

Constitution

Bendigo Bank Limited
(ACN 068 049 178)

Allens Arthur Robinson
Stock Exchange Centre
530 Collins Street
Melbourne VIC 3000
Tel 61 3 9614 1011
Fax 61 3 9614 4661
www.aar.com.au

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Constitution of Bendigo Bank Limited ACN 068 049 178

Preliminary

The name of the Company is Bendigo Bank Limited.

The Company is a public company limited by shares.

The replaceable rules in the Corporations Act do not apply to the Company.

Interpretation

1. Interpretation

In this Constitution unless the context requires otherwise:

ASTC means ASX Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532).

ASTC Settlement Rules means the operating rules of ASTC or of any relevant organisation which is an alternative or successor to, or replacement of, ASTC or any applicable person who holds a licence under the Corporations Act authorising them to operate a clearing and settlement facility.

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

Board means the Directors for the time being of the Company or those of them who are present at a meeting at which there is a quorum.

business day means a day which is a business day for the purposes of the Listing Rules.

call includes any instalment of a call and any amount due on issue of any share.

Chairman means the Chairman of the Board or other person occupying the position of Chairman or Acting Chairman under Rule 39 or Rule 40.

Committee means a Committee to which powers have been delegated by the Board under Rule 75.

Company means Bendigo Bank Limited.

Constitution means this Constitution as amended.

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

Director means a person appointed or elected to the office of Director of the Company in accordance with this Constitution and where appropriate includes an alternate Director.

Dividend includes an interim dividend.

Listing Rules means the ASX Listing Rules.

Office means the registered office of the Company.

person and words importing persons include partnerships, associations and corporations, unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals.

proper ASTC transfer has the meaning given in the Corporations Regulations.

Register means the register of shareholders of the Company.

registered address means the address of a shareholder specified on a transfer or any other address of which the shareholder notifies the Company as a place at which the shareholder is willing to accept service of notices.

retiring Director means a Director who is required to retire under Rule 67.1 and a Director who ceases to hold office under Rules 65 and 66.

Rules means these Rules, as amended.

Secretary means a person appointed as, or to perform the duties of, Secretary of the Company.

securities includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity and debentures, debenture stock, notes and other obligations of the Company.

shareholders present means shareholders present at a general meeting of the Company in person or by duly appointed representative, proxy or attorney.

Uncertificated Securities Holding means securities of the Company which under the Corporations Act, the Listing Rules or any Uncertificated Transfer System may be held in uncertificated form.

Uncertificated Transfer System means any system operated under the Corporations Act, the Listing Rules or the ASTC Settlement Rules which regulates the transfer or registration of, or the settlement of transactions affecting, securities of the Company in uncertificated form and includes CHESS (as defined in the ASTC Settlement Rules) as it applies to securities in certificated and uncertificated form.

URL means Uniform Resource Locator, the address that specifies the location of a file on the internet.

writing and **written** includes printing, typing, lithography, facsimile and other modes of reproducing words in a visible form.

- 1.1 A word or phrase which is given a meaning by the Corporations Act has the same meaning in this Constitution. Words in the singular include the plural and vice versa.
- 1.2 A reference to the Corporations Act or any other statute or regulation is to the Corporations Act, statute or regulation as modified or substituted.
- 1.3 A reference to the Listing Rules or the ASTC Settlement Rules is to the Listing Rules or the ASTC Settlement Rules (as the case may be) in force in relation to the Company after taking into account any waiver or exemption which is in force either generally or in relation to the Company.
- 1.4 The headings do not affect the construction of this Constitution.

Securities

2. Issue of securities

- 2.1 Without affecting any special rights conferred on the holders of any shares, any shares or other securities may be issued with preferred, deferred or other special rights, obligations or restrictions, whether in regard to dividends, voting, return of share capital, payment of calls or otherwise, as the Board may determine and on any terms the Board considers appropriate.
- 2.2 Unless otherwise provided by the terms of issue, the issue of any new securities ranking equally with existing securities is not a variation of the rights conferred on the holders of existing securities.

3. Preference shares

If the Company at any time proposes to create and issue any preference shares:

- (a) the preference shares may be issued on the terms that they are, or at the option of either or both the Company and the holder are, liable to be redeemed, whether out of share capital, profits or otherwise;
- (b) the preference shares confer on the holders the right to convert the preference shares into ordinary shares if and on the basis the Board determines at the time of issue of the preference shares;
- (c)
 - (i) the preference shares confer on the holders a right to receive out of the profits of the Company available for dividend a preferential dividend at the rate or of the amount (which may be subject to an index) and on the basis determined by the Board at the time of issue of the preference shares;
 - (ii) in addition to the preferential dividend, the preference shares may participate with the ordinary shares in dividends declared by the Board if and to the extent the Board determines at the time of issue of the preference shares; and
 - (iii) the preferential dividend may be cumulative if and to the extent the Board determines at the time of issue of the preference shares;
- (d) the preference shares are to confer on the holders:
 - (i) the right on redemption and in a winding up to payment in cash in priority to any other class of shares of:
 - (A) the amount paid or agreed to be considered as paid on each of the preference shares; and

- (B) the amount (if any) equal to the aggregate of any dividends accrued (whether declared or not) but unpaid and of any arrears of dividends; and
 - (ii) the right, in priority to any payment of dividend on any other class of shares, to the preferential dividend;
- (e) the preference shares do not confer on the holders any further rights to participate in assets or profits of the Company;
- (f) the holders of the preference shares have the same rights as the holders of ordinary shares to receive notices, reports and accounts and to attend and be heard at all general meetings, but are not to have the right to vote at general meetings except as follows:
 - (i) on any question considered at a general meeting if, at the date of the meeting, the dividend on the preference shares is in arrears;
 - (ii) at a general meeting on a proposal:
 - (A) to reduce the share capital of the Company;
 - (B) that affects rights attached to the preference shares;
 - (C) to wind up the Company;
 - (D) for the disposal of the whole of the property, business and undertaking of the Company;
 - (iii) at a general meeting on a resolution to approve the terms of a buy-back agreement; and
 - (iv) on any question considered at a general meeting held during the winding up of the Company; and
- (g) the Company may issue further preference shares ranking *pari passu* in all respects with (or in priority to) other preference shares already issued and the rights of the issued preference shares are not to be taken to have been varied by the further issue.

4. Board's power to issue shares

Except as provided by contract or this Constitution to the contrary, all unissued shares are under the control of the Board which may grant options on the shares, issue or otherwise dispose of the shares on the terms and conditions and for the consideration it thinks fit. An issue of shares of the same class as an existing class of shares is not to be considered to constitute a variation of the rights of the holders of shares in the existing class.

5. Directors may participate

Subject to the Listing Rules, any Director or any person who is an associate of a Director for the purposes of the Listing Rules may participate in any issue by the Company of securities.

6. Surrender of shares

In its discretion, the Board may accept a surrender of shares by way of compromise of any question as to whether or not those shares have been validly issued or in any other case where the surrender is within the powers of the Company. Any shares surrendered may be sold or re-issued in the same manner as forfeited shares.

7. Restricted securities

- 7.1 Restricted securities within the meaning of the Listing Rules cannot be disposed of except as permitted by the Listing Rules or the ASX.
- 7.2 The Company must refuse to acknowledge a disposal (including registering a transfer) of restricted securities within the meaning of the Listing Rules except as permitted by the Listing Rules or the ASX.
- 7.3 During a breach of the Listing Rules relating to restricted securities within the meaning of the Listing Rules or a breach of a restriction agreement relating to the restricted securities, the holder of the restricted securities is not entitled to any dividend or distribution or voting rights in respect of the restricted securities except as permitted by the restriction agreement, the Listing Rules or the ASX.

