

**CORPORATIONS ACT  
CONSTITUTION**

**of**

**POLICE FINANCIAL SERVICES LIMITED  
ABN 33 087 651 661**

*Constitution as ratified by the 2019 Annual General Meeting on 14 November 2019*

## TABLE OF CONTENTS

<b>PREAMBLE .....</b>	<b>ii</b>
<b>DIVISION 1 – INTERPRETATION AND DICTIONARY .....</b>	<b>1-1</b>
<b>DIVISION 2 – OBJECTS &amp; LIMITS ON POWERS.....</b>	<b>2-3</b>
<b>DIVISION 3 - ISSUED SHARES .....</b>	<b>3-1</b>
<b>DIVISION 4 – NEW SHARE ISSUES - MEMBERSHIP REQUIREMENTS .....</b>	<b>4-1</b>
<b>DIVISION 5 – MEMBERSHIP CEASING .....</b>	<b>5-1</b>
<b>DIVISION 6 – SHARES .....</b>	<b>6-1</b>
<b>DIVISION 7 – GENERAL MEETINGS.....</b>	<b>7-1</b>
<b>DIVISION 8 - PROCEEDINGS AT GENERAL MEETINGS.....</b>	<b>8-1</b>
<b>DIVISION 9 – VOTES OF MEMBERS.....</b>	<b>9-1</b>
<b>DIVISION 10 – APPOINTMENT AND REMOVAL OF DIRECTORS .....</b>	<b>10-1</b>
<b>DIVISION 11 – REMUNERATION OF DIRECTORS .....</b>	<b>11-1</b>
<b>DIVISION 12 – POWERS AND DUTIES OF DIRECTORS.....</b>	<b>12-1</b>
<b>DIVISION 13 – PROCEEDINGS OF DIRECTORS.....</b>	<b>13-1</b>
<b>DIVISION 14 – ADMINISTRATION.....</b>	<b>14-1</b>
<b>DIVISION 15 – AUDITS AND ACCOUNTS.....</b>	<b>15-1</b>
<b>DIVISION 16 – WINDING UP .....</b>	<b>16-1</b>
<b>DIVISION 17 – PAYMENTS BY THE COMPANY .....</b>	<b>17-1</b>
<b>SCHEDULE 1 - STANDING ORDERS .....</b>	<b>S1-1</b>
<b>SCHEDULE 2 - ELECTION OF DIRECTORS .....</b>	<b>S2-1</b>
<b>SCHEDULE 3 - CONSIDERATION OF DEMUTUALISATION RESOLUTIONS.....</b>	<b>S3-1</b>

## PREAMBLE

Police Financial Services Limited is a public company limited by shares governed by the *Corporations Act*.

The Company is an Authorised Deposit Taking Institution governed by the *Banking Act 1959* and Prudential Standards issued by the Australian Prudential Regulation Authority.

The Company as a consequence of its adherence to mutual principles is committed to assisting Members to achieve their financial, economic and social needs.

The Company adopts this Constitution to govern the relationship between:

- the Company and each Member;
- the Company and each Director;
- the Company and the Secretary; and
- each Member and any other Member.

**CORPORATIONS ACT COMPANY  
LIMITED BY SHARES  
CONSTITUTION  
OF  
POLICE FINANCIAL SERVICES LIMITED**

**DIVISION 1 – INTERPRETATION AND DICTIONARY**

**1.1** In this Constitution, unless the contrary intention appears:

‘**Auditor**’ means the Company’s auditor;

‘**ballot paper**’ also includes where a determination is made pursuant to S2.10 a vote submitted by a member electronically using the electronic voting system;

‘**business day**’ has the same meaning as in the *Corporations Act*;

‘**Constitution**’ means the constitution of the Company as amended from time to time;

‘**Company**’ means Police Financial Services Limited ABN 33 087 651 661 and before 14 November 2012 the Police Association Credit Cooperative Limited including the company of this name before 1 July 1999 incorporated and formed under the Financial Institutions Code;

‘**Director**’ includes any person occupying the position of director of the Company.

;

‘**Directors**’ means all or some of the Directors acting as a board;

‘**electronic voting system**’ means the system approved by an independent Returning Officer and the Directors, which enables Members to submit their vote by means of an electronic or telephonic device;

‘**Financial Accommodation**’ means:

- (a) an advance;
- (b) money paid for, on behalf of or at the request of a person (other than by drawing on the person’s deposit account with the Company);
- (c) a forbearance to require payment of money owing on any account; and
- (d) a transaction that, in substance, effects a loan or is regarded by the parties to the transaction as a loan,

that the Company provides or enters in the ordinary course of its banking business;

‘**Independent director**’ means a person who is not necessarily a Member or an employee of the Company, but is otherwise eligible to be a Director in accordance with clause 10.2, and who has been appointed as a Director pursuant to clause 10.5(b);

‘**Member**’ means a person whose name is entered for the time being on the Register as the holder of one or more Shares;

‘**Membership Share**’ means the membership shares referred to in **clause 3.2(c)**;

‘**Member Shares**’ means a share as described in **clause 3.8**;

‘**Office**’ means the Company’s registered office;

‘**Register**’ means the register of Members of the Company;

‘**Registered Address**’ means the last known address of a Member as noted in the Register;

‘**Representative**’ means a person appointed by a Member to act as its representative under **clause 9.11** or under section 250D of the *Corporations Act*;

‘**Redeemable Preference Shares**’ mean Statutory Redeemable Preference Shares and Transitional Redeemable Preference Shares;

‘**Seal**’ means the Company’s common seal (if any);

‘**Secretary**’ means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries;

‘**Shares**’ means shares of the Company including Member Shares;

‘**Statutory Redeemable Preference Shares**’ mean the Redeemable Preference Shares referred to in **clause 3.2(b)**;

**‘Transaction’** in **clause 5.4** in relation to a Member’s deposit account with the Company means a debit or credit to the account, other than for:

- (a) the payment of interest by the Company; or
- (b) the charging of a fee by the Company for keeping the account.

**‘Transitional Redeemable Preference Shares’** means the shares referred to in **clause 3.3**;

**1.2** In this Constitution, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
- (b) words importing natural persons include corporations;
- (c) words and expressions defined in the *Corporations Act* have the same meaning in this Constitution;
- (d) headings are for ease of reference only and do not affect the construction of this Constitution;
- (e) a reference to the *Corporations Act* is a reference to the *Corporations Act* and the *Corporations Regulations* as modified or amended from time to time; and
- (f) a reference to the *Banking Act 1959* is a reference to the *Banking Act 1959* and any regulations made thereunder as modified or amended from time to time; and
- (g) a reference to writing is a reference to any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile and email transmission and documents in electronic form.

**1.3** An expression in a provision of this Constitution has the same meaning as in a provision of the *Corporations Act* that deals with the same matter as the provision, unless the contrary intention appears in this Constitution.

**1.4** To the extent permitted by law, the replaceable rules in the *Corporations Act* do not apply to the Company.

**1.5** The adoption of this Constitution is not intended to have any of the effects contemplated in clause 29(1) of Schedule 4 of the *Corporations Act*. The occurrence of any of those events is referred to as a ‘demutualisation’. If the adoption of any provision of this Constitution results in a demutualisation, then that provision is severed from this Constitution and, to the extent permitted by law, is replaced by such of provisions of the repealed constitution which was in force immediately before the adoption of this Constitution as is necessary or required so that the adoption of this Constitution does not cause or result in any demutualisation.

## **1.6 Transitional**

Upon this Constitution taking effect:

- (a) each person who is a Member immediately before the Constitution takes effect remains a Member;
- (b) each person who is a Director immediately before the Constitution takes effect remains a Director;

- (c) each person who is a Secretary immediately before the Constitution takes effect remains a Secretary.

## **DIVISION 2 – OBJECTS & LIMITS ON POWERS**

### **2.1 Objects**

The Company has the following objects:

- (a) to raise funds from Members by subscription, deposit or otherwise, as authorised by the *Corporations Act* and *Banking Act 1959 (Cth)*;
- (b) to apply the funds in providing financial accommodation to Members, subject to the *Corporations Act* and *Banking Act 1959 (Cth)*;
- (c) to encourage savings amongst Members;
- (d) to promote co-operative enterprise;
- (e) to provide programs and services to Members to assist them to meet their financial, economic and social needs;
- (f) to promote, encourage and bring about human and social development among individual Members and within the larger community within which Members work and reside; and
- (g) to further the interests of Members and the communities within which they work and live through co-operation with:
  - (i) other mutual organisations; and
  - (ii) associations of mutual organisations.

### **2.2 Dealing with Members**

- (a) The Company may only provide financial accommodation to its Members.
- (b) The Company may accept a deposit of money from a non-Member subject to any applicable laws and prudential standards.
- (c) This clause does not limit the powers of the Company to invest funds, subject to any applicable laws and prudential standards otherwise than by way of financial accommodation to its Members.

### **2.3 Services to Members**

- (a) The Directors may withdraw or refuse the Company's financial accommodation and/or any services for any period of time to a member who they consider on reasonable grounds has:
  - (i) failed to discharge his or her obligations to the Company;
  - (ii) used, allowed the use of, or aided and abetted in the use of the Company's or any other Authorised Deposit Taking Institution's services

to commit or attempt to commit an action that may constitute a fraud or other indictable offence;

(iii) engaged in conduct detrimental to the Company, its members or employees; or

(iv) obtained membership by misrepresentation or mistake.

