

CONSTITUTION OF POLICE BANK LTD

ABN 95 087 650 799



A COMPANY LIMITED
BY SHARES AND
GUARANTEE

Last amended [●] 2022

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POLICE BANK LTD (“COMPANY”)

1. INTERPRETATION

1.1. Definitions

In this Constitution unless the context otherwise requires:

"Act" means the *Corporations Act 2001* (Cth) as amended or re-enacted from time to time and includes any statutory instruments issued under the *Corporations Act 2001* (Cth).

"APRA" means the Australian Prudential Regulation Authority or any successor body. **"ASIC"** means the Australian Securities & Investments Commission or any successor body. **"Board"** means the board of Directors of the Company.

"Board Appointed Director" means a Director appointed in accordance with Clause 22.2.3.

"Candidate", for the purposes of Clause 23, means a person who seeks election as a Member Elected Director and includes a retiring Director seeking re-election.

"Clearing and Settlement Facility" means a “licensed CS facility” as defined in the Act.

"Company" means Police Bank Ltd ABN 95 087 650 799.

"Constitution" means this document and includes any variation or replacement of it. **"Director"** means a person appointed as a director of the Company.

"Director Liability" means all liabilities including all losses, damages, costs, charges and expenses, claims, demands, actions or suits incurred, suffered by or made or instituted against a Director (including in connection with any actual or alleged negligence):

- (a) as an officer of the Company; or
- (b) if relevant, arising from, or in connection with, the Director's employment by the Company, but does not include:
- (c) a liability owed to the Company or any of its related bodies corporate; or
- (d) a liability that is owed to someone other than the Company or any of its related bodies corporate and did not arise out of conduct in good faith; or
- (e) a liability for a pecuniary penalty order under Section 1317G of the Act or a compensation order under Sections 961M, 1317H, 1317HA or 1317HB of the Act.

"Financial Accommodation" includes:

- (a) an advance or granting of credit;
- (b) creating or transferring a debt or an interest in a debt;
- (c) a forbearance to require payment of money owing on any account; and

- (d) a transaction that in substance effects a loan or is regarded by the parties to the transaction as a loan.

"General Meeting" means a general meeting of the Members and any MCI Holders (if MCI Holders are given notice of such meeting).

"Investor Share" means a share in the Company (not being a Member Share, Redeemable Preference Share or MCI) that provides a dividend return to the holder of the share.

"Joint Member" means, as the context requires, where two or more persons are admitted as a Member under Clause 6.5.1, those persons jointly or severally.

"MCI" means a "mutual capital instrument", being a share as described in [Error! Reference source not found.].

"MCI Holder" means a person who is the holder of an MCI and whose name is for the time being entered in the Register of Members as a member of the Company (within the meaning of the Act).

"Member" means a person admitted as a Member of the Company under Clause 6 and whose name is entered in the Register of Members and **"Membership"** has a corresponding meaning. For the avoidance of doubt, "Member" does not include "MCI Holder".

"Member Elected Director" means a Director for the time being of the Company appointed in accordance with Clauses 22.2.1 and 22.2.2.

"Member Share" means a redeemable preference share with the attributes described in Clause 8.6.2 held by a Member.

"Merger Appointed Director" means a Director for the time being of the company appointed in accordance with Clause 22.2.4.

"Minor" means a person who is less than 18 years old.

"Mutual ADI" means an entity permitted to call itself a credit union, mutual building society, mutual bank or friendly society.

"Nominations Committee" means the committee appointed by the Board in accordance with Clause 23.2.5.

"Personal Representative" means, in respect of a Member or MCI Holder, a person who becomes entitled at law to the possession or control of the assets of the Member or MCI Holder by reason of the death, mental incapacity, bankruptcy or insolvency of the Member or MCI Holder.

"Prudential Standard" means:

- (a) any prudential standard that APRA determines under the *Banking Act 1959* (Cth);
- (b) any prudential regulation made under the *Banking Act 1959* (Cth); and

- (c) any APRA transitional prudential standard applying to the Company (if any) under the *Financial Sector Reform (Amendments and Transitional Provisions) Regulations 1999* (Cth).

“Redeemable Preference Share” or “RPS” means a redeemable preference share issued by the Company in accordance with the terms of issue in Schedule 2 (and, for the avoidance of doubt, excludes MCIs).

“Replaceable Rules” means the replaceable rules under, or as referred to in, the Act as amended or re-enacted from time to time.

“Register” means the register of members of the Company (including Members and MCI Holders) required to be kept pursuant to the Act and may include separate sub-registers of Members who hold Member Shares, Members who have given a guarantee in accordance with Clause 6.1.1 and MCI Holders who hold MCIs.

“Seal” means the common seal of the Company.

“Secretary” means any person appointed to perform the duties of secretary of the Company.

“Subscription Price” means the amount payable on subscription for an MCI or, if the MCI was created on conversion of a capital instrument in accordance with Prudential Standards, the nominal dollar value of that capital instrument prior to conversion into the MCI.

“Withdrawable Shares” has the same meaning as in the Financial Institutions (Queensland) Act 1992 as it applies to New South Wales.

1.2. Replaceable Rules

The Replaceable Rules do not apply in respect of the Company except when they are expressly stated to apply

1.3. Written Notice

Written notice includes notice given by way of:

- 1.3.1 facsimile; or
- 1.3.2 electronic transmission.

1.4. General Interpretive Provisions

1.4.1. Unless the contrary intention appears, words importing:

- (a) the singular number include the plural number and vice versa;
- (b) any gender includes every other gender; and
- (c) a reference to a person includes a corporation, body corporate, firm, unincorporated association and a governmental authority.

1.4.2. Where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

1.4.3. In this Constitution, any reference to a Clause or Schedule is a reference to a Clause or

Schedule of this Constitution.

- 1.4.4. Headings to Clauses in this Constitution are added for convenience only and do not affect interpretation.
- 1.4.5. Annotations to this Constitution by reference to Sections of the Act or to Replaceable Rules do not form part of the Constitution. The Company may rename or alter the annotations without the Company complying with the requirements of the Act that apply to the removal or modification of constitutional provisions.
- 1.4.6. Where an expression used in this Constitution is defined in the Act it has the same meaning in this Constitution unless the context otherwise requires.
- 1.4.7. A reference to this Constitution or another instrument includes all amendments or replacements of the Constitution or the other instrument.
- 1.4.8. A reference to a statutory or other body that ceases to exist or the powers and functions of which are transferred to another body includes a reference to the body:
 - (a) that replaces it; or
 - (b) to which the powers and functions relevant to this Constitution are transferred.
- 1.4.9. A reference to includes means includes but without limitation.

1.5. Intention to be an MCI mutual entity

- 1.5.1. The Company is intended to be an “MCI mutual entity” for the purposes of and as defined in the Act.

2. PUBLIC COMPANY LIMITED BY SHARES & GUARANTEE

The Company is a public company limited by shares and guarantee.

3. OBJECTS OF THE COMPANY

The objects of the Company are:

- 3.1. to raise funds (including by way of issuing MCIs or capital instruments convertible into MCIs) by subscription, deposit or otherwise, as authorised by this Constitution, any requirements of APRA in Prudential Standards (where applicable) and the Act;
- 3.2. to apply the funds, subject to this Constitution and the Act, in providing financial accommodation to Members;
- 3.3. to encourage savings amongst Members;
- 3.4. to promote a co-operative enterprise;
- 3.5. to provide programs and services to Members to assist them to meet their financial needs;
- 3.6. to promote, encourage and bring about human and social development among individual Members and within the larger community within which Members work and reside; and

3.7. to further the interests of Members and persons or entities with which Members share common social, welfare or employment objectives.

4. POWERS OF THE COMPANY

4.1. Legal Capacity & Powers of the Company

Subject to the Act, this Constitution and the requirements of APRA in Prudential Standards (as applicable), the Company has:

- 4.1.1. the legal capacity and powers of an individual anywhere in the world; and
- 4.1.2. all the powers of a body corporate, including the power to:
 - (a) issue and cancel shares in the Company;
 - (b) issue debentures whether irredeemable or redeemable;
 - (c) (without limiting the operation of this clause) issue MCIs or capital instruments convertible into MCIs;
 - (d) grant options over unissued shares in the Company;
 - (e) subject to Clause 3(b) of Schedule 3, distribute any of the Company's property among the Members, in kind or otherwise;
 - (f) grant a security interest in uncalled capital;
 - (g) grant a circulating security interest over the Company's property;
 - (h) arrange for the Company to be registered or recognised as a body corporate in any place outside New South Wales; and
 - (i) do anything that it is authorised to do under any law (including a law of a foreign country).

(This generally reflects Section 124 of the Act.)

4.2. Company may have a Seal

- 4.2.1. The Company may, but need not, have a Seal. If the Company does have a Seal it must have set out on it:
 - (a) if the Company has its ACN in its name - the Company's name; or
 - (b) otherwise, the Company's name and either:
 - i. the expression "Australian Company Number" or "ACN" and the Company's ACN; or
 - ii. if the last nine digits of the Company's ABN are the same, and in the same order, as the last nine digits of its ACN, the expression "Australian Business Number" or "ABN" and the Company's ABN.

(This reflects Sections 123 and 149(1) of the Act.)

- 4.2.2. If the Company has a Seal, the Directors must provide for the safe custody of the Seal,

which may only be used on the authority of the Directors or of a committee of the Directors authorised by the Directors.

4.3. Agent Exercising the Company's Power to make Contracts

Subject to the operation of a law that requires a particular procedure to be complied with in relation to the contract, the Company's power to make, vary, ratify or discharge a contract may be exercised by an individual acting with the Company's express or implied authority and on behalf of the Company. The power may be exercised without using a common seal.

(This reflects Section 126 of the Act.)

4.4. Execution of Documents by the Company

4.4.1. The Company may execute a document without using a common seal if the document is signed by:

- (a) 2 Directors; or
- (b) a Director and Secretary.

4.4.2. If the Company has a common seal, the Company may execute a document if the Seal is fixed to the document and the fixing of the Seal is witnessed by:

- (a) 2 Directors; or
- (b) a Director and a Secretary.

(This reflects Section 127 of the Act.)