8. Joint holders

Where two or more persons are registered as the holders of any shares, they are considered to hold the shares as joint tenants with benefits of survivorship subject to the following provisions:

- (a) **Number of holders**
the Company is not bound to register more than three persons as the holders of the shares (except in the case of personal representatives of a deceased shareholder);
- (b) **Liability for payments**
the joint holders of the shares are liable severally as well as jointly in respect of all payments which ought to be made in respect of the shares;
- (c) **Power to give receipt**
any one of the joint holders may give a receipt for any dividend, bonus or return of capital payable to the joint holders;
- (d) **Notices and certificates**
only the person whose name stands first in the Register as one of the joint holders of the shares is entitled, if the Company determines to issue certificates for shares, to delivery of a certificate relating to the shares or to receive notices from the Company and any notice given

to that person is considered to be notice to all the joint holders; and

(e) **Votes of joint holders**

any one of the joint holders may vote at any meeting of the Company either personally or by duly authorised representative, proxy or attorney, in respect of the shares as if that joint holder was solely entitled to the shares. If more than one of the joint holders are present personally or by duly authorised representative, proxy or attorney, only the vote of the joint holder whose name appears first in the Register counts.

9. Non-recognition of equitable or other interests

Except as otherwise provided in this Constitution, or as required by law, the Company is entitled to treat the registered holder of any share as the absolute owner of the share and is not bound to recognise a person as holding a share on any trust or, even when having notice, any equitable, contingent, future, partial or other claim to or interest in the share on the part of any other person.

Form of Holding of Shares

10. Certificates

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

11. Uncertificated holdings

If and for so long as dealings in securities of the Company take place under an Uncertificated Transfer System:

- (a) the Company need not issue any certificate in respect of securities held as an Uncertificated Securities Holding; and
- (b) the Register may distinguish between shares or other securities held in certificated form and securities held as an Uncertificated Securities Holding.

Calls

12. Power to make calls

Subject to the terms on which any shares may have been issued and in accordance with the Listing Rules, the Board may make calls on the shareholders in respect of money unpaid on their shares. Each shareholder is

liable to pay the amount of each call in the manner, at the time and at the place specified by the Board. Calls may be made payable by instalments.

13. Obligation for calls

The Company may make arrangements on the issue of shares for a difference between the holders of those shares in the amount of calls to be paid and the time of payment of the calls.

14. When a call is made

A call is deemed to have been made at the time when the resolution of the Board authorising the call was passed. The call may be revoked or postponed at the discretion of the Board at any time prior to the date on which payment in respect of the call is due. The non-receipt of a notice of any call by, or the accidental omission to give notice of any call to, any shareholder does not invalidate the call.

15. Interest on the late payment of calls

If any sum payable in respect of a call is not paid on or before the date for payment, the shareholder from whom the sum is due is to pay interest on the unpaid amount from the due date to the date of payment at the rate the Board determines. The Board may waive the whole or part of any interest paid or payable under this Rule.

16. Instalments

If, by the terms of an issue of shares, any amount is payable in respect of any shares by instalments, every instalment is payable as if it is a call duly made by the Board of which due notice had been given, and all provisions of this Constitution with respect to the payment of calls and of interest or to the forfeiture of shares for non-payment of calls or with respect to liens or charges apply to the instalment and to the shares in respect of which it is payable.

Forfeiture and Lien

17. Notice requiring payment of sums payable

If any shareholder fails to pay any sum payable in respect of any shares, either for issue money, calls or instalments, on or before the day for payment, the Board may serve a notice on the shareholder requiring that shareholder to pay the sum together with interest accrued and all expenses incurred by the Company by reason of the non-payment. The notice may be served at any time whilst any part of the sum remains unpaid.

18. Time and place for payment

The notice referred to in Rule 17 must state a day on or before which the sum, interest and expenses (if any) are to be paid and the place where payment is to be made and that, if payment is not made by the time and at the place specified, the shares in respect of which the sum is payable are liable to be forfeited.

19. Forfeiture on non-compliance with notice

If there is non-compliance with the requirements of any notice given under Rule 17, any shares in respect of which notice has been given may be forfeited by a resolution of the Board passed at any time after the day specified in the notice for payment. The forfeiture is to include all dividends, interest and other money payable by the Company in respect of the forfeited shares and not paid before the forfeiture.

20. Notice of forfeiture

When any share is forfeited, notice of the resolution of the Board must be given to the shareholder in whose name the share was registered immediately prior to the forfeiture, and an entry of the forfeiture and the date of forfeiture must be made in the Register. Failure to give notice or make the entry as required by this Rule does not invalidate the forfeiture.

21. Disposal of forfeited shares

Any forfeited share is considered to be the property of the Company and the Board may sell or otherwise dispose of or deal with the share in any manner it thinks fit and with or without any money paid on the share by any former holder being credited as paid up.

22. Annulment of forfeiture

At any time before any forfeited share is sold or otherwise disposed of, the Board may annul the forfeiture of the share on any condition it thinks fit.

23. Liability despite forfeiture

Any shareholder whose shares have been forfeited is, despite the forfeiture, liable to pay and must immediately pay to the Company all sums of money, interest and expenses owing on or in respect of the forfeited shares at the time of forfeiture, together with expenses and interest from that time until payment at the rate the Board determines. The Board may enforce the payment or waive the whole or part of any sum paid or payable under this Rule as it thinks fit.

24. Company's lien or charge

The Company has a first and paramount lien or charge, for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is called on by law to pay in respect of the shares of a shareholder, on shares registered in the name of the shareholder in respect of which the calls, instalments and interest are due and unpaid (whether then payable or not) or in respect of which the amounts are paid and on the proceeds of sale of the shares. The lien or charge extends to all dividends and bonuses declared in respect of the shares but, if the Company registers a transfer of any shares on which it has a lien or charge without giving the transferee notice of any claim it may have at that time, the shares are freed and discharged from the lien or charge of the Company in respect of that claim. The Company may do all things necessary or appropriate under the ASTC Settlement Rules and the Listing Rules in order to protect or enforce any lien or charge.

25. Sale of shares to enforce lien

For the purpose of enforcing a lien or charge, the Board may sell the shares which are subject to the lien or charge in any manner it thinks fit and with or without giving any notice to the shareholder in whose name the shares are registered, subject to the ASTC Settlement Rules and the Listing Rules.

26. Title to shares forfeited or sold to enforce lien

- 26.1 In a sale or a re-issue of forfeited shares or in the sale of shares to enforce a lien or charge, an entry in the Board's minute book that the shares have been forfeited, sold or re-allotted in accordance with this Constitution is sufficient evidence of that fact as against all persons entitled to the shares immediately before the forfeiture, sale or re-issue of the shares. The Company may receive the purchase money or consideration (if any) given for the shares on any sale or re-issue.
- 26.2 In a re-issue, a certificate signed by a Director or the Secretary to the effect that the shares have been forfeited and the receipt of the Company for the price of the shares constitutes a good title to them.
- 26.3 In a sale, the Company may appoint a person to execute, or may otherwise effect, a transfer in favour of the person to whom the shares are sold.
- 26.4 On the issue of the receipt or the transfer being executed or otherwise effected the person to whom the shares have been re-allotted or sold is to be registered as the holder of the shares, discharged from all calls or other money due in respect of the shares prior to the re-issue or purchase and the person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration and the person's title to the shares is not affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-issue.

