approves it.

Validity of acts of Directors

- 16.30 All acts of the Directors, Alternate Directors, or member of a committee are valid notwithstanding that it is afterwards discovered that there was some defect in the appointment, election or qualification of them or any

of them or that they or any of them were disqualified or had vacated office.

17 Secretary

Appointment of Secretary

- 17.1 There must be at least one Secretary who is to be appointed by the Directors.

Suspension and removal of Secretary

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

Powers, duties and authorities of Secretary

- 17.3 The Directors may vest in a Secretary such powers, duties and authorities as they may from time to time determine and the Secretary must exercise all such powers and authorities subject at all times to the control of the Directors.

18 Seals

Common and duplicate common seal

- 18.1 The Company may but need not have:
- (a) a common seal; and
 - (b) a duplicate common seal, which must be a copy of the common seal with the words “duplicate seal”, “Share seal” or “certificate seal” added.
- 18.2 The Directors must provide for the safe custody of each seal of the Company.

Use of common seal

- 18.3 The common seal may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the common seal. Every document to which the common seal is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

19 Inspection of records

Inspection by Members and MCI Holders

- 19.1 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 and MCI Holders (other than Directors), and a Member or MCI Holder (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.

20 Dividends and reserves

Payment of dividend

- 20.1 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 the amount and the time for payment and authorise the payment or crediting by the Company to, or at the direction of, each Shareholder Member and MCI Holder entitled thereto of that dividend.

No interest on dividends

- 20.2 Interest is not payable by the Company on a dividend.

Reserves and profits carried forward

- 20.3 The Directors may, before paying any dividend, set aside out of the profits of the Company such sums as they think proper as reserves, to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied.
- 20.4 Pending any such application, the reserves may, at the discretion of the Directors, be used in the business of the Company or be invested in such investments as the Directors think fit.
- 20.5 The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

Calculation and apportionment of dividends

- 20.6 Subject to the rights of persons (if any) entitled to Shares with special rights as to dividend and to the terms of any issue of Shares to the contrary all dividends are to be paid:
- (a) in the case of fully paid Shares, to their holders in proportion to the number of Shares held by them respectively; or
 - (b) in the case of Shares which are not fully paid Shares, to their holders according to the amounts paid or credited as paid on those Shares, apportioned and paid proportionately to the amounts paid or credited as paid on the Shares during any portion or portions of the period in respect of which the dividend is paid.
- 20.7 An amount paid or credited as paid on a Share in advance of a call is not to be taken as paid or credited as paid on the Share for the purposes of Article 20.6.

Deductions from dividends

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

Distribution of specific assets

- 20.9 Except as provided in the terms of issue of any Shares, when paying 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.

20.10 If a difficulty arises in regard to a distribution under Article 20.9, the Directors may:

- (a) settle the matter as they consider expedient; and
- (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 Shareholder Members and/or MCI Holders 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.

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

20.12 For the avoidance of doubt, dividends on MCIs must not be paid other than in the form of cash.

Payment by cheque and receipts from joint holders

20.13 A dividend, interest or other money payable in cash in respect of Shares may be paid:

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

- 20.14 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.
- 20.15 Different methods of payment may apply to different holders of Shares or of groups of holders of Shares. Payment of money is at the risk of the holder or holders to whom it is sent.

Unclaimed dividends

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

21 Capitalisation of profits

Capitalisation of reserves and profits

- 21.1 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 Shareholder Members; and
 - (b) may but need not resolve to apply the sum in any of the ways mentioned in Article 21.2, for the benefit of Shareholder Members in the proportions to which those Shareholder Members would have been entitled in a distribution of that sum by way of dividend.
- 21.2 The ways in which a sum may be applied for the benefit of Shareholder Members under Article 21.1 are:
- (a) in paying up any amounts unpaid on Shares held by Shareholder Members;
 - (b) in paying up in full unissued Shares or debentures to be issued to Shareholder Members as fully paid; or
 - (c) partly as mentioned in paragraph (a) and partly as mentioned in paragraph (b).
- 21.3 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 Shareholder Members among themselves, may:
- (a) issue fractional certificates or make cash payments in cases where Shares or debentures become issuable in fractions; and
 - (b) authorise any person to make, on behalf of all or any of the Shareholder 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 such further Shares or debentures; or

- (ii) the payment up by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised,

and any such agreement is effective and binding on all the Shareholder Members concerned.

22 Service of documents

Service of documents

- 22.1 This Part does not prevent the Company from giving a Member or MCI Holder notice or a document by any other means allowed under the Corporations Act or other applicable law.
- 22.2 The Company may give a document to a Member or MCI Holder:
 - (a) personally;
 - (b) if to a Member – by sending it by post to the address for the Member in the Register of Members or an alternative address nominated by the Member;
 - (c) if to a Member – by sending it to a fax number or electronic address nominated by the Member; or
 - (d) if to an MCI Holder – in any manner permitted by the relevant terms of issue of the MCIs.
- 22.3 If a document is sent by post, delivery of the document is deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and the document is deemed to have been delivered on the day after the date of its posting.
- 22.4 If a document is sent by facsimile or electronic transmission, delivery of the document is to be deemed:
 - (a) to be effected by properly addressing and transmitting the facsimile or electronic transmission, and
 - (b) to have been delivered on the day following its despatch.
- 22.5 A document may be given by the Company to joint Members by giving the document to the primary joint Member.
- 22.6 A person who by operation of law, transfer or other means whatsoever becomes entitled to any Share is absolutely bound by every document given in accordance with this Article to the person from whom that person derives title prior to registration of that person's title in the Register of Members.