4.5. Dealing with Members Exclusively

4.5.1. The Company must not provide Financial Accommodation to a person who is not a Member.

4.5.2. Clause 4.5.1 does not limit the powers of the Company to:

- (a) invest funds other than by way of Financial Accommodation to its Members;
- (b) accept deposits from both Members and persons who are not Members (including MCI Holders or any person constituting a joint MCI Holder); or
- (c) provide Financial Accommodation to, or accept deposits from, a Joint Member or any person constituting a Joint Member.

5. GUARANTEE

5.1. Subject to Clause 5.2, each Member undertakes to the Company to contribute to the assets of the Company on the winding up of the Company for the payment of:

- 5.1.1. debts and liabilities of the Company contracted before the Member ceased to be a Member;
- 5.1.2. costs, charges and expenses of the winding up of the Company; and
- 5.1.3. adjustment of the rights of the contributories amongst themselves, such amount as may be required but not exceeding \$10.

5.2. Clause 5.1 does not apply to a Member who holds Member Shares.

6. ELIGIBILITY TO BE A MEMBER

6.1. Member

6.1.1. A Member of the Company is a person who:

- (a) gives the guarantee to the Company set out in or to the effect of Clause 5; or
- (b) is taken to have given a guarantee to the Company under Clause 6.1.2;
- (c) and who has not ceased to be a Member of the Company.

6.1.2. A person is taken to have given a guarantee to the Company for the purposes of determining whether the person is a Member of the Company (but does not actually give a guarantee to the Company) where:

- (a) the person was a Member of the Company (or the financial institution as it was prior to converting to becoming a Company) immediately before 1 July 1999;
- (b) the person was a Member of the Company on or after 1 July 1999 and before the date the amount of the guarantee was determined;
- (c) the person is a member of a Mutual ADI which transfers its engagements to the Company and has not given a guarantee to the Company, in which event, the person becomes a Member upon the transfer of the engagements taking effect; or
- (d) the person was admitted as a Member of the Company on or after the date the amount of the guarantee was determined but, having been issued with five Member Shares, did not give the guarantee.

(Subparagraphs (a) and (b) reflect Schedule 4 Clause 14(2) of the Act.)

6.1.3. If a person who is taken to have given a guarantee under Clause 6.1.2 is a Joint Member, the person is taken to have given the guarantee jointly with the other Member or Members of the Joint Member.

(Reflects Schedule 4 Clause 14(4) of the Act.)

6.2. Eligibility to Become a Member

6.2.1. A person is only eligible to be a Member in accordance with Clauses 6.3 to 6.6.

6.2.2. A person does not cease to be a Member because the person does not retain, after the person has become a Member, eligibility for being a Member under Clauses 6.3 to 6.6.

6.2.3. Unless expressly stated otherwise in this Constitution:

- (a) an MCI Holder is not a Member of the Company merely by virtue of holding an MCI;
- (b) an MCI Holder may be (or become) a Member of the Company if they are otherwise admitted to Membership in accordance with Clause 6; and
- (c) an MCI Holder who is also a Member is not deemed to be a Member (and the

provisions of this Constitution relating to Membership do not apply) in respect of any MCIs held by that person.

6.3. Status of Existing Members

A person who is a Member of the Company when this Constitution becomes the constitution of the Company continues to be a Member of the Company although that person may not then be eligible to be a Member of the Company otherwise than under this Clause.

6.4. Membership - Common Bond

A person is eligible to be a Member under any one of the categories set out in Schedule 1.

6.5. Joint Members


- 6.5.1. The Board may admit 2 or more persons as a Joint Member.
- 6.5.2. The persons constituting the Joint Member may determine the order in which their names are to appear in the Register, when the Joint Member first becomes a member of the Company by notice in writing to the Company.
- 6.5.3. If the persons do not determine the order as permitted under Clause 6.5.2, the Company may at any time determine the order in which their names are to appear in the Register but otherwise the order is as is recorded in the Register.
- 6.5.4. The person named first in the Register is the primary Joint Member.
- 6.5.5. Any notice which the Company is required to send to a Joint Member is to be taken as duly sent to each Joint Member if sent to the primary Joint Member.
- 6.5.6. The primary Joint Member only is entitled to vote on behalf of the Joint Member.
- 6.5.7. A Joint Member is regarded as 1 Member, regardless of the number of persons who may constitute that Joint Member.
- 6.5.8. These provisions do not disentitle a person who constitutes a Joint Member from obtaining all documents, or copies of documents, or information which a Member is entitled to obtain under the Act from the Company.
- 6.5.9. A Joint Member may also be a Member of the Company in their own right or jointly with others.

6.6. Members who are Minors

- 6.6.1. The Board may admit a Minor as a member of the Company.
- 6.6.2. Subject to any laws to the contrary, a Member who is a Minor must not:
 - (a) vote; or
 - (b) hold office in the Company.

6.7. Body Corporate Representative

- 6.7.1. A body corporate may appoint an individual as a representative to exercise all or any of the powers the body corporate may exercise:

- 
- (a) at General Meetings of the Company or at meetings of a class of Members or MCI Holders;
 - (b) at meetings of creditors or debenture holders;
 - (c) relating to resolutions to be passed without meetings; or
 - (d) in the capacity of a Member's proxy appointed under Clause 21.

The appointment may be a standing one.

6.7.2. The appointment may set out restrictions on the representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.

6.7.3. A body corporate may appoint more than 1 representative but only 1 representative may exercise the body's powers at any one time.

6.7.4. Unless otherwise specified in the appointment, the representative may exercise, on the body corporate's behalf, all of the powers that the body could exercise at a meeting or in voting on a resolution.

(This reflects Section 250D of the Corporations Act.)

6.8. Admission of New Members

6.8.1. The Board in its absolute discretion may admit a person as a Member provided:

- (a) the person makes written application in a form as required by the Board;
- (b) the person submits evidence satisfactory to the Board as to that person's eligibility under Clause 6;
- (c) the person agrees to:
 - i. give the guarantee to the Company as contemplated by Clause 5; or
 - ii. subscribe for 5 Member Shares if the Company is unable or unwilling to accept the guarantee, or the person is taken to have given the guarantee to the Company as contemplated in Clauses 6.1.2(a), (b) or (c); and
- (d) the person signs an undertaking to be bound by the provisions of this Constitution.

6.8.2. Upon the Board admitting a person as a Member, the Board must enter particulars in the Register, as required by the Act.

7. MEMBER CEASING TO BE A MEMBER OR BEING OF UNSOUND MIND

7.1. Cessation of Membership

A person ceases to be a Member when:

- 7.1.1. that person is expelled under Clause 7.2;
- 7.1.2. all that person's deposit accounts with the Company have been determined to be

dormant under Clause 7.3 and none of the deposit accounts with the Company have been reinstated, and the Board determines that the person is no longer a Member;

- 7.1.3. the Company redeems that person's Member Shares under Clause 8.6.2(f);
- 7.1.4. the Board approves an application for cancellation of a person's status as a Member by a Member who does not hold Member Shares on being satisfied that all Financial Accommodation and other obligations have been discharged;
- 7.1.5. that person becomes a bankrupt or, being a body corporate, is wound up or is under external administration (as detailed in the Act); or
- 7.1.6. that person dies.

7.2. Expulsion

- 7.2.1. The Board may expel a Member on the grounds that the Member:
 - (a) has failed to discharge the Member's obligations to the Company;
 - (b) has been guilty of conduct detrimental to the Company; or
 - (c) has become a Member by misrepresentation or mistake; or
 - (d) in the opinion of the Board that person may adversely affect the good reputation of the Company by allowing them to be a Member; or
 - (e) in the opinion of the Board that person has been abusive or has behaved in an unbecoming or offensive manner to staff at or near the Company's premises.
- 7.2.2. In the event of a dispute, the Member shall have access to the Australian Financial Complaints Authority or appropriate like body specified within the Mutual Banking Code of Practice.
- 7.2.3. Where a Member is expelled, the Company must pay the expelled Member the amount paid up by that Member for the Members Shares held after satisfaction of all liabilities and obligations of the Member to the Company including in connection with any Financial Accommodation.

7.3. Dormancy

- 7.3.1. The Board may determine a deposit account with the Company to be dormant if no transactions initiated other than by the Company have been made within a period in excess of 36 months.
- 7.3.2. The Board must ensure that, 1 month before a deposit account with the Company is declared dormant, a notice to that effect is sent to the Member to which the deposit account with the Company relates at the Member's last known address as shown in the Register.
- 7.3.3. When all of a Member's deposit accounts with the Company are declared dormant, the Company must credit the value of the Member's Member Shares and the deposit account with the Company to a designated suspense account.

- 7.3.4. A person who has had their deposit account with the Company declared dormant is entitled to have their status as a Member and their deposit account with the Company fully reinstated on application by the person unless the deposit account with the Company has been dealt with in accordance with the relevant law dealing with unclaimed monies.

7.4. Estate of Deceased Member

Subject to the law, the estate of a deceased Member:

- (a) remains liable to the Company for all liabilities of the deceased Member in connection with any Financial Accommodation provided to, or other liability of, the deceased Member; and
- (b) is entitled to receive all amounts due from the Company to the deceased Member.

7.5. Death, Mental Incapacity or Insolvency of Member

In the event of the death, mental incapacity, bankruptcy or insolvency of a Member, the Company may make payments out of the account of the Member where permitted by law and, at the discretion of the Board, may maintain the Member's account for such period as the Personal Representative may require for the performance of the Personal Representative's obligations in relation to the assets and liabilities of the Member.

8. ISSUING & CONVERTING SHARES

8.1. Terms of Issue

- 8.1.1. The power of the Company to issue shares (including MCIs) is to be exercised by the Board.
- 8.1.2. The Board may determine:
 - (a) the terms on which shares (including MCIs) are issued; and
 - (b) subject to this Constitution, the Act and any requirements of APRA in Prudential Standards, the rights and restrictions attaching to the shares.

8.2. Power to Issue Bonus, Partly-Paid, Preference & Redeemable Preference Shares

(The provisions of this clause does not apply to MCIs, each of which must be issued as a fully paid up share.)

The Board's power under Clause 8.1 to issue shares also includes the power to issue:

- 8.2.1. bonus shares;
- 8.2.2. preference shares (including, subject to the Act, redeemable preference shares);
- 8.2.3. Redeemable Preference Shares; and
- 8.2.4. partly-paid shares.

