

Constitution of

# The Royal Automobile Club of Tasmania Limited



# Constitution

The Royal Automobile Club of Tasmania Limited

ACN 009 475 861

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# 1. Preliminary

## 1.1 Definitions

In this constitution:

<b>Term</b>	<b>Definition</b>
Acting Chairperson	has the meaning given to the term in rule 6.10.
AGM	means an annual general meeting of the company that the Corporations Act requires to be held.
board	means the board of directors of the company constituted in accordance with rule 9.
Board Appointed Director	means a director appointed by the board in accordance with rule 9.2; and a director appointed to fill a casual vacancy of a Board Appointed Director in accordance with rule 9.3.
Business Day	means a day that is not a Saturday, Sunday or public holiday in Hobart, Tasmania.
company	unless a contrary context is apparent within the document means The Royal Automobile Club of Tasmania Limited, ACN 009 475 861.
Corporations Act	means <i>Corporations Act 2001</i> (Cth).
Demutualisation	means any arrangement which would have the purpose or effect of: <ul style="list-style-type: none"><li>(a) creating or issuing shares in the company; or</li><li>(b) the company agreeing to create or issue shares in it; or</li><li>(c) varying the rights of members, or a class of members, to:<ul style="list-style-type: none"><li>(i) the company's reserves; or</li><li>(ii) the company's assets on a winding up; or</li></ul></li><li>(d) transferring, exhausting, surrendering, cancelling or terminating some or all rights of members (including the complete resignation of membership, whether in exchange for value or not),</li></ul> and includes: <ul style="list-style-type: none"><li>(e) any arrangement that would have the purpose or effect of authorising any of the matters set out in paragraphs (a) to (d); and</li><li>(f) any proposed modification or repeal of any part of this definition or rule 16,</li></ul> but excludes: <ul style="list-style-type: none"><li>(g) an agreement for a Demutualisation entered into by the company and authorised by the board, provided that the agreement is conditional upon, and that the Demutualisation may only be carried out with, authorisation under rule 16; and</li><li>(h) the creation or issuance of, or the agreement to create or issue, or any amendment to this constitution to facilitate the creation or issuance of, MCIs (including MCIs of different classes and with different rights) and the cancellation or variation of any rights attached to MCIs (or a class of MCIs).</li></ul>
Direct vote	has the meaning given to the term in rule 8.1(a).
director	has the meaning given to the term in section 9 Corporations Act.
Eligible Member	means any member of any class whom the board determines are entitled to attend and vote at meetings of members, provided such member has paid in full any required application or membership fee.
Indemnified Person	has the meaning given to the term in rule 14.1.
Liabilities	has the meaning given to the term in rule 14.2.

<b>Term</b>	<b>Definition</b>
MCI	(short for mutual capital instrument) has the meaning given to the term in section 9 Corporations Act.
MCI Holder	means a holder of an MCI.
Member Elected Director	means: <ul style="list-style-type: none"> <li>(a) a director who has been nominated by members in accordance with this constitution; and</li> <li>(b) a director appointed to fill a casual vacancy of a Member Elected Director in accordance with rule 9.3.</li> </ul>
Officer	has the meaning given to the term in section 9 Corporations Act and includes a director.
Returning Officer	means the secretary or such other person selected by the board from time to time.
Schedule	means the schedule to this constitution.

## 1.2 Interpretation

In this constitution:

- (a) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative;
- (b) a reference to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position;
- (c) unless the contrary intention appears:
  - (i) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;
  - (ii) a reference to a person includes that person's successors, legal personal representatives, permitted substitutes and permitted assigns;
  - (iii) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (iv) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
  - (v) a reference to a rule is a reference to a rule of this constitution;
  - (vi) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced; and
  - (vii) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day; and
- (d) headings are for convenience only and do not affect interpretation
- (e) unless a contrary intention appears in this constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the constitution of the company in force before this constitution is adopted continue to have the same status, operation and effect after this constitution is adopted which for the avoidance of doubt shall include the continuation in office for their existing elected or appointed terms all directors and officers of the company in office immediately before this constitution is adopted who shall be taken to have been appointed or elected under this constitution.

## 1.3 Application of the Corporations Act

- (a) The replaceable rules in the Corporations Act do not apply to the company.
- (b) Where an expression is used in a manner consistent with a provision of the Corporations Act, the expression has the same meaning as in that provision.

## 1.4 Exercising powers

- (a) The company may exercise any power, take any action or engage in any conduct which the Corporations Act permits a public company limited by guarantee to exercise, take or engage in.
- (b) A power conferred on a person to do a particular act or thing under this constitution includes, unless the contrary intention appears, a power (exercisable in the same way and subject to the same conditions) to repeal, rescind, revoke, amend or vary that act or thing.
- (c) Where a power to appoint a person to an office or position is conferred under this constitution the power includes, unless the contrary intention appears, a power to:
  - (i) appoint a person to act in the office or position until a person is appointed to the office or position;
  - (ii) remove or suspend any person appointed (without prejudice to any rights or obligations under any contract between the person and the company); and
  - (iii) appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.

## 1.5 MCI mutual entity

- (a) The company is intended to be an MCI mutual entity for the purposes of the Corporations Act.
- (b) Subject to this constitution and the Corporations Act, the board may issue or allot MCIs (including, without limitation, MCIs which are issued upon conversion of another security) to any person on such terms and conditions as the board may determine.
- (c) MCIs shall be issued in accordance with, and subject to, the provisions set out in the Schedule.

# 2. Purpose

## 2.1 Purpose

Operating as a mutual, and being independent and free from political association, the company's purpose is to:

- (a) advance the interests of, and advocate on behalf of, its members, in regard to any matter that is determined to be relevant to members and the company;
- (b) provide members, including Tasmanians and visitors to Tasmania, with benefits, information, goods and services;
- (c) develop and provide education services and programmes to its members, Tasmanians and visitors to Tasmania on topics that are determined to be relevant to members and the company; and
- (d) support organisations and activities consistent with the above purposes or for the public good.

## 2.2 Separate purposes

Each of the purposes in rule 2 is a separate purpose and the interpretation of each purpose is not to be limited by reference to any other purpose.

## 3. No distributions

### 3.1 Promotion of the objects

Subject to rule 3.3, the company's income and property must only be applied towards promoting the company's purposes set out in rule 2.

### 3.2 Payment of income or property to a member

The company's income or property may only be paid or transferred, directly or indirectly, to a member for payments to a member:

- (a) in return for services rendered by, or goods supplied, by the member to the company in the ordinary and usual course of business; or
- (b) as principal payments on money lent by the member and interest payments if the interest is at a commercial rate.

### 3.3 Payments to MCI Holders

Subject to the Corporations Act, the company may pay a dividend to MCI Holders in accordance with the terms of issue of any MCIs.

## 4. Membership

### 4.1 Members

- (a) The members are persons admitted to membership in accordance with this constitution.
- (b) There is no limit to the number of members.
- (c) For the avoidance of doubt, unless expressly stated otherwise in this constitution:
  - (i) an MCI Holder is not a member of the company merely by virtue of holding an MCI;
  - (ii) an MCI Holder may be (or become) a member of the company if they are otherwise admitted to membership in accordance with this constitution; and
  - (iii) an MCI Holder who is also a member of the company is not deemed to be a member (and the provisions of this constitution relating to membership do not apply) in respect of any MCIs held by that person.

### 4.2 Eligible members

An Eligible Member has the right to:

- (a) receive notice of and to attend general meetings of the company; and
- (b) subject to rule 6.15(b), vote at a general meeting of the company.

### 4.3 Existing classes of membership

All members which exist at the date of the adoption of this constitution will continue to have the same rights, entitlements and obligations that existed

prior to that date, in relation to the receipt of services from the Company, their guarantee to the Company on wind-up and any other right, entitlement or obligation that cannot be amended through adoption of this constitution under the Corporations Act, until such time as they have renewed their membership expressly under this Constitution by any means deemed fit by the Board.

