

EMPEROR ENERGY LIMITED

ACN 006 024 764

A company limited by shares

CONSTITUTION

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EMPEROR ENERGY LIMITED

ACN 006 024 764

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CONSTITUTION

1 Preliminary

1.1 Definitions

In this Constitution:

AGM means an annual general meeting of the Company;

ASX means ASX Limited ACN 008 624 691;

Board means the board of directors of the Company from time to time;

Business Day has the meaning given to that term in the Listing Rules;

CHESS Approved Securities means Securities which are approved in accordance with the Operating Rules;

Commonwealth means the Commonwealth of Australia and its external territories;

Company means Emperor Energy Limited ACN 006 024 764;

Constitution means the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying this document, and a reference to a rule is a reference to a rule of this Constitution;

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

CS Facility means a clearing and settlement facility as defined in the Corporations Act;

CS Facility Operator means the operator of a CS Facility;

Holding Lock has the meaning given to that term in the Listing Rules;

Listed Company means a company which is admitted to the official list of a Stock Exchange;

Listing Rules means, in relation to a Stock Exchange, the rules of that Stock Exchange governing trading in Securities quoted on that Stock Exchange in force from time to time which apply while the Company is a Listed Company, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX or, in the case of any other Stock Exchange, by that Stock Exchange;

Market Transfer means:

- (a) a transfer of Securities pursuant to or connected with a transaction entered into on a Stock Exchange and includes a Proper ASTC Transfer; or
- (b) an issue of Securities as a result of the exercise of any rights, options or convertible notes where such rights, options or notes are traded on a Stock Exchange;

Marketable Parcel means the number of Securities which in aggregate constitutes a marketable parcel of Securities within the meaning of the Listing Rules;

Non-Marketable Parcel means a parcel of Securities that is less than a Marketable Parcel;

Operating Rules means the operating rules for the time being of a CS Facility regulating the settlement, clearing and registration of uncertified securities, except to the extent of any express written waiver by the CS Facility Operator;

Proper ASTC Transfer has the meaning of that term in the *Corporations Regulations 2001* (Cth);

Representative, in relation to a body corporate, means a representative of the body corporate appointed under the Corporations Act or a corresponding previous law;

Restricted Securities has the meaning given to that term in the Listing Rules;

Seal means the common seal of the Company for the time being;

Security includes any Share, any unit of a Share, any rights to Shares, any option to subscribe for any Share, any instalment receipt and other security with rights of conversion to equity in the share capital of the Company and any debenture issued by the Company;

Share means any share in the share capital of the Company, and **Shares** means more than one (1) share;

Stock Exchange means any stock exchange on which Securities of the Company are quoted from time to time;

Stock Market means a stock market conducted by any Stock Exchange; and

Transmission Event means:

- (c) in respect of a member who is an individual:
 - (1) the death of the member;
 - (2) the bankruptcy of the member; or
 - (3) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (d) in respect of a member who is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.

1.2 Interpretation

In this Constitution:

- (a) a reference in a rule to a partly paid Security is a reference to a Security on which there is an amount unpaid;
- (b) a reference to a call or an amount called on a Security includes a reference to a sum that, by the terms of issue of a Security, becomes payable on issue or at a fixed date;
- (c) a member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or Representative;
- (d) a director is to be taken to be present at a meeting of directors if the director is present in person or by alternate director;
- (e) a reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being;
- (f) a reference to a resolution is a reference to an ordinary resolution unless this Constitution expressly provides otherwise;

- (g) unless the contrary intention appears:
 - (1) a singular word includes the plural and vice versa;
 - (2) words importing a gender include every other gender;
 - (3) words used to denote persons generally or referring to a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (4) a reference to a person includes that person's successors and legal personal representatives;
 - (5) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
 - (6) a reference to the Listing Rules or the Operating Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any waiver or exemption granted to the Company from compliance with those rules; and
 - (7) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (h) headings and boldings are for convenience only and do not affect its interpretation; and
- (i) the words 'including', 'include' and 'includes' are to be construed without limitation.

1.3 Application of Corporations Act, Listing Rules and Operating Rules

- (a) This Constitution is to be interpreted subject to:
 - (1) the Corporations Act;
 - (2) the Listing Rules, while the Company is a Listed Company; and
 - (3) the Operating Rules, while the Company is an issuer of CHESSE Approved Securities.
- (b) The rules that apply as replaceable rules to companies under the Corporations Act do not apply to the Company.
- (c) While the Company is a Listed Company, the following provisions apply:
 - (1) notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
 - (2) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
 - (3) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
 - (4) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;

- (5) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is taken not to contain that provision; and
 - (6) 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.
- (d) While the Company is a Listed Company, the Company and the directors must comply with the obligations respectively imposed on them under the Listing Rules and the Operating Rules unless to do so would be unlawful or a breach of duty. This obligation does not detract from or alter the power of the Company and the directors to cause the Company to cease to be a Listed Company.
 - (e) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act, the Listing Rules or the Operating Rules has the same meaning as in that provision. Where any such expression appears in more than one of the Corporations Act, the Listing Rules or the Operating Rules and has different interpretations therein then the relevant interpretation of such expression shall be applied for the purpose of the relevant act or rules in which such expression appears.
 - (f) Subject to rule 1.3(e), unless the contrary intention appears, an expression in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section.

1.4 Exercise of powers

- (a) Subject hereto the Company may, in any manner permitted by the Corporations Act:
 - (1) exercise any power;
 - (2) take any action; or
 - (3) engage in any conduct or procedure;
 which under the Corporations Act a company limited by shares may exercise, take or engage in if authorised by its Constitution.
- (b) Where this Constitution provides that a person or body may do a particular act or thing and the word 'may' is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this Constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this Constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this Constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:

- (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between the Company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this Constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this Constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this Constitution confers a power on a person or body to delegate a function or power:
- (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (4) the delegation may include the power to delegate;
 - (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
 - (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

1.5 Currency

An amount payable to the holder of a Security, whether by way of or on account of dividend, return of capital, participation in the property of the Company on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the Security, in the currency of a country other than Australia. The directors may fix a date up to thirty (30) days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

2 Securities

2.1 Allotment and issue of Securities

Subject to this Constitution, the Corporations Act and the Listing Rules, while the Company is a Listed Company, the directors may issue Securities to such persons, for such price, on such conditions and at such times as the directors think fit including, without limitation, preference shares as specified in rule 2.8.

2.2 Power to pay brokerage, commission and interest

- (a) The Company may make payments by way of brokerage or commission to a person in consideration for the person subscribing or agreeing to subscribe, whether absolutely or conditionally, for Securities or procuring or agreeing to procure subscriptions, whether absolute or conditional, for Securities.
- (b) Payments by way of brokerage or commission may be satisfied by the payment of cash or the issue of Securities or a combination of both.
- (c) The Company may pay interest on its share capital in the manner provided by the Corporations Act.

2.3 Certificates

- (a) If the Company participates in a computerised or electronic share transfer system conducted in accordance with the Listing Rules, the Company is not required to issue a certificate for the Securities held by a holder and may cancel the certificate without issuing another certificate where permitted to do so by the Listing Rules or Operating Rules.
- (b) If Securities are not subject to a computerised or electronic share transfer system, a certificate for the Securities must be issued in accordance with the provisions of the Corporations Act, this Constitution and the Listing Rules.

2.4 Joint holders of Securities

Where two or more persons are registered as the holders of a Security they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) they and their respective legal personal Representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the Security;
- (b) subject to rule 2.4(a), on the death of any one of them, the survivor or survivors are the only person or persons the Company will recognise as having any title to the Security;
- (c) any one of them may give effectual receipts for any dividend, interest or other distribution or payment in respect of the Security;
- (d) except as required under the Listing Rules, Operating Rules and the Corporations Act, the Company is not bound to register more than three persons as joint holders of the Security;
- (e) the Company is not bound to issue more than one holding statement in respect of the Security;
- (f) delivery of a holding statement for the Security to any one of them is sufficient delivery to all of them; and

- (g) any one of them or their legal personal Representatives may vote at any meeting of the Company as if they or their legal personal Representatives was solely entitled to the Security. However, if more than one of them or their legal personal Representatives is present at a meeting of the Company, the joint holder whose name appears first in the share register shall be entitled to vote in respect of the Security.

2.5 Equitable and other claims

- (a) Except as otherwise required by law or provided by this Constitution and subject to the rights of joint holders, the Company is entitled to treat the registered holder of a Security as the absolute owner of that Security and is not:
 - (1) compelled in any way to recognise a person as holding a Security upon any trust, even if the Company has notice of that trust; or
 - (2) compelled in any way to recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a Security on the part of any other person except an absolute right of ownership in the registered holder, even if the Company has notice of that claim or interest.
- (b) With the consent of the directors, Securities held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in rule 2.5(b) limits the operation of rule 2.5(a).

2.6 Restricted Securities

If at any time any of the share capital of the Company is classified by the ASX as Restricted Securities, then despite any other provision of this Constitution:

- (a) Restricted Securities cannot be disposed of during the escrow period except as permitted by the Listing Rules;
- (b) the Company will refuse to acknowledge a disposal (including registering a transfer) of Restricted Securities during the escrow period except as permitted by the Listing Rules; and
- (c) during a breach of the Listing Rules relating to Restricted Securities, or a breach of a restriction agreement, the holder of Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.

2.7 Compliance with Operating Rules

Notwithstanding anything to the contrary in this Constitution, the Company must comply with the Operating Rules in relation to any of its Securities that are CHES Approved Securities.

2.8 Preference shares

- (a) The Company may issue preference shares, including preference shares issued:
 - (1) on terms determined by the Company which are, or a the option of the Company or the holder, liable to be redeemed or converted into ordinary shares; and

- (2) in accordance with 2.8(b) to 2.8(h).
- (b) The holders of a preference share shall have the right to receive a cumulative fixed preferential dividend which shall be a rate of not less than 1% above the cash rate determined by the Reserve Bank of Australia as in force at the time of allotment of the preference share (or such higher rate as may be determined by the Board at the time of allotment) on the issue price of the preference share and which may by the terms of allotment as shall be determined by the directors as set out in 2.8(c) below but such preference share shall have no further right to participate in the profits or assets of the Company whether surplus or otherwise.
- (c) The directors may determine:
- (1) at the directors' discretion, a specific date on which any preference share may become redeemable;
 - (2) the issue price of the preference share or, in the case where the preference share is issued to the trustee as trustee under a scheme of arrangement as referred to below, price below which the preference share is not to be sold by the trustee subject always to the specific provisions of the scheme and the trustee's powers of sale thereunder;
 - (3) the rate of dividend which shall be payable on the issue price of the preference share;

either at the time of issue and allotment of the preference share or, if the preference share shall be issued and allotted to a trustee on trust for sale pursuant to the terms of a deed of covenant to be entered into by the Company and the trustee holding or to hold the preference share on trust for sale in accordance with the terms of a scheme of arrangement to be implemented pursuant to the provisions of the Corporations Act then at the time at which the directors of the Company resolve to request such trustee to exercise its power of sale pursuant to any such deed of covenant and scheme of arrangement. It is a term of the issue of the preference share that the Company may by resolution of its Board as aforesaid fix the rate of dividend and the terms of payment of any such dividend in relation to any preference share issued pursuant to these terms in a manner which differs from those applicable to any other preference share issued pursuant to these terms.

- (d) The dividend entitlement with respect to a preference share shall be computed from the date of receipt of the application moneys with respect to the preference share to the date of its redemption or conversion (whichever is applicable) and, where a dividend has been declared, shall be paid annually on 30 November of each year.
- (e) The dividend payable on a preference share shall rank for payment as follows:
- (1) all dividends payable on any preference share issued pursuant to these terms shall rank in priority to all dividends on ordinary Shares for the time being issued in the capital of the Company; and
 - (2) the holder of a preference share shall, in a winding up, be entitled to rank in priority to all other Shares for the time being issued in the capital of the Company for repayment of the capital paid up or credited as paid up on the preference share but shall have no further right to participate in the profits or assets of the Company, whether surplus or otherwise.