(Note requirements for issuing preference shares in Section 254A(2) of the Act and the requirements for redeemable preference shares in Sections 254J - 254L of the Act.)

8.3. Company not Bound to Recognise Certain Interests in Shares

Except as required by Section 1072H of the Act or by this Constitution the Company must treat the person whose name appears in the Register as the holder of a share, as the absolute owner of the share and the Company is not bound to recognise (whether or not it has notice) that a person holds any share on trust or any equitable, contingent, future or partial interest in any share or unit of a share or any other rights in respect of any share. For the avoidance of doubt this clause applies to MCIs.

8.4. Conversion of Shares

(The provisions of this clause do not apply to MCIs.)

- 8.4.1. Subject to Clauses 8.4.2 and 8.7, the Board may determine the terms on which the shares of a class convert to shares of another class or classes.
- 8.4.2. An ordinary share may be converted into a preference share only if the holder's rights with respect to the following matters are approved by special resolution:
- (a) repayment of capital;
 - (b) participation in surplus assets and profits of the Company;
 - (c) cumulative and non-cumulative dividends;
 - (d) voting; and
 - (e) priority of payment of capital and dividends in relation to other shares or classes of preference shares.
- 8.4.3. A share that is not a redeemable preference share when issued cannot afterwards be converted into a redeemable preference share.

(This reflects Section 254G of the Act)

8.5. Resolution to Convert Shares into Larger or Smaller Number

(The provisions of this clause do not apply to MCIs.)

- 8.5.1. The Company may convert all or any of its shares into a larger or smaller number of shares by resolution passed at a General Meeting.
- 8.5.2. The conversion takes effect on:
- (a) the day the resolution is passed; or
 - (b) a later date specified in the resolution.
- 8.5.3. Any amount unpaid on shares being converted is to be divided equally among the replacement shares.

(This reflects Section 254H of the Act.)

8.6. Classes of Shares

8.6.1. Share Capital

The share capital of the Company shall be the aggregate at any time of the nominal value of:

- (a) the Member Shares; and
- (b) any other shares (including MCIs) that the Company has issued.

8.6.2. Member Shares

- (a) All Withdrawable Shares of the Company on issue immediately before 1 July 1999 became redeemable preference shares of the Company on 1 July 1999 and are known as Member Shares.
- (b) The Company has issued Member Shares since 1 July 1999.
- (c) The Company may issue further Member Shares.
- (d) Each Member Share:
 - i. has a nominal value of \$2;
 - ii. is fully paid up;
 - iii. was not issued at a premium; and
 - iv. ranks equally with each other Member Share.
- (e) No dividend is payable in respect of any Member Share.
- (f) Subject to Clause 33, the Company must repay the amount paid up in respect of a Member Share where required by law or under this Constitution to do so or if:
 - i. the Member requests it; and
 - ii. the Member has repaid all liabilities and met all obligations to the Company including in connection with any Financial Accommodation.
- (g) To the extent permitted by law, a Member may not transfer, sell or assign a Member Share but may require that the nominal value of each Member Share be repaid in accordance with Clause 8.6.2(f).
- (h) The Member Shares of a person who ceases to be a Member, as provided by Clause 7, are cancelled when that person ceases to be a Member.

8.7. Rights Attaching to New Classes of Investor Shares

8.7.1. Subject to Clause 8.6.2, the Company must not issue Investor Shares which:

- (a) allow the holder of the Investor Shares, in the event the Company is wound up, to share in any undistributed surplus of the Company; or
- (b) entitle the holder of Investor Shares in that capacity to participate in or

otherwise accrue rights to any undistributed surplus of the Company except by receiving dividends.

8.7.2. Any dividend that may be paid on Investor Shares (if any) must:

- (a) be limited by reference to an independent and objectively verifiable external benchmark or mechanism such as a stock exchange index;
- (b) not be paid unless:
 - i. the Company's assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the payment of the dividend;
 - ii. the payment of the dividend is fair and reasonable to the Members as a whole; and
 - iii. the payment of the dividend does not materially prejudice the Company's ability to pay its creditors; and

(This reflects Section 254T of the Act.)

- (c) not be more than 50% of the Company's annual profit after tax in any year.

8.7.3. Prior to the issue of any Investor Shares in any class of Investor Shares, the Members in General Meeting must approve the way the Company calculates the dividend on that class of Investor Shares.

9. SHARE CERTIFICATES

9.1. Entitlement to Share Certificate

9.1.1. Subject to Clause 9 and 9.1.3, every person whose name is entered in the Register of each class of shares in the Company is entitled without payment to receive a share certificate unless the share is held jointly by several people, in which case the issue and delivery of a share certificate to one of the several joint holders is sufficient delivery to all of those joint holders. The Company will dispatch share certificates to shareholders in accordance with the requirements of the Act.

9.1.2. Clause 9.1.1 does not apply to Member Shares.

9.1.3. Notwithstanding any provisions in this Clause 9.1 to the contrary, if the Company is required by the Act to issue a share certificate to an MCI Holder in respect of one or more MCIs, the MCI Holder may require the Company to issue to the MCI Holder without charge one certificate for each class of MCIs in the Company that the MCI Holder holds, unless the terms of issue of the MCIs otherwise provide.

9.2. Contents of Share Certificate

A share certificate must state:

- 9.2.1. the name of the Company and the fact that it is registered under the Act;
- 9.2.2. the class of the shares; and

9.2.3. the amount (if any) unpaid on the shares.

This clause 9.2 applies to MCIs unless the terms of issue of the MCIs otherwise provide.

(This reflects Section 1070C of the Act)

(Note requirements in relation to lost or destroyed certificates in Section 1070D of the Act.)

10. PARTLY-PAID SHARES

(The provisions of this clause 10 do not apply to MCIs.)

10.1. Differentiation Between Holders as to the Amount to be Paid on Calls

The Board may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

10.2. Liability on Partly-Paid Shares

If shares in the Company are partly-paid, the shareholder is liable to pay calls on the shares in accordance with the terms on which the shares are on issue.

(This reflects Section 254M(1) of the Act.)

10.3. Board may Make Calls on Shares

10.3.1. The Board may make calls on shareholders in respect of any money unpaid on their shares which is not, by the conditions of issue, payable at fixed times.

10.3.2. Each shareholder must (subject to receiving at least 14 days notice specifying the time or times and place of payment) pay to the Company, at the time or times and place so specified, the amount called on the shareholder's shares.

10.3.3. A call may be revoked or postponed as the Board may determine.

10.4. Joint & Several Liability for Payment of Calls

The joint holders of a share are jointly and severally liable for the payment of all instalments and calls due in respect of the share.

10.5. When a Call is Made

10.5.1. Subject to Clause 10.5.2, a call is made at the time when the resolution of the Board authorising the call was passed and may be required to be paid by instalments.

10.5.2. Any sum which by the terms of issue of a share becomes payable on a specified date is, for the purposes of this Constitution, a call duly made, notified and payable on that date.

10.6. Interest to be Paid on Early Payment of Calls

The Board may accept from any shareholder in advance all or any part of the money uncalled and unpaid on any shares held by the shareholder, and on all or any part of the money so advanced may (until the unpaid amount would, but for the advance, become payable) pay interest at such rate, not exceeding (unless the Company in General Meeting otherwise directs) 10% per annum, as may be agreed between the Board and the shareholder paying the sum in advance.

11. FORFEITURE

(The provisions of clause 11 do not apply to MCIs.)

11.1. Board may Forfeit Shares

11.1.1. If a shareholder fails to pay any call or instalment of a call or other money payable under the terms of issue of a share on the due date, the Board may give 14 days notice to the shareholder that the share will be forfeited if payment is not made (in full).

11.1.2. If a shareholder fails to comply with a notice provided under Clause 11.1.1 within 14 days of receipt of the notice, the Board may by resolution, forfeit the share together with any dividends declared on the share but not paid.

11.1.3. A share forfeited under this Clause becomes the property of the Company and may be sold, re-issued or otherwise disposed of in such manner as the Board determines. Any time before a sale or disposition of a share under this Clause, the forfeiture may be cancelled on such terms as the Board determines. In the event of sale, the Company must account to the shareholder for the residue (if any) after satisfaction of the money due to the Company.

11.2. Consequences of Forfeiture

A person whose shares have been forfeited ceases to be a shareholder in respect of the forfeited shares. However, the shareholder remains liable to pay to the Company all money which, at the date of forfeiture, was payable by the person to the Company in respect of the shares (together with interest at the rate of 10% per annum from the date of forfeiture, on the money for the time being unpaid if the Directors think fit to enforce payment of such interest). That person's liability to pay ceases if and when the Company receives payment in full of all such money in respect of the shares.

11.3. Proof of Forfeiture

A statutory declaration in writing that the declarant is a Director or the Secretary of the Company and a share in the Company has been duly forfeited on a date stated in the declaration, is conclusive evidence of the facts stated in the declaration, as against all persons claiming to be entitled to the share.

11.4. Sale of Forfeited Share

The Company may receive the consideration, if any, given for a forfeited share on any sale or disposition of the share and may execute a transfer of the share in favour of the transferee. Subject to Clause 13.2.2, the transferee must be registered by the Company as the holder of the share. The transferee is not bound to see to the application of the purchase money, if any, and the transferee's title to the share is not affected by any irregularity or invalidity in the proceedings in relation to the forfeiture, sale or disposal of the share.

12. LIEN

(The provisions of clause 12 do not apply to MCIs.)

12.1. Lien Over Partly Paid Shares

The Company has a first and paramount lien on shares registered in the name of each shareholder (whether solely or jointly with others) in respect of all money (whether presently

payable or not) due to the Company by the shareholder or the shareholder's estate either alone or jointly with any other person. The Company's lien, if any, on a share extends to all dividends payable on the share. The Board may at any time declare any share to be wholly or in part exempt from the provisions of this Clause.

12.2. Lien in Respect of Money Owing Under Statute or Legislative Enactment

The Company has a first and paramount lien and charge on all the shares registered in the name of each shareholder (whether solely or jointly with others) in respect of all money (with interest) which the Company under any present or future statute or legislative enactment of the Commonwealth of Australia or any of the Australian States or any other country or place may become liable to pay:

12.2.1. in respect of the shares registered in the name of the shareholder; or

12.2.2. otherwise in connection with the holding of the shareholder.