(b) The Directors may delegate this power to Executive Officers of the Company.

## DIVISION 3 - ISSUED SHARES

### 3. Statutory Membership Shares, Statutory Redeemable Preference Shares and Member Shares

3.1 Prior to 1 July 1999, the Company was an Company regulated under the *Financial Institutions Code* with withdrawable shares on issue.

3.2 On 1 July 1999, the Company was taken to have become registered as a public company limited by shares under the *Corporations Law* (as it then was) and:

- (a) pursuant to clause 9(2) of Schedule 4 of the *Corporations Law* (as it then was) each person who was a Member of the Company immediately before 1 July 1999, became a Member of the Company;
- (b) pursuant to clauses 12(1)(b) and 15 of Schedule 4 of the *Corporations Law* (as it then was) all withdrawable shares of the Company on issue immediately before 1 July 1999 became Redeemable Preference Shares of the Company; and
- (c) pursuant to clause 12(1)(d) of Schedule 4 of the *Corporations Law* (as it then was) any person who was a Member of the Company immediately before 1 July 1999 and who did not hold any shares in the Company, was taken to have been issued with a Membership Share on 1 July 1999.

3.3 After 1 July 1999 but before the date of adoption of this Constitution, the Company issued to persons becoming Members of the Company, shares in the Company pursuant to regulation 12.8.12 of the *Corporations Regulations* (as it then was). These shares are called 'Transitional Redeemable Preference Shares'.

3.4 After 1 July 1999 but before the date of adoption of this Constitution the Directors:

- (a) created pursuant to regulation 12.2.02 of the *Corporations Regulations* a class of shares in the Company into which the following shares in the Company could be converted:
  - (i) Membership Shares;
  - (ii) Statutory Redeemable Preference Shares; and
  - (iii) Transitional Redeemable Preference Shares; and
- (b) converted pursuant to regulation 12.2.04 of the *Corporations Regulations* (as it then was) the kinds of shares referred to in **clause 3.4(a)** into a single class of shares.

3.5 Accordingly, the issued shares of the Company as at the date of adoption of this Constitution and to be issued under **clause 4.7** after the date of adoption of this Constitution are called "Member Shares".

3.6 Prior to the resolutions of the Directors referred to in **clause 3.4** a Membership Share conferred on the holder the rights and obligations set out in clause 12(3) of Schedule 4 of the *Corporations Law* (as it then was).

- 3.7** While Statutory Redeemable Preference Shares, Transitional Redeemable Preference Shares and Membership Shares have been converted into Member Shares and now comprise a single class of shares they have been separately identified in this Constitution to reflect the statutory history and origin of the shares.
- 3.8** A Member Share confers on the holder those rights and obligations conferred or imposed by the *Corporations Act* from time to time except that:
- (a) the share is redeemable on the same terms that a withdrawable share was withdrawable under the *Financial Institutions Code* and the Company's rules prior to 1 July 1999; and
  - (b) the holders of the share continue to have the same rights and obligations that they had or would have had by holding a withdrawable share.
- 3.9** For so long as it is permitted by law, no share certificates will be issued in respect of Member Shares.

## **DIVISION 4 – NEW SHARE ISSUES - MEMBERSHIP REQUIREMENTS**

### **4.1 Eligibility**

A person, including a body corporate, is only eligible for membership in accordance with this Constitution.

### **4.2 Admission to membership**

The Directors have the power to admit a person to membership provided:

- (a) the person makes written application in a form as required by the Directors. An application for membership may be made by completing an electronic application form, signing it (whether electronically or otherwise) and returning it to the Company;
- (b) the person submits evidence satisfactory to the Directors as to that person's eligibility under this Constitution;
- (c) the person subscribes for 10 Member Shares at an issue price of \$1.00 per share; and
- (d) pays any admission fee.

### **4.3 Admission to membership – delegation of power**

- (a) The Directors may, by resolution, delegate its power to admit Members to officers of the Company;
- (b) Any delegation must not include authority to further delegate the power to admit Members.
- (c) The delegation must be evidenced by a resolution of the Directors and a copy of that resolution must be given to each delegate.

### **4.4 Admission to membership - absolute discretion**

The Directors have an absolute discretion in exercising the power to admit Members without an obligation to assign a reason for not admitting a person as a Member.

### **4.5 Issue of Member Shares**

Upon the Directors admitting a person to membership, the Directors must:

- (a) issue and allot the Member Shares which shall carry the same rights and obligations as the Statutory Redeemable Preference Shares;
- (b) enter particulars in the Register; and
- (c) give the person written notification that their application for membership has been accepted.

#### **4.6 Trusts not recognised**

- (a) Except as required by law or as otherwise provided by this Constitution, the Company will not recognise any person as holding a Share on trust and the Company will not recognise any equitable, contingent, future or partial interest or any other right in respect of a Share except the registered holder's absolute right of ownership.
- (b) Subject to the other clauses, this **clause 4.6** applies even if the Company has notice of the relevant trust, interest or right.

#### **4.7 Joint holders**

- (a) If two or more persons are registered as the holders of a Share, they are taken to hold the Share as joint tenants with benefits of survivorship and the person whose name appears first on the Register is the only joint holder entitled to receive notices from the Company.
- (b) Any one of the joint holders of a Share may give valid receipts for any return of capital payable to the joint holders.

#### **4.8 Minors**

This **clause 4.8** applies only to minors admitted as Members before 1 July 1999.

While a Member remains a minor, except when the Company is being wound up, the Company must not:

- (i) call for the minor to pay for ten Member Shares required by **clause 4.2(c)**; or
- (ii) set off against the unpaid amount any amounts owing by the Company to the minor.

After reaching the age of 18, the Member must pay the subscription price for ten Member Shares. Any time after the Member reaches the age of 18, the Directors may:

- (i) require the minor to subscribe and pay for ten Member Shares required by **clause 4.2(c)**; or
- (ii) debit any of the Member's deposit accounts with the Member's consent.

After reaching the age of 18 the Member may not exercise any of the rights attaching to the Member's share until the Member subscribes and pays for ten Member Shares required by **clause 4.2(c)**.

## **DIVISION 5 – MEMBERSHIP CEASING**

### **5.1 Cessation of Membership**

A person ceases to be a Member when:

- a. that person is expelled under **clause 5.3**;
- b. that person's membership is cancelled under **clause 5.4**;
- c. that person redeems his or her Member Shares from the Company in accordance with **clause 6.2**;
- d. the Directors approve an application for cancellation of membership by a holder of a Member Share on being satisfied:
  - (i) that all financial accommodation and other obligations have been discharged; and
  - (ii) that all the Member's accounts with the Company have been closed;
- e. that person being a body corporate is wound up; or
- f. that person dies.

### **5.2 Cancellation of shares**

The Shares of a person who ceases to be a Member are cancelled immediately on that person ceasing to be a Member.

### **5.3 Expulsion**

- (a) The Directors may expel a Member on the grounds that the Member:
  - (i) has failed to discharge his or her obligations to the Company;
  - (ii) used, allowed the use of, or aided and abetted in the use of the Company's or any other Authorised Deposit Taking Institution's services to commit or attempt to commit an action that may constitute a fraud or other indictable offence;
  - (iii) engaged in conduct detrimental to the Company, its members or employees; or
  - (iv) has obtained membership by misrepresentation or mistake.
- (b) Before proceeding to expel a Member the Directors must cause to be provided to that Member a written Notice served in accordance with the requirements of **DIVISION 14 clause 14.6** of this Constitution.
- (c) A Notice referred to in sub-paragraph (b) should:
  - (i) identify the Member's conduct leading to consideration of their expulsion from membership; and
  - (ii) require the Member to demonstrate why they should not be expelled; and
  - (iii) notify the Member that they have an opportunity to be heard on the matter of expulsion either in person or by written

- submission on a date set no less than 21 clear days following service of the notice; and
- (v) notify the Member of the date set for them to be heard or upon which consideration of a written submission by them will be undertaken.
  - (d) The Directors may delegate the functions and requirements of sub clauses 5.3 (a) and 5.3 (b), including conducting any hearing or consideration of written submissions from the Member, to Executive Officers of the Company.
  - (e) Following the opportunity for a hearing or consideration of a written submission from the Member, the Directors if satisfied the expulsion is justified may by ordinary resolution of the Board expel the Member.
  - (f) The Company must pay the expelled Member the amount paid up on that Member's Member Shares after satisfaction of all liabilities and obligations.

#### **5.4 Dormancy**

- (a) The Company may classify a Member's deposit account as a dormant account if:
  - (i) there have been no Transactions in the account for at least 1 year;
  - (ii) the Company has given the Member a written notice stating that, unless the Member gives to the Company a written notice within 1 month stating that the Member wishes the account to remain open, the Company intends to close the account; and
  - (iii) the Company does not receive a written notice from the Member under **clause 5.4 (a) (ii)**.
- (b) The Company may cancel that Member's shares if the Member's only account with the Company is a dormant account.
- (c) The Company may transfer the amount held in a dormant account to a suspense account.
- (d) The Company may charge a Member a fee for keeping an account for the Member in the suspense account but the fee must not be more than the lesser of:
  - (i) the amount held for the person in the suspense account; or
  - (ii) **\$40.00** or such other amount determined by the Directors from time to time.
- (e) This clause is subject to any law of unclaimed money.