- (f) The holder of a preference share shall have the same rights as the holder of an ordinary Share to receive notices of general meetings, reports, balance sheets and profit and loss statements and to attend at any general meeting of the Company, but the holder of a preference share shall be entitled to vote only at a meeting convened for the purposes of reducing the capital, or winding up, or sanctioning a sale of the undertaking, or where the proposition to be submitted to the meeting directly affects his or her rights and privileges, or when the dividend on such preference shares is in arrears more than six (6) months.
- (g) Subject to the provisions of the Corporations Act and to the provisions of these terms of issue, the following provisions shall apply to the redemption of the preference shares:
- (1) the Company may redeem any preference shares from profits that would otherwise be available for dividends or out of the proceeds of a fresh issue of Shares made for the purposes of the redemption;
 - (2) the Company shall give written notice (**Notice of Redemption**) to the holder of a preference share that the Company will redeem the preference share on the date (**Redemption Date**) specified in the Notice of Redemption (which date shall not be later than ninety (90) days after the date the Notice of Redemption is given);
 - (3) redemption shall be effected on the Redemption Date by the Company paying to the holder of the preference share the amount paid up on the preference share together with any dividend entitlement accrued but unpaid as at the date of such redemption;
 - (4) the Company may in the Notice of Redemption as a condition of paying the money payable on redemption require delivery to it on or before the Redemption Date of the certificate with respect to the preference share;
 - (5) should any holder of a preference share fail to deliver the certificate with respect to the preference share on or before the Redemption Date the dividend entitlement in respect of the preference share shall immediately cease to accrue and the Company may pay the amount payable on the redemption of the preference share to a separate account entitled 'Preference Share Redemption Account', whereupon the preference share shall be redeemed; and
 - (6) the Notice of Redemption shall be in the form or to the effect provided for in Appendix A.
- (h) Subject to the provisions of the Corporations Act, the following provisions shall apply to the conversion of the preference shares:
- (1) the holder of a preference share may convert the preference share into an ordinary share:
 - (A) at any time after Notice of Redemption is given to the preference shareholder;
 - (B) at the expiration of three (3) years from the date of allotment or at such other date or time (if any) as is fixed by the Directors by resolution at the time of allotment, or in the case of sale by the trustee as referred to in 2.8(c) above, as fixed by the directors by resolution as specified in 2.8(c) above by giving written notice of conversion to the Company (**Notice of Conversion**);

- (2) the Company may at any time give Notice of Conversion to the preference shareholder and, if the preference shareholder does not, within sixty (60) days of the receipt of that Notice of Conversion give the Company a Notice of Redemption the preference share shall, on the expiry of that period of 60 days become converted into an ordinary share in like manner as if the preference shareholder had given valid Notice of Conversion;
- (3) where at the time of the giving of any Notice of Conversion, and whether such Notice of Conversion is given by a preference shareholder or by the Company, payment of all accrued but unpaid dividends which exist in relation to the preference share to be converted pursuant to such Notice of Conversion shall be deemed to be waived by the preference shareholder and the Company shall be released from and against any liability in respect thereof;
- (4) upon receipt by the Company of a valid Notice of Conversion with respect to a preference share, the preferential rights set out herein shall forthwith cease to exist in respect of that preference share and there shall become attached to such preference share all of the rights attaching to an ordinary Share in the capital of the Company, and such preference share shall thereafter rank pari passu with all of the other ordinary Shares in the capital of the Company including in respect of any right to receive dividends declared before conversion but remaining unpaid or declared after any such conversion;
- (5) in the event of any reconstruction of the issued ordinary capital of the Company the preference shares shall be reconstructed in the same proportion as the issued ordinary capital of the Company is reconstructed and, in any event, in a manner which will not result in any additional benefits being conferred on the holders of the preference shares which are not conferred on ordinary shareholders;
- (6) the form of Notice of Conversion shall be in the form or to the effect provided for in Appendix B for completion by any preference shareholder as requisite. The form of Notice of Conversion shall form part of the terms of issue of the preference shares and shall be printed on the reverse of the certificate in the body of the terms and conditions of issue.

3 Calls, forfeiture, indemnities, lien and surrender

3.1 Calls

- (a) Subject to this Constitution, the Listing Rules, the Corporations Act, and the terms upon which any Securities may be issued, the directors may make calls upon the members in respect of any money unpaid on their Securities which is not, by the terms of issue of those Securities, made payable at fixed times.
- (b) The Board may, to the extent permitted by the Corporations Act and the Listing Rules, waive or compromise all or any part of any payment due to the Company under the terms of issue of a Security or under this rule 3.1.
- (c) The terms on which Securities are on issue may differ between holders as to:
 - (1) the amount to be paid on any call or instalment; and
 - (2) the date (or dates) on which payment is to be made.

- (d) Subject to the terms on which the Securities are on issue, a call is made when the resolution of the directors authorising the call is passed.
- (e) Subject to the terms on which the Securities are on issue, the directors may require a call to be paid by instalments.

3.2 Notice of call

- (a) Subject to the terms on which the Securities are on issue and the Listing Rules, at least twenty-one (21) days' notice (or such longer period required by the Listing Rules) must be given to the Securities holder of the date on which the amount of the call or instalment of the call must be paid.
- (b) Subject to the terms on which the Securities are on issue and the Listing Rules, the notice must state:
 - (1) the amount of the call or the amount of each instalment;
 - (2) the date (or dates) for payment;
 - (3) the time (or times) for payment;
 - (4) the place (or places) for payment;
 - (5) that interest may be payable if payment is not made on or before the date (or dates) for payment; and
 - (6) that a lien will arise if the amount of the call or instalment is not paid in accordance with the notice.
- (c) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any member does not invalidate the call.

3.3 Deemed call

Any sum unpaid on a Security that, by the terms of issue of the Security, becomes payable on issue or at a fixed date:

- (a) is to be treated for the purposes of this Constitution as if that sum was payable pursuant to a call duly made and notified; and
- (b) must be paid on the date on which it is payable under the terms of issue of the Security.

3.4 Interest on unpaid calls

If a sum called in respect of a Security is not paid in full by the date and time appointed for payment of the sum, the person from whom the sum is due must pay:

- (a) interest on so much of the sum as is unpaid from time to time, from the date appointed for payment of the sum to the date of actual payment, at a rate determined under rule 3.15; and
- (b) any costs, expenses or damages incurred by the Company in relation to the non-payment or late payment of the sum.

3.5 Revocation, postponement or extension of calls

Subject to the terms on which the Securities are issued, the directors may revoke or postpone a call or extend the time for payment of a call.

3.6 Proceedings for recovery of calls

- (a) In any action or other proceeding to recover a call or interest, costs or expenses incurred in relation to the non-payment or late payment of a call, proof that:
- (1) the name of the defendant is entered in the register as the holder or one (1) of the holders of the Security in respect of which the call is claimed;
 - (2) the resolution making the call is recorded in the minute book; and
 - (3) notice of the call was given to the defendant in accordance with this Constitution;
- is conclusive evidence of the debt and it is not necessary to prove the appointment of the directors who made the call or any other matter.
- (b) Any proceeding brought by the Company in accordance with this rule 3.6(a) is without prejudice to the Company's right to forfeit the Security the subject of the unpaid call.
- (c) In rule 3.6(a), 'defendant' includes a person against whom a set-off or counter-claim is alleged by the Company and 'any action or other proceeding to recover a call' is to be construed accordingly.

3.7 Payments in advance of calls

- (a) The directors may accept from a member the whole or a part of the amount unpaid on a Security although no part of that amount has been called.
- (b) The directors may authorise payment by the Company of interest upon the whole or any part of an amount accepted under rule 3.7(a), until the amount becomes payable, at a rate determined by the directors. A member is not entitled to payment of interest on any amount paid up in advance of any calls unless otherwise authorised by the directors.
- (c) Any sum accepted by the Company in advance of a call is:
- (1) treated as a loan to the Company and not as capital, until the date on which the sum is payable under a call or instalment; and
 - (2) not to be taken into account in determining an entitlement to vote or the amount of any dividend in respect of any Security.
- (d) The directors may repay to a member all or any of the amount accepted under rule 3.7(a).

3.8 Notice regarding forfeiture

- (a) If a member fails to pay the whole of a call or instalment of a call by the time appointed for payment of the call or instalment, the directors may serve a notice on that member:
- (1) requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs, expenses or damages that may have been incurred by the Company by reason of the non-payment or late payment of the call or instalment;
 - (2) naming a further day (at least fourteen (14) days after the date of service of the notice) by which, and a place at which, the amount payable under rule 3.8(a)(1) is to be paid; and

- (3) stating that, in the event of non-payment of the whole of the amount payable under rule 3.8(a)(1) by the time and at the place named, the Securities in respect of which the call was made will be liable to be forfeited.

3.9 Forfeiture of partly paid Securities

- (a) If the requirements of a notice served under rule 3.8(a) are not complied with, the directors may, by resolution, forfeit any Security in respect of which the notice was given at any time after the day for payment named in the notice.
- (b) A forfeiture under rule 3.9(a) will include all dividends, interest and other money payable by the Company in respect of the forfeited Security and not actually paid before the forfeiture.
- (c) The Board may accept the surrender of any Security which may be forfeited. If the directors accept the surrender, that Security will be treated as having been forfeited and may be sold, re-issued or otherwise disposed of in the same manner as a forfeited Security.
- (d) Where a Security has been forfeited:
 - (1) notice of the resolution must be given to the member in whose name the Security stood immediately before the forfeiture; and
 - (2) an entry of the forfeiture, with the date, must be made in the register of members.
- (e) Failure to give the notice or to make the entry required under rule 3.9(d) does not invalidate the forfeiture.
- (f) A forfeited Security becomes the property of the Company and the directors may sell, reissue or otherwise dispose of the Security in such manner as they think fit and, in the case of reissue or other disposal, with or without any money paid on the Security by any former holder being credited as paid up.
- (g) A person whose Securities have been forfeited ceases to be a member or holder in respect of the forfeited Securities, but remains liable to, and must immediately pay, to the Company:
 - (1) all calls, instalments, interest, costs, expenses and damages owing in respect of the Securities at the time of the forfeiture; and
 - (2) interest on so much of the amount payable under rule 3.9(g)(1) as is unpaid from time to time, from the date of the forfeiture to the date of actual payment, at a rate determined under rule 3.15.
- (h) The liability of an erstwhile member or holder continues until:
 - (1) the holder pays all those amounts and accrued interest specified under rule 3.9(g) in full; or
 - (2) the Company receives and applies as the net proceeds from the sale or other disposal of the forfeited Security an amount which is equal to or greater than the all those amounts and accrued interest.
- (i) Except as otherwise provided by this Constitution or, while the Company is a Listed Company, the Listing Rules, the forfeiture of a Security extinguishes all interest in, and all claims and demands against the Company in respect of, the forfeited Security and all other rights incidental to the Security.
- (j) The Company may receive the net proceeds from the sale or other disposal of any forfeited Security and execute an instrument of transfer in respect of the

forfeited Security. The Company must apply the net proceeds of any sale or other disposal of any forfeited Security in or towards satisfaction of:

- (1) firstly, costs and expenses paid or payable in connection with the enforcement of the forfeiture and the sale or other disposal of that Security; and
 - (2) secondly, all amounts due but unpaid and accrued interest on all those amounts.
- (k) The Company must pay the balance (if any) of the net proceeds of sale or other disposal to the person whose forfeited Security has been sold or otherwise disposed of by the Company.
- (l) The purchaser of any forfeited Security is entitled to assume that the proceeds of the sale or other disposal have been applied in accordance with this Constitution and is not responsible for the application of the purchase money by the Company.

