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**CONSTITUTION
OF
HEGUY RESOURCES LTD**

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1. PRELIMINARY

1.1 Replaceable rules

The provisions of the Corporations Act that apply to certain companies as replaceable rules are displaced by this Constitution in their entirety and do not apply to the Company.

1.2 Definitions

The following definitions apply in this Constitution.

"**Alternate**" means an alternate Director appointed under clause 4.1.

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

"**ASIC**" means the Australian Securities and Investments Commission.

"**ASTC**" means ASX Settlement and Transfer Corporation Pty Limited ABN 49 008 504 532.

"**ASTC Settlement Rules**" means the operating rules of ASTC.

"**ASX**" means ASX Limited ABN 98 008 624 691.

"**Board**" means the Directors acting collectively under this Constitution.

"**Business day**" has the meaning given by the Listing Rules.

"**Called Amount**" in respect of a Share means:

- (a) the amount of a call on that Share which is due and unpaid; and
- (b) any amount the Board requires a Member to pay under clause 24.6.

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

"**Corporations Act**" means the Corporations Act 2001 (Cth) as amended or replaced from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

"**Director**" means a person appointed to the position of a director of the Company including, where appropriate, an Alternate.

"**Dividend**" includes bonus.

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

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

- (a) the rate for the time being prescribed by the Board in respect of that clause; or
- (b) if no rate is prescribed, the Bank Bill Swap Reference Rate (Australian financial markets) prevailing from time to time.

"Listed" means admitted to the Official List of ASX.

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

"Managing Director" means a managing director appointed under clause 6.1.

"Member" means a person who is a member of the Company under the Corporations Act.

"Market Transfer" means a transfer (within the meaning of Division 2 of Part 7.11 of the Corporations Act) that:

- (a) according to the ASTC Settlement Rules, is a proper ASTC regulated transfer; or
- (b) is a valid transfer under a computerised or electronic system established or recognised by the Corporations Act, the Listing Rules or the ASTC Settlement Rules for the purpose of facilitating dealings in Shares.

"Non-Executive Director" means a Director who is not an Executive Director.

"Ordinary resolution" means a resolution of Members other than a special resolution.

"Register" means the register of Members of the Company.

"Remuneration" in relation to a Director (other than an Executive Director):

- (a) includes salary, bonuses, fringe benefits and superannuation contributions provided by the Company; and
- (b) excludes a payment made as compensation for loss of office or in connection with retirement from office and an indemnity under clause 10.

"Restricted Securities" has the same meaning as in the ASX Listing Rules.

"Secretary" means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if more than one person is appointed, any one or more of such persons.

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"Shares" means shares in the capital of the Company.

"Special resolution" has the meaning given by section 9 of the Corporations Act.

"Unmarketable Parcel" means a parcel of Shares of a single class registered in the same name or the same joint names which is, in aggregate, less than the number that constitutes a marketable parcel of Shares of that class under the ASX Market Rules.

"Voting Member" in relation to a general meeting, or meeting of a class of Members, means a Member who has the right to be present, and to vote on, at least 1 item of business to be considered at the meeting.

1.3 Rules for interpreting this Constitution

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

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (iv) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests 1 gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word "**agreement**" includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (g) A power to do something includes a power, exercisable in the like circumstances to revoke or undo it.
- (h) A reference to a power is also a reference to authority or discretion.

- (i) A reference to something being "**written**" or "**in writing**" includes that thing being represented or reproduced in any mode in a visible form.
- (j) Words (other than those defined in clause 1.2) which are defined by the Corporations Act have the same meaning in this Constitution.
- (k) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Corporations Act.

2. **LISTING RULES**

2.1 **Application**

If the Company is Listed, the following clauses apply:

- (a) Notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act shall not be done.
- (b) Nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done.
- (c) If the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
- (d) If the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision.
- (e) If the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision.
- (f) If any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

2.2 **Listing**

The provisions of this constitution that pertain to a Listed company only apply during such time as the Company is Listed.

3. **DIRECTORS**

3.1 **Number of Directors**

Subject to the Corporations Act, the Company may by Ordinary resolution passed at a general meeting increase the minimum number of Directors (not counting Alternates) or increase or reduce the maximum number of Directors (not counting Alternates).

3.2 **Minimum and Maximum Number of Directors**

Until the Company resolves otherwise in accordance with clause 3.1 there will be:

- (a) a minimum of three Directors (not counting Alternates); and
- (b) a maximum of eight Directors.

3.3 **Executive and Non-Executive Directors**

Subject to any resolution of the Members determining the maximum and minimum numbers of Directors, the Directors may from time to time determine the respective numbers of Executive and Non-Executive Directors.

3.4 **Qualification**

A Director (and an Alternate when acting as a Director) need not be a Member of the Company but is entitled to notice of all general meetings and meetings of the holders of any class of Shares. Neither the auditor of the Company for the time being nor any partner or employee of the auditor is eligible to act as a Director of the Company. In addition to the circumstances which disqualify a person from managing a corporation according to the Corporations Act, no person who has been an insolvent under administration within the previous five years is eligible to become a Director.

3.5 **Appointment by the Board**

Subject to clause 3.1, the Board may appoint a person to be a Director at any time except during a general meeting. Unless the Director is an Executive Director and the Listing Rules do not require that Director to be subject to retirement as set out in this clause, any Director so appointed:

- (a) automatically retires at the next annual general meeting and is eligible for re-election by that general meeting; and
- (b) is not taken into account in deciding the rotation or retirement of Directors or the number of them to retire under clause 3.8 at that general meeting.

3.6 **Appointment by general meeting**

Subject to this Constitution, the Corporations Act, and to the number of Directors for the time being fixed under clause 3.1 not being exceeded, the Company may appoint a person as a Director by Ordinary resolution. A Director appointed to replace one removed from office under clause 3.11 must retire when the Director replaced would have been required to retire if not removed and is eligible for re-election.

3.7 **Eligible candidates**

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

- (a) the person retires under clauses 3.5, 3.6 or 3.7 and seeks re-election;
- (b) the Board recommends the appointment; or
- (c) at least 30 business days before the meeting at which the relevant resolution will be considered, the Company receives both:

- (i) a nomination of the person by a Member (who may be the person); and
- (ii) a consent to act as a Director signed by the person;

at its registered office.

The Company must notify Members of every candidate for election as a Director at least 7 days before the relevant general meeting.

3.8 One third of Directors retire annually

At each annual general meeting:

- (a) one third (or if that is not a whole number, the whole number nearest to one third) of the Directors who are not:
 - (i) appointed, and required to retire, under clause 3.5;
 - (ii) the Managing Director (or if there is more than 1, the 1 (if any) nominated under clause 6.3(a); or
 - (iii) Directors only because they are Alternates; and
- (b) any Director who would, if that Director remained in office until the next annual general meeting, have held that office for more than 3 years,

must retire from office and are eligible for re-election.