Any such money paid by the Company may also be recovered by action against the shareholder or the shareholder's Personal Representative as a debt due by the shareholder or the shareholder's estate to the Company. The Company may charge and recover interest at such rate not exceeding 10% as the Directors may determine on any money so paid by the Company from the date when such money was so paid until repayment.

12.3. Sale of Shares Subject to a Lien

12.3.1. For the purpose of enforcing any lien the Directors may sell the shares subject to the lien in such manner as they think fit provided that:

- (a) a sum in respect of which the lien exists is presently payable;
- (b) notice in writing of the intention to sell has been served on the holder of the shares or the holder's Personal Representative; and
- (c) the holder or the holder's Personal Representative has not paid all money for which the lien exists within 14 days after such notice.

12.3.2. To give effect to any such sale the Directors may authorise any person to transfer the shares sold to the transferee and to sign a transfer on behalf of the transferor. The transferee must be registered as the holder of the shares comprised in the transfer and the transferee is not bound to see to the application of the purchase money. The transferee's title to the shares is not affected by any irregularity or invalidity in the proceedings in relation to the sale.

12.3.3. The proceeds of the sale received by the Company must be applied in payment of the amount in respect of which the lien exists as is presently payable, and the residue, if any, must (subject to a like lien for sums not presently payable as existed on the shares before the sale) be paid to the person entitled to the shares immediately before the sale.

13. TRANSMISSION OF MEMBER SHARES

13.1. Transmission of Member Shares on Death, Bankruptcy or Mental Incapacity

13.1.1. Subject to Section 1072E of the Act, if a holder of Member Shares (who does not own the Member Shares jointly) dies, the Company will not recognise any transfer of the

deceased holder's interest in the Member Shares.

13.1.2. Subject to the *Bankruptcy Act 1966* and Section 1072C of the Act (and see Clauses 8.3 and 20.8), the Company will not recognise any transfer of Member Shares of a bankrupt Member to the Member's trustee in bankruptcy, nor any transfer by the trustee in bankruptcy.

(This substitutes for Sections 1072A, 1072B & 1072D of the Act which are Replaceable Rules.)

(Note provisions in relation to deceased or bankrupt estates and mentally or physically in firm holders in Sections 1072C & 1072E of the Act.)

13.1.3. The Company will recognise the rights of the Personal Representative appointed by reason of a Member's mental incapacity.

13.2. Registration of Transfers

13.2.1. A person transferring shares remains the holder of the shares until the transfer is registered and the name of the person to whom the shares are being transferred is entered in the Register of that class of shares in respect of those shares.

13.2.2. The Board is not required to register a transfer of shares in the Company unless:

- (a) the duly executed and duly stamped (if stamping is required) share transfer and any share certificate have been lodged at the Company's registered office;
- (b) any fee or duty payable on registration of the transfer has been paid; and
- (c) the Board has been given any further information they reasonably require to establish the right of the person transferring the shares to make the transfer.

13.2.3. The Board may suspend registration of transfers of shares in the Company at the times and for the periods it determines. The periods of suspension must not exceed 30 days in any one calendar year.

(This substitutes for Section 1072F of the Act which is a Replaceable Rule.)

13.2.4. Unless the Company is admitted to the official list of the Australian Securities Exchange the Board may without assigning any reason refuse to register a transfer of shares in the Company and must refuse to register a transfer of Redeemable Preference Shares.

13.2.5. The Company may retain or destroy the instrument of transfer. The Board must, within 2 months after the date on which the transfer of shares is lodged:

- (a) register the transfer; or
- (b) give notice to the proposed transferee or transferor that the Board has declined to register the transfer.

13.2.6. Notwithstanding any provisions of this clause to the contrary, MCIs are transferable in accordance with the terms of issue applicable to the MCI. Except as otherwise provided by the rules of a licensed CS facility (as defined in the Act) which apply in relation to an MCI, a person becomes registered as the holder of that MCI upon entry by the Company in its Register of the person's particulars in relation to the MCI as required by

the Act.

14. REDUCTION OF CAPITAL

The Company may from time to time by resolution in General Meeting reduce its share capital in any way subject to compliance with the Act. This clause does not apply to MCIs.

15. MODIFICATION OF RIGHTS

(The provisions of this clause 15 do not apply to MCIs or MCI Holders.)

15.1. The Procedure to Vary or Cancel Class Rights

15.1.1. If at any time the share capital is divided into different classes of shares, the rights attached to any class unless otherwise provided by the terms of issue of the shares of that class, may be varied or modified with the consent in writing of the holders of 75% of the issued shares of that class or with the sanction of a special resolution passed at a meeting of the holders of shares of that class.

15.1.2. Clauses relating to General Meetings apply to such meetings except that the quorum for the meeting is one or more shareholders holding one-third of the issued shares of the class and that any shareholder holding shares of the class may demand a poll.

(This sets out the procedure for modification of class rights for the purposes of Section 246B(1) of the Act.)

(Note the provisions of Section 246C of the Act which provide that certain actions are taken to vary rights.)

15.1.3. The Company must give written notice of the variation or cancellation to the Members of the class within 7 days after the variation or cancellation is made.

(This reflects Section 246B(3) of the Act.)

15.2. When Modification takes Effect

15.2.1. If all shareholders in a class do not agree (whether by resolution or written consent) to the variation or cancellation of their rights or to a modification of this Constitution (if any) to allow their rights to be varied or cancelled, shareholders with at least 10% of the votes in that class may apply within one month after the variation, cancellation or modification is made to the court to have the variation, cancellation or modification set aside. The variation, cancellation or modification takes effect:

- (a) if no application is made to the court to have it set aside, one month after the variation, cancellation or modification is made; or
- (b) if an application is made to the court to have it set aside, when the application is withdrawn or finally determined.

(This reflects Sections 246D(1), (2) & (3) of the Act.)

15.2.2. If the shareholders in a class all agree (whether by resolution or written consent) to the variation, cancellation or modification, it takes effect:

- (a) if no later date is stated in the resolution or consent, on the date of the resolution or consent; or

- (b) on a later date specified in the resolution or consent.

(This reflects Section 246E of the Act.)

16. CALLING GENERAL MEETINGS

16.1. Calling of General Meeting by a Director

A Director or the Secretary upon the direction of the Board may call a General Meeting.

(This reflects Section 249C of the Act which is a Replaceable Rule.)

16.2. Calling of General Meeting by Directors when Requested by Members

16.2.1. The Directors must call and arrange to hold a General Meeting on the request of at least 5% of Members (or such different number as may be prescribed by the regulations) who are entitled to vote at the General Meeting.

16.2.2. The request must:

- (a) be in writing;
- (b) state any resolution to be proposed at the meeting;
- (c) be signed by the Members making the request; and
- (d) be given to the Company.

16.2.3. Separate copies of a document setting out the request may be used for signing by Members if the wording of the request is identical in each copy.

16.2.4. The Directors must call the meeting within 21 days after the request is given to the Company. The meeting is to be held not later than 2 months after the request is given to the Company.

(This generally reflects Section 249D of the Act. Under Section 249D of the Act members of the Company (as defined under the Act) with at least 5% of the votes that may be cast in a General Meeting may also request the Directors to call and arrange to hold a General Meeting.)

16.3. Failure of Directors to Call General Meeting

16.3.1. More than 50% of Members who make a request under Clause 16.2 may call and arrange to hold a General Meeting if the Directors do not do so within 21 days after the request is given to the Company.

16.3.2. The meeting must be called in the same way, so far as is possible, in which General Meetings of the Company may be called. The meeting must be held not later than 3 months after the request is given to the Company.

16.3.3. To call the meeting the Members requesting the meeting may ask the Company for a copy of the Register. The Company must give the Members the copy of the Register within 7 days after request without charge.

16.3.4. The Company must pay the reasonable expenses the Members incurred because the

Directors failed to call and arrange to hold the meeting.

16.3.5. The Company may recover the amount of the expenses from the Directors. However, a Director is not liable for the amount if they prove that they took all reasonable steps to cause the Directors to comply with Clause 16.2. The Directors who are liable are jointly and individually liable for the amount. If a Director who is liable for the amount does not reimburse the Company, the Company must deduct the amount from any sum payable as fees to, or remuneration of, the Director.

(This generally reflects Section 249E of the Act. Section 249E of the Act refers to "members with more than 50% of the votes of all members" and not "more than 50% of members".)

16.4. Calling of General Meeting by Members

16.4.1. Members totalling at least 5% of Members may call, and arrange to hold, a General Meeting. The Members calling the meeting must pay the expenses of calling and holding the meeting.

16.4.2. The meeting must be called in the same way, so far as is possible, in which General Meetings of the Company may be called.

(This generally reflects Section 249F of the Act. Section 249F of the Act refers to "members with at least 5% of the votes that may be cast at a General Meeting of the Company" and not "members totalling at least 5% of members".)

16.5. Amount of Notice of Meetings

16.5.1. Subject to Clause 16.5.2 at least 21 days notice must be given of a meeting of the Company's Members.

16.5.2. The Company may call on shorter notice:

- (a) an annual General Meeting, if all the Members entitled to attend and vote at the annual General Meeting agree beforehand; and
- (b) any other General Meeting, if Members totalling 95% of Members agree beforehand.

16.5.3. At least 21 days notice must be given of a meeting of a Company at which a resolution will be moved to:

- (a) remove an auditor under Section 329 of the Act; or
- (b) remove a Director under Clause 22.2.4 or appoint a Director in place of a Director removed under that Clause.

(This generally reflects Section 249H of the Act. Section 249H of the Act refers to "members with at least 95% of the votes that may be cast at the meeting" and not "members totalling 95% of members".)

16.6. Notice of General Meetings to Members & Directors

16.6.1. Subject to Clause 6.5.5, written notice of a General Meeting must be given individually to each Member entitled to vote at the meeting and to each Director.

(This reflects Section 249J(1) of the Act.)

16.6.2. The Company may give the notice of meeting to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or the alternative address (if any) nominated by the Member;
- (c) by sending it to the facsimile number or electronic address (if any) nominated by the Member;
- (d) by sending it to the Member by other electronic means (if any) nominated by the Member; or
- (e) by notifying the Member in accordance with Clause 16.6.4.

(This reflects Section 249J(3) of the Act.)