### 4.4 New classes of membership

- (a) Without affecting any special rights previously conferred on existing members or class of members, but subject to the Corporations Act, the board may create new classes of membership with such preferred, deferred or other special rights or such restrictions, whether with regard to voting or otherwise, as the board determines from time to time.
- (b) The rights attached to any class of membership are not varied by the creation of any new class of membership.

### 4.5 Patron

- (a) The board may:
  - (i) appoint a patron at such time and for such periods as it deems fit; and
  - (ii) remove any such patron at any time.
- (b) The patron, by virtue of their office, shall have all of the rights of an Eligible Member.

### 4.6 Application

- (a) The board (or its delegate) may in its discretion determine qualifications for membership.
- (b) An application for membership must be in a form the board approves together with:
  - (i) any other documents or evidence as to qualification for membership that the board requires; and
  - (ii) any application fee and membership fee as required by the board from time to time.

### 4.7 Admission to membership

- (a) The board (or its delegate) may accept or reject an application for membership.
- (b) The board (or its delegate) need not give a reason for rejecting an application for membership.
- (c) If an application for membership is rejected, the secretary or their delegate must:
  - (i) give written notice of the rejection to the applicant; and
  - (ii) refund any application fee and membership fee paid by the applicant, as soon as reasonably practicable.
- (d) If an application for membership is accepted, the secretary or their delegate must enter the member's name and details in the register of members.
- (e) Admission to membership may be for such period as the board (or its delegate) in its discretion determines.

## 4.8 Resignation and termination of membership

- (a) A person ceases to be a member if:
  - (i) they no longer meet the qualification requirements;
  - (ii) they resign as a member by giving one month's written notice to the company;
  - (iii) they die; or
  - (iv) the board terminates their membership under rule 4.8(b).
- (b) The board (or its delegate) may in its absolute discretion terminate a member's membership. Without limitation, the board may do so if the member:
  - (i) has membership fees in arrears;
  - (ii) refuses or neglects to comply with this constitution, a rule or decisions under it;
  - (iii) conducts themselves in a way the board (or its delegate) considers to be injurious or prejudicial to the company's character or interests; or
  - (iv) acts in a manner which the board (or its delegate) consider to be harmful, threatening or offensive towards the company, its officers, employees or agents, or another member in their capacity as a member.
- (c) The board (or its delegate) may in its discretion immediately suspend a member and their rights and privileges, or provision of some or all relevant member services, pending consideration of that member's future membership.
- (d) A member whose membership ceases under rule 4.8(a) or 4.8(b) (including, for the avoidance of doubt, a member whose membership ceases due to death) shall, unless the board determines otherwise, forfeit any application, membership and product fees they have paid and must if requested return to the company any property of the company which is in that member's possession, care or control.
- (e) The board (or its delegate) may in its discretion decline to accept the renewal of any membership notwithstanding that payment may have been received by or on behalf of the company. Upon such refusal the person concerned shall cease to be a member of the company and shall forfeit all claims upon the company and its property and funds, other than a claim to a refund of the moneys (if any) paid in respect of the renewal which has been refused.
- (f) Membership is not transferable other than as determined by the board (or its delegate).

## 5. Winding up

### 5.1 Limited liability on winding up

- (a) If the company is wound up while a person is an Eligible Member, or within one year after the person ceases to be an Eligible Member, the person must contribute to the company's assets for the:

- (i) payment of the company's debts and liabilities contracted before the person ceased to be a member; and

- (ii) costs of winding up.

- (b) The maximum liability of each Eligible Member under rule 5.1(a) is an amount equal to \$2.

### 5.2 No distribution of profits to members on a winding up

- (a) Any property remaining after the company's winding up or dissolution and satisfaction of all its debts and liabilities including any payments to MCI Holders, must not be distributed among members.
- (b) Property referred to in rule 5.2(a) must be given to another fund, authority or institution:
  - (i) with objects similar to the company's objects; and
  - (ii) whose constitution prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the company under this constitution.
- (c) The fund, authority or institution to receive property under rule 5.2(b) must be decided upon:
  - (i) by the board at or before the time of the winding up or dissolution; or
  - (ii) if no decision is made under rule 5.2(c)(i), by the members by ordinary resolution; or
  - (iii) if no decision is made under rule 5.2(c)(i) and 5.2(c)(ii), by applying to the Supreme Court of Tasmania for determination.

## 6. General meetings

### 6.1 Calling general meetings

A general meeting may only be called by a directors' resolution or as otherwise provided in the Corporations Act, including if requisitioned by an Eligible Member(s) in accordance with the Corporations Act.

### 6.2 Virtual meetings

Subject to the Corporations Act, for the avoidance of doubt, the place at which a general meeting is to be held does not need to be a physical location.

### 6.3 Postponing or cancelling a meeting

Subject to the Corporations Act, the board may in its discretion:

- (a) adjourn or postpone a meeting of members;
- (b) cancel a meeting of members; or
- (c) change the place for a general meeting.

### 6.4 Notice of general meetings

- (a) Notice of a general meeting must be made available by such means as the Board deem appropriate to each person who at the time of giving the notice is an Eligible Member who is entitled to receive such notice under this



constitution, a director or auditor of the company.

- (b) The board may decide the content of a notice of a general meeting, but the notice must include the general nature of the business to be transacted at the meeting and any other matters required by the Corporations Act.
- (c) Unless the Corporations Act provides otherwise:
  - (i) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
  - (ii) except with the approval of the board or the chairperson, no person may move any amendment to a proposed resolution the terms of which are set out in the notice calling the meeting or to a document which relates to that resolution and a copy of which has been made available to Eligible Members to inspect or obtain.
- (d) A person may waive notice of any general meeting by written notice to the company or by such other means as the Board deem appropriate.

### 6.5 Non-receipt of notice

- (a) Subject to the Corporations Act, the:
  - (i) non-receipt of a notice of any general meeting by;
  - (ii) giving of a defective notice to; or
  - (iii) accidental omission to give notice to,any person entitled to notice does not invalidate anything done (including the passing of a resolution) at that meeting.
- (b) A person's attendance at a general meeting waives any objection that person may have to:
  - (i) a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
  - (ii) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

### 6.6 Admission to general meetings

- (a) The chairperson of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
  - (i) in possession of a pictorial-recording or sound-recording device;
  - (ii) in possession of a placard or banner;
  - (iii) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
  - (iv) who refuses to produce or permit examination of any article, or the contents of any article, in the person's possession;
  - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive way; or

- (vi) who is not entitled to receive notice of the meeting.

- (b) The chairperson may delegate the powers conferred by this rule to any person.
- (c) A person, whether a member or not, requested by the board or the chairperson to attend a general meeting is entitled to be present and, at the request of the chairperson, to speak at the meeting.

### 6.7 Multiple venues

- (a) If the chairperson of a general meeting considers that there is not enough room for the members who wish to attend the meeting, they may arrange for any person whom they consider cannot be seated in the main meeting room to observe or attend the general meeting in a separate room. Even if the Eligible Members present in the separate room are not able to participate in the conduct of the meeting, the meeting is nevertheless treated as validly held in the main room.
- (b) If a separate meeting place is linked to the main place of a general meeting by an instantaneous audio-visual communication device which, by itself or in conjunction with other arrangements:
  - (i) gives the general body of Eligible Members in the separate meeting place a reasonable opportunity to participate in proceedings in the main place;
  - (ii) enables the chairperson to be aware of proceedings in the other place; and
  - (iii) enables the Eligible Members in the separate meeting place to vote on a show of hands or on a poll,an Eligible Member present at the separate meeting place is taken to be present at the general meeting and entitled to exercise all rights as if he or she was present at the main place.
- (c) If, before or during the meeting, any technical difficulty occurs where one or more of the matters set out in rule 6.7(b) is not satisfied, the chairperson may:
  - (i) adjourn the meeting until the difficulty is remedied; or
  - (ii) continue to hold the meeting in the main place (and any other place which is linked under rule 6.7(b)) and transact business, and no member may object to the meeting being held or continuing.
- (d) Nothing in rule 6.7 or rule 6.11 is to be taken to limit the powers conferred on the chairperson by law.