#### **5.5 Death of a Member**

The estate of a deceased Member:

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

#### **5.6 Bankruptcy or winding-up of a Member**

The rights and liabilities of Members made bankrupt or wound-up are as provided in the laws relating to bankruptcy and insolvency.

## **DIVISION 6 – SHARES**

### **6.1 Ranking of Shares**

Each Share ranks equally with all other Shares.

### **6.2 Repayment of Share Capital**

The Company must repay the amount paid up in respect of a Member's Member Shares if:

- (a) the Member requests it; or
- (b) the Member closes all their accounts with the Company; and
- (c) the Member has repaid all outstanding financial accommodation and discharged all other obligations to the Company.

### **6.3 Shares not transferable**

A Member may not transfer, sell or assign Member Shares but may require such Member Shares to be repaid in accordance with **clause 6.2**

### **6.4 Dividends**

No dividend is payable in respect of any Member Shares

## **DIVISION 7 – GENERAL MEETINGS**

### **7.1 Convening general meeting**

- (a) Any three Directors may, at any time, convene a general meeting.
- (b)
  - (i) A Member may request the Directors to convene a general meeting only in accordance with section 249D of the *Corporations Act*.
  - (ii) A Member may not convene or join in convening a general meeting except in accordance with section 249E or 249F of the *Corporations Act*.

### **7.2 Notice of General Meeting**

- (a) Subject to the provisions of the *Corporations Act* allowing general meetings to be held with shorter notice and exempting the Company from the requirement to give notices of meetings of the Company to a particular Member, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.
- (b) A notice convening a general meeting:
  - (i) must specify the place, date and time of the meeting and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this.
  - (ii) must state the general nature of the business to be transacted at the meeting and
  - (iii) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.
- (c) A notice of annual general meeting must state the business to be transacted at the meeting such as:
  - (i) the consideration of the annual financial report, Directors' report and Auditor's report;
  - (ii) the election of Directors;
  - (iii) the appointment and fixing of the remuneration of the Directors.
- (d)
  - (i) The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting convened as the result of a request under **clause 7.1 (b)**).
  - (ii) The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices from the Company.

- (e) The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

## **DIVISION 8 - PROCEEDINGS AT GENERAL MEETINGS**

### **8.1 Member**

In **clauses 8.2, 8.3, 8.4, 8.6 and Schedule 3**, 'Member' includes a Member present in person or by proxy, attorney or Representative.

### **8.2 Quorum**

- (a) No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- (b) A quorum of Members is fifteen Members.
- (c) If a quorum is not present within 30 minutes after the time appointed for a meeting:
  - (i) if the meeting was convened on the requisition of Members, it is automatically dissolved; or
  - (ii) in any other case:
    - (a) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
    - (b) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, it is automatically dissolved.
- (d) If after the commencement of a meeting at which a quorum is present the attention of the meeting is drawn to the absence of a quorum and a quorum is not present within ten minutes:
  - (i) after the time appointed for consideration of an item of ordinary business the meeting is adjourned to the same time and place seven days after the meeting or to the date, time and place the Directors specify;  

If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved;
  - (ii) after the time appointed for consideration of an item of special business, the item lapses.

### **8.3 Chairperson**

- (a) The Chairperson, or in the Chairperson's absence the Deputy Chairperson of Directors' meetings will be the Chairperson at every meeting of Members.
- (b) If:
  - (i) there is no Chairperson or Deputy Chairperson; or

- (ii) neither the Chairperson nor Deputy Chairperson is present within 15 minutes after the time appointed for holding the meeting; or
- (iii) the Chairperson and Deputy Chairperson are unwilling to act as Chairperson of the meeting,

the Directors present may elect a Chairperson.

- (c) If no election is made under **clause 8.3 (b)**, then:
  - (i) the Members may elect one of the Directors present as Chairperson; or
  - (ii) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as Chairperson.
- (d) If there is a dispute at a general meeting about a question of procedure, the Chairperson may determine the question.

#### **8.4 Adjournment**

- (a) The Chairperson of a meeting at which a quorum is present:
  - (i) in his or her discretion may adjourn a meeting with the meeting's consent; and
  - (ii) must adjourn a meeting if the meeting directs him or her to do so.
- (b) An adjourned meeting may take place at a different venue to the initial meeting.
- (c) The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.
- (d) If a general meeting has been adjourned for more than 21 days, at least 3 days written notice (exclusive of the day on which the notice is served or taken to be served and of the day for which notice is given) of the adjourned meeting must be given to Members.

#### **8.5 Decision of questions**

- (a) Subject to the *Corporations Act* in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- (b) A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the *Corporations Act*.
- (c) The Chairperson does not have a casting vote in addition to the Chairperson's votes as a Member, proxy, attorney or Representative.
- (d) Unless a poll is demanded:
  - (i) a declaration by the Chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (ii) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

- (e) The demand for a poll may be withdrawn.
- (f) A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

## **8.6 Taking a poll**

- (a) A poll will be taken when and in the manner that the Chairperson directs.
- (b) The result of the poll will be the resolution of the meeting at which the poll was demanded.
- (c) The Chairperson may determine any dispute about the admission or rejection of a vote.
- (d) The Chairperson's determination, if made in good faith, will be final and conclusive.
- (e) A poll demanded on the election of the Chairperson or the adjournment of a meeting must be taken immediately.
- (f) After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.

## **8.7 Standing Orders**

The Standing Orders in **Schedule 1** apply to the conduct of a general meeting.

## **DIVISION 9 – VOTES OF MEMBERS**

### **9.1 Entitlement to vote**

A Member's entitlement to vote may not be exercised if that Member did not hold the required number of Member Shares required to be held under the former rules of the Company or (where the shares are issued under this constitution) under **clause 4.2**, as paid up shares:

- (a) in relation to an annual general meeting, at least 12 Calendar months before the day preceding the close of nominations for election of Directors ; and
- (b) in relation to a special general meeting, at least 12 Calendar months before notice of the special general meeting is given.

### **9.2 Voting Rights**

At general meetings:

- (a) each Member may vote by proxy;
- (b) subject to the provisions in this Constitution regarding voting by corporate representatives or proxy, on a show of hands or on a poll any Member present either personally or by proxy has one vote, regardless of the number of Shares held.

### **9.3 Minors**

A Member who is a minor may not vote.

### **9.4 Joint Holders**

- (a) If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.
- (b) For the purposes of this **clause 9.4**, several executors or administrators of a deceased Member in whose sole name any Shares are registered will be taken to be joint holders of those Shares.

### **9.5 Objections**

- (a) An objection to the qualification of a voter may be raised only at the meeting or adjourned meeting at which the voter tendered their vote.
- (b) An objection must be referred to the Chairperson of the meeting, whose decision made in good faith is final.
- (c) A vote which the Chairperson does not disallow pursuant to an objection is valid for all purposes.

## **9.6 Votes by operation of law**

A person who has satisfied the Directors not less than 24 hours before a general meeting that the person is entitled to a Share by operation of law may exercise all rights attached to the Share in relation to a general meeting, as if the person were the registered holder of the Share.

## **9.7 Votes by proxy**

- (a) If a Member appoints one proxy, that proxy may vote on a show of hands.
- (b) A proxy may demand or join in demanding a poll.

## **9.8 Instrument appointing proxy**

- (a) A Member who is entitled to vote at a meeting may appoint one proxy.
- (b) A Member who is a natural person may appoint a proxy by a written appointment signed by the appointor or the appointor's attorney duly authorised in writing.
- (c) A Member which is a corporation may appoint a proxy by a written appointment executed in accordance with section 127 of the *Corporations Act* or signed by the appointor's attorney duly authorised in writing.
- (d) A proxy need not be a Member.
- (e) An appointment of a proxy must be in a form approved by the Directors.
- (f) A proxy may vote or abstain as he or she chooses except to the extent that an appointment of the proxy indicates the manner in which the proxy will vote on any resolution. The proxy must vote or abstain on a poll or show of hands in accordance with any instructions on the appointment.
- (g) A proxy's appointment is valid at an adjourned meeting.

## **9.9 Lodgment of proxy**

- (a) The written appointment of a proxy or attorney must be received by the Company, not less than 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
  - (i) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or
  - (ii) the taking of a poll on which the appointee proposes to vote.
- (b) If the appointment purports to be executed under a power of attorney or other authority, then the original document, or an office copy or a notarially certified copy of it, must be forwarded with the appointment.
- (c) The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:
  - (i) the Office;

- (ii) a facsimile number at the Office; or
- (iii) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

#### **9.10 Validity**

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became of unsound mind;
- (c) revoked the proxy or power; or
- (d) transferred the Shares in respect of which the vote was cast,

unless any written notification of the death, unsoundness of mind, revocation or transfer was received by the Company before the relevant meeting or adjourned meeting.

#### **9.11 Representatives of corporations**

- (a) Any Member which is a corporation may appoint an individual as its representative as provided by the *Corporations Act*.
- (b) The Chairperson of a general meeting may permit a person claiming to be a Representative to exercise his or her powers even if he or she has not produced a certificate evidencing his or her appointment, or may allow the Representative to vote on the condition that he or she subsequently establishes to the satisfaction of the Chairperson of the general meeting his or her status as a Representative within a period prescribed by the Chairperson of the general meeting.
- (c) The appointment of a Representative may set out restrictions on the Representative's powers.

#### **9.12 Consideration of any resolution that may alter the Company's mutual structure**

Schedule 3 applies to any Demutualisation Resolution (as defined in Schedule 3) to be submitted to members.