16.6.3. The Company may (but is not required to) give the notice of meeting to an MCI Holder in any manner permitted by the Act and any relevant terms of issue of the MCIs.

16.6.4. If the Member nominates:

- (a) an electronic means (the nominated notification means) by which the Member may be notified that notices of meeting are available; and
- (b) an electronic means (the nominated access means) the Member may use to access notices of meeting,

the Company may give the Member notice of the meeting by notifying the Member (using the nominated notification means):
- (c) that the notice of meeting is available; and
- (d) how the Member may use the nominated access means to access the notice of meeting. This Clause does not limit Clause 16.6.2.

(This reflects Section 249J(3A) of the Act.)

16.6.5. A notice of meeting sent by post is taken to be given 2 days after it is posted. A notice of meeting sent by facsimile, or other electronic means, is taken to be given on the day on which the sender obtains machine acknowledgment of successful transmission.

(This substitutes for Section 249J(4) of the Act which is a Replaceable Rule.)

16.6.6. A notice of meeting given to a Member under Clause 16.6.2(e) is taken to be given on the business day after the day on which the Member is notified that the notice of meeting is available.

16.7. Auditor Entitled to Notice & Other Communications

The Directors must give the Company's auditor:

16.7.1. notice of a General Meeting in the same way that a Member of the Company is entitled to receive notice; and

16.7.2. any other communications relating to the General Meeting that a Member of the Company is entitled to receive.

(This reflects Section 249K of the Act.)

16.8. Contents of Notice of Meetings

A notice of a General Meeting must:

16.8.1. set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

16.8.2. state the general nature of the meeting's business;

16.8.3. if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution; and

16.8.4. if a Member is entitled to appoint a proxy, contain a statement setting out the following information:

(a) that the Member has a right to appoint a proxy;

(b) whether or not the proxy needs to be a Member of the Company; and

(c) that a Member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

The information included in the notice of the meeting must be worded and presented in a clear, concise and effective manner.

(This reflects Section 249L of the Act. Note: Clause 16.8.4(c) is a mandatory requirement of the Act, but does not override Clause 20.1.)

16.9. Notice of Adjourned General Meetings

When a General Meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

(This reflects Section 249M of the Act which is a Replaceable Rule.)

16.10. Invalidity of General Meetings

The accidental omission to give notice of a General Meeting or the non-receipt of notice by any person or the inability of a person to access the notice of meeting, does not invalidate the proceedings at that General Meeting unless the court, on the application of the person concerned who is a person entitled to attend the General Meeting, or ASIC, declares proceedings at the General Meeting to be void.

(This reflects Section 1322(3) & 1322(3AA) of the Act.)

16.11. Notice for a Meeting Under Clause 36.2

Notwithstanding anything to the contrary in this Constitution, notice convening a meeting for the purposes of Clause 36.2 must be given at least 28 days before the date the meeting is to be held and set out the opinion of the Directors as to whether or not it is in the interests of the Company as a whole for that special resolution to be passed bearing in mind the history of the Company.

17. MEMBERS' RIGHTS TO PUT RESOLUTIONS AT GENERAL MEETINGS

17.1. Members' resolutions

17.1.1. At least 100 Members who are entitled to vote at a General Meeting (or such different number as may be prescribed by the regulations) may give the Company notice of a resolution that they propose to move at a General Meeting.

17.1.2. The notice must:

- (a) be in writing;
- (b) set out the wording of the proposed resolution; and
- (c) be signed by the Members proposing to move the resolution.

17.1.3. Separate copies of a document setting out the notice may be used for signing by Members if the wording of the notice is identical in each copy.

(This generally reflects Section 249N of the Act. Section 249N of the Act also allows members with at least 5% of the votes that may be cast on the resolution to give the Company notice of a resolution that they propose to move at a General Meeting.)

17.2. Company Giving Notice of Members' Resolutions

17.2.1. If a Company has been given notice of a resolution under Clause 17.1, the resolution is to be considered at the next General Meeting that occurs more than 2 months after the notice is given.

17.2.2. The Company must give all of its Members notice of the resolution at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a meeting.

17.2.3. The Company is responsible for the cost of giving Members notice of the resolution if the Company receives the notice in time to send it out to Members with the notice of meeting.

17.2.4. The Members requesting the meeting are jointly and individually liable for the expenses reasonably incurred by the Company in giving Members notice of the resolution if the Directors do not receive the Members notice in time to send it out with the notice of meeting. At a General Meeting, the Company may resolve to meet the expenses itself.

17.2.5. The Company need not give notice of the resolution:

- (a) if it is more than 1,000 words long or defamatory; or
- (b) if the Members making the request are to bear the expenses of sending the notice out, unless the Members give the Company a sum reasonably sufficient to meet

the expenses that it will reasonably incur in giving the notice.

(This reflects Section 249O of the Act.)

18. MEMBERS' STATEMENTS TO BE DISTRIBUTED

18.1. Grounds for Statement

Members may request the Company to give to all of its Members a statement provided by the Members making the request about:

18.1.1. a resolution that is proposed to be moved at a General Meeting; or

18.1.2. any other matter that may be properly considered at a General Meeting.

18.2. Who may Request

The request must be made by at least 100 Members (or such different number as may be prescribed by the regulations) who are entitled to vote at the meeting.

18.3. How Request to be Made

The request must be:

18.3.1. in writing;

18.3.2. signed by the Members making the request; and

18.3.3. given to the Company.

18.4. Copies for Signing

Separate copies of a document setting out the request may be used for signing by Members if the wording of the request is identical in each copy.

18.5. Distribution of Statement

After receiving the request, the Company must distribute to all Members a copy of the statement at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a General Meeting.

18.6. When Company Bears Cost

The Company is responsible for the cost of making the distribution if the Company receives the statement in time to send it out to Members with the notice of meeting.

18.7. When Members Bear Cost

The Members making the request are jointly and individually liable for the expenses reasonably incurred by the Company in making the distribution if the Company does not receive the statement in time to send it out with the notice of meeting. At a General Meeting, the Company may resolve to meet the expenses itself.

18.8. When Company Need not Comply with Request

The Company need not comply with the request:

18.8.1. if the statement is more than 1,000 words long or defamatory; or

18.8.2. if the Members making the request are responsible for the expenses of the distribution, unless the Members give the Company a sum reasonably sufficient to meet the expenses that it will reasonably incur in making the distribution.

(This generally reflects Section 249P of the Act. Section 249P of the Act also allows members with at least 5% of the votes that may be cast on the resolution to make the request.)

19. HOLDING GENERAL MEETINGS

19.1. Purpose

A General Meeting must be held for a proper purpose.

(This reflects Section 249Q of the Act.)

19.2. Time & Place for General Meeting

A General Meeting must be held at a reasonable time and place.

(This reflects Section 249R of the Act.)

19.3. Technology

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

(This reflects Section 249S of the Act.)

19.4. Quorum

19.4.1. No business may be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business. A quorum is constituted by, subject to Clause 19.4.2, 10 Members.

For the purposes of this Clause and Clause 19.4.2, "Member" includes a person attending as a proxy or a body corporate representative. If a person has appointed more than 1 proxy or representative, only 1 of those proxies or representatives is to be counted in determining whether a quorum is constituted.

19.4.2. If within 15 minutes from the time appointed for the meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within 15 minutes from the time appointed for the meeting, the Member or Members present constitute a quorum.

(This substitutes for Section 249T of the Act which is a Replaceable Rule.)

19.5. Chairing Meetings of Members

19.5.1. The chair, if any, of the Board is to be the chair at every General Meeting of the Company. If the chair of the Board cannot or will not chair a General Meeting or is not present within 15 minutes after the time appointed for the holding of the meeting the Directors present may elect one of their number to be the chair of the meeting but if they do not do so the Members present must elect the chair of the meeting.

19.5.2. The chair may adjourn a General Meeting if the Members present with a majority of votes at the meeting agree or direct that the chair must do so.

(This substitutes for Section 249U of the Act which is a Replaceable Rule.)

19.6. Auditor's Right to be Heard at General Meetings

19.6.1. The Company's auditor (if any) is entitled to attend any General Meeting of the Company.

19.6.2. The auditor is entitled to be heard at the meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor.

19.6.3. The auditor is entitled to be heard even if:

- (a) the auditor retires at the meeting; or
- (b) the meeting passes a resolution to remove the auditor from office.

19.6.4. The auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any General Meeting.

(This reflects Section 249V of the Act.)

19.7. Adjourned Meetings

19.7.1. A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

(This reflects Section 249W(1) of the Act.)

19.7.2. Only unfinished business is to be transacted at a meeting resumed after an adjournment.

(This substitutes for Section 249W(2) of the Act which is a Replaceable Rule.)

19.8. Annual General Meetings

19.8.1. Holding of Annual General Meetings

The Company must, if required by the Act, hold an annual general meeting.

(See the requirements of Section 250N of the Act.)

19.8.2. Business of Annual General Meeting

The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

- (a) the consideration of the annual financial report, Directors' report and auditor's report;
- (b) the election of Directors;
- (c) the appointment of the auditor; and

- (d) the fixing of the auditor's remuneration.

(This reflects Section 250R of the Act.)

19.8.3. Questions at Annual General Meetings

- (a) The chair of an annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.
- (b) If the Company's auditor or their representative is at the meeting, the chair of the annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask the auditor or their representative questions relevant to the conduct of the audit, the preparation and content of the auditor's report, the accounting policies adopted by the Company in relation to the preparation of the financial statements and the independence of the auditor in relation to the conduct of the audit.

(This reflects Sections 250S & 250T of the Act.)

20. VOTING AT A GENERAL MEETING

20.1. How Many Votes a Member Has

- 20.1.1. On a show of hands each Member has 1 vote for each capacity in which the person is a Member of the Company.
- 20.1.2. On a poll, each Member has 1 vote for each capacity in which the person is a Member of the Company.
- 20.1.3. The chair does not have a casting vote in addition to any vote or votes they have as a Member.
- 20.1.4. To the extent permitted by law, a Minor does not have a right to vote.

(This substitutes for Section 250E of the Act which is a Replaceable Rule.)

20.2. Objections to a Right to Vote at a General Meeting of the Company

A challenge to a right to vote at a General Meeting:

- 20.2.1. may only be made at the meeting; and
- 20.2.2. must be determined by the chair, whose decision is final.