- 26.5 The net proceeds of any sale or re-issue are to be applied first in payment of all costs in relation to the enforcement of the lien or charge or the forfeiture and of the sale or re-issue, next in satisfaction of the amount in respect of which the lien or charge exists as is then payable to the Company (including interest) or the amount in respect of the forfeited shares then payable to the Company (including interest) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the shares immediately prior to the sale or re-issue or to the person's executors, administrators or assigns on the production of any evidence as to title required by the Board.

Payments by the Company

27. Payments by the Company

If any law of any place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment, or empowers any government or taxing authority or government official to require the Company to make any payment, in respect of any securities held either jointly or solely by any holder or in respect of any transfer of those securities or in respect of any interest, dividends, bonuses or other money due or payable or accruing due or which may become due or payable to the holder by the Company on or in respect of any securities or for or on account or in respect of any holder of securities, whether because of:

- (a) the death of the holder;
- (b) the non-payment of any income tax or other tax by the holder;
- (c) the non-payment of any estate, probate, succession, death, stamp or other duty by the holder or a personal representative of that holder or by or out of the holder's estate;
- (d) any assessment of income tax against the Company in respect of interest or dividends paid or payable to the holder; or
- (e) any other act or thing,

the Company in each case:

- (i) is to be fully indemnified from all liability by the holder or the holder's personal representative and by any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate;
- (ii) has a lien or charge on the securities for all money paid by the Company in respect of the securities under or because of any law;
- (iii) has a lien on all dividends, bonuses and other money payable in respect of the securities registered in the Register as held either jointly or solely by the holder for all money paid or payable by the Company in respect of the securities because of any law, together with interest at a rate the Board may

determine from the date of payment to the date of repayment, and may deduct or set off against any dividend, bonus or other money payable any money paid or payable by the Company together with interest;

- (iv) may recover as a debt due from the holder or the holder's personal representative, or any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate, any money paid by the Company because of any law which exceeds any dividend, bonus or other money then due or payable by the Company to the holder together with interest at a rate the Board may determine from the date of payment to the date of repayment; and
- (v) except in the case of a proper ASTC transfer, may, if any money is paid or payable by the Company under any law, refuse to register a transfer of any securities by the holder or the holder's personal representative until the money and interest is set off or deducted or, in case the money and interest exceeds the amount of any dividend, bonus or other money then due or payable by the Company to the holder, until the excess is paid to the Company.

Nothing in this Rule affects any right or remedy which any law confers on the Company and any right or remedy enforceable by the Company whether against the holder or the holder's personal representative.

Transfer and transmission of securities

28. Transfers; proper ASTC transfers

28.1 A transfer of any securities may be effected by:

- (a) a written transfer in the usual or common form or in any form the Board may prescribe or in a particular case accept, duly stamped (if necessary) being delivered to the Company;
- (b) a proper ASTC transfer, which is to be in the form required or permitted by the Corporations Act or the ASTC Settlement Rules; or
- (c) any other electronic system established or recognised by the Listing Rules in which the Company participates in accordance with the rules of that system.

28.2 Except in the case of a proper ASTC transfer, the transferor is deemed to remain the holder of the securities transferred until the name of the transferee is entered on the Register. A proper ASTC transfer is taken to be recorded in the Register and the name of the transferee to be registered as the holder of the securities comprised in the proper ASTC transfer, as provided in the ASTC Settlement Rules.

- 28.3 The Board may take any action it thinks fit to comply with the ASTC Settlement Rules and may request the SCH to apply a holding lock to prevent a transfer of securities the subject of the ASTC Settlement Rules if the Board thinks fit.
- 28.4 The Company may do anything necessary or desirable to facilitate participation by the Company in any Uncertificated Transfer System.

29. Board may refuse to register

- 29.1 The Board may refuse to register any transfer of securities:
- (a) if the registration of the transfer would result in a contravention of or failure to observe the provisions of any applicable law or the Listing Rules;
 - (b) on which the Company has a lien or which are subject to forfeiture; or
 - (c) if permitted to do so under the Listing Rules.
- 29.2 The decision of the Board relating to the registration of a transfer is absolute. Failure to give notice of refusal to register any transfer as may be required under the Corporations Act or the Listing Rules does not invalidate the decision of the Board.

30. Closing Register, entitlement to vote

The Register may be closed at any time the Board thinks fit and the Board may specify a time by reference to which the entitlement of persons to vote at any general meeting of the Company is to be determined.

31. Transfer and certificate (if any)

- 31.1 Every transfer must be left for registration at the Office or any other place the Board determines. Unless the Board otherwise determines either generally or in a particular case, the transfer is to be accompanied by the certificate (if any) for the securities to be transferred. In addition, the transfer is to be accompanied by any other evidence which the Board may require to prove the title of the transferor, the transferor's right to transfer the securities, due execution of the transfer or due compliance with the provisions of any law relating to stamp duty. The requirements of this Rule do not apply in respect of a proper ASTC transfer.
- 31.2 Subject to Rule 31.1, on each application to register the transfer of any securities or to register any person as the holder in respect of any securities transmitted to that person by operation of law or otherwise, the certificate (if any) specifying the securities in respect of which registration is required must be delivered to the Company for cancellation and on registration the certificate is considered to have been cancelled.

- 31.3 Each transfer which is registered may be retained by the Company for any period determined by the Board after which the Company may destroy it.

32. Transmission on death

- 32.1 Where a shareholder dies:
- (a) the legal personal representative of the deceased, where the shareholder was a sole holder or a joint holder as a tenant in common; and
 - (b) the remaining joint holder or holders, where the deceased was a joint holder as a joint tenant,

are the only persons recognised by the Company as having any title to securities registered in the name of a deceased shareholder.

- 32.2 Subject to the Corporations Act, the Board may require evidence of a shareholder's death as it determines.
- 32.3 Subject to compliance by the transferee with this Constitution, the Board may register any transfer signed by a shareholder prior to the shareholder's death, despite the Company having notice of the shareholder's death.
- 32.4 This Rule does not release the estate of a deceased joint holder from any liability in respect of any securities that had been jointly held by the holder with other persons.

33. Transmission by operation of law

A person (a *transmittee*) who establishes to the satisfaction of the Board that the right to any securities has devolved on the transmittee by will or by operation of law may be registered as a holder in respect of the securities or may (subject to the provisions in this Constitution relating to transfers) transfer the securities. The Board has the same right to refuse to register the transmittee as would apply under Rule 29.1 if the transmittee was the transferee named in a transfer presented for registration.

Alteration of capital

34. Power to alter share capital

The Company may reduce or alter its share capital in any manner provided for by the Corporations Act and by the Listing Rules. The Board may do anything which is required to give effect to any resolution authorising reduction or alteration of the share capital of the Company and, without limitation, may make provision for the issue of fractional certificates or sale of fractions of shares and distribution of net proceeds as it thinks fit.

General Meetings

35. Calling of General meetings

By a resolution of the Board and according to the relevant provisions of the Corporations Act, the Company may call a general meeting of the Company to be held at the time and place or places (including at two or more venues using technology that gives the shareholders as a whole a reasonable opportunity to participate) and in the manner determined by the Board. No shareholder or individual Director may convene a general meeting of the Company except where entitled under the Corporations Act to do so. By resolution of the Board any general meeting may be cancelled or postponed prior to the date on which it is to be held, except where the cancellation or postponement would be contrary to the Corporations Act. The Board may give notice of cancellation or postponement as it thinks fit but any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.