## **DIVISION 10 – APPOINTMENT AND REMOVAL OF DIRECTORS**

### **10.1 Number of Directors**

- (a) Subject to the *Corporations Act*, the Company may by resolution passed at a general meeting increase or reduce the minimum or maximum number of Directors.
- (b) Until the Company resolves otherwise there will be:
  - (i) a minimum of seven Directors; and
  - (ii) a maximum of nine Directors,  
  
of whom at least five, but no more than seven, must be Members (including one Employee Director, who may or may not be a Member).

### **10.2 Qualification**

A person is not eligible to be a Director if the person:

- (a) has not been a Member of the Company for 24 Calendar months before nominating as a candidate in accordance with the requirements of Schedule 2.4 of this Constitution; or
- (b) is solely the representative of a body corporate Member of the Company; or
- (c) is a minor; or
- (d) is an employee of the Company (except where **clause 13.4** applies); or
- (e) is bankrupt, has applied to take the benefit of any law for the relief of bankrupt of insolvent debtors, compounded with his or her creditors, or made an assignment of his or her remuneration for their benefit; or
- (f) is prohibited from being a Director of a body corporate by the *Corporations Act*; or
- (g) has been convicted in the last ten years of:
  - (i) an indictable offence in relation to the promotion, formation or management of a body corporate; or
  - (ii) an offence involving fraud or dishonesty; or
  - (iii) is a Member whose voting rights have been suspended under **clause 9.1**.
- (h) has not been recommended in accordance with Australian Prudential Regulation Authority requirements as fit and proper to be a director of the Company by the Directors or a Committee delegated by the Directors with the authority to make such recommendations;

### **10.3 Election of Directors and the appointment and removal of Directors**

- (a) The rules in **Schedule 2** apply to the election of Directors.
- (b) The Company may by resolution passed in general meeting:
  - (i) remove any Director; and
  - (ii) appoint another person in the Director's place.

#### **10.4 Additional and Casual Directors**

- (a) Subject to sub-clauses 10.2(c) to (g) inclusive, but not to sub-clauses 10.2(a) and (b), the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors but not if that appointment would result in the maximum number of Directors being exceeded.
- (b) If a person is appointed by the other Directors as a Director to fill a casual vacancy, that person holds office, if a general meeting approves the appointment before the next Annual General Meeting after the Director's appointment, until the end of the term of office of the Director whose office has become vacant and otherwise to the end of the Company's next annual general meeting after the Director's appointment.
- (c) If a person is appointed by the Directors as an addition to the existing Directors the term of the office ends at the conclusion of the third annual general meeting after the Directors' appointment or such lesser period as they may have been appointed for.

#### **10.5 Independent Directors**

##### **Determination of number of Independent Directors**

- (a) Subject to sub-clause 10.1(b), the Directors may determine the number of Independent Directors who may be appointed and/or elected as a Director from time to time, being: up to four if there are nine Directors; up to three if there are eight Directors; and up to two if there are seven Directors.

##### **Appointment and re-appointment of an Independent Director**

- (b) Subject to sub-clauses 10.2(c) to (g) inclusive, but not to sub-clauses 10.2(a) and (b):
  - (i) the Directors may appoint one or more Independent Directors, but not if that appointment would result in there being less than five Member-elected Directors, or the maximum number of Directors being exceeded; and
  - (ii) an appointed Independent Director's term of office ends at the conclusion of the third annual general meeting after their appointment or such lesser period for which they may have been appointed; and
  - (iii) an Independent Director may be re-appointed for an additional term or terms by the Directors.
- (c) For clarity, an Independent Director is not obliged to stand for election.

##### **Election of a former Independent Director as a Member-elected Director**

- (d) if an Independent Director has become a Member and wishes to stand for election as a Member, then:
  - (i) they may stand for election as a Member-elected Director;
  - (ii) the provisions of Schedule 2 will apply to them; and
  - (iii) they will no longer be regarded as an Independent Director.

##### **Independent Directors subject to same duties as other Directors**

- (e) An Independent Director, once appointed or elected, is subject to the same duties and provisions of this Constitution as other Directors, but (subject to anything to the contrary in the terms of their appointment) may be removed by resolution of the Directors."

## **10.6 Employee Directors**

The Members may elect one employee of the Company, otherwise qualified under clause 10.2 to be a Director of the Company ('Employee Director'). Only the Directors may nominate an employee for election.

## **10.7 Retirement by rotation and nominations of Directors**

- (a) At each annual general meeting one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors must retire from office.
  - (i) The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election or appointment.
  - (ii) Directors elected or appointed on the same day may agree among themselves or determine by lot which of them must retire.
- (b) A Director must retire from office no later than at the conclusion of the third annual general meeting after the annual general meeting the Director's last election by the Members was announced, even if his or her retirement results in more than one-third of all Directors retiring from office.
- (c) A retiring Director will be eligible for re-election.
- (d) A person other than a Director retiring by rotation or seeking re-election is not eligible for election as a Director at a general meeting unless the person complies with the rules relating to the nomination of candidates set out in **Schedule 2**.
- (e) For the purpose of sub-clause 10.5(a) vacation of office in the period preceding the annual general meeting, but after the last annual general meeting, is taken to count toward the one-third of Directors retiring.

## **10.8 Period of Office**

- (a) Subject to this Constitution, a Director is elected by the Members for a term of three years, commencing at the end of the annual general meeting at which his or her election is announced and ending at the end of the third annual general meeting happening after the annual general meeting his or her election. Subject to this clause, a Director will continue to hold office until he or she dies or until his or her office is vacated pursuant to **clause 10.7**.
- (b) If the number of Directors that Members elect is more than a third of the maximum number of Directors on the board in **clause 10.1(b)**:

- (i) the term of office for the third of the Directors that receives the most votes at the election, ends at the end of the third annual general meeting after the annual general meeting at which the Directors' election is announced; and
  - (ii) the term of office for the remainder ends at the end of earlier annual general meetings where less than a third of the Directors is due to retire at those earlier annual general meetings.
  - (iii) Directors with less votes retire at earlier annual general meetings than those with more votes.
- (c) For purposes of subclause (b):
- (i) if the number of Directors is not divisible by 3 – round fractions up to the nearest whole number in determining how many Directors there are in a third or in two thirds of the Directors; and
  - (ii) if 2 or more Directors have the same number of votes – the order of retirement amongst them is determined by lot.

## **10.9 Vacation of office**

The office of a Director immediately becomes vacant if the Director:

- (a) dies;
- (b) ceases to be eligible to be a Director under **clause 10.2(a)** to (g) inclusive;
- (c) as a representative of a body corporate Member of the Company whose eligibility for election to the office was based on being that representative, ceases to be so eligible;
- (d) having been elected as an Employee Director ceases to be an employee of the Company;
- (e) is absent from three consecutive ordinary meetings of the Directors without its leave;
- (f) resigns by written notice given to the Directors;
- (g) is three months in arrears in relation to money due to the Company and has failed to make arrangement for payment satisfactory to the Company;
- (h) completes a term of office;
- (i) is prohibited by the *Corporations Act* from holding office or continuing as a Director;
- (j) cannot manage the Company because of his or her mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it;
- (k) is removed by a resolution of the Company.

## **DIVISION 11 – REMUNERATION OF DIRECTORS**

### **11.1 Remuneration of Directors**

- (a) The Directors (other than any Employee Director) may be paid as remuneration for their services the aggregate maximum sum from time to time determined by the Company in general meeting.
- (b) Unless otherwise resolved by the Company in general meeting, the remuneration will be divided between the Directors in such proportion and manner as the Directors agree and, in default of agreement, equally and the Directors may determine how and when it is to be paid. The remuneration accrues from day to day.
- (c) If a Director is required to perform services for the Company which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, then the Company may pay the Director a fixed sum determined by the Directors in addition to or instead of the Director's remuneration under **clause 11.1**.
- (d) In addition to remuneration, the Directors may be paid all reasonable travelling and other expenses properly incurred by them in connection with the business of the Company.
- (e) The Company may also pay a premium in respect of a contract insuring a person who is or has been a Director against a liability incurred by the person as a Director, except in circumstances prohibited by the *Corporations Act*.

### **11.2 Remuneration of Employee Director**

- (a) The remuneration of an Employee Director may from time to time be fixed by the Directors.
- (b) The Company may pay a premium in respect of a contract insuring a person who is or has been an Employee Director against a liability incurred by the person as a Director, except in circumstances prohibited by the *Corporations Act*.

## DIVISION 12 – POWERS AND DUTIES OF DIRECTORS

### 12.1 Directors to manage the Company

- (a) The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the *Corporations Act* do not require to be exercised by the Company in general meeting.
- (b) Without limiting the generality of **clause 12.1 (a)**, subject to any applicable prudential standards (including standards issued by the Australian Prudential Regulations Authority) the Directors may exercise all the powers of the Company to:
  - (i) borrow money;
  - (ii) charge any property or business of the Company or all or any of its uncalled capital;
  - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
  - (iv) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.
- (c) Every Director and other agent or officer of the Company must:
  - (i) keep secret all aspects of all transactions of the Company, except:
    - (a) to the extent necessary to enable the person to perform his or her duties to the Company;
    - (b) as required by law; and
    - (c) when requested to disclose information by the Directors, to the auditors of the Company or a general meeting of the Company; and
  - (ii) if requested by the Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Company.