(This substitutes for Section 250G of the Act which is a Replaceable Rule.)

20.3. How Voting is Carried Out

- 20.3.1. A resolution put to the vote at a General Meeting must be decided on a show of hands unless a poll is demanded.
- 20.3.2. On a show of hands, a declaration by the chair is conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against the resolution.

20.3.3. Subject to this Constitution and the Act, resolutions of Members are to be decided by simple majority of votes cast in respect of the relevant resolution.

(This substitutes for Section 250J of the Act which is a Replaceable Rule.)

20.4. Matters on Which a Poll may be Demanded

20.4.1. A poll may be demanded on any resolution proposed at a General Meeting.

20.4.2. Without limiting Clause 20.4.1, a poll can be demanded on any resolution concerning:

- (a) the election of the chair of a meeting; or
- (b) the adjournment of a meeting.

20.4.3. A demand for a poll may be withdrawn.

(See Section 250K of the Act.)

20.5. When a Poll is Effectively Demanded

At a General Meeting a poll may be demanded by:

- (a) at least 5 Members entitled to vote on the resolution; or
- (b) the chair.

20.5.1. The poll may be demanded:

- (a) before a vote is taken on the proposed resolution;
- (b) before the voting results on a show of hands on the proposed resolution are declared; or
- (c) immediately after the voting results on a show of hands on the proposed resolution are declared.

(This generally reflects Section 250L of the Act. Section 250L of the Act also allows members with at least 5% of the votes that may be cast on the resolution on a poll to also demand a poll.)

20.6. When & How Polls Must be Taken

20.6.1. A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.

20.6.2. A poll on the election of a chair or on the question of an adjournment must be taken immediately.

(This substitutes for Section 250M of the Act which is a Replaceable Rule.)

20.6.3. The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

20.7. Members with Unpaid Calls

No Member is entitled to vote at any General Meeting unless all calls or other sums presently payable by the Member in respect of shares in the Company have been paid.

20.8. Personal Representative's Right to Vote

20.8.1. Subject to Clause 20.8.2, a Personal Representative of a Member must not vote at any General Meeting, subject to:

- (a) the right of a trustee in bankruptcy under the Act; and
- (b) other laws to the contrary.

(See Section 1072C of the Act.)

20.8.2. Despite Clause 20.8.1, a Personal Representative appointed by reason of a Member's mental incapacity does have the right to vote.

20.9. Standing Orders for General Meetings

The following standing orders must be observed at General Meetings:

- 20.9.1. the mover of the proposition must not speak for more than 10 minutes, subsequent speakers are allowed a maximum of 5 minutes to reply, and the mover of the proposition is then allowed a maximum of a further 5 minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this Clause;
- 20.9.2. whenever an amendment is proposed upon an original proposition, no second amendment may be taken into consideration until the first amendment has been disposed of;
- 20.9.3. if an amendment is to be carried, it must displace the original proposition and become itself the proposition to which any further amendment may be moved;
- 20.9.4. if an amendment is not carried, then a further amendment may be moved to the original proposition; but only one amendment may be submitted to the meeting for discussion at one time;
- 20.9.5. the mover of every original proposition, but not of an amendment, has the right to reply, immediately after which the question must be put from the chair, but no other Member may speak more than once on the same question, unless permission be given to explain, or the attention of the chair be called, to a point of order;
- 20.9.6. propositions and amendments must be submitted in writing, when requested by the chair;
- 20.9.7. any discussion may be closed by a resolution "that the question be now put" being moved, seconded and carried. Such resolution must be put to the meeting without debate.

21. PROXIES

21.1. Who can Appoint a Proxy

21.1.1. Each Member who is entitled to attend and cast a vote at a General Meeting may

appoint a person as the Member's proxy to attend and vote for the Member at the meeting.

21.1.2. The person appointed as the Member's proxy may be an individual or a body corporate.

(This reflects Section 249X of the Act.)

21.1.3. A proxy need not be a Member of the Company.

21.2. Rights of Proxies

A proxy appointed to attend and vote for a Member has the same rights as the Member:

21.2.1. to speak at the meeting, except while the Member is present;

21.2.2. to vote (but only to the extent allowed by the appointment); and

21.2.3. join in a demand for a poll.

(This reflects Section 249Y(1) of the Act.)

21.3. Company Sending Appointment Forms or Lists of Proxies Must Send to all Members

21.3.1. The Board may determine a form of proxy document acceptable for the valid appointment of a proxy.

21.3.2. If the Company sends a Member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:

- (a) if the Member requested the form or list, the Company must send the form or list to all Members who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or
- (b) otherwise, the Company must send the form or list to all its Members entitled to appoint a proxy to attend and vote at the meeting.

(This reflects Section 249Z of the Act.)

21.4. Appointing a Proxy

21.4.1. An appointment of a proxy is valid if it is signed or otherwise authenticated in a manner prescribed by the regulations made under the Act by the Member making the appointment and contains the following information:

- (a) the Member's name and address;
- (b) the Company's name;
- (c) the proxy's name or the name of the office held by the proxy; and
- (d) the meetings at which the appointment may be used if it is not a standing one.

An appointment may be a standing one.

21.4.2. The chair of the Board may determine in its absolute discretion that a proxy is valid

even if it does not contain all of the information referred to in Clause 21.4.1.

21.4.3. An undated appointment is taken to have been dated on the day it is given to the Company.

21.4.4. An appointment may specify the way the proxy is to vote on a particular resolution. If it does:

- (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
- (b) if the proxy has two or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands;
- (c) if the proxy is the chair, the proxy must vote on a poll, and must vote that way; and
- (d) if the proxy is not the chair, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

21.4.5. If a proxy is also a Member, this Clause does not affect the way that the person can cast the vote that the person has as a Member.

21.4.6. An appointment does not have to be witnessed.

21.4.7. A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

(This reflects Section 250A and Section 250BB of the Act.)

21.4.8. A valid proxy will, unless otherwise revoked under Clause 21.6.2, be deemed to also be valid for any adjourned meeting of a meeting for which the proxy was appointed.

21.5. Proxy Documents

21.5.1. For an appointment of a proxy for a General Meeting to be effective, the following documents must be received by the Company at least 48 hours before the meeting:

- (a) the proxy's appointment; and
- (b) if the appointment is signed or otherwise authenticated in a manner prescribed by regulations made under the Act, by the appointor's attorney, the authority under which the appointment was signed or authenticated or a certified copy of the authority.

21.5.2. If a General Meeting has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

21.5.3. The Company receives an appointment or an authority, or notice of a circumstance giving rise to a revocation under Clause 21.6.2:

- (a) when it is received at any of the following:

- i. the Company's registered office;
 - ii. a fax number at the Company's registered office; or
 - iii. a place, fax number or electronic address specified for the purpose in the notice of meeting; and
- (b) if the notice of meeting specifies other electronic means by which a Member may give the document – when the document given by those means is received by the Company as prescribed by the regulations made under the Act.

(This reflects Section 250B of the Act.)

21.6. Validity of Proxy Vote

21.6.1. A proxy who is not entitled to vote on a resolution as a Member may vote as a proxy for another Member who can vote if their appointment specifies the way they are to vote on the resolution and they vote that way.

(This reflects Section 250C(1) of the Act.)

21.6.2. Unless the Company has received written notice of the circumstance before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes one of these circumstances occurs:

- (a) the appointing Member dies;
- (b) the Member becomes mentally incapacitated;
- (c) the Member revokes the proxy's appointment;
- (d) the Member revokes the authority under which the proxy was appointed by a third party; or
- (e) the Member ceases to be a Member.

(This substitutes for Section 250C(2) of the Act which is a Replaceable Rule.)

21.6.3. Notwithstanding Clause 21.6.2 the chair of a meeting may at any time in his or her absolute discretion deem a notice to have been validly received in connection to the meeting of which they are chair, even if not received in accordance with Clause 21.5.3, provided however the chair must deem a notice of revocation of appointment of a proxy validly received if a Member personally attends the meeting and the revocation is provided to the chair immediately prior to the commencement of the meeting.

21.7. Number of Proxies

No person, other than the chair, may be proxy for more than 10 Members at any meeting.

22. DIRECTORS

22.1. Number of Directors

The Board shall comprise no more than:

22.1.1. 7 Member Elected Directors, appointed in accordance with Clause 22.2.1 or 22.2.2;

22.1.2. 3 Board Appointed Directors, appointed in accordance with Clause 22.2.3; and

22.1.3. 2 Merger Appointed Directors, appointed in accordance with Clause 22.2.4.

but in any case the Member Elected Directors must at all times constitute a majority of Directors.

22.1A Maximum number of Member Elected Directors

22.1 A.1 Subject to Clauses 22.1A.2 and 22.1A.3, the maximum number of Member Elected Directors referred to in Clause 22.1.1 shall automatically be immediately reduced by 1 so that the maximum number of Member Elected Directors referred to in Clause 22.1.1 is 6 if:

- (a) the office of a Member Elected Director is vacated in accordance with Clause 22.5; or
- (b) a Member Elected Director whose term of office will cease at the end of an annual general meeting in accordance with Clause 22.10 does not advise the Board in writing in accordance with Clause 23.2.4A(b) that the Member Elected Director intends to stand for re-election.

22.1 A.2 The automatic reduction in the maximum number of Member Elected Directors in accordance with Clause 22.1A.1 will not apply if the office of a Member Elected Director is vacated in accordance with Clause 22.5 during the period in respect of an annual general meeting between:

- (a) the date 5 days before the Board gives Members a notice calling for Members to nominate candidates for election in accordance with Clause 23.2.1 in respect of that annual general meeting; and
- (b) the close of that annual general meeting.

22.1 A.3 For the avoidance of doubt, the automatic reduction in the number of Member Elected Directors in accordance with Clause 22.1A.1:

- (a) will not apply if the office of a Member Elected Director is vacated in accordance with Clause 22.10 unless Clause 22.1A.1(b) applies; and
- (b) will cease to apply once the maximum number of Member Elected Directors referred to in Clause 22.1.1 is 6.

22.2. Appointment & Removal of Directors

22.2.1. Appointment of Member Elected Directors by the Company

The Company may appoint a person to be a Member Elected Director in accordance with Clause 23.