3.9 Selection of rotating Directors

Subject to clause 3.6, the Directors who retire under clause 3.8 are those who have held office the longest since last being elected or appointed. If 2 or more Directors have been in office for the same period, those Directors may agree which of them will retire. If they do not agree, they must draw lots to decide which of them must retire.

3.10 Time of retirement

A Director's retirement under clause 3.5 or 3.8 takes effect at the end of the relevant annual general meeting unless the Director is re-elected at that meeting.

3.11 Cessation of Director's appointment

The office of a Director automatically becomes vacant if the person who holds the office:

- (a) ceases to be a Director by virtue of the Corporations Act;
- (b) is prohibited by the Corporations Act or by an order made under the Corporations Act from holding office or continuing as a Director;
- (c) is liable to pay a Call but does not pay the call within 21 days after the date on which it is payable;

- (d) becomes an insolvent under administration;
- (e) becomes bankrupt or makes a general arrangement or composition with his or her creditors;
- (f) cannot fully participate in the management of the Company because of his or her mental incapacity or is a person whose estate is liable to have a person appointed, under the law relating to the administration of estates or persons who through mental or physical infirmity are incapable of managing their affairs, to administer it;
- (g) fails to attend Board meetings (either personally or by an Alternate) for a continuous period of 3 months without leave of absence from the Board;
- (h) resigns by notice in writing to the Company; or
- (i) is removed by a resolution of the Company.

3.12 **Too few Directors**

If the number of Directors is reduced below the minimum required by clause 3.2, the continuing Directors may act as the Board only:

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

4. **ALTERNATE DIRECTORS**

4.1 **Appointment of Alternates**

Subject to clause 3.4, a Director (other than an Alternate) may appoint a person to act as Alternate.

4.2 **Notice of Board meetings**

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

4.3 **Obligations and entitlements of Alternates**

An Alternate:

- (a) may attend and vote in place of the Appointor at a Board meeting at which the Appointor is not present;
- (b) if also a Director, has a separate right to vote as Alternate;
- (c) if Alternate for more than 1 Appointor, has a separate right to vote in place of each Appointor;

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- (d) when acting as Alternate, is an officer of the Company and subject to all the duties, and entitled to exercise all the powers and rights, of the Appointor as a Director, and is not an agent of the Appointor; and
- (e) the provisions of this Constitution which apply to Directors also apply to an Alternate except that an Alternate is not entitled in that capacity to any remuneration from the Company.

4.4 **Termination of appointment**

The Appointor may revoke the appointment of a person as Alternate whether or not that appointment is for a specified period. If the Appointor ceases to be a Director, any appointment of an Alternate made by the Appointor immediately ceases.

4.5 **Appointments and revocations in writing**

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

4.6 **Interests of Alternate**

An Alternate does not have an interest in a contract or arrangement or a material person interest in a matter by reason only of the fact that his or her Appointor has such an interest.

5. **POWERS OF THE BOARD**

5.1 **Powers generally**

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

- (a) has power to manage the business of the Company; and
- (b) subject to clause 5.4, may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the members.

5.2 **Exercise of powers**

A power of the Board can be exercised only:

- (a) by resolution passed, or treated by clause 11 as passed, at a meeting of the Board; or
- (b) in accordance with a delegation of the power under this Constitution.

5.3 **Powers with respect to financial accommodation to the Company**

Without limiting the generality of clause 5.1, the Directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any property or business of the Company or all or any of its uncalled capital;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

5.4 **Sale of main undertaking**

The Board must not sell or dispose of the main undertaking of the Company unless the decision is ratified by the Company in general meeting.

6. **MANAGING DIRECTOR**

6.1 **Appointment and power of Managing Director**

The Board may appoint 1 or more Directors to be a Managing Director on such terms as they think fit.

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

- (a) on the terms and subject to any restrictions the Board decides; and
- (b) so as to be concurrent with, or to the exclusion of, the powers of the Board, and may revoke the delegation at any time.

6.2 **Retirement and removal of Managing Director**

Subject to clause 6.3 a Managing Director is not:

- (a) required to retire; or
- (b) taken into account in determining the number of Directors to retire,

by rotation under clause 3.8 but (subject to any contract between the Company and that Managing Director) is otherwise subject to the same clauses regarding resignation, removal and retirement from office as the other Directors.

6.3 **Multiple Managing Directors**

If there are 2 or more Managing Directors at the same time:

- (a) the Board may nominate one of them as the Managing Director to be exempted from retirement by rotation under clause 3.8 and may revoke the nomination at any time;
- (b) if a Managing Director has been nominated under clause 6.3(a) and the Board later nominates a different Managing Director under that clause, the one first nominated must retire by rotation at the next annual general meeting unless elected at either of the last 2 annual general meetings; and
- (c) if none of them is the subject of a current nomination under clause 6.3(a), all of them must retire by rotation under clause 3.8.

6.4 **Termination of appointment of Managing Director**

The appointment of a Managing Director terminates if:

- (a) the Managing Director ceases for any reason to be a Director; or
- (b) the Board removes the Managing Director from the office of Managing Director (which, subject to any contract between the Company and the Managing Director, the Board has power to do),

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

7. **DELEGATION OF BOARD POWERS**

7.1 **Delegation to committee or attorney**

The Board may delegate any of its powers, other than those which by law must be dealt with by the Directors as a Board:

- (a) to a committee consisting of at least 1 Director which may also include people who are not Directors; or
- (b) to an attorney;

and may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period. This clause is supplemental to the Corporations Act

7.2 **Terms of delegation**

A delegation of powers under clause 7.1 may be made:

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

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

7.3 **Powers of attorney**

A power of attorney under clause 7.1 may contain the provisions for the protection and convenience of those who deal with the attorney that the Board thinks appropriate.

7.4 **Proceedings of committees**

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

8. **DIRECTOR'S DUTIES AND INTERESTS**

8.1 **Compliance with Corporations Act**

Each Director must comply with Divisions 1 and 2 of Part 2D.1 of the Corporations Act.

8.2 **Scope of Directors' duties**

A Director is not disqualified by reason only of being a Director from:

- (a) holding any office or place of profit or employment other than that of the Company's auditor, or being a Member or creditor, of any corporation (including the Company) or partnership other than the auditor; or
- (b) entering into any agreement with the Company.

8.3 **Declaration of interests**

A Director who:

- (a) is in any way interested in a contract or proposed contract with the Company; or
- (b) holds any office or possesses any property as a result of which duties or interests might be created which are directly or indirectly in conflict with that Director's duties or interests as a Director,

must declare the fact and the nature of the interest, or nature, character and extent of the conflict at the first Board meeting held after the relevant facts come to the Director's knowledge or after appointment as a Director (whichever is later).

8.4 **Director interested in agreement**

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

- (a) a Director may be counted in a quorum at a Board meeting that considers, and may vote on, whether the Company enters into an agreement or proposed agreement in which that Director has an interest;
- (b) the Company may enter into the agreement and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may be counted in a quorum at a Board meeting that considers, and may vote on, matters involving the agreement; and
- (d) if disclosure under clause 8.3 is made before the agreement is entered into:
 - (i) the Director may retain benefits under the agreement even though the Director has an interest in the agreement; and
 - (ii) the Company cannot avoid the agreement merely because of the existence of the interest.