36. Notice of general meeting

Where the Company has called a general meeting notice of the meeting may be given in the form and manner in which the Board thinks fit. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice, does not invalidate any resolution passed at that meeting.

Proceedings of meetings

37. Business of general meetings

- 37.1 The business of an annual general meeting may include consideration of the accounts and reports required by the Corporations Act to be laid before each annual general meeting, the election of Directors, the appointment of the auditor and the transaction of any other business which, under this Constitution, is required to be transacted at any annual general meeting.
- 37.2 Except with the approval of the Board, with the permission of the Chairman or under the Corporations Act:
- (a) no person may move at any meeting either any resolution (except in the form set out in the notice of meeting given under Rule 36) or any amendment of any resolution; and
 - (b) no resolution may be withdraw from the business of any meeting.

38. Quorum

- 38.1 Five shareholders present and entitled to vote constitute a quorum for a meeting. No business may be transacted at any meeting except the election of a Chairman for that meeting and the adjournment of the meeting unless a quorum is present at the commencement of the meeting.
- 38.2 If there is not a quorum at a general meeting within 30 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the Board adjourns the meeting to a date, time and place determined by it. If no quorum is present at any adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

39. Chairman

- 39.1 The Chairman of the Board is entitled to chair every general meeting.
- 39.2 If at any general meeting:
- (a) the Chairman of the Board is not present within 15 minutes after the specified time for holding the meeting; or
 - (b) the Chairman of the Board is present but is unwilling to act as chairman of the meeting,
- the Deputy Chairman of the Board is entitled to chair the meeting.
- 39.3 If at any general meeting:
- (a) there is no Chairman of the Board or Deputy Chairman of the Board;
 - (b) the Chairman of the Board and Deputy Chairman of the Board are not present within 15 minutes after the specified time for holding the meeting; or
 - (c) the Chairman of the Board and the Deputy Chairman of the Board are present but each is unwilling to act as chairman of the meeting,
- the Directors present may choose another Director as chairman of the meeting and if no Director is present or if each of the Directors present is unwilling to act as chairman of the meeting, a shareholder chosen by the shareholders present may chair the meeting.

40. Acting Chairman

- 40.1 If during any general meeting the Chairman acting under Rule 39 is unwilling to chair any part of the proceedings, the Chairman may withdraw during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be Acting Chairman of the meeting during the relevant part of the proceedings. On the conclusion

of the relevant part of the proceedings the Acting Chairman is to withdraw and the Chairman is to resume to chair the meeting.

- 40.2 Where an instrument of proxy appoints the Chairman as proxy for part of the proceedings for which an Acting Chairman has been nominated, the instrument of proxy is taken to be in favour of the Acting Chairman for the relevant part of the proceedings.

41. General conduct of meeting

- 41.1 The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the Chairman.
- 41.2 The Chairman or a person acting with the Chairman's authority may require any person who wishes to attend the meeting to comply with searches, restrictions or other security arrangements the Chairman or a person acting with the Chairman's authority considers appropriate. The Chairman or a person acting with the Chairman's authority may refuse entry to any person who does not comply with the arrangements, any person who possesses a recording or broadcasting device without the consent of the Chairman or a person acting with the Chairman's authority, or any person who possesses an article which the Chairman or person acting with the Chairman's authority considers to be dangerous, offensive or liable to cause disruption. At any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting, the Chairman may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the shareholders present.
- 41.3 The Chairman may make rulings without putting the question (or any question) to the vote if the Chairman considers action is required to ensure the orderly conduct of the meeting.
- 41.4 The Chairman may require the adoption of any procedures which are in the Chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.
- 41.5 Any determination by the Chairman in relation to matters of procedure or any other matter arising directly or indirectly from the business is final. Any challenge to a right to vote (whether on a show of hands or on a poll) may only be made at the meeting and may be determined by the Chairman whose decision is final.

- 41.6 If a person purports to cast a vote in contravention of the Corporations Act or Listing Rules, the Chairman may determine that the vote be disregarded and treated as not having been cast.
- 41.7 Nothing contained in this Rule limits the powers conferred on a Chairman by the law.

42. Adjournment

During the course of the meeting the Chairman may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the Chairman (whether at the meeting or later). If the Chairman exercises a right of adjournment of a meeting under this Rule, the Chairman has the sole discretion to decide whether to seek the approval of the shareholders present to the adjournment and, unless the Chairman exercises that discretion, no vote may be taken by the shareholders present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

43. Voting on show of hands

- 43.1 Each question submitted to a general meeting is to be decided by a show of hands of the shareholders present and entitled to vote, unless a poll is demanded.
- 43.2 Unless a poll is demanded, a declaration by the Chairman following a vote on a show of hands that a resolution has been passed or lost is conclusive, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 43.3 In the case of an equality of votes, the Chairman has, both on a show of hands and at a poll, a casting vote in addition to the vote or votes to which the Chairman may be entitled as a shareholder or as a proxy, attorney or duly appointed representative of a shareholder.

44. When a poll may be demanded

A poll may be demanded by a shareholder in accordance with the Corporations Act (and not otherwise) or by the Chairman. No poll may be demanded on the election of a chairman of a meeting or, unless the Chairman otherwise determines, the adjournment of a meeting. The demand for a poll may be withdrawn.

45. Taking a poll

- 45.1 If a poll is demanded as provided in Rule 44, it is to be taken in the manner and at the time and place as the Chairman directs, and the result of the poll is the meeting's resolution of the motion on which the poll was demanded.
- 45.2 A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.
- 45.3 The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the Chairman considers appropriate.

46. Special meetings

All the provisions of this Constitution as to general meetings apply to any special meeting of any class of shareholders which may be held under the operation of this Constitution or the Corporations Act.

Votes of Shareholders

47. Voting rights

Subject to restrictions on voting affecting any class of shares and to Rules 3, 8(e) and 50:

- (a) on a show of hands:
- (i) subject to paragraphs (ii) and (iii), each shareholder present has one vote;
 - (ii) where a shareholder has appointed more than one person as representative, proxy or attorney for the shareholder, none of the representatives, proxies or attorneys is entitled to vote; and
 - (iii) where a person is entitled to vote because of paragraph (i) in more than one capacity, that person is entitled only to one vote; and
- (b) on a poll, each shareholder present:
- (i) has one vote for each fully paid share held; and
 - (ii) in the case of a partly paid share, has a vote in respect of the share which carries the same proportionate value as the proportion of the amount paid up (not credited) or agreed to be considered as paid up on the total issue price of that share at the time the poll is taken bears to the total issue price of the

- share (excluding amounts credited). Amounts paid in advance of a call are ignored when calculating the proportion; and
- (c) where the Board has approved, consistently with the Corporations Act, other means (including electronic) for the casting and recording of votes by shareholders on any resolution to be put to a general meeting, every shareholder having the right to vote on the resolution:
- (i) has one vote for each fully paid share they hold; and
 - (ii) in the case of a partly paid share, that fraction of a vote equivalent to the proportion which the amount paid up (not credited) on that shareholder's share bears to the total amount paid and payable for that share (excluding amounts credited). Amounts paid in advance of a call are ignored when calculating the proportion.

48. Restriction on voting rights

A shareholder is not entitled to vote at a general meeting or to be counted for the purpose of constituting a quorum unless all calls and other sums presently payable by the shareholder in respect of the shares have been paid.