22.2.2. Appointment by Board – Casual Vacancies of Member Elected Directors

- (a) The Board:
 - i. may (but is not required to) appoint; or

- ii. must appoint, where the number of Member Elected Directors does not constitute the majority of Directors on the Board;
 - iii. a person to be a Member Elected Director:
 - iv. subject to Clause 22.1A, if a Member Elected Director's office becomes vacant other than because the Member Elected Director's term of office has ended; or
 - v. if, for any other reason, the number of Member Elected Directors is less than the number specified in Clause 22.1, subject to Clause 22.1A.
- (b) The Directors may appoint a person as a Member Elected Director, under Clause 22.2.2(a) to make up a quorum for a Directors' meeting even if the total number of Directors of the Company is not enough to make up a quorum.

The term of office of a Member Elected Director under Clause 22.2.2(a) ends at the end of the term of the office of the Member Elected Director whose office has become vacant and is filled by the appointment.

- (c) If an appointment under Clause 22.2.2(a) is not confirmed by the Company in accordance Clause 22.2.2(c), the person ceases to be a Member Elected Director at the end of the annual general meeting when that appointment was required to be confirmed.
- (d) Where the office of more than one Member Elected Director is vacant and the Directors under Clause 22.2.2(a) appoint a person to fill a vacant office, the Directors must determine for which Member Elected Director whose office has become vacant the replacement Director is appointed.

(This substitutes for Section 201H of the Act which is a Replaceable Rule).

22.2.3. Board Appointed Directors

- (a) The Directors (but not the Members) may appoint a person as a non-executive Director ("**Board Appointed Director**") if the Directors are of the opinion that the appointment of the person as a Board Appointed Director would assist the Company to:
- i. comply with a prudential standard; or
 - ii. achieve a strategic goal,

and provided that no more than three Board Appointed Directors may be appointed by the Directors at any one time.

- (b) A Board Appointed Director may be appointed for an initial term of office as determined by the Directors not exceeding 2 years.
- (c) A person appointed as a Board Appointed Director is eligible to be reappointed by the Directors in accordance with Clause 22.2.3(a) at the end of their initial term of

office for no more than one additional term of office as determined by the Directors not exceeding 2 years.

22.2.4. Merger Appointed Directors

(a) The Directors (but not the Members) may appoint a person as a non-executive Director ("**Merger Appointed Director**") if the Directors are of the opinion that the appointment of the person as a Merger Appointed Director would assist the Company to:

- i. comply with a prudential standard; or
- ii. achieve a strategic goal in relation to a transfer of business,

and provided that no more than two Merger Appointed Directors may be appointed by the Directors at any one time.

(b) A Merger Appointed Director may be appointed for an initial term of office as determined by the Directors not exceeding 2 years.

(c) A person appointed as a Merger Appointed Director is eligible to be reappointed by the Directors in accordance with Clause 22.2.3(a) at the end of their initial term of office for no more than one additional term of office as determined by the Directors not exceeding 2 years.

22.2.5. Company may Remove & Appoint Directors

The Company in General Meeting may by resolution:

(a) remove a Director (including a Board Appointed Director) from office despite anything in this Constitution, any agreement between the Company and the Director or any agreement between any or all Members and the Director; and

(This reflects Section 203D(1) of the Act.)

(b) appoint a new Member Elected Director at a General Meeting only in accordance with and to the extent permitted in Clause 23.5 (but which does not allow a General Meeting to appoint a Board Appointed Director).

(This substitutes for Section 201G of the Act which is a Replaceable Rule.)

(As to further provisions regarding removal see Sections 203D(2) to (7) and Section 203E of the Act.)

22.3. Interested Directors

22.3.1. Director may Hold Certain Offices

A Director may not hold any office or position of profit (other than that of auditor) under the Company or under any company promoted by the Company or in which the Company is a shareholder or otherwise interested.

22.3.2. Director may Enter into Certain Contracts

Notwithstanding any rule of law or equity to the contrary, a Director may contract, transact or

enter into an arrangement with the Company and no such contract, transaction or arrangement entered into by or on behalf of the Company or any other contract, transaction or arrangement in which a Director is in any way interested is avoided or rendered voidable because of that person being a Director.

22.3.3. Disclosure of Material Interest

A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest unless Section 191(2) of the Act says otherwise.

(This reflects Section 191(1) of the Act)

22.3.4. Voting by Interested Directors

A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter; unless:
- (c) Clauses 22.3.5 or 22.3.6(a) allow the Director to be present; or
- (d) the interest does not need to be disclosed under Section 191 of the Act.

22.3.5. Whether a Disqualified Director can Vote

The Director may be present and vote if Directors who do not have a material personal interest in the matter have passed a resolution that:

- (a) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and
- (b) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

22.3.6. Other Matters

- (a) The Director may be present and vote if so entitled under a declaration or order made by ASIC under Section 196 of the Act.
- (b) If there are not enough Directors to form a quorum for a Directors' meeting because of sub-Clause 22.3.4(a) or 22.3.4(b), one or more of the Directors (including those who have a material personal interest in that matter) may call a General Meeting and the General Meeting may pass a resolution to deal with the matter.

(See the provisions of Sections 195 & 196 of the Act.)

22.4. Remuneration of Directors

22.4.1. The Directors are entitled to be paid:

- (a) for their services an annual sum to be determined by the Company in General Meeting, divided between them in such proportions as the Directors may determine; and

- (b) all expenses properly incurred in attending or in connection with their attendance at any meeting of the Company or of the Board or any committee of Directors.

22.4.2. In addition to the remuneration referred to in Clause 22.4.1 a Director may receive or be reimbursed all reasonable expenses incurred by the Director for performing extra services in and about the Company's business.

(This substitutes for Section 202A of the Act which is a Replaceable Rule.)

22.5. Vacation of Office

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

- 22.5.1. dies;
- 22.5.2. resigns by giving written notice to the Company at its registered office;
- 22.5.3. ceases to be qualified to become or to remain as a Director under Clause 22.9;
- 22.5.4. is absent from 3 consecutive ordinary meetings of the Board without its leave; or
- 22.5.5. is 3 months in arrears in relation to money due to the Company and has failed to make arrangements for payment satisfactory to the Company.

22.6. Financial Benefits

The Company must not provide financial benefits to a Director except as permitted by, and in accordance with, the provisions of the Act.

(See in particular, but not exclusively, Chapter 2E of the Act.)

22.7. Defect in Appointment

Notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director, or a member of a committee of Directors, or to act as a Director, or that a person so appointed was disqualified, all acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee of Directors.

22.8. Wholly Owned Subsidiary

Each Director is expressly authorised to act in the best interests of any holding company of the Company.

(See Section 187 of the Act for restrictions on this authority.)

22.9. Qualification of Directors

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

- (a) is not a Member (except in the case of a Board Appointed Director or Merger Appointed Director);

- (b) has been a Member for less than 3 years prior to the time of election as a Director (except in the case of a Board Appointed Director or Merger Appointed Director);
- (c) is a Minor;
- (d) is a current employee of the Company or has been employed by the Company in the prior 3 year period;
- (e) is bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors, or made an assignment of his or her remuneration for their benefit;
- (f) is disqualified or prevented by law from being, or remaining as, a Director;
- (g) has been convicted in the last 10 years of:
 - i. an indictable offence in relation to the promotion, formation or management of a body corporate;
 - ii. an offence involving fraud or dishonesty; or
 - iii. any offence prescribed under the Act.
- (h) in the case of a person proposed to be appointed as a Director under Clause 22.2.2, or to be appointed as a Board Appointed Director under Clause 22.2.3, is determined by the Board not to be a fit and proper person by reference to the Company's fit and proper policy; or
- (i) in the case of a person seeking election as a Member Elected Director under Clause 23:
 - (A) is not a fit and proper person as determined by the Nominations Committee by reference to the Company's fit and proper policy that applied when nominations were called for that election; or
 - (B) has not complied with the procedures of the Nominations Committee (whether by refusing to provide information or refusing to participate in an interview, or otherwise) such that the Nominations Committee has been unable to make a determination in accordance with those procedures as to whether or not the person is fit and proper.

22.9.2. Subject to Clause 22.9.1 (except paragraphs (a) and (b)), a representative of a body corporate is eligible for election as a Director where the body corporate is a Member or Joint Member.

22.10. Term of Office

A Director's term of office:

- (a) starts at the end of the annual general meeting at which the Director's election is announced; and
- (b) ends at the end of the third annual general meeting after the annual general meeting at which the Director's election is announced;

unless:

- (c) otherwise required by law;
- (d) the Director is filling the office of a Director whose office has become vacant in accordance with Clause 22.2.2;
- (e) the rotation provisions in Clause 22.10.2 apply; or
- (f) the Director is a Board Appointed Director, in which case the provisions in Clause 22.2.3 will apply.

22.10.2. If Members appoint more than 3 Directors pursuant to Clause 22.2.1 who are not Directors appointed under Clause 22.2.2, then subject to the Act:

- (a) the term of office for each of the 3 Directors who receive the most votes at the election ends at the end of the third annual general meeting after the annual general meeting at which the Directors' election is announced; and
- (b) the term of office for any other of those Directors elected at the annual general meeting ends at the end of the second annual general meeting after the annual general meeting at which the Directors' election is announced.

22.10.3. For purposes of Clause 22.10.2, if 2 or more Directors have the same number of votes, the order of retirement between them is determined by lot. The Secretary or such other person as the Board may appoint will conduct such determination by lot in the presence of the 2 or more Directors who have the same number of votes and immediately following the appointment of such Directors under Clause 22.2.1.

23. ELECTION OF MEMBER ELECTED DIRECTORS BY POSTAL OR INTERNET BALLOT

23.1. Election

23.1.1 Member Elected Directors may be elected by the Company by ballot or at an annual general meeting in accordance with this Clause 23. For the avoidance of doubt, if in any year there are no vacant Member Elected Director positions to be filled by ballot or at an annual general meeting (including due to the operation of Clause 22.1A) this Clause 23 will not apply.