3.10 Continuing liability

If the net proceeds from the sale or other disposal of any forfeited Security are less than the sum of:

- (a) the amount due but unpaid in respect of that Security;
- (b) the costs and expenses paid or payable in connection with the enforcement of the forfeiture and the sale or other disposal of that Security; and
- (c) interest on those amounts;

(together the **Shortfall**) the person whose Security has been sold or otherwise disposed of continues to be liable and must pay to the Company an amount equal to the Shortfall together with interest determined in accordance with rule 3.15.

3.11 Waiver

The directors may:

- (a) exempt a Security from all or any part of rules 3.8 to 3.10;
- (b) waive or compromise all or any part of any payment due to the Company under rules 3.8 to 3.10; and
- (c) before a forfeited Security has been sold, reissued or otherwise disposed of, annul the forfeiture upon such conditions as they think fit.

3.12 Cancellation of forfeited Securities

- (a) Subject to the Corporations Act and the Listing Rules, the Company may, by resolution passed at a general meeting, cancel any forfeited Security.
- (b) Liability for the amount called but unpaid in respect of the cancelled Security may not be released or waived without the approval of the holders of ordinary Shares given in accordance with the Listing Rules.

3.13 Indemnity for payments by the Company

If the Company becomes liable under any law to make any payment:

- (a) in respect of Securities held solely or jointly by a member;
- (b) in respect of a transfer or transmission of Securities by a member;

(c) in respect of dividends, bonuses or other money due or payable or which may become due and payable to a member; or

(d) otherwise for or on account of or in respect of a member;

whether as a consequence of:

(e) the death of that member;

(f) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal Representative of that member;

(g) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal Representative of that member; or

(h) any other act or thing;

then, in addition to any right or remedy that law may confer on the Company:

(i) the member or, if the member is deceased, the member's legal personal Representative must:

(1) fully indemnify the Company against that liability;

(2) reimburse the Company for any payment made under or as a consequence of that law immediately on demand by the Company; and

(3) pay interest on so much of the amount payable to the Company under rule 3.13(i)(2) as is unpaid from time to time, from the date the Company makes a payment under that law until the date the Company is reimbursed in full for that payment under rule 3.13(i)(2), at a rate determined under rule 3.15;

(j) the directors may:

(1) exempt a Security from all or any part of this rule 3.13;

(2) waive or compromise all or any part of any payment due to the Company under this rule 3.13; and

(3) subject to rule 5.5, refuse to register a transfer of any Security by that member until the debt has been paid to the Company.

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

3.14 Lien on Securities

(a) The Company has a first and paramount lien on:

(1) each partly paid Security for any calls and instalments which are due but unpaid in respect of that Security;

(2) each Security acquired under an employee incentive scheme, where an amount is owed to the Company for its acquisition; and

(3) each Security for all amounts that the Company is required by law to pay, and has paid, in respect of that Security.

(b) In each case the lien extends to reasonable interest and expenses incurred because the amount is not paid.

- (c) The Company's lien on a Security extends to all dividends payable in respect of the Security and to the proceeds of sale of the Security.
- (d) The directors may sell, or otherwise dispose of, any Security on which the Company has a lien in such manner as they think fit where:
 - (1) an amount in respect of which a lien exists under this rule 3.14 is presently payable; and
 - (2) the Company has, not less than fourteen (14) days before the date of the sale, given to the registered holder of the Security a notice in writing setting out, and demanding payment of, such amount in respect of which the lien exists as is presently payable.
- (e) The terms in which and manner by which any Security may be sold or otherwise disposed of are to be determined by the directors.
- (f) Interest accrues and compounds daily at the rate determined by the directors on the amount due (but unpaid), costs and expenses paid in connection with the enforcement of the lien and the sale or other disposal of the Securities.
- (g) The Company may receive the net proceeds from the sale or other disposal of any Security and execute an instrument of transfer in respect of the Security. The Company must apply the net proceeds of any sale or other disposal of any forfeited Security in or towards satisfaction of:
 - (1) firstly, costs and expenses paid or payable in connection with the enforcement of the lien and the sale or other disposal of that Security; and
 - (2) secondly, all amounts due but unpaid and accrued interest on all those amounts.
- (h) The Company must pay any balance of the net proceeds of sale or other disposal to the person whose Security has been sold or otherwise disposed of.
- (i) The purchaser of any Security the subject of a lien is entitled to assume that the proceeds of sale or other disposal have been applied in accordance with this Constitution and is not responsible for the application of the purchase money by the Company.
- (j) The directors may do all things necessary or desirable under the Operating Rules to protect any lien, charge or other right to which the Company may be entitled under any law or under this Constitution.
- (k) Registration by the Company of a transfer of Securities on which the Company has a lien without giving to the transferee notice of its claim releases the Company's lien in so far as it relates to sums owing by the transferor or any predecessor in title.
- (l) The directors may:
 - (1) exempt a Security from all or any part of this rule 3.14; and
 - (2) waive or compromise all or any part of any payment due to the Company under this rule 3.14.

3.15 Interest payable by member

- (a) For the purposes of this rule 3 the rate of interest payable to the Company is:
 - (1) if the directors have fixed a rate, the rate so fixed; or

- (2) in any other case, the rate prescribed in respect of unpaid judgements in the Supreme Court of Victoria, Australia.
- (b) Interest payable under this rule 3 accrues daily and may be capitalised monthly or at such other intervals as the directors think fit.
- (c) The directors may waive the right to require the payment of interest.

4 Distribution of profits

4.1 Dividends

- (a) Subject to this Constitution, the Corporations Act and the Listing Rules, the directors may, in their judgement, determine or declare that a dividend, whether, interim or final, is payable and fix:
 - (1) the amount of the dividend;
 - (2) the time for payment; and
 - (3) the method of payment.
- (b) The directors may pay any dividend required to be paid under the terms of issue of a Security.
- (c) The directors may rescind a determination to pay a dividend at any time before the dividend declared, if the directors determine that the Company's financial position no longer justifies the payment of the dividend.
- (d) The payment of a dividend does not require any confirmation by a general meeting.
- (e) The following provisions apply to dividends:
 - (1) all dividends in respect of Securities must be paid to the Members in proportion to the number of Securities held by each Member but, where Securities are partly paid, all dividends must be apportioned and paid proportionately to the amounts paid (not credited) on the Securities;
 - (2) all dividends must be apportioned and paid proportionately to the amounts so paid (not credited) during any portion or portions of the period in respect of which the dividend is paid;
 - (3) for the purposes of rules 4.1(e)(1) and 4.1(e)(2), an amount paid or credited as paid on a Security in advance of a call is to be ignored; and
 - (4) interest is not payable by the Company in respect of any dividend.
- (f) Subject to the Operating Rules, the directors will fix a record date (**Record Date**) in respect of a dividend, with or without suspending the registration of transfers from that date under rule 5.5.
- (g) A dividend in respect of a Security must be paid to the person who is registered, or entitled under rule 5.3(c) to be registered, as the holder of the Security at midnight at the end of the Record Date. A transfer of a Security that is not registered, or left with the Company for registration in accordance with rules 5.3(b) and 5.3(c), on or before the Record Date is not effective, as against the Company, to pass any right to the dividend.
- (h) The directors, when determining a dividend is payable, may:

- (1) direct payment of a dividend wholly or partly by the distribution of specific assets, including paid-up Securities of the Company or securities of another body corporate, either generally or to specific Security holders (being termed **Members** in this rule 4); and
 - (2) direct that the dividend be paid out of any available account, including the capital of the Company.
- (i) The Company may deduct from any dividend payable to a member all sums of money presently payable by the member to the Company for calls due and payable that have not been paid and apply the amount deducted in or towards satisfaction of the money owing.
 - (j) Where a person is entitled to a Security as a result of a Transmission Event, the directors may, but are not obliged to, retain any dividends payable in respect of that Security until that person becomes registered as the holder of the Security or transfers it.

4.2 Transfer of assets

- (a) The Board may direct payment of a dividend wholly or partly by the distribution of specific assets (including Securities or securities of any body corporate) to some or all of the Members. The Board may determine in respect of the payment of any dividend to allow Members to elect to receive the amount of the dividend to which that Member is entitled in Securities instead of in cash.
- (b) To give effect to any direction, the Board may do all things that it considers appropriate including:
 - (1) fixing the value for distribution of any specific asset or any part of any such asset; or
 - (2) making a cash payment to any Member to adjust the value of distributions made to Members.

4.3 Dividend payment method

- (a) The directors may decide the method of payment of any dividend or other amount in respect of a Security. Without limiting any other method of payment the directors may adopt, a dividend may be paid:
 - (1) by cheque, sent by post to the address of the holder as shown in the register of members, or in the case of joint holders, to the address shown in the register of Members as the address of the joint holder first named in that register or to such other address as the holder or joint holders in writing directs or direct;
 - (2) by electronic funds transfer to an account (of a type approved by the directors) nominated by and in the name of each Member, or in the case of any joint holder of any Security, the joint holder whose name appears first in the register; or
 - (3) in any manner determined by the directors.
- (b) A cheque sent under rule 4.3(a)(1):
 - (1) may be made payable to bearer or to the order of the Member to whom it is sent or any other person the Member directs; and
 - (2) is sent at the Member's risk.

- (c) If the directors determine that dividends will be paid by electronic funds transfer in accordance with rule 4.3(a)(2) and:
- (1) no account (of a type approved by the directors) is nominated by a Member; or
 - (2) the electronic funds transfer into a nominated account is rejected or refunded;
- the Company may credit the amount payable to an account of the Company (**Company Account**) to be held until the Member nominates a valid account.
- (d) The Company does not hold any money in the Company Account as trustee and no interest will be paid to the Member until the Member claims the amount payable or nominates a valid account into which payment may be made.
- (e) An amount credited to the Company Account is treated as paid to the Member at the time it is credited to the Company Account.
- (f) If:
- (1) a cheque for an amount payable under rule 4.3(a)(1) is not presented for payment; or
 - (2) an amount is held in the Company Account;
- for more than eleven (11) months, then the directors may cancel any such cheque and reinvest the amount, after deducting reasonable expenses, into Securities in the Company or donate it to charity on behalf of, and in the name of, the Member concerned. The Securities may be acquired on market or by way of new issue at a price the directors accept to be the market price at the time.
- (g) If the directors exercise their power to reinvest under rule 4.3(f) and there are residual amounts remaining, the residual amounts may be retained in the Company Account or donated to charity on behalf of the Member, as the directors decide.
- (h) The Company's liability to pay the relevant dividend amount in respect of a member to which this rule 4.3 applies, is discharged when Securities are issued to that Member or donated to charity in accordance with this rule 4.3.
- (i) The directors may do anything necessary or desirable (including executing any document) on behalf of the Member to effect the reinvestment or donation under this rule 4.3.
- (j) The directors may determine other rules to regulate the operation of this rule 4.3 and may delegate their power under this rule to any person.

4.4 Capitalisation of profits

- (a) Subject to the Corporations Act, this Constitution, the Listing Rules and the terms of the Securities (or class of Securities), the directors may capitalise and distribute among such of the Members as would be entitled to receive dividends and in the same proportions, any amount:
- (1) forming part of the undivided profits of the Company;
 - (2) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the Company;
 - (3) arising from the realisation of any assets of the Company; or

- (4) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
 - (1) in paying up in full Securities of the Company to be issued to Members;
 - (2) in paying up any amounts unpaid on Securities of the Company held by the Members; or
 - (3) partly as specified in rule 4.4(b)(1) and partly as specified in rule 4.4(b)(2),
 and such an application must be accepted by the Members entitled to share in the distribution in full satisfaction of their interests in the capitalised amount.
- (c) Rules 4.1(f), 4.1(g) and 4.1(h) apply, so far as they can and with such changes as are necessary, to a capitalisation of an amount under this rule 4.4 as if references in those rules to a dividend and to the date a dividend is fixed for payment were references to a capitalisation of an amount and to the date the directors resolve to capitalise the amount under this rule 4.4 respectively.