### 6.8 Quorum at general meetings

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum for a general meeting is ten (10) Eligible Members.
- (c) If a quorum is not present within 30 minutes

after the time appointed for the general meeting:

- (i) where the meeting was called at the request of members, the meeting must be dissolved; or
- (ii) in any other case:
  - (A) the meeting stands adjourned to the day, and at the time and place, the directors present decide; or
  - (B) if they do not make a decision, to the same day in the next week at the same time and place.
- (d) At an adjourned meeting, if a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

### 6.9 Chairperson

- (a) The chairperson of the board is entitled to take the chair at every general meeting.
- (b) If at any general meeting:
  - (i) the chairperson of the board is not present at the specified time for holding the meeting;
  - (ii) the chairperson of the board is present but is unwilling to act as chairperson of the meeting; or
  - (iii) the chairperson of the board wishes to appoint an acting chairperson for any item of business or discrete part of the meeting under rule 6.10,

the deputy chairperson of the board is entitled to take the chair at, or for the relevant portion of, the meeting.

- (c) If at any general meeting:
  - (i) there is no chairperson of the board or deputy chairperson of the board;
  - (ii) the chairperson of the board and deputy chairperson of the board are not present at the specified time for holding the meeting; or
  - (iii) the chairperson of the board and the deputy chairperson of the board are present but each is unwilling to act as chairperson of the meeting,

the meeting will be adjourned to the same day in the next week at the same time and place.

### 6.10 Acting chairperson

- (a) A chairperson of a general meeting may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by them (**Acting Chairperson**).
- (b) Where an instrument of proxy appoints the chairperson as proxy for part of the proceedings for which an Acting Chairperson has been nominated, the instrument of proxy is taken to be in favour of the Acting Chairperson for the relevant part of the proceedings.

### 6.11 Conduct at general meetings

The chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures applicable to the meeting;
- (b) may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairperson considers it necessary or desirable for the proper conduct of the meeting,

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

### 6.12 Adjournment and postponement by the chairperson

- (a) Despite rule 6.2, where the chairperson considers that:
  - (i) there is not enough room for the number of Eligible Members who wish to attend the meeting; or
  - (ii) a postponement is necessary in light of the behaviour of persons present or for any other reason so that the business of the meeting can be properly carried out,

the chairperson may postpone the meeting before it has started, whether or not a quorum is present.

- (b) A postponement under rule 6.12(a) is to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place is taken to be the time and place for the meeting as if specified in the notice which called the meeting originally).
- (c) The chairperson may at any time during the course of the meeting:
  - (i) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting; and
  - (ii) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for any period or periods they decide without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chairperson otherwise allows.

- (d) The chairperson's rights under rule 6.12(a) and 6.12(c) are exclusive and, unless the chairperson requires otherwise, no vote may be taken or demanded by the Eligible Members present about any postponement, adjournment or suspension of proceedings.
- (e) Only unfinished business may be transacted at a meeting resumed after an adjournment.
- (f) Where a meeting is postponed or adjourned for 30 days or more, details of the postponed or adjourned meeting may be given by posting them on the company's website or an

advertisement in a newspaper or newspapers circulating in the districts of the member's registered addresses. For the avoidance of doubt, where a meeting is postponed or adjourned for a period of less than 30 days, no similar notice of such postponement or adjournment shall be required.

### 6.13 Decisions at general meetings

- (a) Except where a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the Eligible Members present at the meeting. A decision made in this way is, for all purposes, a decision of the members.
- (b) If the votes are equal on a proposed resolution, the chairperson of the meeting has a casting vote, in addition to any deliberative vote.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded:
  - (i) before the show of hands is taken;
  - (ii) before the result of the show of hands is declared; or
  - (iii) immediately after the result of the show of hands is declared.

### 6.14 When poll may be demanded

- (a) No poll may be demanded on the election of a chairperson of a meeting. Otherwise, a poll may be demanded by:
  - (i) the chairperson;
  - (ii) at least five Eligible Members; or
  - (iii) by Eligible Members with at least 5% of the votes of the Eligible Members present at the meeting, in person or by proxy, attorney or representative, that may be cast on the resolution on a poll.
- (b) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll is demanded.
- (c) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the company's minute book is conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.
- (d) If a poll is duly demanded at a general meeting, it must be taken in the way and either at once or after an interval or adjournment as the chairperson of the meeting directs. The result of the poll as declared by the chairperson is the resolution of the meeting at which the poll was demanded.
- (e) The demand for a poll may be withdrawn with the chairperson's consent.
- (f) Despite anything to the contrary in this constitution, the board may decide that, at any general meeting or class meeting, an Eligible Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote for that resolution to be conducted in accordance with rule 8.

### 6.15 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any class of membership, at a general meeting:
  - (i) on a show of hands (where the meeting takes place as a physical meeting), each Eligible Member present in person or by proxy, attorney or representative has one vote;
  - (ii) where a person is entitled to vote by virtue of rule 7.1 in more than one capacity, that person is entitled only to one vote on a show of hands;
  - (iii) if the person appointed as proxy has two or more appointments that specify different ways to vote on a resolution, the proxy must not vote on a show of hands; and
  - (iv) on a poll, each Eligible Member present in person or by proxy, attorney or representative has one vote.
- (b) An Eligible Member is not entitled to vote:
  - (i) if the membership fee or other amount payable to the company has not been duly paid by or on behalf of that Eligible Member;
  - (ii) during a period of three months after becoming an Eligible Member under rule 4.7;
  - (iii) on a resolution if, under the Corporations Act, the notice which called the meeting specified that:
    - (A) the Eligible Member must not vote or must abstain from voting on the resolution; or
    - (B) a vote on the resolution by the Eligible Member must be disregarded for any purposes.
- (c) If the Eligible Member referred to in rule 6.15(b), in person or by acting as proxy, attorney or representative, tenders a vote, their vote must not be counted.
- (d) An objection to the validity of a vote tendered at a general meeting must be:
  - (i) raised before or immediately after the result of the vote is declared; and
  - (ii) referred to the chairperson of the meeting, whose decision is final.
- (e) A vote tendered, but not disallowed by the chairperson of a meeting under rule 6.15(d), is valid for all purposes, even if it would not otherwise have been valid.
- (f) The chairperson may decide any difficulty or dispute which arises as to the number of votes which may be cast by or on behalf of any Eligible Member and the decision of the chairperson is final.

### 6.16 Representation at general meetings

- (a) Subject to this constitution, each Eligible Member may vote:
  - (i) in person or, where a member is a body corporate, by its representative;

- (ii) by not more than one proxy; or
- (iii) by not more than one attorney.

- (b) A proxy, attorney or representative may, but need not, be a member.

### 6.17 Class meetings

The provisions of this constitution about general meetings apply, with necessary changes, to separate class meetings as if they were general meetings.

### 6.18 Voting where the Eligible Member is of unsound mind

If an Eligible Member is:

- (a) of unsound mind;
- (b) a patient under laws relating to mental health; or
- (c) whose estate is administered under the laws about mental health,

their trustee or guardian or other person who has the management of their property, may exercise the rights of the member at a general meeting as if the trustee or guardian or other person were the member. The trustee, guardian or other person must first give the board the information they reasonably require to establish their entitlement to act on behalf of the member.