8.5 **Agreements with third parties**

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

- (a) fails to make a disclosure required by clause 8.3; or
- (b) is present at, or counted in the quorum for, a meeting that considers, votes on, or participates in the execution of, that agreement in breach of the Corporations Act.

8.6 **Obligation of secrecy**

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

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

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

9. **DIRECTORS' REMUNERATION**

9.1 **Remuneration of Executive Directors**

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

9.2 **Remuneration of Non-Executive Directors**

Subject to the Listing Rules, the Non-Executive Directors (other than those who are Non-Executive Directors only because they are Alternates) are entitled to be paid, out of the funds of the Company, an amount of Remuneration which:

- (a) does not:
 - (i) in any year exceed in aggregate the amount last fixed by Ordinary resolution; or
 - (ii) consist of a commission on or percentage of profits or operating revenue; and
- (b) is allocated among them:
 - (i) on an equal basis having regard to the proportion of the relevant year for which each Director held office; or
 - (ii) as otherwise decided by the Board.

9.3 **Additional Remuneration for extra services**

If a Director, at the request of the Board and for the purposes of the Company, performs extra services or makes special exertions (including going or living away from the Director's usual residential address), the Company may pay that Director a fixed sum set by the Board for doing so. Remuneration under this clause may be either in addition to or in substitution for any remuneration to which that Director is entitled under clause 9.1 or 9.2.

9.4 **Expenses of Directors**

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

- (a) in attending meetings of the Company, the Board, or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out duties as a Director.

9.5 **Directors' retirement benefits**

Subject to the Corporations Act and the Listing Rules, the Company may agree with a Director or person about to become a Director that, when or after the person dies or otherwise ceases to be a Director, the Company will pay a pension or lump sum benefit to:

- (a) that person; or
- (b) after that person's death, any of the surviving spouse, dependants or legal personal representatives of that person.

10. OFFICERS' INDEMNITY AND INSURANCE

10.1 Indemnity

Subject to section 199A of the Corporations Act, the Company must, to the extent the person is not otherwise indemnified, indemnify every officer of the Company and its wholly-owned subsidiaries and may indemnify its auditor against a liability:

- (a) incurred as officer or auditor to a person other than the Company or a related body corporate (including a liability incurred as a result of appointment or nomination of the Company or a subsidiary as a trustee or as an officer of another corporation) unless the liability arises out of conduct involving a lack of good faith or is a liability for a pecuniary penalty order under section 1317G of the Corporations Act or a compensation order under section 1317H of the Corporations Act; and
- (b) for costs and expenses incurred in defending civil or criminal proceedings in which judgement is given in favour of that person, or in which that person is acquitted, or in which the grounds for making a court order sought by ASIC or a liquidator are found by the court not to have been established, or in connection with proceedings for relief to that person under the Corporations Act in which the court grants the relief.

10.2 Insurance

Subject to section 199B of the Corporations Act, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

10.3 Former officers

The indemnity in favour of officers under clause 10.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

11. BOARD MEETINGS

11.1 Convening Board meetings

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

11.2 Notice of Board meeting

The convenor of each Board meeting:

- (a) must give not less than 24 hours notice of a meeting or such lesser amount of notice as is reasonable in the circumstances (and, if it is adjourned, of its resumption) individually to:
 - (i) each Director; and

- (ii) each Alternate in respect of whom the Appointor has given notice under clause 4.2 requiring notice of Board meetings to be given to that Alternate or whose Appointor is not given notice due to being outside Australia;

unless the Directors unanimously agree otherwise,

- (b) may give that notice orally (including by telephone) or in writing; and
- (c) must include in the notice a description of the items of business for the meeting,

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

11.3 Use of technology

Subject to the Corporations Act, a Board meeting may be held using any technological means reasonably consented to by a majority of the Board. The consent may be a standing one. The Directors need not all be physically present in the same place for a Board meeting to be held and a Director who participates in a meeting held in accordance with this clause is taken to be present and entitled to vote at the meeting. A Director may only withdraw his or her consent under this clause to the means of communication proposed for a Board meeting if the Director does so at least 24 hours before the meeting.

11.4 Chairing Board meetings

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

11.5 Quorum

Unless the Board decides otherwise, the quorum for a Board meeting is 2 Directors and a quorum must be present for the whole meeting. An Alternate who is also a Director or a person who is an Alternate for more than 1 Appointor may only be counted once toward a quorum. A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending. If a meeting is held in another way permitted by the Corporations Act, the Board must resolve the basis on which Directors are treated as present.

11.6 Majority decisions

A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. Subject to the Listing Rules, if an equal number of votes in cast for and against a resolution:

- (a) if:

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- (i) only 2 Directors are entitled to vote; or
- (ii) the chairperson of the meeting is not entitled to vote, the matter is decided in the negative; or
- (b) otherwise, the chairperson has a second or casting vote.

11.7 **Procedural rules**

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

11.8 **Written resolution**

If all the Directors entitled to receive notice of a Board meeting and to vote on a resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a resolution in those terms is treated as having been passed at a Board meeting at the time when the last Director signs.

11.9 **Additional provisions concerning written resolutions**

For the purpose of clause 11.8:

- (a) 2 or more separate documents in identical terms, each of which is signed by 1 or more Directors, are treated as 1 document;
- (b) the signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (c) the signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity; and
- (d) a telex, telegram, facsimile or electronic communication containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

11.10 **Valid proceedings**

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

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

12. MEETINGS OF MEMBERS

12.1 Annual general meeting

The Company must hold an annual general meeting in accordance with the Corporations Act.

12.2 Calling meetings of Members

- (a) The Board or a Director may call a meeting of Members.
- (b) The Board must when required by the Corporations Act call a meeting of Members.
- (c) The Members may request or call and arrange to hold a meeting of Members in accordance with the procedures and requirements set out in the Corporations Act.

12.3 Notice of meeting

Subject to clause 12.6 and except as permitted by the Corporations Act, at least 28 days' written notice of a meeting of Members must be given individually to:

- (a) each Member (whether or not the Member is entitled to vote at the meeting);
- (b) each Director; and
- (c) to the auditor,

and must be given otherwise in accordance with the procedures set out in the Corporations Act.

12.4 Postponement or cancellation

Subject to the Corporations Act, the Board may at any time before the day of a meeting:

- (a) postpone a meeting of Members; or
- (b) cancel a meeting of Members,

by written notice given individually to each person entitled to be given notice of the meeting.

12.5 Fresh notice

If a meeting of Members is postponed or adjourned for 1 month or more, the Company must give new notice of the resumed meeting.

12.6 **Notice to joint holders of Shares**

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

12.7 **Technology**

The Company may hold a meeting of Members at 2 or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

12.8 **Accidental omission**

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

12.9 **Class meetings**

Clauses 12 to 16 inclusive apply to a separate meeting of a class of Members as far as they are capable of application and modified as necessary.