49. Direct voting

The Board may determine that at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A *direct vote* includes a vote delivered to the Office (or any other place approved by the Board) by post, fax or other electronic means approved by the Board. The Board may prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

50. Voting rights of personal representatives, etc

Where a person satisfies the Board at least 48 hours before the holding of a general meeting (unless the person has previously satisfied the Board as to the person's right to vote) that the person is a personal representative as referred to in Rule 32 or a transmittee as referred to in Rule 33, the person may vote at the general meeting in the same manner as if the person were the registered holder of the securities referred to in Rule 32 or 33, as the case requires.

51. Proxies

- 51.1 A shareholder who is entitled to attend and cast a vote at a meeting of the Company may appoint a person as a proxy to attend and vote for the member in accordance with the Corporations Act but not otherwise. A proxy appointed to attend and vote in accordance with the Corporations Act may exercise the rights of the shareholder on the basis and subject to the restrictions provided in the Corporations Act but not otherwise.
- 51.2 A form of appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form which the Board may prescribe or accept.
- 51.3 Any appointment of proxy under Rule 51.2 which is incomplete may be completed by the Secretary on the authority of the Board and the Board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.
- 51.4 Where a notice of meeting provides for electronic lodgement of proxies, a proxy lodged at the electronic address specified in the notice is taken to have been received at the Office and validated by the shareholder if there is compliance with the requirements set out in the notice.
- 51.5 Voting instructions given by a shareholder to a Director or employee of the Company who is appointed as proxy (*Company Proxy*) are valid only if contained in the form of appointment of the Company Proxy or, in the case of new instructions or variations to earlier instructions, if received at the Office at least 48 hours (or any shorter period as the Board may permit or specified by the Corporations Act) before the meeting or adjourned meeting by a notice in writing signed by the shareholder or they are otherwise validated by the shareholder in a manner acceptable to the Board in its discretion prior to the commencement of the meeting.

52. Validity, revocation

- 52.1 The validity of any resolution is not affected by the failure of any proxy or attorney to vote in accordance with instructions (if any) of the appointing shareholder.
- 52.2 A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid despite the previous death or mental incapacity of the appointing shareholder, revocation of the instrument of proxy (or of the authority under which the instrument was executed) or power of attorney or transfer of the shares in respect of which the vote is given, provided no notice in writing of the death, mental incapacity, revocation or transfer has been received at the Office at least 48 hours (or any shorter period as the Board may permit or specified by the Corporations Act) before the relevant meeting or adjourned meeting at which the instrument of proxy is used or the power of attorney is exercised.



- 52.3 A proxy is not revoked by the appointing shareholder attending and taking part in the meeting, unless the appointing shareholder votes at the meeting on the resolution for which the proxy is proposed to be used.

53. Board may issue forms of proxy

The Board may issue with any notice of general meeting of shareholders or any class of shareholders forms of proxy for use by the shareholders. Each form may include the names of any of the Directors or of any other persons willing to act as proxies or as persons who are to be proxies where the shareholder does not specify in the form the name of the person or persons to be appointed as proxies. The forms may be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

54. Attorneys of shareholders

Any shareholder may, by duly executed power of attorney, appoint an attorney to act on the shareholder's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the shareholder granting the power of attorney.

Directors

55. Number of Directors

The number of Directors (not including alternate Directors) must be the number, not being less than three nor more than twelve, which the Board may determine. All Directors are to be natural persons.

56. Power to appoint Directors

The Board has the power at any time to appoint any person as a Director, either to fill a casual vacancy or as an addition to the Board but so that the number of Directors does not exceed the maximum number determined under Rule 55. Any Director appointed under this Rule may hold office only until the next annual general meeting of the Company and is then eligible for election at that meeting.

57. Remuneration of Directors

As remuneration for services each non-executive Director is to be paid out of the funds of the Company a sum determined by the Board payable at the

time and in the manner determined by the Board but the aggregate remuneration paid to all the non-executive Directors in any year may not exceed an amount fixed by the Company in general meeting. The expression *remuneration* in this Rule does not include any amount which may be paid by the Company under Rule 60, 61.1 or 103.

58. Share Qualification for Directors

Each Director is required to hold, or be the beneficial owner of, both at the time of the Director's appointment and during the period of office of the Director, 500 fully paid ordinary shares in the Company.

59. Remuneration of Directors for extra services

Any Director who serves on any committee, who devotes special attention to the business of the Company, who otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director or who, at the request of the Board, engages in any journey on the business of the Company, may be paid extra remuneration as determined by the Board.

60. Travelling and other expenses

Every Director is, in addition to any other remuneration provided for in this Constitution, entitled to be paid from Company funds all reasonable travel, accommodation and other expenses incurred by the Director in attending meetings of the Company or of the Board or of any Committees or while engaged on the business of the Company.

61. Retirement benefits; superannuation payments

- 61.1 Any person (including any officer of the Company) may be paid a benefit (including a prescribed benefit) in connection with the retirement from office (including a prescribed office) of any officer of the Company, in accordance with the Corporations Act and the Listing Rules. The Board may make arrangements with any officer with respect to, providing for, or effecting payment of, benefits in accordance with this Rule.
- 61.2 Without limiting Rule 57, the Company may pay superannuation contributions for each Director to the extent necessary for the avoidance or minimisation of any penalty, charge, tax or other impost on the Company under any applicable legislation which imposes a penalty, charge, tax or other impost on employers if a minimum level of superannuation contributions are not paid for an employee (within the meaning of the legislation).

62. Directors may contract with Company

- 62.1 A Director is not disqualified by the office of Director from contracting or entering into any arrangement with the Company either as vendor, purchaser or otherwise and no contract or arrangement entered into with the Company by a Director nor any contract or arrangement entered into by or on behalf of the Company in which a Director is in any way interested may be avoided for that reason. A Director is not liable to account to the Company for any profit realised by any contract or arrangement, by reason only of holding the office of Director or of the fiduciary relationship established by the office.
- 62.2 Except where a Director is constrained by the Corporations Act, a Director may be present at a meeting of the Board while a matter in which the Director has an interest is being considered and may vote in respect of that matter.
- 62.3 Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.

63. Director may hold other office

- 63.1 A Director may hold any other office or position under the Company (except that of auditor) in conjunction with the office of Director, on terms and at a remuneration in addition to remuneration (if any) as a Director, as the Board approves.
- 63.2 A Director may be or become a director of or hold any other office or position under any corporation promoted by the Company, or in which it may be interested, whether as a vendor or shareholder or otherwise, or with any other corporation or organisation, and the Director is not accountable for any benefits received as a director or shareholder of, or holder of any other office or position under, the corporation or organisation.

64. Exercise of voting power in other corporations

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director of the Company may vote in favour of the exercise of those voting rights, despite the fact that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

65. Directors may lend to the Company

Any Director may lend money to the Company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the Company or underwrite or guarantee the subscription of shares or securities of the Company or of any corporation in which the Company may be interested without being disqualified in respect of the office of Director and without being liable to account to the Company for the commission or profit.