## 7. Proxies, attorneys and representatives

### 7.1 Appointment instruments

- (a) An instrument appointing a proxy, attorney or representative is valid if it is under the Corporations Act or in any form approved by the board.
- (b) For the purposes of rule 7.1, a proxy appointment received at an electronic address specified in the notice of general meeting for the receipt of a proxy appointment or otherwise received by the company under the Corporations Act is taken to have been signed if the appointment:
  - (i) includes or is accompanied by a personal identification code allocated by the company to the Eligible Member making the appointment;
  - (ii) has been authorised by the Eligible Member in another manner approved by the board and specified in or with the notice of meeting; or
  - (iii) is otherwise authenticated under the Corporations Act.
- (c) Unless the instrument or resolution appointing a proxy, attorney or representative provides otherwise, the proxy, attorney or representative has the same rights to speak, demand a poll, join in demanding a poll or act generally at the meeting as the Eligible Member would have had if the Eligible Member was present.
- (d) Unless otherwise provided in the appointment of a proxy, attorney or representative, an appointment is taken to confer authority:
  - (i) to do any of the acts specified in rule 7.1(e), even though the instrument may refer to specific resolutions and may direct the

proxy, attorney or representative how to vote on those resolutions; and

- (ii) to attend and vote at a rescheduled or adjourned meeting or at a new venue, even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue.
- (e) The acts referred to in rule 7.1(d)(i) are:
  - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - (ii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
  - (iii) to act generally at the meeting.
- (f) A proxy form issued by the company must allow for the insertion of the name of the person to be primarily appointed as proxy and may provide that, in circumstances and on conditions specified in the form that are not inconsistent with this constitution, the chairperson of the relevant meeting (or another person specified in the form) is appointed as proxy.
- (g) A proxy or attorney may not vote at a general meeting or adjourned or postponed meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are received by the company:
  - (i) at least 48 hours (or, in the case of an adjournment or postponement of a meeting, including an adjourned meeting, any lesser time that the board or the chairperson of the meeting decides) before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable; or
  - (ii) where rule 7.1(j) applies, any shorter period before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable, as the board (or its delegate) determines in its discretion.
- (h) A document is received by the company under rule 7.1(g) when it is received under the Corporations Act, and to the extent permitted by the Corporations Act, if the document is produced or the transmission of the document is otherwise verified to the company in the way specified in the notice of meeting.
- (i) The board (or its delegate) may clarify with an Eligible Member any instruction on an appointment of proxy or attorney which is received by the company within a period referred to in rule 7.1(g)(i) or 7.1(g)(ii) as applicable by written or verbal communication. The board (or its delegate), at its discretion, is entitled to amend the contents of any appointment of proxy or attorney to reflect any clarification in instruction and the Eligible Member at that time is taken to have appointed any director or the secretary as its attorney for this purpose.

- (j) Where an instrument appointing a proxy or attorney has been received by the company within the period specified in rule 7.1(g)(i) and the board (or its delegate) considers that the instrument has not been duly signed, the board (or its delegate), in its discretion, may:
  - (i) return the instrument appointing the proxy or attorney to the appointing Eligible Member; and
  - (ii) request that the Eligible Member duly sign the appointment and return it to the company within the period determined by the board (or its delegate) under rule 7.1(g)(ii) and notified to the Eligible Member.
- (k) An instrument appointing a proxy or attorney which is received by the company under rule 7.1(j) is taken to have been validly received by the company.
- (l) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting, but if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

## 7.2 Revocation and postponement of the appointment

Unless written notice of the matter has been received at the company's registered office (or at another place specified for lodging an appointment of a proxy or attorney for the meeting) at least 48 hours (or, in the case of an adjournment or postponement of a meeting, any lesser time that the board or the chairperson of the meeting decide) before the time for holding a meeting, adjourned meeting or poll, a vote cast by a proxy or attorney is valid even if, before the vote is cast:

- (a) an event described in rule 4.8(a)(i) to 4.8(a)(iv) occurs to the Eligible Member;
- (b) the Eligible Member revokes the appointment of the proxy or attorney or revokes the authority under which a third party appointed the proxy or attorney; or
- (c) the Eligible Member has issued a clarifying instruction under rule 7.1(i).

## 7.3 Chairperson may make a determination

- (a) The chairperson of a meeting may require a person acting as a proxy, attorney or representative to establish to the chairperson's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy the requirement, the chairperson may exclude the person from attending or voting at the meeting.
- (b) The chairperson may delegate their powers under rule 7.3 to any person.

# 8. Direct voting

## 8.1 Board may decide direct voting to apply

- (a) A 'direct vote' includes a vote delivered to the company by post, fax or other electronic means approved by the board.
- (b) The board may determine that Eligible Members may cast votes to which they are entitled on any or all of the resolutions (including special resolutions) proposed to be considered at, and

specified in the notice convening, a meeting of Eligible Members, by direct vote.

- (c) If the board decides that votes may be cast by direct vote, the board may make the regulations, rule and procedures it considers appropriate for the casting of direct votes, including specifying the form, method and timing of giving a direct vote at a meeting for the vote to be valid.

## 8.2 Counting of direct votes

- (a) Unless otherwise determined by the board, direct votes are not counted if a resolution is decided on a show of hands.
- (b) Subject to rule 8.3 and 8.4, if a poll is held on a resolution, votes cast by direct vote by an Eligible Member entitled to vote on the resolution are taken to have been cast on the poll as if the Eligible Member had cast the votes on the poll at the meeting, and the votes of the Eligible Member are to be counted accordingly.
- (c) A direct vote received by the company on a resolution is taken to be a direct vote on that resolution as amended, if the chairperson of the meeting decides this is appropriate.
- (d) Receipt of a direct vote from a member has the effect of revoking (or, in the case of a standing appointment, suspending) the appointment of a proxy, attorney or representative made by the Eligible Member under an instrument received by the company before the direct vote was received.

## 8.3 Withdrawal of direct vote

A direct vote received by the company:

- (a) may be withdrawn by the member by written notice received by the company before the time appointed for the commencement of the meeting (or in the case of any adjournment, the resumption of the meeting); and
- (b) is automatically withdrawn if:
  - (i) the Eligible Member attends the meeting in person (including, in the case of a body corporate, by representative);
  - (ii) the company receives from the Eligible Member a further direct vote or direct votes (in which case the most recent direct vote is, subject to this rule, counted in lieu of the prior direct vote); or
  - (iii) the company receives, after the member's direct vote is received, an instrument under which a proxy, attorney or representative is appointed to act for the member at the meeting under rule 7.1(g).

A direct vote withdrawn under this rule is not counted.

## 8.4 Vote not affected by death, etc. of a member

A direct vote received by the company is valid even if, before the meeting, the Eligible Member:

- (a) dies or becomes mentally incapacitated;
- (b) become bankrupt or an insolvent under administration or is wound up; or
- (c) where the direct vote is cast on behalf of the Eligible Member by an attorney, revokes the

appointment of the attorney or the authority under which the appointment was made by a third party,

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

## 9. Board

### 9.1 Number of directors

- (a) Following the 2020 AGM and until the 2021 AGM, the number of Member Elected Directors shall not be more than 10, but in addition the board shall have the right to, though not be required to, appoint up to two Board Appointed Directors to the board.
- (b) Following the 2021 AGM, the number of Member Elected Directors shall not be more than nine, but in addition the board shall have the right to, though not be required to, appoint up to three Board Appointed Directors to the board.
- (c) Where the number of directors is reduced below 6, the continuing directors shall only act in the case of an emergency or for the purpose of filling up the vacancies.

### 9.2 Board Appointed Directors

- (a) The board may appoint a person as a Board Appointed Director on such terms and for such fees as are agreed by the board but for a term not exceeding three years.
- (b) Board Appointed Directors may be reappointed by the board and the appointment or re-appointment of whom is considered solely to be within the board's power.

### 9.3 Casual vacancies

- (a) The board may appoint a person who is eligible under rule 9.4 to be a director to fill a casual vacancy, but so that the total number of directors does not exceed the maximum number fixed under this constitution.
- (b) Any person appointed by the board to fill a casual vacancy holds office for the period as the director, who vacated the office, would have been entitled to hold office had the vacancy not occurred.
- (c) A vacancy on the board caused by a failure for any reason to elect a person to replace a director who has been required to retire in accordance with this constitution shall also be deemed to be a casual vacancy and may be filled in accordance with rule 9.3(a).

### 9.4 Qualification for directors

Subject to rule 9.11, to be eligible to hold the position of director, the person must:

- (a) be an Eligible Member; and
- (b) participate in an interview by a committee of the board made up of directors (not due to stand for re-election in the relevant election) and, as the board may require, undertake a robust skills assessment and probity checks to the satisfaction of the board, in order to establish that persons credentials and eligibility under the Corporations Act and the requirements of

any other regulatory body the Company may be required to comply with.