13. **PROCEEDINGS AT MEETINGS OF MEMBERS**

13.1 **Business of annual general meeting**

The business of an annual general meeting may include:

- (a) any of the following matters, even if not referred to in the notice of meeting:
 - (i) consideration of the annual financial report, directors' report and auditor's report;
 - (ii) election of directors;
 - (iii) appointment of the auditor; or
 - (iv) fixing the auditor's remuneration;
- (b) any business which under this Constitution or the Corporations Act is required to be transacted at an annual general meeting; and
- (c) any other business which may lawfully be transacted at a general meeting.

13.2 **Member present at meeting**

If a Member has appointed a proxy or attorney or (in the case of a Member which is a body corporate) a representative to act at a meeting of Members, that Member is taken to be present at a meeting at which the proxy, attorney or representative is present.

13.3 **Quorum**

The quorum for a meeting of Members is 2 Voting Members. Each individual present may only be counted once toward a quorum. If a Member has appointed more than 1 proxy or representative only 1 of them may be counted toward a quorum.

13.4 **Quorum not present**

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

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

13.5 **Chairing meetings of Members**

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

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

the Voting Members present must elect a Member or Director present to chair the meeting.

13.6 **Attendance at general meetings**

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

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13.7 **Members rights suspended while call unpaid**

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

13.8 **Adjournment**

The chairperson of a meeting of Members at which a quorum is present:

- (a) may, with the consent of the meeting; and
- (b) must, if directed by ordinary resolution of the meeting, adjourn it to another time and place.

13.9 **Business at adjourned meetings**

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

13.10 **Notice of adjourned meetings**

If a general meeting has been adjourned for more than 30 days, notice of the adjourned general meeting must be given to Members as if it were an original general meeting, but otherwise it is not necessary to give notice of an adjourned meeting or the business or the adjourned meeting

14. **PROXIES, ATTORNEYS AND REPRESENTATIVES**

14.1 **Appointment of Proxies**

A Member may appoint not more than 2 proxies to attend and act for the Member at a meeting of Members. An appointment of proxy must be made by written notice to the Company:

- (a) that complies with section 250A(1) of the Corporations Act and the Listing Rules; or
- (b) in any other form and mode that complies with the Listing Rules and is, and is signed or acknowledged by the Member in a manner, satisfactory to the Board.

If a Member appoints 2 proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise half of those votes.

14.2 **Member's attorney**

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

14.3 **Deposit of proxy forms and powers of attorney**

An appointment of a proxy or power of attorney is not effective for a particular meeting of Members unless:

- (a) in the case of a proxy, the proxy form and, if it is executed by an attorney, the relevant power of attorney or a certified copy of it; and
- (b) in the case of an attorney, the power of attorney or a certified copy of it,

is received by the Company at its registered office or a fax number at that office (or another address specified for the purpose in the relevant notice of meeting) at least 48 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the resumption of the meeting.

14.4 **Corporate representatives**

A Member that is a body corporate may appoint an individual to act as its representative at meetings of Members as permitted by section 250D of the Corporations Act.

14.5 **Standing appointments**

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

14.6 **Suspension of proxy or attorney's powers if Member present**

A proxy or attorney has no power to act for a Member at a meeting at which the Member is present:

- (a) in the case of an individual, in person; or
- (b) in the case of a body corporate, by representative.

A proxy has no power to act for a Member at a meeting at which the Member is present by attorney.

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

If more than 1 attorney or representative appointed by a Member is present at a meeting of Members and the Company has not received notice of revocation of any of the appointments:

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

14.8 **More than 2 current proxy appointments**

An appointment of proxy by a Member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that Member which would result in there being more than 2 proxies of that Member entitled to act at a meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this clause.

14.9 **Continuing authority**

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

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

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

15. **ENTITLEMENT TO VOTE**

15.1 **Determining voting entitlements**

Subject to section 250L(4) of the Corporations Act and clause 16.2(b) which apply to a demand for a poll, to decide, for the purposes of a particular meeting, who are Members of the Company and how many Shares they hold, the Company must refer only:

- (a) if the convener of the meeting determined a specified time under Regulation 7.11.37 before notice of the meeting was given, to the Register as it stood at that time; or
- (b) otherwise, to the Register as it stood 48 hours before the meeting or at any later time required by the ASTC Settlement Rules.

15.2 **Number of votes**

Subject to this Constitution and section 250A(4) of the Corporations and terms on which Shares are issued:

- (a) on a show of hands:
 - (i) if a Member has appointed 2 proxies, neither of those proxies may vote; and

- (ii) subject to paragraph (a)(i), every individual present who is a Member, or a proxy, attorney or representative of a Member, entitled to vote has 1 vote;
- (b) on a poll every Member present:
 - (i) has 1 vote for every fully paid Share held; and
 - (ii) subject to paragraph (c), in respect of each partly paid Share held has a fraction of a vote equal to the proportion which the amount paid bears to the total issue price of the Share; and
- (c) the Company must not count an amount:
 - (i) paid in advance of a call; or
 - (ii) credited on a partly paid Share without payment in money or money's worth being made to the Company,

in calculating the fraction of a vote which the holder of a partly paid Share has.

15.3 **Suspension of voting rights**

During a breach of the ASX Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any voting rights in respect of those Restricted Securities.

15.4 **Casting vote of chairperson**

If an equal number of votes is cast for and against a resolution at a meeting of Members:

- (a) if the chairperson of the meeting is not (or if the chairperson were a Member would not be) entitled to vote, the matter is decided in the negative; and
- (b) otherwise, the chairperson has a casting vote whether or not the chairperson is a Member.

15.5 **Votes of joint holders**

If more than 1 of the joint holders of a Share (including, for the purposes of this clause, joint legal personal representatives of a dead Member) are present at a meeting of Members and tender a vote in respect of the Share, the Company may only count the vote cast by the most senior joint holder who tenders a vote. For this purpose, seniority depends on the order in which the names of the joint holders are listed in the Register.

15.6 **Votes of transmitters and guardians**

Subject to the Corporations Act, if the Board is satisfied at least 48 hours before the time fixed for a meeting, that a person:

- (a) is entitled to the transmission of a Share under clause 29; or

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

that person may vote as if registered as the holder of the Share.

15.7 **Voting restrictions**

If:

- (a) the Corporations Act or the Listing Rules require that some Members are not to vote on a resolution, or that votes cast by some Members be disregarded, in order for the resolution to have an intended effect; and

- (b) the notice of the meeting at which the resolution is proposed states that fact, the Company must not count any votes purported to be cast by those Members. If a proxy purports to vote in a way or in circumstances that contravene section 250A(4) of the Corporations Act, on a show of hands the vote is invalid and the Company must not count it and on a poll clause 16.3(c) applies.

15.8 **Objections to right to vote**

A Voting Member or Director may challenge a person's right to vote at a meeting of Members. A challenge:

- (a) may only be made at the meeting; and
- (b) must be decided by the chairperson, whose decision is final.