## DIVISION 13 – PROCEEDINGS OF DIRECTORS

### 13.1 Directors' meetings

- (a) The Chairperson may at any time, and the Secretary must on the request of not less than two Directors, convene a Directors' meeting.
- (b) It is not necessary to give notice of a meeting of the Directors to a Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia.
- (c)
  - (i) Subject to the *Corporations Act*, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are simultaneously able to hear each other and participate in discussion.
  - (ii) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
  - (iii) A Director who participates in a meeting held in accordance with this **clause 13.1 (c)** is taken to be present and entitled to vote at the meeting.
  - (iv) A Director can only withdraw his or her consent to the means of communication between Directors proposed for a Directors' meeting if the Director does so at least 48 hours before the meeting,
- (d) **Clause 13.1 (c)** applies to meetings of Directors' committees as if all committee members were Directors.
- (e) The Directors may meet together, adjourn and regulate their meetings as they think fit.
- (f) At a meeting of Directors, a quorum is not less than half the total number of Directors. If within 30 minutes of the time appointed for a meeting of the Directors, a quorum is not present the meeting will stand adjourned to the same day in the next week at the same time and place.
- (g) Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

### 13.2 Decision of questions

- (a) Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to this **clause 13.2**, each Director has one vote.
- (b) The chairperson of a meeting has a casting vote in addition to his or her deliberative vote if there is an equality of votes.

### 13.3 Directors' interests

- (a) A Director and any firm, body or entity in which a Director has a direct or indirect interest may in any capacity:
  - (i) enter into any contract or arrangement with the Company;
  - (ii) be appointed to and hold any office or place of profit under the Company, other than the office of auditor; and
  - (iii) act in a professional capacity, other than as auditor, for the Company, and may receive and retain for his or her own benefit any remuneration, profits or benefits as if he or she were not a Director.
- (b) Each Director must disclose his or her interests to the Company in accordance with the *Corporations Act* and the Secretary must record all declarations in the minutes of the relevant Directors' meeting.
- (c) A Director's failure to make disclosure under this clause does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.
- (d) A Director must not vote in respect of a contract or arrangement or proposed contract or arrangement in which the Director has a direct or indirect material interest.
- (e) If the Director does purport to vote, the Director's vote will not be counted.
- (f) The requirement in **clause 13.3 (e)(i)** is in addition to any requirements of the *Corporations Act* in relation to voting by an interested director of a public company.
- (g) A Director may join in executing in accordance with section 127 of the *Corporations Act* any document relating to a contract or arrangement or proposed contract or arrangement in which the Director has an interest.

### **13.5 Remaining Directors**

- (a) The Directors may act even if there are vacancies in the Directors.
- (b) If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
  - (i) appoint a Director; or
  - (ii) convene a general meeting.

### **13.6 Chairperson**

- (a) The Directors may elect a Director as Chairperson of Directors' meetings and may determine the period for which the Chairperson will hold office.
- (b) If no Chairperson is elected or if the Chairperson is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be Chairperson of that meeting only.
- (c) The Directors may elect a Director as Deputy Chairperson to act as Chairperson in the Chairperson's absence.

### **13.7 Directors' committees**

- (a) The Directors may delegate any of their powers to a committee or committees.
- (b) A committee must include at least one Director.
- (c) The Directors may at any time revoke any delegation of power to a committee.
- (b) A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- (c) A committee may be authorised to sub-delegate all or any of the powers for the time being vested in it.
- (d) Meetings of any committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors.

### **13.8 Written resolutions**

- (a) The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- (b) For the purposes of **clause 13.8 (a)**, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) Any document referred to in this clause may be in the form of a facsimile transmission or electronic notification.
- (d) This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

### **13.9 Validity of acts of Directors**

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a Directors' committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

### **13.10 Minutes and registers**

- (a) The Directors must cause minutes to be made of:
  - (i) the names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
  - (ii) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
  - (iii) all resolutions passed by the Directors in accordance with **clause 13.8**;
  - (iv) all orders made by the Directors and Directors' committees; and
  - (v) all disclosures of interests made pursuant to **clause 13.3**.
- (b) Minutes must be signed by the Chairperson of the meeting or by the Chairperson of the next meeting of the relevant body, and if so signed will as between the Members be conclusive evidence of the matters stated in such minutes.

### **13.11 Appointment of attorneys and agents**

- (a) The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the *Corporations Act* appoint any person to be the agent or attorney of the Company:
  - (i) for the purposes;
  - (ii) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
  - (iii) for the period; and
  - (iv) subject to the conditions.
  
- (b) An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
  - (i) any company;
  - (ii) the Members, Directors, nominees or managers of any company or firm; or
  - (iii) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
  
- (c) A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
  
- (d) The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.
  
- (e) An attorney or agent appointed under this **clause 13.11** may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

## **DIVISION 14 – ADMINISTRATION**

### **14.1 Secretary**

- (a) There must be at least one secretary of the Company appointed by the Directors on conditions determined by them.
- (b) The Secretary is entitled to attend on any matter at all Directors' and general meetings.
- (c) The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

### **14.2 Common Seal**

If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal; and
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

### **14.3 Duplicate Seal**

If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:

- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
- (b) must only be used with the authority of the Directors or a Directors' Committee.

### **14.4 Times for Inspection of Records**

- (a) Except as otherwise required by the *Corporations Act*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

### **14.5 Calculation and Distribution of reserves**

The Company's profit or loss in any one financial year arising from its operations must be determined and dealt with in accordance with any applicable prudential standards. The Directors must also resolve in each financial year the amount of profit which must be carried to a reserve. Reserves can be used in the business of the Company paid in dividends or can be distributed on a winding up in accordance with this Constitution.

## 14.6 Service of notices

- (a) Notice may be given by the Company to any person who is entitled to notice under this Constitution by:
  - (i) serving it on the person;
  - (ii) sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person; or
  - (iii) if the notice is to a Member and the Member has no registered address, posting it on a notice board at the Office.
- (b) A notice sent by post is taken to be served:
  - (i) by properly addressing, prepaying and posting a letter containing the notice; and
  - (ii) on the day after the day on which it was posted.
- (c) A notice sent by facsimile transmission or electronic notification is taken to be served:
  - (i) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (ii) on the day after its despatch.
- (d) A notice posted on a notice board is taken to be served 24 hours after it is posted on the board.
- (e) A notice may be given by the Company to joint holders by giving the notice to the joint holder whose name appears first in the Register.
- (f) Every person who is entitled to a Share by operation of law and who is not registered as the holder of the Share is taken to receive any notice served in accordance with this clause on the person from whom it derives its title.
- (g) A Member whose registered address is not in Australia may specify in writing an address in Australia as the Member's registered address within the meaning of this clause.
- (h) A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- (i) Subject to the *Corporations Act* the signature to a written notice given by the Company may be written or printed.
- (j) All notices sent by post outside Australia must be sent by prepaid airmail post.

**14.7 Persons entitled to notice**

- (a) Notice of every general meeting must be given to:
  - (i) every Member;
  - (ii) every Director; and
  - (iii) any Auditor.
  
- (b) No other person is entitled to receive notice of a general meeting.

## **DIVISION 15 – AUDITS AND ACCOUNTS**

### **15.1 Company to keep accounts**

The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the *Corporations Act*.

### **15.2 Audit**

The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the *Corporations Act*.

## **DIVISION 16 – WINDING UP**

### **16.1 Liability on Winding Up**

On the winding up of the Company:

- (a) a Member's liability is limited to the amount unpaid in relation to the Member's contractual obligations with the Company; and
- (b) the liability of a holder of Member Shares extends to the amount unpaid in relation to those shares.

### **16.2 Surplus**

On a winding up, Members are entitled to participate in any surplus equally and without regard to the number of Shares held by any Member. In the case of a voluntary winding-up, the Members at the time they resolve to wind up the Company may resolve that any surplus be transferred to any company which has a mutual structure in accordance with any current policy of the Australian Securities and Investments Commission or the Australian Prudential Regulation Authority.

## DIVISION 17 – PAYMENTS BY THE COMPANY

### 17.1 Indemnity and Insurance

- (a) To the extent permitted by law and that the officer or auditor is not indemnified by Directors' and officers' liability insurance maintained by the Company, the Company indemnifies every person who is or has been an officer or auditor of the Company against any liability:
  - (i) incurred by that person as such an officer or auditor to another person other than the Company or a related body corporate of the Company unless the liability arises out of conduct involving a lack of good faith; and
  - (ii) for costs and expenses incurred by the person as such an officer or auditor:
    - (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
    - (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the *Corporations Act*.
- (b) The Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer or auditor of the Company against a liability:
  - (i) incurred by the person as such officer or auditor unless the liability arises out of conduct involving:
    - (a) a wilful breach of duty in relation to the Company; or
    - (b) without limiting **subparagraph (a)**, a contravention of section 182 or 183 of the *Corporations Act*; or
  - (ii) for costs and expenses incurred by the person as such an officer or auditor in defending proceedings, whether civil or criminal and whatever their outcome.

**SCHEDULE 1**  
**STANDING ORDERS**

The rules of debate at a general meeting of the Company are:

**(a) Time Limits for Speakers:**

- (i) The mover of a motion may speak for no more than 5 minutes;
- (ii) Subsequent speakers may speak for no more than 3 minutes;
- (iii) The mover of the motion may reply for no more than 3 minutes;
- (iv) The meeting is free to extend the time a speaker may speak.