### 9.5 Term of Member Elected Directors

- (a) Each Member Elected Director shall hold office for 3 years, or until the next AGM following the expiry of his or her 3 year term, and at each AGM the Member Elected Directors whose term is due to expire, and any Member Elected Directors who choose to stand for re-election prior to the expiry of their 3 year term, shall retire.
- (b) Subject to any By-law to the contrary, a retiring Member Elected Director shall be eligible for re-election and shall be automatically re-nominated without the necessity of any proposer or seconder, unless any retiring Member Elected Director shall advise the Secretary of their intention not to stand.
- (c) For the avoidance of doubt, unless otherwise determined by the Board, a Board Appointed Director is not subject to retirement by rotation or the nomination provisions.

### 9.6 Retiring director stays for meeting

The retirement of a director from office under this constitution and the re-election of a director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occurs.

### 9.7 Nomination for directorship as a Member Elected Director

Unless the board determines otherwise, a person that satisfies the qualification requirements under rule 9.4 may be nominated for election as a Member Elected Director by not less than 15 Eligible Members.

### 9.8 Form of nomination

All nominations must:

- (a) be made in writing in a form the board prescribes from time to time (which includes a form that may be completed electronically and returned to the company by email or other electronic means); and
- (b) be lodged at the company's registered office by the date fixed by the board, being a date at least two months before the date fixed for the holding of the AGM.

### 9.9 Nominations not in excess of positions

Where the Returning Officer receives nominations for directors, which are not in excess of the vacancies available under rule 9.1, the Returning Officer must certify to the chairperson of the general meeting at which the elections would otherwise have been determined the name or names of the nominees who have been duly nominated as directors. Notification of nominees declared elected must be given by the chairperson at the next AGM. If an insufficient number of nominations for an office are received, the board must fill the vacancy as soon as practicable.

### 9.10 Nominations in excess of positions

Except as otherwise provided for in any rule and regulations, where the Returning Officer receives nominations for directors which are in excess of the

number mandated under rule 9.1, an election must be conducted in the following manner:

- (a) The candidates' names, towns of residence and occupations and whether the candidates are retiring board members and such other information as the board shall decide must be forwarded or made available to Eligible Members either with the notice of meeting convening the AGM or by separate notice in accordance with any rule or procedure determined by the board under rule 8.1(c).
- (b) Subject to rule 9.10(c) and 9.10(d), at the AGM the chairperson must declare elected those candidates who have received the highest number of votes.
- (c) If the total number of votes cast for the election of any member of the board does not amount in number to two (2) percent or more of the Eligible Members entitled to vote in that election, then no candidate is deemed to be elected to that position, and a casual vacancy is deemed to exist for the purpose of rule 9.3(c).
- (d) In the event of an equality of votes, the chairperson, at the AGM at which the results are announced, has a casting vote at that meeting or any adjourned meeting.
- (e) If any decision is necessary in connection with the election before or after the AGM it shall be given by the chairperson or their delegate. It is the duty of the chairperson (or the deputy chairperson, if required to act) to ensure that the election of a director is carried out fully in accordance with the constitution and any rule or procedures determined by the board.

#### **9.11 Persons not eligible to be directors**

- (a) No paid employee of the company nor any person who receives continuing payment from the company by way of any annual or periodical remuneration, payment or retainer from the company (other than a payment made pursuant to rule 9.15) shall be eligible to be a director.
- (b) A partner, employer or employee of an auditor of the company may not be appointed or elected as a director.
- (c) No person who:
  - (i) holds an elected state, federal or local government position or office; or
  - (ii) is a candidate for an elected state, federal or local government position or office, may be appointed or elected as a director.

#### **9.12 Vacating office**

In addition to the circumstances prescribed by the Corporations Act and this constitution, the office of a director becomes vacant if the director:

- (a) becomes an insolvent under administration, suspends payment generally to creditors or compounds with or assigns the director's estate for the benefit of creditors;
- (b) becomes a person of unsound mind or a person who is a patient under laws relating to mental health or whose estate is administered under laws about mental health;
- (c) is absent for three consecutive board meetings where the board has not, within 14 days of

having been served by the secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;

- (d) resigns office by written notice to the company;
- (e) is removed from office under the Corporations Act or by operation of this constitution;
- (f) is prohibited from being a director by reason of the operation of the Corporations Act; or
- (g) is convicted on indictment of an offence and the board does not within one month after that conviction resolve to confirm the director's appointment or election (as the case may be) to the office of director.

#### **9.13 Removal of directors**

Subject to the Corporations Act, a director may be removed from office, by an ordinary resolution passed at a general meeting of the company.

#### **9.14 Failure to re-elect a director**

Where a director retires in accordance with this rule 9 or ceases to be a director for any reason and a director is not elected to replace the retiring director, any vacancy on the board will be a casual vacancy, which may be filled in accordance with rule 9.3(c).

#### **9.15 Remuneration**

- (a) Each director is entitled to remuneration from the company for their services as a director as the board decides but the total amount given to all directors for their services as directors must not exceed in aggregate in any financial year the amount fixed by the company in general meeting.
- (b) When calculating a director's remuneration for the purposes of rule 9.15(a), any amount paid by the company or related body corporate in respect of the directorship of the company:
  - (i) is to exclude an amount to a superannuation, retirement or pension fund for a director, though such amounts shall be payable if required by law; and
  - (ii) is to exclude any insurance premium paid or agreed to be paid for a director under rule 14.4.
- (c) The board shall allocate remuneration between the Member Elected Directors as it sees fit.
- (d) Remuneration under rule 9.15(a) may be given in the manner that the board decides, including by way of non cash benefit.
- (e) The remuneration of a director must not include a commission on, or a percentage of, profits or operating revenue.
- (f) A director is entitled to be paid all reasonable travelling and other expenses they incur in attending to the company's affairs, including attending and returning from general meetings of the company or meetings of the directors or of committees of the directors and such amounts will not be included when calculating a director's remuneration for the purposes of rule 9.15(a).
- (g) Any director who devotes special attention to the business of the company, or who otherwise performs services which in the opinion of the board are outside the scope of the ordinary duties of a director of the company, or who at

the request of the board engages in any journey on the business of the company, may be paid extra remuneration as the board determines. Any amount paid does not form part of the aggregate remuneration permitted under rule 9.15(a). This includes where a director who is also a director of a subsidiary company or a joint venture entity is required to perform extra services regardless of whether the payment is made by the company, the subsidiary or the joint venture entity.

#### 9.16 Directors interests

- (a) A director is not disqualified by reason only of being a director (or the fiduciary obligations arising from that office) from:
  - (i) being a member, creditor or otherwise being interested in any body corporate (including the company), partnership or entity, except as auditor of the company;
  - (ii) entering into any agreement or arrangement with the company; or
  - (iii) acting in a professional capacity (or being a member of a firm which acts in a professional capacity) for the company, except as auditor of the company.
- (b) In addition to the requirements of the Corporations Act, the board may make regulations requiring the disclosure of interests that a director, and any person taken by the board to be related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this constitution bind all directors.
- (c) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any regulation made under rule 9.16(b).
- (d) A contract or arrangement entered into by or on behalf of the company in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.

### 10. Powers of directors

- (a) The directors are responsible for managing the business of the company and may exercise all powers and do all things that are within the company's power and are not expressly required by the Corporations Act or this constitution to be exercised by the company in a general meeting.
- (b) The board may make rules and regulations consistent with this constitution, which in their opinion are necessary or desirable for the proper control, administration and management of the company's finances, affairs and property, or are necessary for the convenience, comfort and well-being of the members and amend or rescind any rule and regulations.
- (c) Without limiting the generality of rule 10 the board shall have the power, but not the requirement, to make, alter and repeal all By-laws necessary, expedient, or convenient for the proper conduct and management of the company including such By-laws to regulate:

- (i) membership classes and the respective rights and fees related to such classes;
- (ii) disciplinary matters in relation to any member in breach of this Constitution or By-law;
- (iii) nomination and election of members to the Board; and
- (iv) board processes including director tenure, conduct, eligibility for re-election, director fee allocation and performance review.