16. **HOW VOTING IS CARRIED OUT**

16.1 **Method of voting**

A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded under clause 16.2 either before or on declaration of the result of the vote on a show of hands.

16.2 **Demands for a poll**

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

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

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

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

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to clause 16.3(c), in the manner that the chairperson of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and, subject to clause 16.3(c), in the manner that the chairperson of the meeting directs;
- (c) votes which section 250A(4) of the Corporations Act requires to be cast in a given way must be treated as cast in that way;
- (d) a person voting who has the right to cast 2 or more votes need not cast all those votes and may cast those votes in different ways; and
- (e) the result of the poll is the resolution of the meeting at which the poll was demanded.

17. **SECRETARY**

17.1 **Appointment and removal of secretary**

The Board may appoint 1 or more individuals to be a Secretary of the Company either for a specified term or without specifying a term.

17.2 **Terms and conditions of office**

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

17.3 **Removal from office**

Subject to any contract between the Company and the Secretary, the Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

18. **MINUTES**

18.1 **Minutes must be kept**

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's Members;
- (b) the name of the Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under clause 7); and

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(d) resolutions passed by Directors without a meeting,
to be kept in accordance with sections 251A and 251AA of the Corporations Act.

18.2 Minutes as evidence

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

18.3 Inspection of minute books

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

19. COMPANY SEALS

19.1 Common seal

The Board:

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

19.2 Use of seals

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

19.3 Fixing seals to documents

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

- (a) by 2 Directors;
- (b) by 1 Director and 1 Secretary; or
- (c) by any other signatories or in any other way (including the use of facsimile signatures) authorised by the Board.

20. FINANCIAL RECORDS AND AUDIT

20.1 Company must keep financial records

The Board must cause the Company to keep written financial records and prepare financial documents in accordance with the requirements of the Corporations Act and the Listing Rules that:

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

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

20.2 Audit

The Board must cause the financial records and financial documents of the Company to be audited in accordance with the requirements of the Corporations Act and the Listing Rules.

20.3 Conclusive reports

Audited financial reports laid before the Company in general meetings are conclusive except as regards errors notified to the Company within 3 months after the relevant general meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

20.4 Inspection of financial records and books

Subject to clause 18.3 and section 247A of the Corporations Act, a Member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by ordinary resolution.

21. SHARES

21.1 Issue at discretion of Board

Subject to the Corporations Act, the Listing Rules and this Constitution, the Board may, on behalf of the Company, issue and allot, or dispose of, Shares to any person on the terms, with the rights, and at the times that the Board may determine.

21.2 Power to issue Shares

The power of the Board under clause 21.1 includes the power to:

- (a) grant options over unissued Shares; and
- (b) issue and allot Shares:
 - (i) with any preferential, deferred or special rights, privileges or conditions;

- (ii) with any restrictions in regard to dividend, voting, return of capital or otherwise;
- (iii) which are liable to be redeemed;
- (iv) which are bonus Shares for which no consideration is payable to the Company; or
- (v) which have any combination of the characteristics described in subparagraphs (i) to (iv) inclusive.

21.3 **Brokerage and commissions**

Any brokerage or commission which may be paid by the Company may be made in cash, by the issue and allotment of Shares, or the issue of debentures, or by a combination of any of those methods.

21.4 **Surrender of Shares**

The Board may accept a surrender of Shares:

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

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

22. **CERTIFICATES**

22.1 **Uncertificated securities**

If the Corporations Act, the Listing Rules and ASTC Settlement Rules allow the Company not to issue a certificate for particular securities, the Company:

- (a) need not issue a certificate for those securities; and
- (b) may cancel a certificate for them without issuing another certificate,

and clauses 22.3 and 22.4 apply only if there is a current certificate for those securities.

22.2 **Certificated Shares**

Unless clause 22.1 applies, the Company must issue and despatch a certificate of title to Shares in accordance with the Corporations Act, the Listing Rules and the ASTC Settlement Rules. The Company must not charge any fee to issue a certificate.

22.3 **Multiple certificates and joint holders**

Subject to clause 22.1, if a Member requests the Company to issue several certificates each for a part of the Shares registered in the Member's name, the Company must do

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so. For this purpose, joint holders of Shares are a single Member. The Company may issue only 1 certificate that relates to each Share registered in the names of 2 or more joint holders and may deliver the certificate to any of those joint holders.

22.4 **Lost and worn out certificates**

Subject to clause 22.1, if a certificate:

- (a) is lost or destroyed and the owner of the relevant securities applies in accordance with section 1070D of the Corporations Act, the Company must; or
- (b) is defaced or worn out and is produced to the Company, the Company may, issue a new certificate in its place.

23. **REGISTER**

23.1 **Joint holders**

If the Register names 2 or more joint holders of a Share, the Company must treat the person named first in the Register in respect of that Share as the sole owner of it for all purposes (including the giving of notice) except:

- (a) delivery of certificates (to which clause 22.3 applies);
- (b) right to vote (to which clause 15.5 applies);
- (c) power to give directions as to payment of, or a receipt for, dividends (to which clauses 26.7 and 26.8 apply);
- (d) liability for instalments or calls (which subject to section 1072E(8) of the Corporations Act is joint and several);
- (e) sale of Unmarketable Parcels under clause 30; and
- (f) transfer.

23.2 **Non-beneficial holders**

Subject to the Corporations Act, the Listing Rules, the ASTC Settlement Rules or unless otherwise ordered by a court of competent jurisdiction or required by statute, the Company:

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

24. **CALLS ON SHARES AND FORFEITURE**

24.1 **Board may make calls**

Subject to the Corporations Act, the Listing Rules (including any timetable that may be set out therein) and the terms on which partly paid Shares are issued the Board may make calls upon the Members of any amount unpaid on Shares.

24.2 **Notice of call**

The Company must comply with the Corporations Act and the ASX Listing Rules in relation to the dispatch and content of notices to Members on whom a call is made.

24.3 **Calls made by Board**

A call is:

- (a) deemed to have been made at the time when the resolution of the Directors authorising the call was passed;
- (b) may be required to be paid by instalments; and
- (c) may be revoked or postponed by the Directors.

24.4 **Timing of payment of call**

A member to whom notice of a call is given in accordance with this clause 24 must pay to the Company the amount called in accordance with the notice.

24.5 **Call not invalid by failure to send a notice**

Failure to send a notice of a call to any Member or the non-receipt of a notice by any Member does not invalidate the call.

24.6 **Liability of joint holders**

The joint holders of a Share are jointly and severally liable to pay calls made in respect of their Shares.

24.7 **Instalments and amounts which become payable**

If:

- (a) the Board requires a call to be paid by instalments; or
- (b) an amount becomes payable by the terms of issue of Shares on allotment, or at a time or in circumstances specified in the terms of issue,

then:

- (c) every instalment or the amount payable under the terms of issue is payable as if it were a call made by the Directors and as if they had given notice of it; and

- (d) the consequences of late payment or non-payment of an instalment or the amount payable under the terms of issue are the same as the consequences of late payment or non-payment of a call.