**(b) Amendment:**

- (i) On an amendment being proposed to an original motion, no second amendment may be considered until the first amendment has been dealt with;
- (ii) An amendment, when carried, displaces the original motion and becomes the motion to which any further amendment may be moved;
- (iii) If the amendment is not carried, then further amendments to the original motion may be considered.

**(c) Speakers:**

- (i) The mover of an original motion has a right of reply;
- (ii) The mover of an amendment does not have a right of reply;
- (iii) Otherwise, a Member may speak only once on the same question except to raise a point of order or, with the consent of the Chairperson of the meeting, to give an explanation.

**(d) Motions to be in Writing:**

Every motion and every amendment to a motion must be submitted in writing as and when the Chairperson of the meeting requests.

**(e) Closure of Debate:**

- (i) Debate on a motion or an amendment may be brought to a close by a resolution “that the question be now put”;
- (ii) the motion “that the question be now put” must be put to the meeting without debate.

## SCHEDULE 2

### ELECTION OF DIRECTORS

#### S2.1 Holding of Election

An election of Directors of the Company is to be held by postal ballot or an electronic voting system or combination of both, except where nominations are equal or less than the number of positions to be filled. If a postal ballot or electronic voting, or combination of both, is not held, Directors shall be elected by separate resolution for each candidate.

#### S2.2 Appointment of Returning Officers

The Directors must appoint a Returning Officer who may appoint assistant Returning Officers, none of whom can be a Director, employee of the Company or a person who intends to accept a nomination for the office of Director.

#### S2.3 Voting List

The Secretary must prepare and give the Returning Officer a list of Members eligible to vote on the election of Directors, made up to the date before the last business day of August that year.

#### S2.4 Nominations

- (a) The Directors must call for nominations prior to 30th April each year.
- (b) Nominations close at 12 noon on last business day in June each year.
- (c) In order to be nominated, a candidate must:
  - (i) be eligible for election under **clause 10.2** (a) to (g) inclusive (Qualification of Directors);
  - (ii) be nominated by two (2) Members themselves eligible for election under clause 10.2(a) to (g) inclusive; and
  - (iii) consent to the nomination.
- (d) A retiring Director may stand for re-election without nomination but must be eligible for election under **clause 10.2(a) to (g) inclusive** (Qualification of Directors).
- (e) For the purposes of providing a recommendation on a candidate in accordance with section 10.2(h), the Directors or a Committee delegated by the Directors may require a person to provide such information as is reasonable in the circumstances, in writing and/or by way of attendance either personally or by electronic means, before the Directors or a Committee in order to demonstrate the candidate's fitness and propriety to be a Director of the Company.

- (f) The information to be provided pursuant to S2.4(e) may be required a reasonable time before any meeting called to consider that material or make a recommendation.
- (g) Where the Directors or a Committee with the authority to make a recommendation in accordance with sub-clause 10.2(h), does not recommend a person as fit and proper to be a Director of the Company, the person shall be advised in writing within 7 clear days of the making of that decision and the reasons for the decision.
- (h) A person to whom S2.4(g) applies may make a further written submission to the full Board of Directors within 14 clear days of receiving the decision.
- (i) In considering any written submission forwarded in accordance with S2.4(h) the Directors' decision will be final.
- (j) The Directors must as promptly as is reasonable and practical, notify the Returning Officer and the respective candidate of any decision as to the fitness and propriety of that candidate.

## **S2.5 Candidates' Statement**

- (a) A candidate may, prior to the closure of nominations, submit to the Returning Officer for circulation to members a statement not exceeding 100 words in support of their candidacy.
- (b) Any statement submitted by a candidate for election must not :-
  - i) Reflect adversely on the prudential standing of the Company;
  - ii) Contain any matter or thing that is likely to mislead or deceive a member in relation to the casting of their vote;
  - iii) Make any personal criticism of another candidate or Director;
  - iv) Offer to act as an advocate for any section of the membership
- (c) The Returning Officer may after consulting with the Secretary:-
  - i) Approve a candidate's statement; or
  - ii) Refuse to approve a candidate's statement; or
  - iii) Request a variation to the candidate's statement
- (d) The Returning Officer is only to issue to each Member with the ballot paper a statement by a candidate which has been approved by the Returning Officer.

## **S2.6 Declaration by Candidate**

A candidate must furnish to the Returning Officer a declaration in such form as the Directors may require:

- (a) as to his or her eligibility for election under **clause 10.2** (a) to (g) inclusive (Qualification of Directors); and
- (b) as to whether he or she:
  - (i) has any interest in a contract or a proposed contract, with the Company; or
  - (ii) holds an office or has an interest in property, whereby, whether directly or indirectly, duties or interests may be created that could conflict with a Director's duties or interests as a Director of the Company.

## **S2.7 Rejection of Nomination**

- (a) The Returning Officer must scrutinise nominations immediately upon receipt and reject a nomination where it appears to the Returning Officer that the candidate is not eligible under **clause 10.2 (a) to (g) inclusive** (Qualification of Directors).
- (b) The Returning Officer must reject a nomination where the candidate fails to provide a declaration complying with **clause S2.5** of this Schedule.
- (c) The Returning Officer must reject a nomination where the Directors advise they or their delegated Committee have found a candidate to be not fit and proper to be a Director of the Company.
- (d) Upon rejecting a nomination, the Returning Officer is to immediately notify the candidate, the candidate's proposers and the Directors.

## **S2.8 Ballot Papers**

- (a) After nominations have closed under **clause S2.4** of this Schedule (Nominations), the Returning Officer must prepare ballot papers for the election.
- (b) The order in which the candidates appear on the ballot paper is to be determined by the Returning Officer by lot.
- (c) Subject to determinations made in order to facilitate electronic voting pursuant to S2.10, the Returning Officer must ensure some authenticating mark appears on each ballot paper before sending them to the Members.

## **S2.9 Postal Vote**

- (a) Subject to the determinations made pursuant to S2.10 by the Directors to facilitate electronic voting, the Returning Officer must send to each Member who has requested and is eligible to vote on an election of Directors:
  - (i) a ballot paper; and
  - (ii) a “Reply Paid” postal envelope addressed to the Returning Officer the reverse side of which shall bear the following:  
**NAME OF MEMBER**
- (b) Ballot papers may be delivered personally or posted to Members at their addresses shown in the Register.
- (c) Any Member exercising a right to vote must:
  - (i) complete the ballot paper in accordance with this Schedule; and
  - (ii) place the “Ballot Paper” in the reply paid envelope marked “Returning Officer”, complete it and return it to the Returning Officer.
- (d) A Member must ensure that his or her ballot papers are received by the Returning Officer by noon on the day fixed for the closing of the ballot.
- (e) Any ballot paper not received by the Returning Officer prior to the closing of the ballot is excluded from the ballot.
- (f) As ballot papers are received by the Returning Officer he may mark the name of the voter off the list of voters provided under **clause S2.3** of this Schedule and the unopened votes are then placed in the ballot boxes and secured until the ballot is closed and the count commences.
- (g) A Member who has not received a ballot paper or has spoiled it may send to the Returning Officer a declaration to that effect and the Returning Officer must:
  - (i) send a duplicate ballot paper to that Member;
  - (ii) mark the envelope marked “Returning Officer” “Duplicate”; and
  - (iii) keep a record of all duplicate ballot papers issued.

## **S2.10 Electronic Voting**

- (a) The Directors may from time to time determine on advice from the Returning Officer:
  - (i) that the Members may record their votes using an electronic voting system;

- (ii) the manner in which members will be identified for the purposes of an election using an electronic voting system;
  - (iii) the rules and instructions for electronic voting and lodgement of electronic ballot papers;
  - (iv) the information required by Members that is reasonably necessary to facilitate electronic voting;
  - (v) the manner of delivery of that information to Members;
  - (vi) any other matters reasonably necessary to facilitate electronic voting using an electronic voting system.
- (b) If the Directors make such determinations then the election procedures must incorporate the requirements of those determinations.

### **S2.11 Closure of the Ballot**

The ballot closes at noon on the last business day of September of each year.

### **S2.12 Procedures for Dealing with the Ballot**

- (a) As soon as practicable the Returning Officer must deal with the ballots as follows:
  - (i) for each envelope, mark the Member's name as shown on the envelope off the Register unless this was done by the Returning Officer on receipt of the envelope;
  - (ii) where a duplicate ballot paper has been issued and the original "Reply Paid" envelope marked "Returning Officer" received, mark the original envelope "rejected";
  - (iii) if the "Reply Paid" envelope marked "Returning Officer" has insufficient detail to identify the Member, mark the envelope "rejected".
- (b) As soon as practicable after the ballot closes the Returning Officer must deal with the ballots as follows:
  - (i) when all the "Reply Paid" envelopes marked "Returning Officer" have been so dealt with, cause all the envelopes which have not been rejected to be opened and the ballot papers to be taken out;
  - (ii) cause the ballot papers to be scrutinised under his or her supervision and reject such ballot papers as he or she finds to be informal under **clause S2.12 (c)** of this Schedule;
  - (iii) count the votes in accordance with **clause S2.13** of this Schedule (Voting System);
  - (iv) prepare and sign a declaration of the ballot as to the:
    - (a) number of ballot papers lodged;

- (b) number of formal votes;
  - (c) number of informal votes;
  - (d) number of votes cast for each candidate; and
  - (e) names of those persons elected;
- (v) deliver the statement to the Secretary.
- (c) Where the ballot paper is lodged electronically the Returning Officer will deal with the ballot paper in accordance with the rules and instructions for electronic voting and lodgement of ballot papers as determined in accordance with S2.10.
- (d) A ballot paper is informal if:
  - (i) it is not authenticated by the authenticating mark of the Returning Officer;
  - (ii) it has no vote indicated on it to show the Member's selection of a candidate; or
  - (iii) more squares than there are vacancies have had a tick or cross or other mark inserted in them unless the Returning Officer is readily and fairly able to determine the voter's intention.
- (e) The Returning Officer must, within 7 days of the annual general meeting furnish to the Chairperson any declaration provided by a candidate pursuant to **clause S2.5** of this Schedule who is elected to the Directors and the Returning Officer shall destroy all declarations provided by unsuccessful candidates pursuant to **clause S2.5** of this Schedule.
- (f) Upon obtaining the approval of the Members by resolution at a general meeting the Returning Officer shall destroy the ballot papers at the expiration of thirty days of the conclusion of the annual general meeting after the declaration of the ballot.
- (g) No election shall be voided on account of any error or omission of the Returning Officer which did not affect the results of the election.