4.5 Ancillary powers

- (a) To give effect to any resolution to reduce the capital of the Company, to satisfy any dividend under rule 4.1(h)(1) or to capitalise any amount under rule 4.4, the directors may:
 - (1) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation;
 - (2) fix the value for distribution of any specific assets;
 - (3) pay cash or issue Securities to any Members in order to adjust the rights of all parties;
 - (4) vest any such specific assets, cash, Securities in any trustee upon such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the directors; and
 - (5) authorise any person to make, on behalf of all the Members entitled to any further Securities as a result of the distribution or capitalisation, an agreement with the Company or another body corporate providing, as appropriate:
 - (A) for the issue to them of further Securities credited as fully paid up; or
 - (B) for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Securities by the application of their respective proportions of the sum resolved to be capitalised;
 and any agreement made under an authority referred to in this rule 4.5(a)(5) is effective and binding on all members concerned.
- (b) If the Company distributes to Members (either generally or to specific Members) Securities in the Company or shares or securities in another body corporate or trust (whether as a dividend or otherwise and whether or not for value), each of those Members appoints the Company as his or her agent to do anything needed to give effect to that distribution, including:

- (1) agreeing to become a member or securityholder of that other body corporate;
- (2) agreeing to the Member being bound by the constitution of that body corporate; and
- (3) executing any transfer of shares or securities, or other document required to give effect to the distribution of shares or securities to that member.

4.6 Reserves

- (a) Subject to this Constitution, the directors may set aside, out of the profits of the Company, such reserves or provisions as they determine.
- (b) The directors may appropriate to the profits of the Company any amount previously set aside as a reserve or provision.
- (c) The setting aside of any amount as a reserve or provision does not require the directors to keep the amount separate from the other assets of the Company or prevent the amount being used in the business of the Company or being invested in such investments as the directors determine.

4.7 Carry forward of profits

The directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends or capitalised without transferring those profits to a reserve or provision.

4.8 Dividend reinvestment plans

The directors may:

- (a) implement a dividend reinvestment plan on such terms they think fit under which:
 - (1) the whole or any part of any dividend due to members who participate in the plan on their Securities may be applied in subscribing for Securities of the Company or of a related body corporate; or
 - (2) any other amount payable to members, may be applied in subscribing for or purchasing securities of the Company; and
- (b) amend, suspend, recommence or terminate a dividend reinvestment plan.

5 Transfer and transmission of Securities

5.1 Participation in computerised or electronic systems

The directors may do anything they consider necessary or desirable to facilitate the Company's participation in any computerised, electronic or other system that may be owned, operated or sponsored by any Stock Exchange or any related body corporate of any Stock Exchange for the purposes of facilitating dealings in Securities.

5.2 Form of transfers

- (a) Subject to this Constitution and to the rights or restrictions attached to any Securities by virtue of the Listing Rules or the Corporations Act or other legislation, a member may transfer all or any of the member's Securities by:

- (1) a Proper ASTC transfer; or
 - (2) an instrument in writing in any usual form or in any other form that the directors approve.
- (b) A transferor of Securities remains the holder of the Securities transferred until the transfer is:
- (1) effected in accordance with the Operating Rules; or
 - (2) registered and the name of the transferee is entered in the register of members in respect of the Securities.
- (c) In the case of a Market Transfer, the Company must comply with the obligations imposed on it by the Listing Rules and the Operating Rules and any applicable legislation in connection with any transfer of Securities.
- (d) The Company must not charge a fee for the registration of a transfer of Securities or for any other matter referred to in Listing Rule 8.14 other than as expressly permitted by Listing Rule 8.14.1.

5.3 Registration Procedure

- (a) Subject to rules 5.3(b) and 5.5, upon receipt of a transfer of Securities that complies with rules 5.2 and 5.3, the Company must register the nominated transferee as the holder of the relevant Securities.
- (b) An instrument of transfer referred to in rule 5.2(a) must:
- (1) be signed by or on behalf of both the transferor and the transferee unless:
 - (A) the instrument of transfer relates only to fully paid Securities and signature by the transferee has been dispensed with by the directors; or
 - (B) the transfer of the Securities is effected by a document which is, or documents which together are, a proper transfer of those Securities under the Corporations Act;
 - (2) if required by law to be stamped, be duly stamped;
 - (3) be left for registration at the registered office of the Company, or at such other place as the directors determine, accompanied by such evidence as the directors may require to prove the title of the transferor or the transferor's right to the Securities (including, in the case of a certificated holding, the certificate for the Securities) and to prove the right of the transferee to be registered as the owner of the Securities.
- (c) Subject to the powers vested in the directors under rules 5.4 and 5.5, where the Company receives an instrument of transfer under rule 5.3(b), the Company must register the transferee named in the instrument as the holder of the Securities to which it relates.
- (d) The Company may retain any registered instrument of transfer received by the Company under rule 5.3(b) for such period as the directors think fit.
- (e) Except in the case of fraud, the Company must return any instrument of transfer received under rule 5.3(b) which the directors decline to register to the person who deposited it with the Company.

- (f) The directors may, to the extent permitted by law, waive all or any of the requirements of rules 5.2 and 5.3, whether for the purpose of giving effect to rule 5.1 or otherwise.

5.4 Power to decline registration of transfers and apply Holding Locks

- (a) The directors may decline to register, or prevent the registration of, a transfer of Securities or request the application of a Holding Lock to prevent a transfer of Securities where:
 - (1) the transfer is not in registrable form;
 - (2) the Company has a lien on any of the Securities the subject of the transfer;
 - (3) the transfer is paper-based and registration of the transfer will result in the creation of a Non-Marketable Parcel;
 - (4) the transfer is not permitted under the terms of issue of the Security;
or
 - (5) the Company is otherwise permitted or required to do so under the Listing Rules or terms of issue of the Securities.
- (b) If the directors request the application of a Holding Lock to prevent a transfer of Securities or refuse to register a transfer of a Security, the Company must give written notice to the holder of the Security and the broker lodging the transfer, if any, of the refusal to transfer in accordance with the Listing Rules. Failure to give such notice will not invalidate any act or decision of the directors not to register the transaction.

5.5 Power to suspend registration of transfers

Subject to the Corporations Act, the Listing Rules and the Operating Rules, while the Company is a Listed Company, the directors may suspend the registration of transfers at such times and for such periods, not exceeding in total thirty (30) days in any year, as they think fit.

5.6 Transmission of Securities

- (a) In the case of the death of a member, the only persons the Company will recognise as having any title to the member's Securities or any benefits accruing in respect of those Securities are:
 - (1) the legal personal Representative of the deceased where the deceased was a sole holder; and
 - (2) the survivor or survivors where the deceased was a joint holder.
- (b) Nothing contained in rule 5.6(a) releases the estate of a deceased member from any liability in respect of a Security, whether that Security was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a Security as a result of a Transmission Event may, upon producing such evidence as the directors may require to prove that person's entitlement to the Security (including, in the case of a certificated holding, the certificate for the Security), elect:
 - (1) to be registered as the holder of the Security by signing and serving on the Company a notice in writing stating that election; or

- (2) to have some other person nominated by that person registered as the transferee of the Security by executing a transfer of the Security to that other person.
- (d) The provisions of this Constitution relating to the right to transfer, and the registration of transfers of, Securities apply, so far as they can and with such changes as are necessary, to any transfer under rule 5.6(c)(2) as if the relevant Transmission Event had not occurred and the transfer were signed by the registered holder of the Security.
- (e) For the purpose of this Constitution, where two (2) or more persons are jointly entitled to any share in consequence of a Transmission Event they will, upon being registered as the holders of the Security, be taken to hold the share as joint tenants and rule 2.4 will apply to them.
- (f) Despite rule 5.6(c), the directors may register a transfer of Securities signed by a member before a Transmission Event even though the Company has notice of the Transmission Event.
- (g) The provisions of rule 5.6 are subject to any provisions of the Operating Rules which deal with transmission on death or by operation of law.

6 Sale of Non-Marketable Parcels

6.1 Definitions

In this rule:

Minority Holder means any member who from time to time holds a Non-Marketable Parcel.

Notice means a notice given to Minority Holders in accordance with rule 6.3.

Notice Date means the date a Notice is sent by the Company to a Minority Holder under rule 6.3(a).

Sale Consideration means the proceeds of any sale or other disposal of Securities under rule 6.5.

6.2 Power to sell Non-Marketable Parcels

- (a) Subject to the Listing Rules, the Operating Rules, and this Constitution, the Company may dispose of Non-Marketable Parcels in the manner set out in this rule 6.
- (b) Subject to rule 6.2(c), the Company may dispose of Non-Marketable Parcels under this rule 6 only once in any twelve (12) month period.
- (c) This rule 6 ceases to have effect following the announcement of a takeover bid, but begins to have effect again after the end of the offer period under the takeover bid.
- (d) The directors may, before a sale is effected under this rule 6, revoke a notice given or suspend or terminate the operation of this rule 6 either generally or in specific cases.

6.3 Notice

- (a) The Company must notify a Minority Holder of its intention to dispose of that Minority Holder's Non-Marketable Parcel. The notice must explain the effect

of the notice and advise the Minority Holder that he or she may choose to be exempt from the provisions of this rule.

- (b) Each Minority Holder on whom a Notice has been served may, by notice to the Company within forty-two (42) days after the Notice Date, request the Company not to sell the Minority Holder's Non-Marketable Parcel, in which event the provisions of this rule 6 will not apply to that Minority Holder.

6.4 Procedure

- (a) Each Minority Holder to whom this rule applies appoints the Company as the Minority Holder's agent to sell the Minority Holder's Non-Marketable Parcel.
- (b) The Company may:
 - (1) sell the Non-Marketable Parcel as soon as practicable at a price that the directors consider is the best price reasonably available for the Non-Marketable Parcel at the time of sale; and
 - (2) deal with the proceeds of sale in accordance with this rule 6.
- (c) Each Minority Holder appoints the Company and each of its directors from time to time as the Minority Holder's attorney in the name and on behalf of the Minority Holder to effect all transfers and other documents and do all things necessary to transfer the Non-Marketable Parcel from the Minority Holder to the transferee.
- (d) The transferee of Securities sold under this rule 6 is not responsible for the regularity of proceedings or the application of the purchase money in respect of the sale of a Non-Marketable Parcel. After the transferee's name has been entered in the register in respect of the Securities, the validity of the sale or other disposal may not be impeached by any person and the remedy of any person aggrieved by the sale or other disposal will be in damages only and against the Company exclusively.
- (e) If all the Securities of two (2) or more Minority Holders to whom this rule 6 applies are sold to one (1) purchaser the transfer may be effected by one (1) transfer document.

6.5 Sale Consideration

- (a) The Sale Consideration must be received by the Company and paid to the Minority Holder or as the Minority Holder may direct.
- (b) The Company may deduct the costs of the sale of the Non-Marketable Parcel from the amount paid to the Minority Holder.
- (c) The Sale Consideration so received by the Company must be paid into a bank account opened and maintained by the Company for that purpose only.
- (d) The Company must hold the Sale Consideration so received in trust for a Minority Holder whose Securities are sold under this rule 6 pending payment of the Sale Consideration. The Company must, as soon as practicable after the sale of the Securities of a Minority Holder, and to the extent that it may reasonably do so, distribute the Sale Consideration received to such Minority Holder provided that the Company has received any Certificates issued to the Minority Holder with respect to the Security or, in the case of loss or destruction of any such Certificate, any additional documentation required by the Corporations Act.

- (e) Payment by the Company of any consideration under this rule 6 is at the risk of the Minority Holder to whom it is sent.
- (f) Where the Sale Consideration is held in trust by the Company under this rule 6 and is unclaimed, the Company must deal with the money in accordance with applicable legislative requirements.

7 Plebiscite to approve proportional takeover schemes

7.1 Definitions

In this rule:

Eligible Shareholder means a person (other than the bidder or an associate of the bidder) who, as at the end of the day on which the first offer under a bid was made, held Securities in the class of Securities to which the bid relates.