- (d) All By-laws, so long as they shall be in force, shall be binding upon all members.
- (e) The board shall adopt such means as it deems sufficient to bring to the notice of members of all by-laws, amendments and repeals of by-laws.
- (f) No such By-law shall be inconsistent with or shall affect or repeal anything contained in this Constitution.

## 11. Proceedings of directors meetings

### 11.1 Meetings of directors

- (a) The board may meet together to attend to business and adjourn and otherwise regulate their meetings as they decide.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of directors to constitute a quorum, constitutes a meeting of the directors. All the provisions in this constitution relating to meetings of the directors apply, as far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.
- (c) A meeting by telephone or other electronic means is to be taken to be held at the company's registered office or another place the chairperson of the meeting decides on.
- (d) A director taking part in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs where one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

### 11.2 Calling meetings of directors

- (a) The chairperson may, whenever the chairperson thinks fit, call a meeting of the directors.
- (b) The secretary must, if requested by at least three directors, call a meeting of the directors.

### 11.3 Notice of meetings of directors

- (a) Notice of a board meeting must be given to each person who is a director, at the time the notice is given, except a director on leave of absence approved by the board.
- (b) A notice of a board meeting:
  - (i) must specify the time and place of the meeting;
  - (ii) must state the nature of the business to be transacted at the meeting; and



- (iii) may be given in person or by post or by telephone, fax or other electronic means.
- (c) A director may waive notice of a board meeting by giving notice to that effect in person or by post or by telephone, fax or other electronic means.
- (d) Failure to give a director notice of a board meeting does not invalidate anything done or any resolution passed at the meeting if:
  - (i) the failure occurred by accident or inadvertent error; or
  - (ii) the director attended the meeting or waived notice of the meeting (whether before or after the meeting).
- (e) A person who attends a board meeting waives any objection that person may have to a failure to give notice of the meeting.

#### 11.4 Quorum at meetings of directors

- (a) No business may be transacted at a board meeting unless a quorum of directors is present at the time the business is dealt with.
- (b) Unless the board decides otherwise, a quorum of the Board shall be half the total number of the current directors (rounded up to a whole number if necessary) plus one.
- (c) A director who is not entitled to vote or to be present during the consideration of a matter will not be counted in any quorum required for a meeting of directors while that matter is being considered.

#### 11.5 Appointment of officeholders

The Board may elect from their number all Board officeholders including a Chairperson and any other roles deemed appropriate to deputise for the Chairperson or fulfil other roles as deemed appropriate by the Board, under terms and via a process the Board deem fit, for periods of up to three years.

#### 11.6 Removal of chairperson or deputy chairperson

The board may at any time remove a director from the office of chairperson or deputy chairperson and elect another director in that person's place. Any director so elected or appointed only holds office for such period as the person in whose place the director has been appointed would have been entitled to hold office had the person not been removed from the office of chairperson or deputy chairperson.

#### 11.7 Absence of chairperson or deputy chairperson at board meeting

If at a board meeting:

- (a) there is no chairperson of the board due to retirement, the CEO or equivalent shall chair the meeting until the Board have appointed a chairperson, but otherwise where:
- (b) the chairperson of the board is not present within ten minutes after the time appointed for the holding of the board meeting; or
- (c) the chairperson of the board is present within that time but is not willing or declines to act as chair of the meeting,

the deputy chairperson of the board if any, if then present and willing to act, is entitled to be chair of the board meeting or if the deputy chairperson of the board is not present or is unwilling or declines to act as chair of the meeting, the directors present must elect one of themselves to chair the meeting.

#### 11.8 Decisions of directors

- (a) The board, at a meeting at which a quorum is present, may exercise any authorities, powers and discretions vested in or exercisable by the board under this constitution.
- (b) Unless otherwise determined by a unanimous resolution of the board, questions arising at a board meeting must be decided by a majority of votes cast by the directors present and entitled to vote on the matter.
- (c) Subject to rule 11.8(d), if the votes are equal on a proposed resolution, the chairperson of the meeting has a casting vote, in addition to his or her deliberative vote.
- (d) Where only two directors are present or entitled to vote at a board meeting and the votes are equal on a proposed resolution:
  - (i) the chairperson of the meeting does not have a second or casting vote; and
  - (ii) the proposed resolution is taken as lost.

#### 11.9 Resolutions

- (a) A resolution in writing of which notice has been given to all directors entitled to vote and which is signed or approved by all of the directors entitled to vote on the resolution is as valid and effectual as if it had been passed at a board meeting duly called and constituted and may consist of several documents in the same form, each signed or approved by one or more of the directors.
- (b) A director may approve a resolution by:
  - (i) signing the document containing the resolution (or a copy of that document);
  - (ii) giving to the secretary or chairperson of the board a written notice (including by fax or other electronic means) signifying their approval of the resolution;
  - (iii) stating their approval of the resolution in a meeting held by teleconference or other electronic means;
  - (iv) telephoning the secretary or the chairperson of the board and signifying their approval of the resolution;
  - (v) applying mechanical or electronic means in a manner approved for use by the board or chairperson (including electronic voting facilities or a board portal); or
  - (vi) any other means allowed under the Corporations Act.

## 12. Committees and delegation

#### 12.1 Board delegation

The board may delegate any of its powers to:

- (a) a committee which may include one or more directors; or

- (b) one director who must exercise the powers delegated in accordance with any directions of the board,

on terms it considers appropriate.

### 12.2 Appointment of advisory committee

- (a) The board or a committee of the board may establish an advisory committee and may appoint and remove members of the advisory committee and terminate an advisory committee at any time.
- (b) The functions of the advisory committee will be decided by the board or relevant board committee.

### 12.3 Validity of acts

All acts done at any meeting of the directors or by a board committee or by any person acting as a director are, notwithstanding that it is afterwards discovered:

- (a) that there was some defect in the appointment of any of the directors; or
- (b) the committee or the person acting as a director or that any of them were disqualified,

valid as if every person had been duly appointed and was qualified and continued to be a director or a member of the committee (as the case may be).

## 13. Executive officers

### 13.1 Chief executive officer or deputy chief executive officer

- (a) The board may appoint an employee to the office of chief executive officer or deputy chief executive officer, to hold office for the period determined at the time of the appointment but not to exceed the term of employment of the officer.
- (b) The board may, subject to the terms of any employment contract between the relevant officer and the company or a subsidiary, at any time remove or dismiss the chief executive officer or deputy chief executive officer from employment with the company.

### 13.2 Secretary

- (a) The company must have at least one secretary appointed by the board.
- (b) The board may suspend or remove a secretary from that office.

### 13.3 Provisions applicable to all executive officers

- (a) A reference in rule 13.3 to an executive officer is a reference to a chief executive officer or deputy chief executive officer, secretary or assistant secretary appointed under this rule.
- (b) The appointment of an executive officer may be for a period, at the remuneration and on the conditions the board decides.
- (c) The board may:
  - (i) delegate to an executive officer any powers, discretions and duties they decide;
  - (ii) withdraw, suspend or vary any of the powers, discretions and duties given to an executive officer; and

- (iii) authorise the executive officer to delegate any of the powers, discretions and duties given to the executive officer.

- (d) An act done by a person acting as an executive officer is not invalidated by:

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

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

## 14. Indemnity and insurance

### 14.1 Director's and officer's right of indemnity

Rule 14.2 and 14.4 apply:

- (a) to each person who is or has been a director or executive officer (within the meaning of rule 13.3(a)) of the company; and
- (b) to any other officers or former officers of the company or of its related bodies corporate as the board or its delegate in each case determines.

(each an **Indemnified Person** for the purposes of this rule).

### 14.2 Indemnity

The company must indemnify each Indemnified Person on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses (**Liabilities**) incurred by the Indemnified Person as an officer of the company or of a related body corporate.