24.8 **Interest and expenses**

If an amount called is not paid on or before the due date, the person liable to pay the amount must also pay:

- (a) interest on the amount from the due date to the time of actual payment at the Interest Rate; and
- (b) all expenses incurred by the Company as a consequence of the non-payment, but the Board may waive payment of the interest and expenses in whole or in part.

24.9 **Recovery of amounts due**

On the hearing of any action for the recovery of money due for any call, proof that:

- (a) the name of the person sued was, when the call was made, entered in the Register as a holder or the holder of Shares in respect of which the call was made;
 - (b) the resolution making the call is duly recorded in the Directors' minute book; and
 - (c) notice of the call was given to the person sued,
- will be conclusive evidence of the debt.

24.10 **Amount of call**

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.

24.11 **Advance payment by Member**

If a Member is willing to advance to the Company money uncalled and unpaid upon Shares held by him, the Directors may, at their discretion, accept payment of that amount in advance of the due date for payment on terms and conditions as to payment of interest which they deem fit.

24.12 **No right to participate in profits**

Money paid in advance of calls pursuant to clause 24.11 does not confer a right to participate in profits.

24.13 **Repayment of advance payments**

The Directors may, at their discretion, repay at any time the whole or part of any amount paid in advance.

24.14 **Forfeiture notice**

The Board may at any time after a call or instalment becomes payable and remains unpaid by a Member, serve a notice on the Member requiring the Member to pay all or any of the following:

- (a) the unpaid amount;
- (b) any interest that has accrued; and
- (c) all expenses incurred by the Company as a consequence of the non-payment.

24.15 **Notice requirements**

The notice under clause 24.14 must:

- (a) specify a day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice must be made; and
- (b) state that if a Member does not comply with the notice, the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

24.16 **Forfeiture**

If a Member does not comply with a notice served under clause 24.14, then any or all of the Shares in respect of which the notice was given may be forfeited under a resolution of the Board and on forfeiture, Shares become the property of the Company and forfeited Shares must be:

- (a) if the Listing Rules permit, sold, disposed of, or cancelled on terms determined by the Board; or
- (b) offered by public auction in accordance with any requirements of the Listing Rules.

24.17 **Unpaid dividends**

Unpaid dividends in respect of forfeited Shares will also be forfeited.

24.18 **Annulment of forfeiture**

The Board may, at any time before a forfeited Share is sold, disposed of or cancelled, annul the forfeiture of the Share on conditions determined by the Board.

24.19 **Notice of forfeiture**

Promptly after a Share has been forfeited:

- (a) notice of the forfeiture must be given to the Member in whose name the Share was registered immediately before its forfeiture; and
- (b) the forfeiture and its date must be noted in the Register.

Omission or neglect to give notice of or to note the forfeiture as specified in this clause will not invalidate forfeiture.

24.20 **Liability of former Member**

The interest of a person who held Shares which are forfeited is extinguished but subject to the Listing Rules, the former Member remains liable to pay:

- (a) all money (including interest and expenses) that was payable by the Member to the Company at the date of forfeiture in respect of the forfeited Shares; and
- (b) interest from the date of forfeiture until payment of the money referred to in paragraph (a) above at the Interest Rate.

A former Member's liability to the Company ceases if and when the Company receives payment in full of all money (including interest and expenses) payable by the former Member in respect of the Shares, and the liability may only be released or waived in accordance with the Listing Rules.

24.21 **Disposal of Shares**

The Company may:

- (a) receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share, or a Share sold under a lien sale; and
- (b) effect a transfer of the Share in favour of a person to whom the Share is sold or disposed of.

24.22 **New holder not bound**

The new holder of the Shares:

- (a) is not bound to check the regularity of the sale or the application of the purchase money;
- (b) obtains title to the Shares despite any irregularity in the sale; and
- (c) will not be subject to complaint or remedy by the former holder of the Shares in respect of the purchase.

24.23 **Title of new holder**

A statement signed by a Director and the Secretary that the Shares have been regularly forfeited and sold or reissued or regularly sold without forfeiture to enforce a lien, is conclusive evidence of the matters stated as against all persons claiming to be entitled to the Shares.

24.24 **Application of proceeds**

Subject to the terms on which a Share is on issue, the net proceeds of any sale made on forfeiture or to enforce a lien must be applied in payment of:

- (a) first, the expenses of the sale;
- (b) second, any expenses necessarily incurred in respect of the forfeiture or the lien; and
- (c) third, in payment of all amounts (if any) secured by the lien or all money (if any) that was payable in respect of the forfeited Share,

and the balance (if any) shall be paid to the Member whose Share has been so sold.

25. **COMPANY LIENS**

25.1 **Existence of liens**

Unless the terms of issue provide otherwise, the Company has a first and paramount lien on each Share for:

- (a) all unpaid calls or instalments due but unpaid in respect of that Share (including money payable under clause 24.6); and
- (b) amounts paid by the Company for which it is indemnified under clause 25.4.

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

25.2 **Sale under lien**

If:

- (a) the Company has a lien on a Share;
- (b) an amount secured by the lien is due and payable;
- (c) the Company has given notice to the Member registered as the holder of the Share:
 - (i) requiring payment of the amount which is due and payable and secured by the lien;
 - (ii) stating the amount due and payable at the date of the notice;
 - (iii) specifying how to calculate the amount due when payment is made; and
 - (iv) specifying a date (at least 10 business days after the date of the notice) by which and a place at which payment of that amount must be made; and

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(d) the requirements of the notice given under paragraph (c) are not fulfilled,

the Company may sell the Share as if it had been forfeited under clause 24.16. Clauses 24.16 to 24.24 apply, to the extent practical and modified as necessary, as if the amount referred to in paragraph (b) were the Called Amount in respect of that Share.

25.3 **Protection of lien**

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

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

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

- (a) is fully indemnified by that Member from that liability;
- (b) may recover as a debt due from the Member the amount of that liability together with interest at the Interest Rate from the date of payment by the Company to the date of re-payment by the Member; and
- (c) subject to clause 28.5, may refuse to register a transfer of any Share by that Member until the debt has been paid to the Company.

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

26. **DIVIDENDS**

26.1 **Accumulation of reserves**

Before declaring any dividend to Members, the Board may:

- (a) set aside out of profits reserves to be applied, in the Board's discretion, for any purpose it decides and use any sum so set aside in the business of the Company or invest it in investments selected by the Board and vary and deal with those investments as it decides; or
- (b) carry forward any amount out of profits which the Board decides not to distribute without transferring that amount to a reserve; or
- (c) do both.

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26.2 Dividends must be paid out of profits

The Company must not pay a dividend except out of profits of the Company. The Company does not incur a debt merely by fixing the amount or time for payment of a dividend. A debt arises only when the time fixed for payment arrives. The decision to pay a dividend may be revoked by the Board at any time before then if permitted by the ASX Listing Rules. A resolution of the Board as to the amount of the Company's profits and the amount of them available for dividend is conclusive.