Prescribed Resolution means a passed resolution of Eligible Shareholders to approve the Proportional Takeover Bid;

Proportional Takeover Bid means an offer for Securities made under a proportional takeover bid within the meaning of the Corporations Act;

Relevant Day means the day that is fourteen (14) days before the end of the period during which the offers under the Proportional Takeover Bid remain open.

7.2 Transfers not to be registered

A transfer giving effect to a contract resulting from the acceptance of an offer made under a Proportional Takeover Bid must not be registered unless and until a Prescribed Resolution to approve the Proportional Takeover Bid has been passed or is taken to have been passed in accordance with rule 7.3.

7.3 Resolution

(a) Where offers have been made under a Proportional Takeover Bid, the directors must:

- (1) convene a meeting of Eligible Shareholders to vote on the Prescribed Resolution for the purpose of considering and, if thought fit, passing a prescribed resolution to approve the Proportional Takeover Bid; and
- (2) ensure that such a resolution is voted on in accordance with this rule 7.3;

before the Relevant Day in relation to that Proportional Takeover Bid.

(b) The provisions of this Constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to a meeting that is convened pursuant to rule 7.3(a).

(c) The offeror under a Proportional Takeover Bid and any associates of the offeror are not entitled to vote on the Prescribed Resolution relating to that Proportional Takeover Bid and if they do vote, their votes must not be counted.

(d) Subject to rule 7.3(c), a person who, as at the end of the day on which the first offer under the Proportional Takeover Bid was made, held Securities of the relevant class is entitled to vote on the Prescribed Resolution relating to the

Proportional Takeover Bid and, for the purposes of so voting, is entitled to one (1) vote for each such Security held at that time.

- (e) A Prescribed Resolution is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than 50%, and otherwise is to be taken to have been rejected.
- (f) If a Prescribed Resolution to approve a Proportional Takeover Bid has not been voted on in accordance with this rule 7.3 before the Relevant Day, a Prescribed Resolution to approve the Proportional Takeover Bid will be taken to have been passed in accordance with this rule 7.3 on the Relevant Day.

7.4 Sunset

This rule 7 ceases to have effect at the end of three (3) years beginning:

- (a) where this rule has not been renewed in accordance with the Corporations Act, on the date that those rules were adopted by the Company; or
- (b) where this rule has been renewed in accordance with the Corporations Act, on the date this rule was last renewed.

8 General meetings

8.1 Calling general meetings

- (a) The directors may, whenever they think fit, call and arrange to hold a general meeting.
- (b) A general meeting may be called and arranged to be held:
 - (1) if the general meeting is called by the directors - only as provided by this rule 8.1 or as provided the Corporations Act; and
 - (2) if the general meeting is called by any Security holder (being termed **Member** in this rule 8) – only as provided by the Corporations Act or the terms of the relevant Security.
- (c) The directors may, by notice to the Stock Exchange, while the Company is a Listed Company, change the venue for, postpone or cancel a general meeting unless the meeting is called and arranged to be held by the Members or the court under the Corporations Act.

8.2 Notice of general meetings

- (a) Subject to this Constitution and to the rights or restrictions attached to any Security, notice of a general meeting must be sent within the time limits prescribed by the Corporations Act and in the manner authorised by rule 15.1 to each person who is at the date of the notice:
 - (1) a relevant Member;
 - (2) a director; or
 - (3) an auditor of the Company;

and, while the Company is a Listed Company, to the Stock Exchange, with copies of all documents sent to relevant Members being given to the Stock Exchange in compliance with the Listing Rules.

- (b) A notice of a general meeting in respect of a general meeting called by a Member in accordance with this rule 8 must:
 - (1) specify the date, time and place of the meeting;
 - (2) state the general nature of the business to be transacted at the meeting and any other matter that the Listing Rules require particular notice of;
 - (3) be accompanied by a form of proxy which satisfies the requirements of the Listing Rules and the Corporations Act; and
 - (4) specify a place and fax number or electronic address for the receipt of proxy appointments.
- (c) A notice of a general meeting in respect of a general meeting called by the directors in accordance with this rule 8 may be given in the form and manner determined by the Board.
- (d) The Company may specify in a notice of meeting issued by the Company under either rule 8.2(b) or 8.2(c) a time that a person must be entered on the relevant Security registry to have the right to attend or vote at the general meeting, which time shall be not less than forty-eight (48) hours before the time fixed for the relevant general meeting.
- (e) The directors may determine, for the purpose of a particular meeting of Members, that all Securities that are quoted on Stock Exchange at a specified time before the meeting are taken to be held at the time of the meeting by the persons who hold them at the specified time. The determination must be made in accordance with the Corporations Act.
- (f) A person may waive notice of any general meeting by notice in writing to the Company.
- (g) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 8.2, does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 8.2(f); or
 - (B) has notified or notifies the Company of the person's agreement to that act, matter, thing or resolution by notice in writing to the Company.
- (h) A person's attendance, or that of their proxy, attorney or Representative, at a general meeting:
 - (1) waives any objection that person may have to 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
 - (2) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in rule 8.2(b), unless the person objects to considering the matter when it is presented.
- (i) Unless the Corporations Act provides otherwise:

- (1) 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
- (2) except with the approval of the directors 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 such a resolution, a copy of which has been made available to relevant Members to inspect or obtain.

8.3 Admission to general meetings

The chairperson of a general meeting may require a person to submit to such searches, security procedures or arrangements or other restrictions that the chairperson deems appropriate. In addition, the chairperson may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) in possession of a pictorial-recording or sound-recording device;
- (b) in possession of a placard or banner;
- (c) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) who is not:
 - (1) a relevant Member or a proxy, attorney or Representative of such Member;
 - (2) a director; or
 - (3) an auditor of the Company.

8.4 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of relevant Members is present when the meeting proceeds to business.
- (b) A quorum consists of:
 - (1) if the number of Members entitled to vote is two (2) or more then two (2) of those relevant Members; or
 - (2) if only one (1) Member is entitled to vote then that Member; present at the meeting.
- (c) If a quorum is not present within thirty (30) minutes after the time appointed for a general meeting:
 - (1) where the meeting was convened upon the requisition of Members, the meeting must be dissolved; or
 - (2) in any other case:
 - (A) the meeting stands adjourned to such day, and at such time and place, as the chairperson determines or, if no

determination is made by the chairperson, to the same day in the next week at the same time and place; and

- (B) if, at the adjourned meeting, a quorum is not present within thirty (30) minutes after the time appointed for the meeting, the meeting must be dissolved.

8.5 Chairperson of general meetings

- (a) The chairperson of directors must (if present within fifteen (15) minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting:
 - (1) there is no chairperson of directors;
 - (2) the chairperson of directors is not present within fifteen (15) minutes after the time appointed for the meeting; or
 - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting;

then if the directors have elected a deputy chairperson of directors, the deputy chairperson of directors must (if present within fifteen (15) minutes after the time appointed for the meeting and willing to act) preside as chairperson at the meeting.

- (c) Subject to rule 8.5(a) and 8.5(b), if at a general meeting:
 - (1) there is no deputy chairperson of directors;
 - (2) the deputy chairperson of directors is not present within fifteen (15) minutes after the time appointed for the meeting; or
 - (3) the deputy chairperson of directors is present within that time but is not willing to act as chairperson of the meeting;

the relevant Members present must elect as chairperson of the meeting:

- (4) another director who is present and willing to act; or
- (5) if no other director willing to act is present at the meeting, a relevant Member who is present and willing to act.

8.6 Conduct of general meetings

- (a) The chairperson of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in his or her opinion necessary or desirable for:
 - (1) proper and orderly debate or discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting; and
 - (2) the proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- (b) The chairperson of a general meeting may at any time he or she considers it necessary or desirable for the proper and orderly conduct of the meeting:
 - (1) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business,

- question, motion or resolution to be put to a vote of the Members present; or
- (2) allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.
- (c) Subject to the Corporations Act, the chairperson of a general meeting may:
- (1) refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting or rule 8.2(b); and
 - (2) refuse to allow any amendment to be moved to a resolution of which notice has been given under rule 8.2(b) or rule 8.2(c).
- (d) A decision by a chairperson under rule 8.6(a), (b) or (c) is final.
 - (e) The chairperson of a general meeting may at any time for any reason during the course of the meeting, interrupt or 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.
 - (f) If the chairperson exercises his or her right under rule 8.6(e), it is in the chairperson's sole discretion whether to seek the approval of the relevant Members present to the adjournment.
 - (g) The chairperson's rights under rule 8.6(e) are exclusive and, unless otherwise required by the chairperson, no vote may be taken or demanded by the relevant Members present in respect of any adjournment.
 - (h) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

8.7 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the relevant Members present at the meeting and any such decision is for all purposes a decision of the relevant Members.
- (b) In the case of an equality of votes upon any proposed resolution the chairperson of the meeting, in addition to his or her deliberative vote whether as a shareholder, proxy, attorney or Representative of a Member, has a casting 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 before the vote is taken or before or immediately after the declaration of the result of the show of hands:
 - (1) by the chairperson of the meeting;
 - (2) by at least five (5) members present and having the right to vote on the resolution; or
 - (3) by a member or members present at the meeting and representing at least 5% of the total voting rights of all the members having the right to vote on the resolution on a poll.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.

- (e) 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 book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded, such result to be announced in the form and manner determined by the chairperson (either before or after the general meeting).
- (g) A poll cannot be demanded at a general meeting on the election of a chairperson of the meeting or the adjournment of a meeting.
- (h) The demand for a poll may be withdrawn.

8.8 Voting rights

- (a) Subject to this Constitution and to any rights or restrictions attached to any Securities, at a general meeting:
 - (1) on a show of hands, every relevant Member present in person or by proxy, attorney or Representative has one (1) vote; and
 - (2) on a poll, every relevant Member present has:
 - (A) one (1) vote for each fully paid Security held by the Member and in respect of which the Member is entitled to vote; and
 - (B) a fraction of a vote for each partly paid Security held by the Member and in respect of which the Member is entitled to vote, equivalent to the proportion which the amount paid up (not credited) on the Security bears to the total amounts paid and payable (excluding amounts credited). Amounts paid or credited as paid in advance of a call are ignored when calculating the fraction.
- (b) Where a person present at a general meeting represents personally or by proxy, attorney or Representative more than one (1) Member:
 - (1) on a show of hands the person is entitled to one (1) vote only despite the number of Members the person represents;
 - (2) that vote will be taken as having been cast for all the Members the person represents; and
 - (3) the person must not exercise that vote in a way which would contravene any directions given to the person in accordance with rule 8.9(g) in any instrument appointing the person as a proxy or attorney.
- (c) A joint holder may vote at any meeting in person or by proxy, attorney or Representative as if that person was the sole holder. If more than one (1) joint holder tenders a vote, the vote of the holder named first in the register must be accepted to the exclusion of the other or others.
- (d) The parent or guardian of an infant member or any guardian of any person appointed under the *Guardianship and Administration Act 1986* of the State of Victoria (as amended or replaced) or any corresponding legislation in any other State or Territory or the Commonwealth of Australia may vote at any

general meeting upon such evidence being produced of the relationship or of the appointment of the guardian as the directors may require and any vote so tendered by a parent or guardian of an infant Member must be accepted to the exclusion of the vote of the infant Member.

- (e) A person entitled to a Security as a result of a Transmission Event may vote at any general meeting in respect of that Security in the same manner as if that person were the registered holder of the Security if, not less than forty-eight (48) hours before the meeting (or such shorter time as the directors determine), the directors have:
 - (1) admitted that person's right to vote at that meeting in respect of the Security; or
 - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, the Security under rule 5.6(c);and any vote so tendered by such a person must be accepted to the exclusion of the vote of the registered holder of the Security.
- (f) Where a Member holds any Security upon which any call or other sum of money payable to the Company has not been duly paid:
 - (1) that Member is only entitled to be present at a general meeting and vote if other relevant Securities are held by that Member upon which no money is then due and payable; and
 - (2) upon a poll, that Member is not entitled to vote in respect of that Security but may vote in respect of any other relevant Securities held upon which no money is then due and payable.
- (g) A Member's vote on a resolution must be disregarded where that is required by the Listing Rules.
- (h) An objection to the qualification of a person to vote at a general meeting:
 - (1) must be raised before or at the meeting at which the vote objected to is given or tendered; and
 - (2) must be referred to the chairperson of the meeting, whose decision is final.
- (i) A vote not disallowed by the chairperson of a meeting under rule 8.8(h) is valid for all purposes.