Alternate Directors

66. Director may appoint alternate Director

Subject to this Constitution, each Director may appoint any person approved by a majority of the other Directors to act as an alternate Director in the Director's place, either for a stated period or until the happening of a specified event, whenever by absence or illness or otherwise the Director is unable to attend to duties as a director. The appointment must be in writing and signed by the Director and a copy of the appointment must be given to the Office or to a meeting of the Board. The appointment takes effect on approval by a majority of the other Directors or, where the approval has been granted, at any later time specified in the appointment. The following provisions apply to any alternate Director:

- (a) the appointment of the alternate Director is terminated or on receipt at the Office of notice in writing from the Director by whom the alternate Director was appointed;
- (b) the alternate Director is entitled to receive notice of meetings of the Board and to attend and vote at the meetings if the Director by whom the alternate Director was appointed is not present;
- (c) the alternate Director is entitled to exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director, to the extent the Director by whom the alternate Director was appointed has not exercised or performed them or they have not been limited by the instrument appointing the alternate Director;
- (d) the alternate Director is not, unless the Board otherwise determines, (without affecting the right to reimbursement for expenses under Rule 60) entitled to receive any remuneration as a Director from the Company, and any remuneration (not including remuneration authorised by the Board or reimbursement for expenses) paid to the alternate Director by the Company is to be deducted from the remuneration of the Director by whom the alternate Director was appointed;



- (e) the office of the alternate Director is terminated on the death of, or termination of office by, the Director by whom the alternate Director was appointed;
- (f) the alternate Director is not to be taken into account in determining the number of Directors or rotation of Directors; and
- (g) the alternate Director is, while acting as a Director, responsible to the Company for the alternate Director's own acts and defaults and is not the agent of the Director by whom the alternate Director was appointed.

Vacation of office of Director

67. Vacation of office by Director

The office of a Director becomes vacant:

- (a) under Rule 69;
- (b) on the Director being absent from meetings of the Board during a period of three consecutive calendar months without leave of absence from the Board where the Board has not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;
- (c) on the Director ceasing to hold the number of shares required to qualify for office under Rule 58;
- (d) on the Director resigning office by notice in writing to the Company;
- (e) on the Director being removed from office under the Corporations Act;
- (f) on the Director becoming 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; or
- (g) on the Director being prohibited from being a Director by reason of the operation of the Corporations Act.

68. Appointment of executives as Directors

68.1 The Board may appoint one or more:

- (a) executives of the Company to be Directors (subject to the provisions of this Constitution dealing with the appointment of Directors); or
- (b) Directors as executives of the Company and determine the terms of such executive appointments; or
- (c) persons to be both executives and Directors (subject to provisions of this Constitution dealing with the appointment of Directors) and determine the terms of such executive appointments.

- 68.2 Subject to the terms of any agreement entered into in a particular case, the Board may at any time revoke any executive appointment made pursuant to this Rule, with or without cause.
- 68.3 An exempt Managing Director (being the Managing Director or, if there is more than one Managing Director, the Managing Director designated by the Board to be an exempt Managing Director) is not subject to election and re-election while continuing to hold the office of Director and is not taken into account in determining the rotation or retirement of Directors, but is subject to the same provisions as to vacation of office under Rule 67 and removal as the other Directors of the Company.
- 68.4 A Managing Director or other executive director maybe referred to by any title the Board decides on.
- 68.5 If a Director who is also appointed as an executive of the Company ceases to be an executive, then the person automatically ceases to be a Director unless the Board resolves that the person should remain a Director until the next annual general meeting, in which case that Director is treated as a retiring Director at that annual general meeting.
- 68.6 The Board may, on the terms and conditions and with any restrictions as it determines, delegate to a Managing Director any of the powers exercisable by it and may at any time withdraw, suspend or vary any of those powers conferred on a Managing Director.

For the purposes of this Constitution, an executive of the Company includes any employee of the Company or any of its subsidiaries.

Election of Directors

69. Retirement and nomination of Directors

- 69.1 At every annual general meeting, there must be an election of Directors.
- 69.2 A Director (other than an exempt Managing Director under Rule 68) may not hold office for a continuous period in excess of three years or past the third annual general meeting following the Director's appointment, whichever is the longer, without submitting for election or re-election. If no Director would otherwise be required to submit for election or re-election but the Listing Rules require than an election be held, the Director to retire at the annual general meeting is the Director who has been longest in office since their last election, but, as between persons who were last elected on the same day, the one to retire is (unless they otherwise agree among themselves) determined by ballot.
- 69.3 Any Director who retires (whether under this Rule or otherwise) at a general meeting and seeks re-election at the meeting retains office until the

dissolution or adjournment of the meeting at which the Director retires.

- 69.4 A retiring Director is eligible for re-election.
- 69.5 No person (other than a retiring Director) is eligible for election to the office of Director at any general meeting unless the person or a shareholder intending to nominate the person has given notice in writing signed by the nominee giving consent to the nomination and signifying either candidature for the office or the intention of the shareholder to nominate the nominee. To be valid, the notice is required to be received by the Office not less than 45 business days nor more than 55 business days before the meeting unless the nominee has been recommended by the Board for election, in which case the notice is required to be received by the Office at least 28 days before the meeting. In the case of a meeting that shareholders have requested the Directors to call, the notice will be valid if received by the Office not less than 30 business days before the meeting.

Proceedings of Directors

70. Procedures relating to Board meetings

The Board may meet together, adjourn and otherwise regulate its meetings as it thinks fit. Until otherwise determined by the Board, one-third of the Directors, of which a majority must be non-executive Directors, form a quorum. The Board may at any time, and the Secretary, on the request of any Directors, must, convene a meeting of the Board. Notice of meeting of the Board may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or at any other address given to the Secretary by the Director or by any technology agreed by all the Directors.

71. Meetings by technology

- 71.1 For the purposes of the Corporations Act, each Director consents to the use of each of the following technologies for holding a Directors' meeting:
- (a) video;
 - (b) telephone;
 - (c) electronic mail;
 - (d) any other technology which permits each Director to communicate with every other Director; or
 - (e) any combination of these technologies.

A Director may withdraw the consent given under this Rule in accordance with the Corporations Act.

- 71.2 Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
- (a) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Directors, taken to be assembled together and present in a meeting at the location determined by the Chairman; and
 - (b) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were physically present in the one location.

72. Votes at meetings

Questions arising at any meeting of the Board are decided by a majority of votes of Directors present and voting, and, in the case of an equality of votes, the Chairman has (except when only two Directors are present or except when only two Directors are competent to vote on the question then at issue) a second or casting vote. A Director with a material personal interest in a matter that is being considered at a meeting of the Board may be counted in a quorum and, subject to the Corporations Act, may vote on the matter.

73. Chairman

The Board may elect a Chairman and a Deputy Chairman of its meetings and determine the period for which each is to hold office. If no Chairman or Deputy Chairman is elected or if at any meeting the Chairman and the Deputy Chairman are not present within 10 minutes after the time specified for holding the meeting, the Directors present may choose one of their number to be chairman of the meeting.

74. Powers of meetings

A meeting of the Board at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

75. Committees

- 75.1 The Board may delegate any of its powers to Committees consisting of any one or more Directors or any other person or persons as the Board thinks fit. In the exercise of delegated powers, any Committee formed or person or persons appointed to the Committee must conform to any regulations that may be imposed by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

- 75.2 The meetings and proceedings of any Committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under Rule 75.1.