### 14.3 Scope of indemnity

The indemnity in rule 14.2:

- (a) does not operate in respect of any Liability of the Indemnified Person to the extent that Liability is covered by insurance;
- (b) is enforceable without the Indemnified Person having to first incur any expense or make any payment; and
- (c) is a continuing obligation and is enforceable by the Indemnified Person even though the Indemnified Person may have ceased to be an officer or auditor of the company or its related bodies corporate.

### 14.4 Insurance

The company may, to the extent the law permits:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Indemnified Person against any Liability incurred by the Indemnified Person as an officer or auditor of the company or of a related body corporate including, but not limited to:

- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or

- (b) a Liability arising from negligence or other conduct.

last renewal of rule 16 by way of a special resolution of Eligible Members under the Corporations Act.

#### 14.5 Exceptions

Nothing in rule 14.2 or 14.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules;
- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom those rules do not apply; or
- (c) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into before the adoption of this constitution.

#### 14.6 Contract

The company may enter into an agreement with any Indemnified Person to give effect to the rights conferred by this rule or the exercise of a discretion under this rule on any terms as the board thinks fit which are not inconsistent with this rule.

### 15. Inspection of records

#### 15.1 Inspection by member

Except as provided by law, this constitution or as authorised by a directors' resolution, a person who is not a director does not have the right to inspect any of the company's board papers, books, records or documents.

#### 15.2 Access by director

The company may enter into contracts, and procure that its subsidiaries enter into contracts, on any terms the board thinks fit, to grant a director or former director continuing access for a specified period after the director ceases to be a director to board papers, books, records and documents of the company which relate to the period during which the director or former director was a director of the company.

### 16. Change of ownership approval procedure

#### 16.1 Approval procedure

- (a) No Demutualisation may be entered into, implemented or carried out except with the prior authority of a special resolution of Eligible Members that complies with the terms of this rule 16.
- (b) Entering into, implementing or carrying out of a Demutualisation is only authorised under this rule 16 if it is first approved by at least 15% of Eligible Members entitled to vote on the resolution passed at a general meeting.

#### 16.2 Additional procedure

To the extent that a Demutualisation involves or requires a modification or repeal of this constitution or a provision of this constitution, or the doing of any other acts under this constitution, the requirements of this rule 16 are in addition to any further requirements under the Corporations Act.

#### 16.3 Sunset

Rules 16.1 and 16.2 shall cease to have effect on the fifth anniversary of the later of the date of adoption or

### 17. Notices

#### 17.1 Method of service

- (a) The company may give a notice to a member by:
  - (i) delivering it personally;
  - (ii) by leaving it at the member's address in the register of members or any other address the member gives the company;
  - (iii) sending it by prepaid post to the member's address in the register of members or any other address the member gives the company;
  - (iv) sending it by fax or other electronic means to the fax number or electronic address the member gives the company.
  - (v) by insertion in or supplement to any newspaper periodical or other publication posted or delivered to the member;
  - (vi) by advertisement in a newspaper or newspapers circulating in the districts of the member's registered addresses; or
  - (vii) by any other legally permissible means.
- (b) A member may provide the company with an address other than that of the member's registered address for the purpose of serving notice on that member.
- (c) Unless otherwise determined by the board, where two or more persons are joint members, notice validly served upon one of them will be deemed to constitute valid service upon all of them.
- (d) Where a member does not have a registered address or where the company believes that member is not known at the member's registered address, all notices are taken to be:
  - (i) given to the member if the notice is exhibited in the company's registered office for a period of 48 hours; and
  - (ii) served at the commencement of that period,

unless and until the member informs the company of the member's address.

#### 17.2 Time of service

- (a) A notice personally delivered or left at the member's address is taken to be given on the day it is delivered or left at that address.
- (b) A notice from the company properly addressed and posted is taken to be given and received on the day after the day of its posting.
- (c) A notice by advertisement in a newspaper is taken to be given on the day the advertisement is first published.
- (d) A notice sent or given by fax or other electronic transmission:
  - (i) is taken to be effected by properly addressing and transmitting the fax or other electronic transmission; and
  - (ii) is taken to have been given and received on the day of its transmission.

- (e) Where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

### **17.3 Evidence of service**

A certificate signed by a director or secretary stating that a notice has been given under this constitution is conclusive evidence of that fact.

## **18. General**

### **18.1 Submission to jurisdiction**

Each member and each MCI Holder submits to the non-exclusive jurisdiction of the Supreme Court of Tasmania, the Federal Court of Australia and the courts which may hear appeals from those courts.

### **18.2 Prohibition and enforceability**

Any part of this constitution which is prohibited or unenforceable in any place is, in that place, ineffective only to the extent of that prohibition or unenforceability.

# Schedule

## MCIIs (rule 1.5)

### 1. Preliminary

#### 1.1 Definitions

In this Schedule:

Term	Definition
CS Facility	has the same meaning as a prescribed clearing and settlement facility under the Corporations Act.
Listing Rules	means the listing rule (and any other rules) of any Securities Exchange as they apply to the company from time to time.
Operating Rules	means the operating rule of ASX Settlement Pty Ltd or such other applicable CS Facility as they apply from time to time.
Securities Exchange	means the Australian Securities Exchange or other securities exchange on which MCIIs are listed or quoted.

#### 1.2 Application of Listing Rule and Operating Rules

- (a) A reference to the Listing Rule and the Operating Rule only applies while the company is included in the official list of a Securities Exchange.
- (b) While the company is included in the official list of a Securities Exchange:
  - (i) despite anything contained in this constitution, if the Listing Rule prohibit an act being done, the act must not be done;
  - (ii) nothing contained in this constitution prevents an act being done that the Listing Rule require to be done;
  - (iii) if the Listing Rule require an act to be done or not to be done, authority is given for that act to be done or not to be done as the case may be;
  - (iv) if the Listing Rule require this constitution to contain a provision and it does not contain such a provision, this constitution is taken to contain that provision;
  - (v) if the Listing Rule require this constitution not to contain a provision and it contains such a provision, this constitution is taken not to contain the provision; and
  - (vi) if any provision of this constitution is or becomes inconsistent with the Listing Rules, this constitution is taken not to contain that provision to the extent of the inconsistency.

- (ii) the company may participate in any computerised or electronic system established or recognised by Corporations Act, the Listing Rule or the Operating Rule for the purpose of facilitating dealings in MCIIs (or the relevant class of MCIIs);
  - (iii) except as provided by any applicable Operating Rules, a transferor of an MCI remains the holder until the transfer is registered and the name of the transferee is registered in the register of MCI Holders in respect of the MCI;
  - (iv) if permitted by the Listing Rules, the board may:
    - (A) request the operator of any applicable CS Facility to apply a holding lock to prevent a transfer of MCIIs from being registered on the CS Facility's subregister; or
    - (B) refuse to register a transfer of MCIIs to which paragraph (i) does not apply; and
  - (v) the board must:
    - (A) request the operator of any applicable CS Facility to apply a holding lock to prevent a transfer of MCIIs from being registered on the CS Facility's subregister; or
    - (B) refuse to register a transfer of MCIIs to which paragraph (i) does not apply,
- if:
- (C) the Listing Rule require the company to do so; or
  - (D) the transfer is in breach of the Listing Rule or the Corporations Act.

#### 1.3 Quotation of MCIIs

- (a) Subject to this constitution and the terms of issue, the company may seek quotation of MCIIs (or any class of MCIIs) on a Securities Exchange.
- (b) Where any MCIIs (or class of MCIIs) are quoted on a Securities Exchange:
  - (i) notwithstanding any other provision of this Schedule, the relevant MCIIs may be transferred in accordance with the Operating Rule or by any other method of transfer which is required or permitted by the Listing Rules;

- (c) If in the exercise of their rights under rule 1.3(b)(iii) and 1.3(b)(iv)(B) of this Schedule, the board request application of a holding lock to prevent a transfer of MCIIs or refuse to register a transfer of MCIIs, they must give written notice of the request or refusal to the relevant MCI Holder, the

transferee and any broker lodging the transfer. Failure to give notice does not invalidate the decision of the board.