8.9 Representation at general meetings

- (a) Subject to this Constitution, each Member entitled to vote at a meeting of Members may attend and vote:
 - (1) in person or, where a Member is a body corporate, by its Representative;
 - (2) by proxy; or
 - (3) by attorney.If the Member may cast two (2) or more votes at a meeting the Member may vote by two (2) proxies or two (2) attorneys or a combination thereof.
- (b) A proxy, attorney or Representative may, but need not, be a Member.
- (c) A proxy, attorney or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.

- (d) Unless otherwise provided in the appointment of a proxy, attorney or Representative or in the Corporations Act, an appointment will be taken to confer authority:
- (1) to agree to a meeting being called by shorter notice than is required by the Corporations Act or by this Constitution;
 - (2) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (3) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (4) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
 - (A) 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;
 - (B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
 - (5) 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, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) The chairperson of a meeting may:
- (1) permit a person claiming to be a Representative to exercise his or her powers, even if the person is unable to establish to the chairperson's satisfaction that he or she has been validly appointed; or
 - (2) permit the person to exercise his or her powers on the condition that, if required by the Company, he or she can produce evidence of the appointment within the time set by the chairperson.
- (f) Where a Member appoints two (2) proxies or attorneys, the following rules apply:
- (1) each proxy or attorney, as the case may be, may exercise half of the Member's voting rights if the appointment does not specify a proportion or number of the Member's voting rights the proxy or attorney may exercise;
 - (2) on a show of hands, neither proxy or attorney may vote; and
 - (3) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents.
- (g) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument. If an instrument does not contain a direction, the proxy or attorney is entitled to vote on the proposed resolution as the proxy or attorney considers appropriate.

- (h) An instrument appointing a proxy or attorney need not be in any particular form provided it is in writing, legally valid and signed by the appointer or the appointer's attorney.
- (i) Subject to the Corporations Act and the Listing Rules, an appointment of a proxy or an attorney must be in writing and be signed by the Member appointing the proxy or attorney, or be signed by the duly authorised attorney of the Member, and state:
 - (1) the Member's name and address;
 - (2) the Company's name;
 - (3) the proxy's or attorney's name or the name of the office held by the proxy or the attorney; and
 - (4) the general meeting at which the proxy or attorney may be used, or if the appointment is a standing one, a clear statement to that effect.
- (j) Prior to an attorney being entitled to act for a Member under the power of attorney, the Company may require that proof of the power of attorney and due execution of the power of attorney be presented to the secretary for inspection.
- (k) If an appointment of proxy is incomplete, provided that the secretary is authorised by the Board, the secretary may complete the proxy by inserting the name of any director as the person in respect of which the proxy is given.
- (l) In relation to proxies:
 - (1) a proxy or attorney may not vote at a general meeting or adjourned 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 at the place and fax number or electronic address and before the time specified for that purpose in the notice calling the meeting;
 - (2) the place may be the Company's registered office or other place specified in the notice and the fax number may be the fax number at the Company's registered office or other fax number specified in the notice; and
 - (3) the time may be a time before the time for holding the meeting and a time before the time for holding an adjourned meeting.
- (m) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:
 - (1) a Transmission Event occurring in relation to the appointer; or
 - (2) the revocation of the instrument or of the authority under which the instrument was executed;

if no notice in writing of the Transmission Event or revocation has been received by the Company by the time and at one (1) of the places at which the instrument appointing the proxy or attorney is required to be received under rule 8.9(l).
- (n) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the Security in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be received under rule 8.9(l).

- (o) 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 any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.
- (p) A proxy form issued by the Company must provide for the appointer to appoint a proxy of the appointer's choice and may specify who is to be appointed as proxy if the appointer does not make a choice.
- (q) If a Listing Rule requires that the notice of meeting include a voting exclusion statement and the proxy form specifies that the chairperson of the meeting is appointed as proxy if the appointer does not choose another person to act as the appointer's proxy the proxy form shall include a statement of the chairperson's voting intentions and a statement in compliance with the requirements of Listing Rule 14.2.3B.

9 Directors

9.1 Appointment and removal of directors

- (a) The minimum number of directors is three (3). The maximum number of directors is to be fixed by the directors, but must not be more than seven (7) unless the Company in general meeting determines otherwise. The directors must not determine a maximum which is less than the number of directors in office at the time the determination takes effect.
- (b) The directors in office on the date that this Constitution was adopted by the Company continue in office but on the terms and conditions set out in this Constitution.
- (c) Subject to rules 9.1(a) and 9.1(m), the Company may by resolution elect any natural person to be a director, either as an addition to the existing directors or as otherwise provided in this Constitution.
- (d) Subject to rules 9.1(a) and 9.1(e), the directors may appoint any natural person to be a director, either as an addition to the existing directors or to fill a casual vacancy (including any casual vacancy arising where a director is removed from office under rule 9.1(j) and no person is appointed in place of that director).
- (e) Where required by the Corporations Act or the Listing Rules, the Company must hold an election of directors each year. At each AGM of the Company:
 - (1) each director, other than a managing director, appointed under rule 9.1(d) since the last AGM; and
 - (2) excluding any director referred to in rule 9.1(e)(1) and any managing director (or the first appointed managing director if there is more than one (1)):
 - (A) one-third of the remaining directors (rounded down, if necessary, to the nearest whole number); and
 - (B) any other director who, if he does not retire, will at the conclusion of the meeting have been in office for three (3) or more years and for three (3) or more AGMs since he or she was last elected to office;must retire from office as a director; and

- (3) if no director is required to retire from office under rule 9.1(e)(2), at least one (1) director, excluding a managing director (or the first appointed managing director if there is more than one (1)) who is required to retire at that meeting under rule 9.1(e)(1), must retire from office as a director.
- (f) The director or directors who must retire at an AGM in accordance with rules 9.1(e)(2)(A) or 9.1(e)(3) (as the case may be) are those who have been longest in office since their last election but, as between persons who were last elected as directors on the same day, those to retire must be determined by agreement among themselves or, in the absence of agreement, by lot.
- (g) Subject to rule 9.1(m), the Company may by resolution fill the office vacated by a director under rule 9.1(e) by electing a person to that office.
- (h) A director retiring from office under rule 9.1(e) is eligible for re-election and if the office vacated by that director is not filled by a resolution of the Company under rule 9.1(g), that director (if offering himself or herself for re-election) is to be taken as having been re-elected to that office unless:
 - (1) it is expressly resolved not to fill the vacated office; or
 - (2) a resolution for the re-election of that director is put to the Company and lost.
- (i) The retirement of a director from office under rule 9.1(e) and the re-election of the 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 occur.
- (j) The Company may remove a director by resolution at a general meeting.
- (k) Subject to the Corporations Act, at least two (2) months' notice must be given to the Company of the intention to move a resolution to remove a director at a general meeting.
- (l) If notice of intention to move a resolution to remove a director at a general meeting is received by the Company, the director must be given a copy of the notice as soon as practicable. The director must be informed that the director may:
 - (1) submit a written statement to the Company for circulation to the members before the meeting at which the resolution is put to a vote; and
 - (2) speak to the motion to remove the director at the general meeting at which the resolution is to be put to a vote.
- (m) A person may only be elected to the office of a director at a general meeting if:
 - (1) he or she is a director retiring from office under rule 9.1(e) and standing for re-election at that meeting;
 - (2) he or she has been nominated by the directors for election at that meeting;
 - (3) if the person is a member, he or she has at least thirty (30) days before the meeting served on the Company a notice signed by him or her signifying his or her desire and consent to be a candidate for election at that meeting; or
 - (4) whether or not the person is a member, some member intending to nominate him or her for election at that meeting has at least thirty-five

(35) days before the meeting served on the Company a notice signed by the member and signifying the member's intention to nominate the person for election, which is accompanied by a notice signed by the person and signifying his or her consent to the nomination.

9.2 Vacation of office

In addition to the circumstances prescribed by the Corporations Act, a person ceases to be a director if the director:

- (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally;
- (c) is convicted on indictment of an offence and the directors do not within one (1) month after that conviction resolve to confirm the director's appointment or election (as the case may be) to the office of director;
- (d) fails to attend meetings of the directors for more than three (3) consecutive months without leave of absence from the directors; or
- (e) resigns by notice in writing to the Company.

9.3 Remuneration of directors

- (a) Each director is entitled to such remuneration out of the funds of the Company as the directors determine, but the remuneration of non-executive directors may not exceed in aggregate in any financial year the amount fixed by the Company in general meeting for that purpose.
- (b) The remuneration of a director may be:
 - (1) a stated salary or a fixed sum for attendance at each meeting of directors or both; or
 - (2) a share of a fixed sum determined by the Company in general meeting to be the maximum remuneration payable to all directors as directors, which is to be divided between the directors in the amounts agreed between them or, failing agreement, equally and such may wholly or partially be satisfied by Securities;

and if it is a stated salary under rule 9.3(b)(1) or a share of a fixed sum under rule 9.3(b)(2), will be taken to accrue from day to day.

- (c) The remuneration payable by the Company to a director (other than a managing director, deputy managing director or executive director) must not include a commission on, or percentage of, profits or operating revenue.
- (d) In addition to his or her remuneration under rule 9.3(a), a director is entitled to be paid all travelling and other expenses properly incurred by that director in connection with the affairs of the Company, including attending and returning from general meetings of the Company or meetings of the directors or of committees of the directors.
- (e) If a director renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of the Company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under rule 9.3(a).

- (f) Nothing in rule 9.3(a) restricts the remuneration to which a director may be entitled as an officer of the Company or of a related body corporate in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under rule 9.3(a).
- (g) The directors may:
 - (1) at any time after a director dies or otherwise ceases to hold office as a director, pay to the director or a legal personal Representative, spouse, relative or dependant of the director, in addition to the remuneration of that director under rule 9.3(a), a pension or lump sum payment in respect of past services rendered by that director; and
 - (2) cause the Company to enter into a contract with the director for the purpose of providing for or giving effect to such a payment.
- (h) The directors may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors.

9.4 Director need not be a member

- (a) A director is not required to hold any Securities in the Company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings even though that director is not a member of the Company.

9.5 Interested directors

- (a) A director may hold any other office or place of profit (other than auditor) in the Company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or place upon such terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the Company may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a securityholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the director as a director or officer of, or from having an interest in, that body corporate.
- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company in such manner in all respects as the directors think fit (including voting in favour of any resolution appointing a director as a director or other officer of that body corporate or voting for the payment of remuneration to the directors or other officers of that body corporate) and a director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that he or she is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A director is not disqualified merely because of being a director from contracting with the Company in any respect including, without limitation:
 - (1) selling any property to, or purchasing any property from, the Company;
 - (2) lending any money to, or borrowing any money from, the Company with or without interest and with or without security;

- (3) guaranteeing the repayment of any money borrowed by the Company for a commission or profit;
 - (4) underwriting or guaranteeing the subscription for Securities in the Company or in any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a securityholder or otherwise, for a commission or profit; or
 - (5) being employed by the Company or acting in any professional capacity (other than auditor) on behalf of the Company.
- (e) No contract made by a director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any director may be in any way interested is avoided or rendered voidable merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
 - (f) No director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
 - (g) Subject to rule 9.5(h), a director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
 - (1) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (2) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
 - (3) sign any document relating to that contract or arrangement or proposed contract or arrangement the Company may execute.
 - (h) Rule 9.5(g) does not apply if, and to the extent that, it would be contrary to the Corporations Act or, while the Company is a Listed Company, the Listing Rules.
 - (i) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the Company or a related body corporate and any regulations made under this Constitution will bind all directors.