76. Validity of acts

- 76.1 All actions at any meeting of the Board or by a Committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director or a member of the Committee.
- 76.2 If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

77. Resolution in writing

- 77.1 A resolution in writing signed by all Directors or a resolution in writing of which notice has been given to all Directors and which is signed by a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Board) is a valid resolution of the Board. The resolution may consist of several documents in the same form each signed by one or more of the Directors.
- 77.2 For the purposes of Rule 77.1, a reference to "all Directors" does not include a reference to:
- (a) a Director who, at a meeting of Directors, would not be entitled to vote on the resolution;
 - (b) a Director who disqualifies himself or herself from considering the resolution in question; and
 - (c) any Director on leave of absence approved by the Board
- but does include a reference to any alternate Director for the time being present in Australia who is appointed by a Director not for the time being present in Australia (but does not include any other alternate Director).
- 77.3 For the purposes of Rule 77.1:
- (a) a statement sent electronically by a Director to an agreed electronic address stating that they are in favour of a specified resolution shall be taken to be a document containing that statement and duly signed by the Director. Such document shall be taken to have been signed



by the Director at the time of its receipt at the agreed electronic address; and

- (b) a Director may consent to a resolution by telephoning the Secretary or Chairman and signifying assent to the resolution and clearly identifying its terms.

77.4 A resolution in writing under this Rule shall be deemed to have been passed at a meeting of the Directors held on the day and at the time at which the document was last signed or consented to by a Director and the document shall be deemed to constitute a minute of that meeting and shall be recorded by the Secretary in the minute book.

Powers of the Board

78. General powers of the Board

The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred on it by this Constitution) may exercise all powers and do all things as are within the power of the Company and are not by this Constitution or by law required to be exercised or done by the Company in general meeting.

79. Power to borrow and guarantee

Without limiting the generality of Rule 78, the Board may exercise all the powers of the Company to raise or borrow money, may guarantee the debts or obligations of any person and may enter into any other financing arrangement, in each case in the manner and on the terms it thinks fit.

80. Power to give security

Without limiting the generality of Rule 78, the Board may charge any property or business of the Company or any of its uncalled capital and may issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person, in each case in the manner and on the terms it thinks fit.

81. Power to authorise debenture holders, etc to make calls

Without limiting the generality of Rule 78, if any uncalled capital of the Company is included in or charged by any debenture, mortgage or other security, the Board may authorise the person in whose favour the debenture, mortgage or other security is executed or any other person in trust for the person to make calls on the shareholders in respect of that uncalled capital and to sue in the name of the Company or otherwise for the recovery of money becoming due in respect of calls made and to give valid receipts for that money, and the authority continues for the duration of the debenture,

mortgage or that other security, despite any change in the Directors, and is assignable if expressed to be.

82. Power to issue bond, debenture or other security

Any bond, debenture or other security may be issued with or without the right of or obligation on the holder to exchange the bond, debenture or security in whole or in part for shares in the Company at any time and with any special privileges as to redemption, surrender, drawings, issue of shares, attending and voting at general meetings of the Company, appointment of Directors and with the general rights and on the conditions as the Board thinks fit.

83. Personal liability of officer

If any Director or any officer of the Company is or may become personally liable for the payment of any sum which is or may become primarily due from the Company, the Board may charge the whole or any part of the assets of the Company by way of indemnity to secure the Director or officer from any loss in respect of the liability.

84. Seal

The Company may have a common seal and a duplicate common seal which are to be used by the Company as determined by the Board.

Dividends

85. Declaration of dividend

85.1 The Board may declare a dividend to be paid to the shareholders entitled. The dividend is (subject to the rights of, or any restrictions on, the holders of shares created or raised under any special arrangement as to dividend) payable on each share on the basis of the proportion which the amount paid is of the total amounts paid (not credited), agreed to be considered to be paid or payable (excluding amounts credited) on the share. The dividend may be declared at a rate per annum in respect of a specified period but no amount paid on a share in advance of calls is to be treated as paid on that share.

85.2 A dividend does not bear interest against the Company.

86. Dividend Plans

86.1 The Board may establish and maintain one or more dividend plans (including the establishment of rules) under which shareholders may elect with respect to some or all of their shares (subject to the rules of the relevant plan):

- (a) to reinvest in whole or in part dividends paid or payable or which may become payable by the Company to the shareholder in cash by subscribing for shares in the capital of the Company;
 - (b) to receive a dividend from the Company by way of the issue of shares paid up from the Company's share capital;
 - (c) that dividends from the Company not be declared or paid and that instead a payment or distribution other than a dividend be made by the Company;
 - (d) that cash dividends from the Company not be paid and that instead a cash dividend be received from a related corporation nominated by the Board; and
 - (e) to participate in a dividend plan, including but not limited to a plan under which shareholders may elect to receive a dividend from the Company or any related corporation which is less in amount but franked to a greater extent than the ordinary cash dividend declared by the Company or any related corporation or to receive a dividend from the Company or any related corporation which is greater in amount but franked to a lesser extent than the ordinary cash dividend declared by the Company or any related corporation.
- 86.2 Under a dividend plan established in accordance with Rule 86.1, any shareholder may elect for a specified period or for a period to be determined by specified notice (in either case determined by the Directors and prescribed in the rules of the plan) that all or some of the ordinary shares held by that shareholder and designated by the shareholder in accordance with the rules of the plan (the *designated shares*) are to participate in the dividend plan. During that period the designated shares are entitled to participate in the dividend plan subject to the rules of the dividend plan.
- 86.3 If there is any inconsistency between any dividend plan established in accordance with Rule 86.1 or the rules of any dividend plan and this Constitution, this Constitution prevails.
- 86.4 The Board is authorised to do all things which it thinks desirable or necessary for the purpose of implementing every dividend plan established in accordance with Rule 86.1.
- 86.5 The Board is authorised to vary the rules of any dividend plan established in accordance with Rule 86.1 in its discretion and to suspend or terminate any dividend plan in its discretion. Any dividend plan may be suspended, terminated or varied by resolution of a general meeting of the Company.
- 86.6 Where the Company in general meeting has approved the adoption of a dividend plan, the Board may determine and announce that each shareholder entitled to participate in the dividend may elect that the payment of the dividend be satisfied in respect of all, or a number of shares less than all, of the shares held by the shareholder by the issue of paid up shares in accordance with the plan.

87. Employee Share Plan

The Board may:

- (a) establish and give effect to any employee share plan for the purchase or acquisition of shares, rights to shares or options to acquire shares; and
- (b) in addition to its powers under Rule 0, resolve to apply the whole or a portion of any sum, standing to the credit of any reserve or other account in paying up in full unissued shares of the Company to be issued to the holders of shares, options or other securities of the Company in accordance with the employee share plan.

88. Interim Dividends

The Board may pay to the shareholders on account of any dividend any interim dividend it thinks fit.

89. Distribution otherwise than in cash

- 89.1 When declaring a dividend the Board may determine that payment of the dividend be effected wholly or in part by the distribution of specific assets or documents of title and in particular by the issue or transfer of paid up shares, debentures, debenture stock or grant of options of the Company or any other corporation.
- 89.2 The Board may appoint any officer of the Company to sign on behalf of each shareholder entitled to participate in the dividend any document in the Board's opinion desirable or necessary:
- (a) to vest in the shareholder title to assets; and
 - (b) in the case of a distribution of shares in any corporation, to constitute the shareholder's agreement to become a member of the corporation,
- and, in executing the document, the officer acts as agent and attorney for the shareholder.

90. Capitalisation of profits

- 90.1 The Board may resolve that the whole or any portion of any sum forming part of the undivided profits of the Company or standing to the credit of any reserve or other account, and which is available for distribution, be capitalised and distributed to shareholders in the same proportions in which the shareholders would be entitled to receive it if distributed by way of dividend or in accordance with either the terms of issue of any shares or the terms of any plan for the issue of securities for the benefit of officers or employees and that all or any part of the sum be applied on their behalf either in paying up the amounts for the time being unpaid on any issued shares held by them, or in paying up in full unissued shares or other securities of the Company to

be issued to them accordingly, or partly in one way and partly in the other.