26.3 Payment of dividends

Subject to the Corporations Act, this Constitution, and the terms of issue of Shares, the Board may resolve to pay any dividend it thinks appropriate and fix the time for payment.

26.4 Amount of dividend

Subject to the terms of issue of Shares, the Company may pay a dividend on 1 class of Shares to the exclusion of another class. Subject to clause 26.5, each Share of a class on which the Board resolves to pay a dividend carries the right to participate in a dividend in the same proportion that the amount for the time being paid on the Share bears to the total issue price of the Share.

26.5 Prepayments, payments during dividend period and credits without payment

For the purposes of clause 26.4:

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

26.6 Dividends in kind

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

- (a) fix the value of any asset distributed;
- (b) make cash payments to Members on the basis of the value fixed so as to adjust the rights of Members between themselves; and

- (c) vest an asset in trustees.

26.7 **Method of payment**

The Company may pay any cash dividend, interest or other money payable in respect of Shares by cheque sent, and may distribute assets by sending the certificates or other evidence of title to them, through the post directed to:

- (a) the address of the Member (or in the case of a jointly held Share, the address of the joint holder named first in the Register); or
- (b) to any other address the Member (or in the case of a jointly held Share, all the joint holders) directs in writing.

26.8 **Joint holders' receipt**

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

26.9 **Retention of dividends by Company**

The Company may retain the dividend payable on a Share:

- (a) of which a person seeks to be registered as the holder under clauses 29.2 or 29.3, until that person is registered as the holder of that Share or transfers it; and
- (b) on which the Company has a lien, to satisfy the liabilities in respect of which the lien exists.

26.10 **No interest on dividends**

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

26.11 **Restricted securities**

During a breach of the ASX Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any dividend in respect of those Restricted Securities.

27. **SHARE PLANS**

27.1 **Implementing Share plans**

The Company in general meeting may by ordinary resolution authorise the Board to implement one or more of:

- (a) a dividend re-investment plan under which any dividend or other cash payment in respect of a Share may, at the election of the Member entitled to it, be:
 - (i) retained by the Company and applied in payment for fully paid Shares issued under the plan; and

- (ii) treated as having been paid to the Member as a dividend and simultaneously re-paid by the Member to the Company to be held by it and applied in accordance with the plan; or
- (b) any other plan under which Members may elect that dividends or other cash payments in respect of Shares be satisfied by the allotment of further Shares, or that issues of further Shares be made in place of dividends.

27.2 Board obligations and discretions

The Board:

- (a) must do everything necessary or desirable to give effect to a Share plan implemented under clause 27.1 and the rules governing it; and
- (b) may:
 - (i) vary the rules governing; or
 - (ii) suspend or terminate the operation of, a Share plan implemented under clause 27.1 as it thinks appropriate.

28. TRANSFER OF SHARES

28.1 Modes of transfer

Subject to this Constitution, a Member may transfer a Share by:

- (a) a Market Transfer; or
- (b) a written document which:
 - (i) shows the jurisdiction of registration of the Company;
 - (ii) relates only to Shares of 1 class; and
 - (iii) is a sufficient instrument of transfer of marketable securities under the Corporations Act or in any other form approved by the Board or ASX.

The Company must not charge any fee on transfer of a Share.

28.2 Market Transfers

The Company:

- (a) may do anything permitted by the Corporations Act, the Listing Rules and the ASTC Settlement Rules that the Board thinks necessary or desirable in connection with the participation of the Company in a computerised or electronic system established or recognised by the Corporations Act, the Listing Rules, or the ASTC Settlement Rules for the purpose of facilitating dealings in Shares; and

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- (b) must comply with obligations imposed on it by the Listing Rules or the ASTC Settlement Rules in relation to Market Transfers.

28.3 **Transfer by written document**

A document of transfer under clause 28.1(b) must be:

- (a) delivered to the registered office of the Company or the address of the Register last notified to Members by the Company;
- (b) accompanied by the certificate (if any) for the Shares to be transferred or evidence satisfactory to the Board of its loss or destruction; and
- (c) marked with payment of any stamp duty payable.

Property in and title to a document of transfer that is delivered to the Company (but not the Shares to which it relates) passes to the Company on delivery.

28.4 **Member to disclose arrangements restricting transfer**

If a Member has entered into any arrangement restricting the transfer or other disposal of Shares and those arrangements are of the nature of arrangements which the Company is required to disclose under the Listing Rules, then the Member must provide to the Company such information that the Company requires and within the time that the Company requires, to comply with the Company's disclosure obligations.

28.5 **Refusal to register transfer**

The Board may in its absolute discretion refuse to register any transfer of Shares or other securities where the Shares or other securities are not quoted on ASX. Where the Shares or other securities are quoted by ASX, the Board may in their absolute discretion refuse to register any transfer in any circumstances permitted by the ASX Listing Rules. The Board must:

- (a) except as permitted by ASX, refuse to register any transfer of Shares or other securities which are Restricted Securities if that transfer is or might be in breach of the Listing Rules or any restriction agreement entered into by the Company under the Listing Rules in relation to the Shares; and
- (b) refuse to register any transfer where the Company is, or the Board is, required to do so by the Listing Rules.

If the Board refuses to register a transfer, the Company must give the lodging party notice of the refusal and the reasons for it within 5 business days after the date on which the transfer was delivered to it.

28.6 **Proper ASTC transfer**

Despite clause 28.5, the Company must not refuse or fail to register or give effect to, or delay or in any way interfere with, a proper ASTC transfer of Shares or other securities quoted by ASX.

28.7 **Restricted Securities**

Subject to clause 28.6, Restricted Securities cannot be disposed of during the escrow period except as permitted by the Listing Rules or ASX. The Company will refuse to acknowledge a disposal of Restricted Securities to the extent required under the Listing Rules.

28.8 **Transferor remains holder until transfer registered**

The transferor of a Share remains the holder of it until:

- (a) if the transfer is a Market Transfer, the time the ASTC Settlement Rules provide that the transfer takes effect; and
- (b) otherwise, the transfer is registered and the name of the transferee is entered in the Register.

28.9 **Powers of attorney**

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

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

29. **TRANSMISSION OF SHARES**

29.1 **Death of joint holder**

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

29.2 **Death of single holder**

The Company must not recognise any one except the legal personal representative of the deceased Member as having any title to Shares registered in the sole name of a deceased Member. If the personal representative gives the Board the documents described in section 1072A of the Corporations Act or other information that satisfies the Board of the representative's entitlement to be registered as holder of the Shares:

- (a) subject to clauses 28.5 and 29.4 the Company must register the personal representative as the holder of the Shares as soon as practical after receipt of a written and signed notice to the Company from the representative requiring it to do so; and

- (b) whether or not registered as the holder of the Shares, the personal representative:
 - (i) may, subject to clause 28, transfer the Shares to another person; and
 - (ii) has the same rights as the deceased Member.