9.6 Powers and duties of directors

- (a) The directors are responsible for managing the business of the Company and may exercise to the exclusion of the Company in general meeting all the powers of the Company which are not required by:
 - (1) the Corporations Act;
 - (2) this Constitution; or
 - (3) while the Company is a Listed Company, the Listing Rules;
 to be exercised by the Company in general meeting.

- (b) Without limiting the generality of rule 9.6(a) the directors may exercise all the powers of the Company to borrow or otherwise raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The directors may determine how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.
- (d) The directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (e) The directors may:
 - (1) appoint or employ any person to be an officer, agent or attorney of the Company for such purposes, with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for such period and upon such conditions as they think fit;
 - (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (3) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the Company at any time, with or without cause.
- (f) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

9.7 Proceedings of directors

- (a) The directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means, including by audio-visual technology, of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and the rules relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors by telephone or other electronic means. A meeting of directors conducted by electronic means shall only be a meeting of directors if all directors present at the meeting can instantaneously communicate between themselves so that each director can hear and participate in the proceedings of the meeting in like manner as if the director was physically present at the meeting.
- (c) A director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the chairperson of the meeting provided that at least one (1) of the directors involved was at that place for the duration of the meeting.

9.8 Convening of meetings of directors

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

9.9 Notice of meetings of directors

- (a) Subject to this Constitution, notice of a meeting of directors must be given to each person who is, at the time of giving the notice:
 - (1) a director, other than a director on leave of absence approved by the directors; or
 - (2) an alternate director appointed under rule 9.14 by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting;
 - (4) may be given in person or by post or by telephone, fax or other electronic means; and
 - (5) will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of any meeting of directors by notifying the Company to that effect in person or by post or by telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the director or an alternate director appointed by the director:
 - (A) has waived or waives notice of that meeting under rule 9.9(c); or
 - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, or by telephone, fax or other electronic means; or
 - (3) the director or an alternate director appointed by the director attended the meeting.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the alternate director or the director who appointed the alternate director:

- (A) has waived or waives notice of that meeting under rule 9.9(c); or
 - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, or by telephone, fax or other electronic means; or
 - (3) the alternate director or the director who appointed the alternate director attended the meeting.
- (f) Attendance by a person at a meeting of directors waives any objection that person and:
- (1) if the person is a director, any alternate director appointed by that person; or
 - (2) if the person is an alternate director, the director who appointed that person as alternate director;
- may have to a failure to give notice of the meeting.

9.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of two (2) directors present in person unless otherwise determined by the Board. A quorum must be present at all times during the Board meeting.
- (c) If there is a vacancy in the office of a director then, subject to rule 9.10((d)), the remaining director or directors may act.
- (d) If the number of directors in office at any time is not sufficient to constitute a quorum at a meeting of directors or is less than the minimum number of directors fixed under this Constitution, the remaining director or directors must act as soon as possible:
 - (1) to increase the number of directors to a number sufficient to constitute a quorum and to satisfy the minimum number of directors required under this Constitution; or
 - (2) to convene a general meeting of the Company for that purpose;
 and, until that has happened, must only act if and to the extent that there is an emergency requiring them to act.

9.11 Chairperson and deputy chairperson of directors at meetings of directors

- (a) The directors may elect one (1) of the directors to the office of chairperson of directors and may determine the period for which, and the title under which, that director is to be chairperson of directors.
- (b) The directors may elect one (1) of the directors to the office of deputy chairperson of directors and may determine the period for which, and the title under which, that director is to be deputy chairperson of directors.
- (c) The office of chairperson of directors or deputy chairperson of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the director holding that office for the purposes of rule 9.3(e).
- (d) The chairperson of directors must (if present within ten (10) minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at each meeting of directors.

- (e) If at a meeting of directors:
 - (1) there is no chairperson of directors;
 - (2) the chairperson of directors is not present within ten (10) minutes after the time appointed for the holding of the meeting; or
 - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting;

then if the directors have elected a deputy chairperson of directors, the deputy chairperson of directors must (if present within ten (10) minutes after the time appointed for the holding of the meeting and willing to act) preside as the chairperson of the meeting.

- (f) Subject to rules 9.11(d) and (e), if at a meeting of directors:
 - (1) there is no deputy chairperson of directors;
 - (2) the deputy chairperson of directors is not present within ten (10) minutes after the time appointed for the holding of the meeting; or
 - (3) the deputy chairperson of directors is present within that time but is not willing to act as chairperson of the meeting;

the directors present must elect one (1) of themselves to be chairperson of the meeting.

9.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this Constitution.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and any such decision is for all purposes a determination of the directors.
- (c) Where there is an equality of votes upon any proposed resolution the chairperson of the meeting will have a second or casting vote.

9.13 Written resolutions

- (a) If:
 - (1) all of the directors, other than:
 - (A) any director on leave of absence approved by the directors;
 - (B) any director who disqualifies himself or herself from considering the act, matter, thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
 - (C) any director who the directors reasonably believe is not entitled at law to do the act, matter or thing or to vote on the resolution in question;

sign a document containing a statement to the effect that they are in favour of the resolution set out in the document; and

- (2) the directors who sign the document would have constituted a quorum at a meeting of directors held to consider that resolution;

then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the directors.

- (b) For the purposes of rule 9.13(a), the resolution is taken to have been passed:
 - (1) on the day on which, and at the time at which, the document was last signed by a director;
 - (2) when two (2) or more separate documents in identical terms each of which is signed by one (1) or more directors are to be taken as constituting one (1) document; and
 - (3) a director may signify assent to a document by signing the document or by notifying the Company of the director's approval of the resolution in person or by post, or by fax or other electronic means.

9.14 Alternate directors

- (a) A director may, with the approval of a majority of the directors, appoint a person to be the director's alternate director for such period as the director thinks fit.
- (b) An alternate director may, but need not, be a member or a director of the Company.
- (c) One (1) person may not act as alternate director to more than one (1) director.
- (d) An alternate director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer.
- (e) An alternate director is entitled to a separate vote for the director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (f) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of any such power by the alternate director is to be taken to be the exercise of the power by the appointer.
- (g) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (h) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
- (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director (which may be provided electronically or by facsimile) who makes or made the appointment and does not take effect unless and until the Company has received notice in writing of the appointment or termination.
- (j) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this Constitution.
- (k) In determining whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is to be counted as a director for the director on whose behalf the alternate director is attending the meeting.
- (l) An alternate director is not entitled to be paid remuneration from the Company for acting as an alternate director for another director in addition to the remuneration already paid to that alternate director as a director, but may claim any additional expenses contemplated by rule 9.3(d) incurred by that

alternate director in the director's capacity as an alternate director. Nothing however shall prohibit the director in respect of or for whom such person is acting as an alternate paying such alternate director portion of the director's remuneration to which he, as the director appointing the alternate, is entitled.

- (m) An alternate director is not entitled to be remunerated by the Company for his or her services as alternate director except as provided in rule 9.14(l).
- (n) An alternate director, while acting as a director, is responsible to the Company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

9.15 Committees of directors

- (a) The directors may delegate any of their powers to a committee or committees consisting of such number of directors as they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The rules applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Membership of a committee of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the members for the purposes of rule 9.3(e).

9.16 Delegation to individual directors

- (a) The directors may delegate any of their powers to one (1) director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) Acceptance of such a delegation may, if the directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of rule 9.3(e).

9.17 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote;

if that circumstance was not known by the person or the directors or committee (as the case may be) when the act was done.

10 Executive officers

10.1 Managing directors

- (a) The directors may appoint one (1) or more of the directors to the office of managing director.

- (b) A managing director's appointment as managing director automatically terminates if the managing director ceases to be a director.

10.2 Deputy managing directors

- (a) The directors may appoint one (1) or more of the directors to the office of deputy managing director.
- (b) A deputy managing director's appointment as deputy managing director automatically terminates if the deputy managing director ceases to be a director.

10.3 Executive directors

- (a) A reference in this rule 10.3 to an executive director is a reference to a director who is also an officer of the Company or of a related body corporate in a capacity other than director, managing director or deputy managing director.
- (b) The directors may confer on an executive director such title as they think fit.
- (c) An executive director may be appointed on the basis that the executive director's appointment:
 - (1) as a director automatically terminates if the executive director ceases to be an officer of the Company or of a related body corporate in a capacity other than director; or
 - (2) as an officer of the Company or of a related body corporate in a capacity other than director automatically terminates if the executive director ceases to be a director.

10.4 Secretaries

- (a) The directors must appoint at least one (1) secretary and may appoint additional secretaries.
- (b) The directors may appoint one (1) or more assistant secretaries.

10.5 Provisions applicable to all executive officers

- (a) A reference in this rule 10.5 to an executive officer is a reference to a managing director, deputy managing director, executive director, secretary or assistant secretary appointed under this rule 10.
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the directors think fit.
- (c) The remuneration payable by the Company to an executive officer who is also a director must not include a commission on, or percentage of, operating revenue.
- (d) Subject to any contract between the Company and the relevant executive officer, any executive officer of the Company may be removed or dismissed by the directors at any time, with or without cause.
- (e) The directors may:
 - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the directors) as they think fit;

- (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (f) An executive officer is not required to hold any Securities to qualify for appointment.
- (g) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (1) a defect in the person's appointment as an executive officer; or
 - (2) the person being disqualified to be an executive officer;if that circumstance was not known by the person when the act was done.

11 Indemnity and insurance

11.1 Persons to whom rules 11.2 and 11.4 apply

Rules 11.2 and 11.4 apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 10.5(a)) of the Company; and
- (b) to such other officers or former officers of the Company or of its related bodies corporate as the directors in each case determine.

11.2 Indemnity

The Company must

- (a) indemnify; and
- (b) if requested by a person to whom this rule 11.2 applies, enter into a deed indemnifying;

on a full indemnity basis and to the full extent permitted by law, each person to whom this rule 11.2 applies for all losses or liabilities incurred by the person in or arising out of the conduct of any activity of the Company or of a related body corporate or the proper performance of any duty of that officer, director or secretary as an officer of the Company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

- (c) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; and
- (d) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.

11.3 Extent of indemnity

The indemnity in rule 11.2:

- (a) is a continuing obligation and is enforceable by a person to whom rule 11.2 applies even though that person may have ceased to be an officer of the Company or of a related body corporate; and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

11.4 Insurance

The Company may, to the extent permitted by law:

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

for any person to whom this rule 11.4 applies against any liability incurred by the person as an officer of the Company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

11.5 Savings

Nothing in rule 11.2 or 11.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; and
- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those rules do not apply.

12 Winding up

12.1 Distribution of surplus

Subject to this Constitution and to the rights or restrictions attached to any Securities:

- (a) if the Company is wound up and the property of the Company is more than sufficient:
 - (1) to pay all of the debts and liabilities of the Company; and
 - (2) the costs, charges and expenses of the winding up;the excess must be divided among the members in proportion to the number of Securities held by them, irrespective of the amounts paid or credited as paid on the Securities;
- (b) for the purpose of calculating the excess referred to in rule 12.1(a), any amount unpaid on a Security is to be treated as property of the Company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid Security under rule 12.1(a) must be reduced by the amount unpaid on that Security at the date of the distribution; and
- (d) if the effect of the reduction under rule 12.1(c) would be to reduce the distribution to the holder of a partly paid Security to a negative amount, the holder must contribute that amount to the Company.

12.2 Division of property

- (a) If the Company is wound up, the liquidator may, with the sanction of a special resolution:
 - (1) divide among the members the whole or any part of the property of the Company; and
 - (2) determine how the division is to be carried out as between the members.