### **S2.13 Voting System**

- (a) The candidates with the highest number of votes in accordance with the number of vacancies are elected as Directors.
- (b) If 2 or more candidates have the same number of votes, the candidate elected as a Director is determined by lot.

### **S2.14 Appointment of Scrutineer**

- (a) A candidate may appoint a scrutineer and the Directors may appoint a maximum of three scrutineers, none of whom is a candidate or an employee of the Company.

- (b) The duties and responsibilities of scrutineers are to:
- (i) observe the sorting, counting and recording of ballot papers;
  - (ii) ensure that the votes of unrejected ballot papers are correctly credited to the appropriate candidates; and
  - (iii) raise any query with the Returning Officer regarding any of the ballot papers.

## SCHEDULE 3

### CONSIDERATION OF DEMUTUALISATION RESOLUTIONS

#### S3.1 Interpretation

In this Schedule, unless the contrary intention appears:

**‘Additional Costs’** means all costs reasonably incurred by the Company additional to those prescribed by the *Corporations Act 2001* that the Company must pay, in complying with its obligations under clause S3.4 and sub-clause S3.5(a)(ii) of this Schedule.

**‘Additional Information’** means:

- (a) an explanation as to how the Demutualisation Resolution will affect member rights as holders of Shares and as customers of the Company;
- (b) an explanation as to the effect of the Demutualisation Resolution on the Company and Members with respect to:
  - (i) the rights of Members to vote and to participate in the distribution of profits and reserves of the Company and the loss of any such rights; and
  - (ii) the effect on the business, operations, employees, products, services, pricing and distribution network of the Company;
- (c) an explanation of the mutuality benefits to Members that will be lost if the Demutualisation Resolution is passed; and
- (d) an explanation of the availability and effect of other alternatives to the Demutualisation Resolution.

**‘Ballot Closing Date’** means the date upon which a Direct Ballot closes, being a date fixed by the Returning Officer under clause S3.4(f) of this Schedule and specified in the notice referred to in sub-clause S3.4(g)(v) of this Schedule.

**‘Demutualisation Resolution’** means a proposed resolution, or combination of proposed resolutions:

- (a) which, if passed, will or may result in:
  - (i) the Company ceasing to be an Authorised Deposit-taking Institution pursuant to the *Banking Act 1959*; or
  - (ii) a voluntary transfer of the Company’s business, pursuant to the *Financial Sector (Business Transfer and Group Restructure) Act 1999*, to an Entity that is not an Authorised Deposit-taking Institution pursuant to the *Banking Act 1959*; or

- (iii) Membership Shares or Redeemable Preference Shares becoming transferable or capable of sale or assignment; or
  - (iv) a Member becoming entitled to hold more than 10 Redeemable Preference Shares; or
  - (v) a right to vote attaching to any Share other than a Redeemable Preference Share; or
- (b) in relation to which the consent of the Treasurer is required pursuant to either section 63 of the *Banking Act 1959* or section 11 of the *Financial Sector (Shareholdings) Act 1998*, unless the consent is required for the purposes of a voluntary transfer of the Company's business, pursuant to the *Financial Sector (Business Transfer and Group Restructure) Act 1999*, to an Entity that is an Authorised Deposit-taking Institution pursuant to the *Banking Act 1959*; or
- (c) subject to the provisions contained in sub-clauses S3.8(a) to S3.8(b) inclusive of this Schedule, the effect of which would be to modify or repeal any clause in this Schedule; or
- (d) subject to the provisions contained in sub-clauses S3.8(a) to S3.8(b) inclusive of this Schedule, the effect of which would be to modify or repeal the Constitution where the effect of the modification or repeal is to modify, exclude or restrict the operation of the clauses in this Schedule.

**'Direct Ballot'** means a ballot of Members in respect of a Demutualisation Resolution that is conducted in accordance with clause S3.4 of this Schedule.

**'Directors' Statement'** means a statement by the Directors containing:

- (a) the recommendation of each Director as to whether the Demutualisation Resolution should be passed and their reasons for making that recommendation;
- (b) details of any benefit to be received by the Directors if the Demutualisation Resolution is passed.

**'Entity'** includes any:

- (a) incorporated or unincorporated bodies;
- (b) trust or partnership; or
- (c) any legal, administrative or fiduciary arrangement, Company structure or other party (including a person) having the capacity to deploy scarce resources in order to achieve objectives.

**'Information'** means:

- (a) a disclosure statement that:

- (i) contains all the information that Members would reasonably require and expect to be given to make an informed decision about the Demutualisation Resolution, including but not limited to the Additional Information;
  - (ii) states that the Demutualisation Resolution may alter the Company's mutual structure and outlines the intentions of the Member or Entity seeking to convene or convening a meeting of the Company:
    - a. in relation to the future of the Company if the Demutualisation Resolution is passed;
    - b. in relation to Members' interests if the Demutualisation Resolution is passed;
    - c. in relation to the Directors if the Demutualisation Resolution is passed; and
  - (iii) explains the effect that the passing of the Demutualisation Resolution is likely to have on the business, operations, employees, products, services, pricing and distribution network of the Company;
- (b) an estimate of the financial benefits (if any) the Members, the Directors and/or other officers of the Company will be offered if the Demutualisation Resolution is passed;
- (c) a report by an expert that:
- (i) states whether, in the expert's opinion:
    - a. the Demutualisation Resolution is in the best interests of the Members of the Company as a whole;
    - b. whether the Demutualisation Resolution is fair and reasonable to Members having regard to any change of voting rights and the right to participate in profits and reserves; and
  - (ii) sets out the expert's opinions in relation to the Additional Information; and
  - (iii) gives the expert's reasons for forming those opinions; and
  - (iv) complies with the requirements of clause 33 of Schedule 4 of the *Corporations Act 2001*;
  - (v) contains any additional information required to be provided under the *Corporations Act 2001*.

**‘Requisitionists’** means the Members who request the convening of a general meeting that is convened by the Directors at the request of Members made in accordance with the Company’s constitution and the *Corporations Act 2001*.

**‘Qualifying Member’** means:

- (a) a Member who has been admitted to membership of the Company under this Constitution on the date that this Schedule takes effect under the *Corporations Act 2001*; or
- (b) a Member admitted to membership of the Company under this Constitution after the date on which this Schedule 3 takes effect under the *Corporations Act 2001* who has been a Member for not less than 12 months.

**‘Reserves’** means the retained profits of the Company at the Ballot Closing Date.

**‘Returning Officer’** means a person appointed by the Directors as a Returning Officer under sub-clause S3.4(a) of this Schedule.

**‘Special Resolution’** means a resolution:

- (a) in relation to which notice as set out in paragraph 249L(1)(c) of the *Corporations Act 2001* has been given; and
- (b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

### **S3.2. Application of Schedule 3**

Notwithstanding any provision contained in this Constitution to the contrary, this Schedule will apply if a meeting of the Company is convened, or is to be convened, at which a Demutualisation Resolution will be considered.

### **S3.3. Requirement for General Meeting and Direct Ballot**

If a meeting of the Company is convened, or is to be convened, at which a Demutualisation Resolution will be considered:

- (a) A general meeting must be convened and conducted in accordance with this Constitution to consider the Demutualisation Resolution as a Special Resolution;
- (b) The information required by clause S3.5 of this Schedule must be provided to Members in convening the general meeting to consider the Demutualisation Resolution;
- (c) The Demutualisation Resolution shall only be passed at the general meeting if at least 75% of the votes cast by Members entitled to vote on the Demutualisation Resolution approve the Demutualisation Resolution;
- (d) The Demutualisation Resolution, if passed at the general meeting, shall not have any effect unless and until:

- (i) a Direct Ballot is held within 4 months of the date of the general meeting to consider whether the adoption of the Demutualisation Resolution should be approved; and
- (ii) by the Ballot Closing Date the Company has received votes from 25% of Members entitled to vote; and
- (iii) of the votes received by the Ballot Closing Date from Members entitled to vote, 75% of the votes are in favour of approving the adoption of the Demutualisation Resolution.