29.3 **Transmission of Shares on insolvency or mental incapacity**

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

- (a) subject to clauses 28.5 and 29.4 the Company must register that person as the holder of the Shares as soon as practical after receipt of a written and signed notice to the Company from that person requiring it to do so; and
- (b) whether or not registered as the holder of the Shares, that person:
 - (i) may, subject to clause 28, transfer the Shares to another person; and
 - (ii) has the same rights as the insolvent or incapable Member.

29.4 **Refusal to register holder**

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

30. **UNMARKETABLE PARCELS**

30.1 **Board power of sale**

The Board may sell a Share that is part of an Unmarketable Parcel if it does so in accordance with this clause, and for the purposes of this clause each Member who holds an Unmarketable Parcel appoints the Company their attorney to:

- (a) effect a Market Transfer or to execute a share transfer under clause 28.3;
- (b) act as agent for the Member who holds an Unmarketable Parcel;
- (c) deal with the proceeds of the sale of any Shares in accordance with this clause; and
- (d) execute any other document or take any other steps required to give effect to the sale of the Unmarketable Parcel.

30.2 **Notice of proposed sale**

Once in any 12 month period, the Board may give written notice to a Member who holds an Unmarketable Parcel:

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- (a) stating that it intends to sell the Unmarketable Parcel; and
- (b) specifying a date at least 6 weeks after the notice is given by which the Member may give the Company written notice that the Member wishes to retain the holding.

30.3 **Second notice to Member**

Before selling an Unmarketable Parcel but after the date specified under clause 30.2(b) the Board must give the holder of the Unmarketable Parcel a second written notice stating:

- (a) that it intends to sell the Unmarketable Parcel;
- (b) the date on which it intends to sell it (which must be at least 15 business days after the date of the notice); and
- (c) that the Company will not sell the Unmarketable Parcel if, before it is sold, the Member gives the Company a written notice that the Member wants to keep the Unmarketable Parcel.

30.4 **No sale where Member gives notices**

The Company must not sell an Unmarketable Parcel if the Company receives a written notice before the Unmarketable Parcel is sold that the Member wants to keep it.

30.5 **Joint holders**

If an Unmarketable Parcel is held jointly, the Company must give notice under clauses 30.2 and 30.3 to each of the joint holders.

30.6 **Terms of sale**

A sale of Shares under this clause includes all dividends payable on and other rights attaching to them. The Company must pay the costs of the sale. Otherwise, the Board may decide the manner (whether on-market, by private treaty, through a share sale facility established by, on behalf of, or at the request of the Company, or otherwise), time and terms of sale.

30.7 **Application of proceeds**

The Company must:

- (a) deduct any Called Amount in respect of the Shares sold under this clause from the proceeds of sale and pay the balance into a separate bank account it opens and maintains for the purpose only;
- (b) hold that balance in trust for the previous holder of the Shares (the "**Divested Member**");
- (c) as soon as practical give written notice to the Divested Member stating:
 - (i) what the balance is; and

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- (ii) that it is holding the balance for the Divested Member while awaiting the Divested Member's instructions and return of the certificate (if any) for the Shares sold or evidence of its loss or destruction;
- (d) if the Shares sold were certificated, not pay the proceeds of sale out of the trust account until it has received the certificate for them or evidence of its loss or destruction; and
- (e) subject to paragraph (d), deal with the amount in the account as the Divested Member instructs.

30.8 **Protections for transferee**

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

30.9 **No sale where takeover bid announced**

Notwithstanding clause 30.1, the Company may not proceed with the sale of an Unmarketable Parcel where a takeover bid for the Company has been announced, but that sale may recommence after the offers made under the takeover bid have expired.

31. **ALTERATION OF SHARE CAPITAL**

31.1 **Capitalisation of profits**

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

31.2 **Adjustment of capitalised amounts**

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

- (a) fix the value of specific assets;
- (b) issue fractional entitlements to Shares;
- (c) make cash payments to Members on the basis of the value fixed or on the basis that fractional entitlements are disregarded so as to adjust the rights of Members between themselves; and
- (d) vest cash or specific assets in trustees.

31.3 **Conversion of Shares**

Subject to the Corporations Act, the Listing Rules and this Constitution, the Company may convert:

- (a) Shares into a larger or smaller number of Shares;
- (b) an ordinary Share into a preference Share; and
- (c) a preference Share into an ordinary Share,

by resolution passed at a meeting of Members (but, in the case of a conversion of partly paid Shares into a larger number of Shares the proportion between the amount paid and the amount unpaid on each Share must be the same as before the conversion).

31.4 **Reduction of capital**

Subject to the Listing Rules, the Company may reduce its share capital in any way permitted by the Corporations Act.

31.5 **Payments in kind**

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

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

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

Where the Company reduces its share capital by way of distribution of specific assets, being shares or other securities in any other corporation, the Members are deemed to have agreed to become members of that corporation and to have agreed to be bound by the constitution of that corporation. Each Member also appoints the Company their attorney to:

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

31.7 **Variation of rights**

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

- (a) with the written consent of the holders of a majority of the issued Shares of the affected class; or
- (b) by ordinary resolution passed at a meeting of the holders of the issued Shares of the affected class.

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

31.8 **Fractions**

For the purposes of giving effect to any consolidation or division of Shares, the Board may, subject to the ASTC Settlement Rules, settle any difficulty which arises with respect to fractions of Shares in any manner that they think expedient.

32. **WINDING UP**

32.1 **Distribution of assets generally**

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

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

32.2 **No distribution of liabilities**

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

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

If the liquidator decides on a division or vesting of assets of the Company under clause 32.1 which does not accord with the legal rights of the contributors, any contributory who would be prejudiced by it may dissent and has ancillary rights as if that decision were a special resolution passed under section 507 of the Corporations Act.

33. NOTICES

33.1 Notices by Company

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either
 - (i) delivered personally;
 - (ii) sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (iii) sent by fax to the fax number (if any) nominated by that person; or
 - (iv) sent by electronic message to the electronic address (if any) nominated by that person.

33.2 Overseas Members

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

33.3 When notice is given

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally or sent by fax or electronic message:
 - (i) by 5.00 pm (local time in the place of receipt) on a business day - on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day; and
- (b) if it is sent by mail – on the business day after it was posted.

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

33.4 Notice to joint holders

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

33.5 **Counting days**

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

33.6 **Certificate of Director or Secretary**

A certificate signed by a Director or Secretary that a notice was given by the Company as set out in the certificate is admissible as evidence, and is conclusive evidence, that the notice was given.

33.7 **Notices to "lost" Members**

If:

- (a) on 2 or more consecutive occasions a notice served on a Member in accordance with this clause is returned unclaimed or with an indication that the Member is not known at the address to which it was sent; or
- (b) the Board believes on other reasonable grounds that a Member is not at the address shown in the Register or notified to the Company under clause 33.2,

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

This clause ceases to apply if the Member gives the Company notice of a new address.

34. **UNCLAIMED MONEY**

The Company must deal with unclaimed dividends and distributions and unclaimed proceeds of Shares sold or reissued under this Constitution in accordance with the law relating to unclaimed money in the Company's jurisdiction of registration.