- (b) Any division under rule 12.2(a) may be otherwise than in accordance with the legal rights of the members.
- (c) Where a division under rule 12.2(a) is otherwise than in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Corporations Act.
- (d) If any of the property to be divided under rule 12.2(a) includes Securities with a liability to calls, any person entitled under the division to any of the Securities may within ten (10) days after the passing of the special resolution referred to in that rule, by notice in writing direct the liquidator to sell the person's proportion of the Securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 12.2 derogates from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 4.5 applies, so far as it can and with such changes as are necessary, to a division by a liquidator under rule 12.2(a) as if references in rule 4.5 to the directors and to a distribution or capitalisation were references to the liquidator and to the division under rule 12.2(a) respectively.

13 Minutes and records

13.1 Minutes of meetings

- (a) The directors must ensure minutes of proceedings and resolutions of general meetings and of meetings of directors (including committees of directors) are recorded in books kept for the purpose, within one (1) month after the relevant meeting is held.
- (b) The directors must ensure that the Company records in the minutes of a meeting in respect of each resolution in the notice of meeting:
 - (1) the total number of proxy votes exercisable by all validly appointed proxies; and
 - (2) how many proxy votes were for, against or abstained from the resolution or were to vote at the proxy's discretion.
- (c) If a poll is taken on the resolution, in addition to the information in rules 13.1(b)(1) and 13.1(b)(2), the minutes must also record the total number of votes cast on the poll, and the number of votes for, against and abstaining from the resolution.

13.2 Minutes of resolutions passed without a meeting

The directors must ensure minutes of resolutions passed by directors (and committees of directors) without a meeting are recorded in books kept for that purpose within one (1) month after the resolution is passed.

13.3 Signing of minutes

- (a) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.
- (b) The minutes of the passing of a resolution without a meeting must be signed by a director within a reasonable time after the resolution is passed.

13.4 Minutes as evidence

A minute that is recorded and signed under rules 13.1, 13.2 and 13.3 is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

13.5 Inspection of records

- (a) The directors must ensure the minute books for general meetings are open for inspection by members free of charge.
- (b) Subject to rule 13.5(a) the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the Company or any of them will be open to the inspection of members (other than directors).
- (c) A member (other than a director) does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the directors.

14 Execution of documents

14.1 Manner of execution

The Company may execute a document if the document is signed by:

- (a) two (2) directors; or
- (b) a director and a secretary; or
- (c) in any other manner authorised by the Board from time to time.

14.2 Common seal

The Company may have a common seal. If the Company has a common seal, rules 14.3 to 14.6 will apply.

14.3 Safe custody of seal

The directors must provide for the safe custody of the seal.

14.4 Use of seal

- (a) The seal must be used only by the authority of the directors or of a committee of the directors authorised by the directors to authorise the use of the seal.
- (b) The authority to use the seal may be given before or after the seal is used.
- (c) Subject to rule 14.3 until the directors otherwise determine, every document to which the seal is fixed must be signed by:
 - (1) two (2) directors;
 - (2) a director and a secretary; or
 - (3) a director and another person appointed by the directors to countersign that document or a class of documents in which that document is included.

14.5 Seal register

- (a) The Company may keep a seal register. If the Company does keep a seal register the Company must enter in the register particulars of any document on which the seal is fixed (other than a certificate for Securities of the Company), giving in each case:
 - (1) the date of the document;
 - (2) the names of the parties to the document;
 - (3) a short description of the document; and
 - (4) the names of the persons signing the document under rule 14.4(c).
- (b) The register must be produced at meetings of directors for confirmation of the use of the seal since confirmation was last given under this rule 14.5.
- (c) Failure to comply with rules 14.5(a) or (b) does not invalidate any document to which the seal is properly fixed.

14.6 Duplicate seal

- (a) The Company may have one (1) or more duplicate seals for use in place of its common seal outside the state or territory where its common seal is kept. Each duplicate seal must be a facsimile of the common seal of the Company with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.
- (b) A document sealed with a duplicate seal is to be taken as having been sealed with the common seal of the Company.

15 Notices

15.1 Notices by the Company to members and Security holders

- (a) A notice may be given by the Company to a member or a Security holder:
 - (1) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's or Security holder's address as shown in the register of members or relevant Security holders, or by sending it to the fax number or electronic address the member or Security holder has supplied to the Company for the giving of notices;
 - (2) if the member or Security holder does not have a registered address and has not supplied another address to the Company for the giving of notices, by exhibiting it at the registered office of the Company for at least forty-eight (48) hours; or
 - (3) by announcing it to the relevant Stock Exchange.
- (b) A notice may be given by the Company to the joint holders of a Security by giving the notice in the manner authorised by rule 15.1(a) to the joint holder first named in the register in respect of the Security.
- (c) A notice may be given by the Company to a person entitled to a Security as a result of a Transmission Event by serving it or sending it in the manner authorised by rule 15.1(a)(1) addressed to the name or title of the person, at or to such address, fax number or electronic address supplied to the Company for the giving of notices to that person, or if no address, fax number or electronic address has been supplied, at or to the address, fax number or

electronic address to which the notice might have been sent if the relevant Transmission Event had not occurred.

- (d) The fact that a person has supplied a fax number or an electronic address for the giving of notices does not require the Company to give any notice to that person by fax or electronic means.
- (e) A notice given to a member or Security holder in accordance with rules 15.1(a) or (b) is, despite the occurrence of a Transmission Event and whether or not the Company has notice of that occurrence:
 - (1) duly given in respect of any Securities registered in that person's name, whether solely or jointly with another person; and
 - (2) sufficient service on any person entitled to the Securities as a result of the Transmission Event.
- (f) A notice given to a person who is entitled to a Security as a result of a Transmission Event is sufficient service on the member or Security holder in whose name the Security is registered.
- (g) Any person who, because of a transfer of Securities, becomes entitled to any Securities registered in the name of a member or Security holder is bound by every notice which, before that person's name and address is entered in the register in respect of those Securities, is given to the member or Security holder in accordance with this rule 15.1.
- (h) A signature to any notice given by the Company to a member or Security holder under this rule 15.1 may be in writing or a facsimile printed or affixed by some mechanical or other means.
- (i) A certificate signed by a director or secretary of the Company to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.

15.2 Notices by the Company to directors

Subject to this Constitution, a notice may be given by the Company to any director or alternate director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or alternate director's usual residential or business address, or such other address, or by sending it to the fax number or electronic address, as the director or alternate director has supplied to the Company for the giving of notices.

15.3 Notices by members, Security holders or directors to the Company

Subject to this Constitution, a notice may be given by a member, Security holder, director or alternate director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by sending it to the principal fax number or principal electronic address of the Company at its registered office.

15.4 Notices posted to addresses outside Australia

A notice sent by post to an address outside Australia must be sent by pre-paid airmail, fax or in another way that ensures it is received quickly.

15.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (1) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax or electronic means, service of the notice is to be taken to be effected on the day after the date it is sent.
- (c) Where the Company gives a notice under rule 15.1(a)(2) by exhibiting it at the registered office of the Company, service of the notice is to be taken to be effected when the notice was first so exhibited.
- (d) Where the Company gives a notice under rule 15.1(a)(3) by announcing it to the Stock Exchange, service of the notice is to be taken to be effected when the announcement is released to the market.

15.6 Other communications and documents

Rules 15.1 to 15.5 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

15.7 Notices in writing

A reference in this Constitution to a notice in writing includes a notice given by fax or electronic means.

16 General

16.1 Submission to jurisdiction

Each member and Security holder submits to the non-exclusive jurisdiction of the tribunals, judicial bodies and Supreme Court of the State or Territory in which the Company is registered, the Federal Court of Australia and the tribunals, judicial bodies and courts which may hear references or appeals from those entities.

16.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

Appendix A – Notice of Redemption

NOTICE OF REDEMPTION

IF GIVEN BY THE COMPANY

TO:

("the Preference Shareholder")

Whereas pursuant to the terms of the issue of the preference shares Emperor Energy Limited ("the Company") has the right to give notice of redemption to the Preference Shareholder **NOW TAKE NOTICE THAT** the Company hereby pursuant to the powers contained in the terms of issue hereby gives notice of exercise of its right to redeem * of the preference shares held under SRN/HIN [Insert relevant SRN or HIN] by you as the Preference Shareholder. Further **TAKE NOTICE THAT** if you wish to exercise your right to convert the preference shares the subject of this Notice of Redemption into ordinary Shares in accordance with subclause (i) of the terms and conditions of issue thereof you must give the Company Notice of Conversion in or to the effect of the Notice of Conversion by Preference Shareholder set out in the terms and conditions of issue so that such Notice of Conversion is received by the Company within 60 days from the date of this Notice of Redemption. Failure to give such notice for any reason shall mean that the preference shares the subject of this Notice of Redemption shall be redeemed.

TAKE NOTICE THAT it is your responsibility to ensure that any Notice of Conversion which you may wish to deliver to the Company is actually received by the Company.

DATED this day of 20##

.....
Director/Secretary for and on behalf of the Company
* Insert number of preference shares to be redeemed.

IF GIVEN BY THE PREFERENCE SHAREHOLDER

TO: EMPEROR ENERGY

("the Company")

Whereas pursuant to the terms of the issue of the preference shares a Preference Shareholder has the right to give notice of redemption to the Company **NOW TAKE NOTICE THAT** pursuant to the powers contained in the terms of issue the undersigned Preference Shareholder hereby gives notice of exercise of its right to redeem * of the preference shares held by it under SRN/HIN [Insert relevant SRN or HIN]. Further **TAKE NOTICE THAT** if the Company wishes to exercise its right to convert the preference shares the subject of this Notice of Redemption into ordinary Shares in accordance with subclause (i) of the terms and conditions of issue thereof the Company must give the undersigned Preference Shareholder Notice of Conversion in or to the effect of the Notice of Conversion set out in the terms and conditions of issue in accordance with the Constitution of the Company as in force at the date of the giving of such notice with such Notice of Conversion being required to be given within 60 days from the date of this Notice of Redemption. Failure to give such notice for any reason shall mean that the preference shares the subject of this Notice of Redemption shall be redeemed.

DATED this day of 20##

.....
Preference Shareholder**

* Insert number of preference shares to be redeemed.

** This Notice must be signed by the Shareholder(s) personally or by a duly appointed Attorney. If signed by an Attorney the relevant Power of Attorney must be submitted with the Notice unless already noted by the Company. If there are joint holders, each must sign. Where the Preference Shareholder is a corporation any notice of conversion must be executed in like manner as a proxy is required to be executed in accordance with the provisions of the Act and the Constitution of the Company.

Appendix B – Notice of Conversion

NOTICE OF CONVERSION IF GIVEN BY THE PREFERENCE SHAREHOLDER

TO: The Registrar
Emperor Energy Limited
Insert Address

I/We the holder(s) of the preference shares under SRN/HIN [Insert relevant SRN or HIN] hereby give notice of exercise of the right to convert * of the preference shares comprised in this holding into fully paid ordinary Shares in the capital of the Company in accordance with the terms and conditions set out in the terms and conditions of issue relating thereto.

If this Notice is signed by an Attorney, the Attorney hereby declares that he/she has no notice or revocation of the power of attorney under the authority of which this Notice is signed.

DATED this day of 20##

Signature(s)**

* Insert number of preference shares you wish to convert

** This Notice must be signed by the Shareholder(s) personally or by a duly appointed Attorney. If signed by an Attorney the relevant Power of Attorney must be submitted with the Notice unless already noted by the Company. If there are joint holders, each must sign. Where the Preference Shareholder is a corporation any notice of conversion must be executed in like manner as a proxy is required to be executed in accordance with the provisions of the Act and the Constitution of the Company.

IF GIVEN BY THE COMPANY

TO: The Preference Shareholder
[Insert details of Name and address as per Register]

The Company hereby gives notice to you that it exercises its right pursuant to the terms of allotment of the preference shares held by you in relation to your holding of preference shares under SRN/HIN [Insert relevant SRN or HIN] to convert * of the said preference shares into fully paid ordinary Shares in the capital of the Company.

DATED this day of 20##

Signature(s)**

* Insert number of preference shares the Company elects to convert.

** This Notice must be signed by a director of the Company.