23 Audit and accounts

Company to keep accounts

- 23.1 The Directors must cause the Company to keep accounts of the business of the Company in accordance with the requirements of the Corporations Act.

Company to audit accounts

- 23.2 The Directors must cause the accounts of the Company to be audited in accordance with the requirements of the Corporations Act.

24 Winding up

Distribution of assets

- 24.1 If the Company is wound up, any surplus property of the Company after first paying the Deposits and all other liabilities then repaying the capital paid up on each Share will, subject to Article 5.7, be distributed by the liquidator among the Members equally provided that the liquidator may offset an amount payable to any Member under this Article against any amount unpaid on a Share and any other amount payable by the Member to the Company.
- 24.2 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.

25 Indemnity

Indemnity of Officers

- 25.1 Every person who is or has been an Officer of the Company:
- is entitled to be indemnified out of the property of the Company against:
- (a) every liability incurred by the person in that capacity (except a liability for legal costs); and
 - (b) all legal costs incurred in by the person in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,
- unless and to the extent:
- (c) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
 - (d) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

Insurance

- 25.2 The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been an Officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:
- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
 - (b) the contract would, if the Company paid the premium, be made void by statute.

26 Election of Directors by Postal Ballot

- 26.1 Article 14.14 determines whether or not this Part 26 of the Constitution, comprising Articles 26.1 to 26.10, applies to the election of Directors.

Appointment of scrutineer

- 26.2 A candidate may appoint a scrutineer and the Board may appoint a maximum of three scrutineers, none of whom is a candidate.
- 26.3 The duties and responsibilities of scrutineers are to:
- (a) observe the sorting, counting and recording of ballot papers; and
 - (b) ensure that the votes of unrejected ballot papers are correctly credited to the appropriate candidates; and
 - (c) raise any query with the returning officer regarding any of the ballot papers.

Ballot papers

- 26.4 Upon the taking of a ballot for the election of a Director the following procedures will be observed:
- (a) within 30 days after 31 May, being the date of closing of nominations for the office of Director, the returning officer shall;
 - (i) prepare a voting paper containing the following information;
 - (A) the number of vacancies to be filled at the election;
 - (B) the names of all duly nominated candidates;
 - (C) the names of any retiring Directors who are standing for re-election; and
 - (D) the order in which the candidates appear on the ballot paper, as determined by the returning officer by lot.

- (ii) cause copies of the voting paper incorporating the details in paragraphs (i) above to be available at the Registered Office and at all branch offices of the Company for issue to Members entitled to vote upon application in person.
- (iii) prepare a list of voting instructions, a voting Member's card and two envelopes being an outer envelope and an inner envelope. The voting Member's card shall provide for the furnishing of the following information relating to the Member:
 - (A) full name;
 - (B) address;
 - (C) membership number or numbers where the Member holds more than one account; and
 - (D) Member's signature.

The inner envelope shall have printed on it the words "Ballot Paper" and shall have provision for the endorsement on the outside of the Member's voting entitlement which entitlement shall be recorded on the outside by the returning officer but shall contain no other means of identification of the voting Member.

- (b) At any time after 15 June any Member entitled to vote on a ballot for the election of a Director may apply to the Registered Office or to any branch office of the Company to be issued with a voting paper and the material referred to in paragraph (a)(iii).
- (c) Each Member entitled to vote shall mark one voting paper by making a cross opposite the name of each of the candidates for whom the Member votes and shall place it in the inner envelope and seal the same. No other material shall be placed in the inner envelope. The voting Member shall also complete the card by inserting the Member's full name, address and membership number. The voting Member will then sign the card for identification purposes by reference to the Company's records. The voting Member shall place the sealed inner envelope and the completed card, without any other material in the outer envelope and seal the same and post or deliver it or cause it to be delivered to the returning officer at the Company's Registered Office.
- (d) Each voting Member shall vote for the exact number of candidates required to be elected to fill the vacancies in the office of Director and neither more or less of such candidates, failing which such vote shall not be counted.

Closure of ballot

- 26.5 All voting papers received at the Registered Office of the Company not later than 5.00pm on the 31 July shall be delivered unopened to the

returning officer by the Secretary and subject to the requirements of this Article 14.14 (d) shall be counted in the ballot. All voting papers received at the Registered Office of the Company at any time after 5.00pm on the 31 July shall be destroyed unopened by the Secretary.

Procedures after close of ballot

- 26.6 After the close of ballot the returning officer shall open each outer envelope and shall endorse upon the voting card the entitlement of the voter, and endorse on the outside of the inner envelope such voting entitlements and separate the inner envelope from the voting card. The returning officer shall ensure that no information other than the voting entitlements is endorsed or attached to the inner envelope so that no inner envelope could subsequently be identified with any voter.
- 26.7 The returning officer shall open the inner envelope and endorse upon the ballot paper the voting entitlement endorsed on the outside of the inner envelope as provided in Article 14.16.
- 26.8 Subject to Article 14.13, after examining the voting papers and discarding all voting papers deemed by him to be informal in consequence of the failure of the voter to comply with Article 14.14 (d), the returning officer shall count the votes cast for each candidate for the office of Director. If any Member shall have returned more than one voting paper in the same ballot then no voting papers returned by that Member shall be counted. The returning officer shall report by declaration in writing the result of the ballot to the chairman of the annual general meeting. Such declaration shall contain:
 - (a) the number of ballot papers lodged;
 - (b) the number of formal votes;
 - (c) the number of informal votes;
 - (d) the number of votes cast for each candidate; and
 - (e) the name or names of those persons elected.
- 26.9 The result of the ballot shall be determined by the returning officer.
- 26.10 The returning officer must preserve the ballot papers for at least three months after the declaration of the ballot.