#### **S3.4 Conduct of Direct Ballot**

- (a) Within 10 working days of a Demutualisation Resolution being passed at a general meeting the Directors must appoint a Returning Officer, who must not be a Director or Officer of the Company, and who must then conduct a Direct Ballot in accordance with this clause S3.4.
- (b) The Returning Officer must prepare a roll of the full names and addresses of the Qualifying Members of the Company, as disclosed by the register of members as at midnight on the day before the general meeting referred to in clause S3.3 of this Schedule.
- (c) Only Members who are Qualifying Members as at midnight on the day before the general meeting referred to in clause S3.3 of this Schedule are entitled to vote in the Direct Ballot.
- (d) The Returning Officer must cause ballot papers to be prepared for the Direct Ballot.
- (e) Each ballot paper must be initialled or marked by the Returning Officer or an appointed assistant.
- (f) The Returning Officer must fix a Ballot Closing Date, which must be a date not more than 4 months after the date of the general meeting at which the Demutualisation Resolution was passed.
- (g) The Returning Officer must, at least 30 days prior to the Ballot Closing Date, send by post or otherwise deliver to every Qualifying Member one set of the following material:
  - (i) one ballot paper;
  - (ii) an envelope (in this Schedule referred to as the outer envelope) addressed to the Returning Officer;
  - (iii) a smaller envelope (in this Schedule referred to as the middle envelope), the reverse side of which contains provision for the name, membership number and signature of the Member;
  - (iv) a small envelope marked “*Ballot Paper*” (in this Schedule referred to as the inner envelope) into which the ballot paper is to be enclosed;

- (v) a notice which sets out:
  - a. details of the Demutualisation Resolution upon which the decision of the Members is to be sought;
  - b. details of the number of Members who were eligible to vote at the general meeting at which the Demutualisation Resolution was passed and of the number of those Members who voted;
  - c. the Ballot Closing Date;
  - d. instructions for voting; and
  - e. such further information, if any, as the Directors consider appropriate; and
- (vi) the Information supplied to the Company and the Directors' Statement.
- (h) The Returning Officer may send a duplicate ballot paper to any Qualifying Member if the Returning Officer is satisfied:
  - (i) that the Qualifying Member has not received a ballot paper; or
  - (ii) that the ballot paper received by the Qualifying Member has been lost, spoilt or destroyed and the Qualifying Member has not already voted.
- (i) A Qualifying Member casts a vote in the Direct Ballot by:
  - (i) first, completing the ballot paper according to the instructions on the ballot paper;
  - (ii) second, placing the completed ballot paper in the inner envelope;
  - (iii) third, completing the details on the reverse side of the middle envelope and signing the middle envelope;
  - (iv) fourth, placing the middle envelope in the outer envelope; and
  - (v) fifth, sending the outer envelope to the Returning Officer so that it is received by noon on the Ballot Closing Date.
- (j) The Returning Officer must:
  - (i) provide a ballot box or boxes which must be locked immediately before the ballot papers are delivered to Qualifying Members in accordance with sub-clause S3.4(g) and must remain locked until noon on the Ballot Closing Date; and
  - (ii) place all outer envelopes received from Qualifying Members in the ballot box or boxes as they are received.

- (k) The counting of votes received by Direct Ballot shall be supervised by the Returning Officer.
- (l) The Returning Officer may be assisted in the performance of his or her duties by any person (who would be eligible to be a Returning Officer) appointed by the Returning Officer.
- (m) Ballot papers received after noon on the Ballot Closing Date are informal and must not be taken into account in the Direct Ballot.
- (n) As soon as practicable after noon on the Ballot Closing Date, the Returning Officer must, in the presence of such scrutineers as may be appointed by the Directors, open the ballot box or boxes and deal with the contents in accordance with sub-clause S3.4(o).
- (o) The Returning Officer must:
  - (i) remove the middle envelope from the outer envelope;
  - (ii) if a duplicate outer envelope has been issued and the original outer envelope is received, reject the original envelope and mark it “*Rejected*”; and
  - (iii) according to the information on the middle envelope, for each set of voting papers returned, mark the Qualifying Member’s name on the roll;
  - (iv) if a Qualifying Member’s name has already been marked on the roll, reject the vote and mark it “*Rejected*”; and
  - (v) if the middle envelope has not been signed, or if the details shown on the envelope are not sufficient to disclose by whom the vote is being exercised, reject the envelope and mark it “*Rejected*”; and
  - (vi) extract the inner envelopes containing the ballot papers from all un-rejected middle envelopes, separating the contents from the middle envelopes in such a way that no inner envelope could subsequently be identified with any particular Member; and
  - (vii) when all the middle envelopes have been dealt with in the above manner, open all un-rejected inner envelopes and take the ballot papers from them.
- (p) The ballot papers must be scrutinised by the Returning Officer who must reject as informal any ballot paper that:
  - (i) is not duly initialled or marked by the Returning Officer; or
  - (ii) is so imperfectly completed that the intention of the Qualifying Member cannot be reasonably ascertained by the Returning Officer; or

- (iii) has any mark or writing not authorised by this Schedule which, in the opinion of a Returning Officer, will enable the Qualifying Member to be identified; or
  - (iv) has not been completed as prescribed on the ballot paper itself.
- (q) No meeting of Members is required to be held for the counting of the votes received by the Company by Direct Ballot.
- (r) The Returning Officer must count all votes cast and make out and sign a statement of:
  - (i) the number of formal votes in favour of approving the adoption of the Demutualisation Resolution;
  - (ii) the number of formal votes against approving the adoption of the Demutualisation Resolution;
  - (iii) the number of informal votes;
  - (iv) the number of middle envelopes marked "*Rejected*"; and
  - (v) the proportion of the formal votes that were in favour of approving the adoption of the Demutualisation Resolution.
- (s) The Returning Officer must forward a copy of the statement to the Chairperson of the Company.
- (t) Following the counting of votes in the Direct Ballot the Company:
  - (i) will display the result on a notice board at its Registered Office and on the Company's website;
  - (ii) will notify Members of the result of the Direct Ballot within 21 days; and
  - (iii) retain the Direct Ballot votes in the possession of the Company for a period of 3 months, at the end of which period they will be destroyed.

### **S3.5 Disclosure Requirements**

- (a) If a meeting of the Company at which a Demutualisation Resolution will be considered is convened or is to be convened by Members in accordance with clause 7.1 (b) of the Company's Constitution:
  - (i) the Member or Members requesting the convening of the meeting shall at the time of requesting the convening of the meeting provide the Information to the Company; and
  - (ii) the Company shall at the time of convening the meeting provide the Members with:
    - a. notice of the Demutualisation Resolution and of the intention to consider the Demutualisation Resolution as a special resolution in accordance with section 249L(1)(c) of the *Corporations Act 2001*;
    - b. the Information supplied to the Company;
    - c. the Directors' Statement; and
    - d. such further information, if any, as the Directors consider appropriate.
- (b) If a meeting of the Company at which a Demutualisation Resolution will be considered is convened or is to be convened, the Member or Members requesting the convening of the meeting shall at the time of convening the meeting provide the Information to the Members.

### **S3.6 Costs**

- (a) If a meeting of the Company at which a Demutualisation Resolution will be considered is convened by the Directors at the request of Members made in accordance with sections 249E or 249F of the *Corporations Act*, then the Requisitionists will, at the time of making the request or convening the meeting:
  - (i) provide to the Company an indemnity in respect of the liability that the Requisitionists may incur to the Company for Additional Costs in a form satisfactory to the Directors; and
  - (ii) if so requested by the Company, deposit with the Company an amount reasonably held by the Company to be in accordance with the liability that the Requisitionists may incur to the Company for Additional Costs, which sum the Company may set off against the Requisitionists' liability to the Company for Additional Costs if and when the Requisitionists become liable to pay the Additional Costs to the Company; and

(iii) if the Demutualisation Resolution is not passed at a general meeting, or if the Demutualisation Resolution is passed at a general meeting but its adoption is not approved by a Direct Ballot, the Requisitionists will be jointly and severally liable to the Company for the Additional Costs and will pay the Additional Costs to the Company within 7 days of the Company making a written demand for payment.

(b) The Company will refund to the Requisitionists:

(i) if the Demutualisation Resolution is passed at a general meeting and its adoption is approved by a Direct Ballot, the whole of any amount deposited with the Company pursuant to sub-clause S3.6(a)(ii) of this Schedule;

(iii) if the Demutualisation Resolution is not passed at a general meeting, or if the Demutualisation Resolution is passed at a general meeting but its adoption is not approved by a Direct Ballot, any amount by which the amount deposited with the Company pursuant to sub-clause S3.6(a)(ii) of this Schedule exceeds the Additional Costs.

### **S3.7 Entitlement to Reserves**

If the Demutualisation Resolution is passed at a general meeting and its adoption is approved by a Direct Ballot only a Qualifying Member is entitled to participate in the surplus and profits of the Company.

### **S3.8. Termination of this Schedule**

(a) This Schedule other than sub-clause S3.8(b) will cease to have effect if and when the Australian Securities and Investments Commission or its successor publishes a notice to that effect and gives a copy of the notice to the Company that this Schedule ceases to have effect in relation to the Company. This clause is subject to any terms and conditions in the written notice.

(b) If this Schedule ceases to have effect by reason of sub-clause S3.8(a) it will again come into effect by Board resolution upon the Australian Securities and Investments Commission or its successor doing any of the following:

(i) withdrawing the written notice referred to in sub-clause S3.8(a);

- (ii) making an order or exemption that permits the Company to adopt or recommence the operation of this Schedule or provisions to the effect of this Schedule; or
- (iii) otherwise permitting the Company to recommence the operation of this Schedule.