## 2. Issuance of MCIs

### 2.1 Issue of MCIs

The company may issue MCIs, including MCIs which are, or at the option of the company are, liable to be redeemed.

### 2.2 Terms of issue of MCIs

Each MCI issued by the company must be issued as a fully paid share and:

- (a) may confer a right to receive dividends as specified in the terms of issue (provided that an MCI must not confer on the holder a right to receive dividends that are cumulative);
- (b) may confer a right on its holder to receive dividends in priority to, equally with, or subordinated to, the payment of any dividend on any other class of MCIs;
- (c) may confer a right on its holder in a winding up and on redemption (if redeemable) to payment in priority to, equally with, or subordinated to, any other class of MCIs as specified in the terms of issue, of:
  - (i) the amount of any dividend accrued but unpaid on the MCI at the date of winding up or the date of redemption (if redeemable); and
  - (ii) any amount paid up on the MCI or any other amount stated in, or calculated under, the terms of issue;
- (d) does not confer on its holder any right to participate in the surplus assets or property of the company except as set out in this Schedule;
- (e) may confer a right to a bonus issue or capitalisation of profits in favour of holders of those MCIs only, as specified in the terms of issue;
- (f) may be redeemed on such conditions as specified in the terms of issue (if any); and
- (g) may entitle its holder to vote to a maximum of one vote per MCI holder at, or may prohibit its holder from voting at, any general meeting of the company, as specified in the terms of issue,

in each case, as determined by the board under the terms of issue, provided that the rights attaching to MCIs must comply with this constitution and the Corporations Act.

### 2.3 Dividends

- (a) Subject to the Corporations Act, this constitution and the terms of issue of any MCIs, the board may determine that a dividend is payable, fix the record date, amount and time for payment and authorise the payment to (or at the direction of) an MCI Holder entitled to that dividend. The board may rescind or alter any such determination before payment is made.
- (b) Interest is not payable by the company on a dividend.

- (c) Dividends on MCIs must not be paid other than in the form of cash, but may be reinvested in accordance with a dividend reinvestment plan (if any such plan has been approved by the board).
- (d) A dividend may be paid using any payment method determined by the board, including by means of direct credit or cheque. Payment of money is at the risk of the holder or holders to whom it is sent.

### 2.4 Additional MCIs

Subject always to these terms of the constitution and this Schedule, the company may at any time create and issue MCIs ranking equally with, or in priority to, MCIs already on issue or with different rights to MCIs already on issue.

### 2.5 Variation of rights attached to MCIs

The rights attached to MCIs (or a class of MCIs) may only be varied or cancelled by special resolution of the company and either:

- (a) by a special resolution passed at a meeting of MCI Holders holding MCIs (or that class of MCIs in the event of a variation of rights attaching only to a class of MCIs); or
- (b) with the written consent of MCI Holders holding at least 75% of the issued MCIs (or that class of MCIs in the event of a variation of rights attaching only to a class of MCIs).

### 2.6 Meetings of MCI Holders

Subject to the Corporations Act, the terms of issue of any MCIs and this Schedule, the provisions of this constitution which deal with general meetings of members of the company (including relating to the appointment of proxies, attorneys and representatives, and direct voting) shall apply, so far as they are capable of application and with any necessary changes, to meetings of MCI Holders.

### 2.7 Joint MCI Holders

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

- (a) the company is not bound to register more than three persons as the holders of an MCI (except in the case of trustees, executors or administrators of a deceased MCI Holder);
- (b) the joint holders are jointly and severally liable for all payments required to be made in respect of the MCIs;
- (c) only the person whose name appears first in the register is entitled to receive notices in respect of the MCIs; and
- (d) any one of the joint holders may vote at a meeting of MCI Holders (either personally or by proxy, attorney or representative) in respect of the MCIs and, if more than one joint holder is present at any meeting (either personally or by proxy, attorney or representative), the joint holder who is present and whose name appears first in the register is entitled alone to vote in respect of the MCIs.

## 2.8 Register

The company must maintain a register of MCI Holders.

## 2.9 Notices

A notice may be given to an MCI Holder in any manner permitted by the relevant terms of issue.

(B) by giving a completed transfer to the company, transfer the MCIs to another person; and

(ii) the personal representative is entitled, whether or not registered as the holder of the MCIs, to the same rights as the MCI Holder.

(b) On receiving an election under rule 4.2(a)(i) of this Schedule, the company must register the personal representative as the holder of the MCIs.

(c) A transfer under rule 4.2(a)(i)(A) of this Schedule is subject to the rule that apply to transfers generally.

# 3. Transfer of MCIs

## 3.1 Forms of instrument of transfer

Subject to this constitution, and the terms of issue of any MCIs, an MCI Holder may transfer all or any of their MCIs by any method of transfer required or permitted by the Corporations Act.

## 3.2 Execution and delivery of transfer

If a duly completed instrument of transfer:

- (a) is used to transfer an MCI in accordance with rule 3.1 of this Schedule; and
- (b) is left for registration at the share registry of the company, accompanied by any information that the board properly requires to show the right of the transferor to make the transfer,

the company must, subject to this constitution and the terms of issue of any MCIs, register the transferee as the holder of the MCI.

## 3.3 Effect of registration

A transferor of an MCI remains the holder of the MCI transferred until the transfer is registered and the name of the transferee is entered in the register of MCI Holders.

## 3.4 Company to retain instrument of transfer

The company must retain every instrument of transfer which is registered for the period required by any applicable law.

## 3.5 Power to suspend registration of transfers

The registration of transfers may be suspended at such time and for such period as the board may determine from time to time, not exceeding 30 days in any calendar year (or otherwise as permitted or required by any applicable Operating Rules).

## 4.3 Death of joint MCI Holder

If an MCI Holder who holds MCIs jointly dies, the company will recognise only the survivor as being entitled to the MCI Holder's interest in the MCIs. The estate of the MCI Holder is not released from any liability in respect of the MCIs.

## 4.4 Transmission of MCIs on bankruptcy

(a) If a person entitled to MCIs because of the bankruptcy of an MCI Holder gives the board the information it reasonably requires to establish the person's entitlement to be registered as the holder of the MCIs, the person may:

- (i) by giving a signed notice to the company, elect to be registered as the holder of the MCIs; or
- (ii) by giving a completed transfer form to the company, transfer the MCIs to another person.

(b) On receiving an election under rule 4.4(a) of this Schedule, the company must register the person as the holder of the MCIs.

(c) A transfer under rule 4.4(a)(i) of this Schedule is subject to the rules that apply to transfers generally.

(d) This rule has effect subject to the *Bankruptcy Act 1966* (Cth).

## 4.5 Transmission of MCIs on mental incapacity

(a) If a person entitled to MCIs because of the mental incapacity of an MCI Holder gives the board the information it reasonably requires to establish the person's entitlement to be registered as the holder of the MCIs:

- (i) the person may:
  - (A) by giving a signed notice to the company, elect to be registered as the holder of the MCIs; or
  - (B) by giving a completed transfer to the company, transfer the MCIs to another person; and
- (ii) the person is entitled, whether or not registered as the holder of the MCIs, to the same rights as the MCI Holder.

(b) On receiving an election under rule 4.5(a)(i) of this Schedule, the company must register the person as the holder of the MCIs.

(c) A transfer under rule 4.5(a)(i)(A) of this Schedule is subject to the rules that apply to transfers generally.

# 4. Transmission of MCIs

## 4.1 Transmission of MCIs on death

If an MCI Holder who does not hold MCIs jointly dies, the company will recognise only the personal representative of the MCI Holder as being entitled to the MCI Holder's interest in the MCI.

## 4.2 Information given by personal representative

(a) If the personal representative of an MCI Holder who has died gives the board the information it reasonably requires to establish the representative's entitlement to be registered as a holder of the MCIs:

- (i) the personal representative may:
  - (A) by giving a signed notice to the company, elect to be registered as the holder of the MCIs; or