- 90.2 The Board may specify the manner in which any fractional entitlements and any difficulties relating to distribution are to be dealt with, including specifying that fractions are to be disregarded or that any fractional entitlements are to be increased to the next whole number or that payments in cash in lieu of fractional entitlements be made.
- 90.3 The Board may make all necessary appropriations and applications of the amount to be capitalised under Rule 90.1 and all necessary issues of fully paid shares or debentures.
- 90.4 Where required, the Board may appoint a person to sign a contract on behalf of the shareholders entitled on a capitalisation to any shares or debentures, which provides for the issue to them, credited as fully paid, of any further shares or debentures or for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised.

91. Transfer of shares

A transfer of shares registered after the transfer books close for dividend purposes, but before a dividend is payable, does not pass the right to any dividend declared before the books are closed.

92. Retention of dividends; unclaimed dividends

- 92.1 The Board may retain the dividends payable on securities referred to in Rules 32 and 33 until the personal representative or the transmittee (as the case requires) becomes registered as the holder of the securities or duly transfers them. The Board may retain any dividends in respect of which (or in respect of the shares on which the dividend is payable) the Company has a lien or charge under Rule 24 and may apply any retained dividends towards satisfaction of the calls, instalments or sums owing in respect of which the lien or charge exists.
- 92.2 All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed or otherwise disposed of according to law.

93. How dividends are payable

Payment of any dividend may be made in any manner and by any means as determined by the Board. Without affecting any other method of payment which the Board may adopt, in each case at the risk of the shareholder, payment may be made to the shareholder entitled to the dividend or, in the case of joint holders, to the shareholder whose name stands first in the Register in respect of the joint holding.

Notices

94. Service of notices

Subject to the Corporations Act and the Listing Rules:

- (a) a notice may be given by the Company to any shareholder, or in the case of joint holders to the shareholder whose name stands first in the Register:
 - (i) personally;
 - (ii) by leaving it at, or sending it by prepaid post to, the shareholder's registered address;
 - (iii) by transmitting it to the fax number supplied by the shareholder to the Company for the giving of notices; or
 - (iv) by transmitting it electronically (including by providing a URL link to any document or attachment) to the electronic mail address given by the shareholder to the Company for the giving of notices.
- (b) If the notice is signed, the signature may be original or printed.

95. When notice deemed to be served

Any notice sent by post is deemed to have been served at the expiration of 48 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a shareholder personally or left at the shareholder's registered address is deemed to have been served when delivered. Any notice served on a shareholder by facsimile transmission or electronically is deemed to have been served when the transmission or electronic notice is sent.

96. Shareholder not known at registered address

Where a shareholder does not have a registered address or where the Company has a reason in good faith to believe that a shareholder is not known at the shareholder's registered address, a notice is deemed to be given to the shareholder if the notice is exhibited in the Office for a period of 48 hours (and is deemed to be duly served at the commencement of that period) unless and until the shareholder informs the Company of a registered place of address.

97. Calculation of period of notice

If a given number of days' notice or notice extending over any other period is required to be given, the day of service is not to be counted in the number of days or other period.

98. Notice to transferor binds transferee

Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any shares is bound by every notice which, prior to the person's name and address being entered in the Register in respect of the shares, was duly given to the person from whom title to the shares is derived.

99. Service on deceased shareholders

A notice served in accordance with this Constitution is (despite the fact that the shareholder is then dead and whether or not the Company has notice of the shareholder's death) deemed to have been duly served in respect of any registered shares, whether held solely or jointly with other persons by the shareholder, until some other person is registered in the shareholder's place as the holder or joint holder. The service is sufficient service of the notice or document on the shareholder's personal representative and any persons jointly interested with the shareholder in the shares.

Winding Up

100. Distribution in specie

If the Company is wound up, whether voluntarily or otherwise, the liquidator may divide among all or any of the contributories as the liquidator thinks fit in specie or kind any part of the assets of the Company, and may vest any part of the assets of the Company in trustees on any trusts for the benefit of all or any of the contributories as the liquidator thinks fit.

101. Variation of rights of contributories

- 101.1 Any division may be otherwise than in accordance with the legal rights of the contributories and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part, but if any division otherwise than in accordance with the legal rights of the contributories is determined, any contributory who would be prejudiced by the division has a right to dissent and ancillary rights as if the determination were a special resolution passed under the Corporations Act relating to the sale or transfer of the Company's assets by a liquidator in a voluntary winding up.
- 101.2 The holders of shares which are classified under the Listing Rules or by the ASX as restricted securities and which are subject to escrow restrictions at the commencement of the winding up shall rank on a return of capital behind all other shares in the company.

102. Liability to calls

If any shares to be divided in accordance with Rule 100 involve a liability to

calls or otherwise, any person entitled under the division to any of the shares may, by notice in writing within ten business days after the passing of the special resolution, direct the liquidator to sell the person's proportion and pay the person the net proceeds and the liquidator is to act accordingly, if practicable.

Indemnity, Insurance and Access

103. Indemnity of officers, insurance and access

- 103.1 The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.
- 103.2 Where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company or a subsidiary.
- 103.3 Where the Board considers it appropriate, the Company may:
- (a) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (b) bind itself in any contract or deed with any officer of the Company to make the payments.
- 103.4 Where the Board considers it appropriate, the Company may:
- (a) give a former Director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
 - (b) bind itself in any contract with a Director or former Director to give the access.
- 103.5 In this Rule 103:
- (a) *officer* means:
 - a Director, secretary, executive officer or employee; or
 - (i) a person appointed as a trustee by, or acting as a trustee at the request of, the Company,and includes a former officer.
 - (b) *duties of the officer* includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the

Company or, where applicable, the subsidiary of the Company to any other corporation.

- (c) *to the relevant extent* means:
 - (i) to the extent the Company is not precluded by law from doing so;
 - (ii) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
 - (iii) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
- (d) *liability* means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

Partial Takeovers

104. Approval of Partial Takeover Bids

104.1 Where offers have been made under a proportional takeover scheme in respect of shares in a class of shares in the Company the registration of a transfer giving effect to a contract resulting from the acceptance of an offer made under the takeover scheme is prohibited unless and until a resolution (in this Rule referred to as an *Approving Resolution*) to approve the proportional takeover scheme is passed in accordance with this Rule.

- 104.2 Where offers have been made under a proportional takeover scheme in respect of shares in a class of shares in the Company:
- (a) a person (other than the offeror or an associate of the offeror) who, as at the end of the day on which the first offer under the proportional takeover scheme was made, held shares in that class is entitled to vote on an Approving Resolution and, for the purpose of voting, is entitled to one vote for each of the shares held in that class; and
 - (b) the offeror or an associate of the offeror is not entitled to vote on an Approving Resolution.

104.3 An Approving Resolution is to be voted on at a meeting, convened and

conducted by the Company, of the persons entitled to vote on the Approving Resolution.

- 104.4 The provisions of this Constitution that apply in relation to a general meeting of the Company apply, with modifications as the circumstances require, in relation to a meeting that is convened to vote on an Approving Resolution and apply as if the meeting was a general meeting of the Company.
- 104.5 An Approving Resolution that has been voted on in accordance with this Rule is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is to be taken to have been rejected.
- 104.6 This Rule ceases to have effect on the third anniversary of the date of the adoption or last renewal of this Rule.