23.1.2 The following table sets out the timetable for election of Member Elected Directors by the Company by ballot.

| Steps in Election Procedure | Time |
|---|--|
| Board to give notice to relevant Member Elected Directors in accordance with clause 23.2.4A. | Not less than 20 days before call for nominations. |
| Relevant Member Elected Directors to advise the Board in writing if they intend to stand for re-election in accordance with | Not less than 5 days before call for nominations. |
| Call for nominations | Not less than 56 days before annual general meeting. |

| | |
|--|--|
| Nominations close | 58 days before annual general meeting. |
| Ballot material allowing Members to vote by either postal voting or internet voting to be sent to Members, subject to Clause 23.5. | Not less than 30 days before the annual general meeting. |
| Ballot closes, subject to Clause 23.5. | 14 days before the annual general meeting. |
| Announcement of election of Member Elected Directors | At the annual general meeting. |

(Note: the day of the annual general meeting is not included in the time calculations.)

23.2. Nominations

23.2.1. The Board must give Members a notice of calling for Members to nominate Candidates not less than 56 days before the annual general meeting. The Board may call for such nominations in such manner agreed by the Board.

23.2.2. Nominations close at 5.00pm (Sydney time) on the 58th day before the annual general meeting (not counting the day of the annual general meeting).

23.2.3. Five Members together have the right to nominate a Candidate. To nominate a Candidate, at least 5 Members must give the Company a single notice of nomination before nominations close. The notice of nomination must:

- (a) declare that the Candidate is eligible to be a Director under Clause 22.10;
- (b) declare that the person is at least 18 years of age; and
- (c) be signed by the nominating Members and the candidate.

23.2.4. The person nominated must:

- (a) provide the Bank with all information and consents that the Bank reasonably requests to determine if the person is disqualified by law from acting as a Director; and
- (b) provide the Bank with all the information and documentation that the Board reasonably requests to determine if the person is of appropriate fitness and propriety to be and act as a Director by reference to the Board's Fit and Proper Policy.

23.2.5. If and when the Board determines that the person nominated is of appropriate fitness and propriety to be and act as a Director, by reference to the Board's Fit and Proper Policy, the person becomes a candidate.

23.2.6. A retiring Member Elected Director may stand for re-election without nomination but must:

- (a) be eligible to be a Director under Clause 22.9; and
- (b) advise the Board in writing in accordance with Clause 23.2.4A(b) that the Member Elected Director intends to stand for re-election.

23.2.6A Not less than 20 days before the Board gives Members a notice calling for Members to nominate candidates for election in accordance with Clause 23.2.1, the Board must give each Member Elected Director whose term of office will cease at the end of the annual general meeting in accordance with Clause 22.10 a notice:

- (a) specifying the date on which the Board will give Members a notice calling for Members to nominate candidates for election in accordance with Clause 23.2.1; and
- (b) calling for the Member Elected Director to advise the Board in writing if the Member Elected Director intends to stand for re-election on or before the date 5 days before the Board gives Members a notice calling for Members to nominate candidates for election in accordance with Clause 23.2.1.

23.2.7. Nominations Committee

- (a) The Board must establish a Nominations Committee.
- (b) The Nominations Committee must comprise 3 Members and include at least 2 independent persons who are not Directors or employees of the Company.
- (c) The Nominations Committee must within 14 days of the close of nominations by a ballot conducted whether a Candidate is qualified to be a Director in accordance with Clause 22.9. Each Candidate must comply with the procedures of the Nominations Committee, including providing information requested by the Nominations Committee and being interviewed by the Nominations Committee.
- (d) Each member of the Nominations Committee must enter into an agreement with the Company to keep confidential their assessments under Clause 23.2.5(c), during and after their appointment.
- (e) Each Director must keep confidential any assessment of any other Director, or Candidate, during and after their term of office, except to the extent where disclosure is required by law.
- (f) Within 21 days of the close of nominations, the Nominations Committee must submit to the returning officer a report stating with respect to each Candidate whether or not they are qualified to be a Director in accordance with Clause 22.9.

23.3. Appointment of Returning Officers

23.3.1. The Board must appoint a returning officer, who may appoint assistant returning officers subject to the approval of the Board, none of whom can be a Director or a Candidate.

23.3.2. The Secretary must prepare and give the returning officer a roll of Members as at the close of business on the date on which nominations close.

23.4. Rejection of Nomination

23.4.1. The returning officer must reject a nomination where the Nomination Committee has reported under Clause 23.2.5(f) that a Candidate is not qualified to be a Director in

accordance with Clause 22.9.

23.4.2. Within 2 business days of receiving the report from the Nominations Committee, the returning officer must notify each Candidate, the Members who nominated them and the Board whether the nominations have been accepted or rejected.

23.5. Proceeding with Election

23.5.1 If the number of Candidates is greater than the number of positions to be filled, Clauses 23.6 to 23.12 apply.

23.5.2 If the number of Candidates is equal to or less than the number of positions to be filled:

- (a) The election process otherwise set out in Clauses 23.6 to 23.12 is discontinued; and
- (b) Each Candidate shall be declared elected by the chair during the next AGM with effect from the end of that AGM.

23.6. Ballot Material

23.6.1. After nominations have closed, the returning officer must prepare ballot material for the election. The ballot material must state, where the ballot is to elect two or more Directors, that the ballot does not require Members voting for one Candidate to vote for another Candidate.

23.6.1A The returning officer shall identify in the ballot material any Candidates who are current Member Elected Directors and who are standing for re-election by including on the ballot an asterisk or other identifying mark beside the name of the relevant Candidate(s) together with an explanation that an asterisk or other identifying mark signifies that a Candidate is a current Member Elected Director standing for re-election.

23.6.2. The order in which the Candidates appear in the ballot material is to be determined by the returning officer by lot.

23.6.3. The returning officer must ensure some authenticating mark appears in the ballot material before sending them to the Members or publishing it.

23.6.4. Subject to Clause 23.6.1, the Board may from time to time specify one or more methods by which ballot material may be completed.

23.7. Voting

23.7.1. The returning officer must send to each Member listed on the roll of Members prepared in accordance with Clause 23.3.2 at least 30 days before the annual general meeting:

- (a) a ballot paper;
- (b) an unsealed envelope, marked "ballot paper", in which the Member if voting by post, must enclose their completed ballot paper. The envelope should also

contain space for the following information to be included, whether on a detachable flap or as otherwise determined by the Board:

- i. name of Member;
 - ii. Membership number; and
 - iii. signature of Member or corporate Members representative;
- (c) an unsealed envelope marked “reply paid” and addressed to the postal address of the returning officer but not marked returning officer; and
- (d) information that will allow the Member to vote by using the internet.

23.7.2. The returning officer must send the ballot materials by prepaid post and addressed to each Member at the address shown in the Register for the purposes of giving notices. The ballot materials may be sent at the same time as the Company sends other material to a Member.

23.7.3. A Member exercising a right to vote by post must:

- (a) first complete the ballot paper;
- (b) secondly, place the ballot paper in the envelope marked “ballot paper”, seal the envelope and complete the information required on the detachable flap or other identified place attached to the envelope; and
- (c) thirdly, place the sealed “ballot paper” envelope in the envelope marked “reply paid” and return it by post to the returning officer.

23.7.4. It is the Member's responsibility to ensure that the returning officer receives the Member's ballot papers by 5:00 pm on the day fixed for the closing of the ballot.

23.7.5. Any ballot paper that the returning officer receives after the ballot closes is informal.

23.7.6. A Member exercising a right to vote by using the internet must follow the process prescribed on the nominated website before 5.00pm on the day fixed for the closing of the ballot.

23.7.7. A Member who wishes to vote by post and who does not receive the Member's ballot paper or who spoils it must give the returning officer a declaration to that effect. The returning officer must then:

- (a) send a duplicate ballot paper to that Member;
- (b) mark the envelope marked “reply paid” with the word "duplicate"; and
- (c) keep a record of all duplicate ballot papers issued.

23.7.8. The Company will make arrangements for postage to be paid on the envelopes posted to the returning officer in accordance with Clause 23.7.3(c).

23.8. Closure of the Ballot

The ballot closes at 5:00 pm (Sydney time) on the 14th day before the annual general meeting (not counting the day of the annual general meeting).

23.9. Appointment of Scrutineer

23.9.1. The Directors may appoint a maximum of three scrutineers, none of whom is a Candidate.

23.9.2. A Candidate may appoint a scrutineer.

23.9.3. The duties and responsibilities of the scrutineers are:

- (a) to observe the sorting, counting and recording of ballots;
- (b) to ensure that the votes of unrejected ballots are correctly credited to the appropriate Candidates; and
- (c) to raise any query with the returning officer regarding any of the ballots.

23.10. Procedures After Close of the Ballot

23.10.1. As soon as practicable after the ballot closes, the returning officer must ensure that the ballots returned and recorded by postal voting or internet voting are dealt with as follows:

- (a) open all envelopes marked “reply paid” and extract the envelopes marked “ballot paper”;
- (b) for each envelope marked “ballot paper”, mark the Member’s name off a roll of Members;
- (c) if a duplicate ballot paper has been sent to a Member and the original “ballot paper” envelope has been received - mark the original “ballot paper” envelope as “rejected”;
- (d) if the Member or the Member’s corporate representative has not signed the envelope marked “ballot paper”, or if there is insufficient detail to identify the Member - mark the “ballot paper” envelope as “rejected”;
- (e) remove the detachable flap or other part containing the Member information from the envelope marked “ballot paper” and securely dispose of the detachable flaps or other parts so that no ballot paper can be identified with any particular Member. When all the envelopes marked “ballot paper” have been so dealt with, open all the envelopes marked “ballot paper” and take out the ballot papers;
- (f) supervise the scrutinising of the ballot papers and reject informal ballots;
- (g) count the accepted ballots by manual, semi-automated or electronic means including the use of scanning technology and equipment;
- (h) arrange for the tabulation and counting of postal and internet ballots and sign a

declaration of the ballot as to the:

- (i) names of the Candidates to be appointed as Directors;
 - i. votes cast for each Candidate; and
 - ii. number of informal ballots; and
 - iii. deliver the declaration to the Secretary who must in turn deliver it to the chairman of the next annual general meeting.

23.10.2. A ballot is informal if it:

- (a) is not authenticated by the returning officer;
- (b) has no vote indicated on it;
- (c) does not indicate the Member's preference for at least one Candidate; or
- (d) is otherwise in the reasonable opinion of the returning officer informal.

23.10.3. The chairman must announce the results of the ballot at the next annual general meeting and declare the appointment of the Directors to be appointed in accordance with the returning officer's declaration under Clause 23.10.1(h).

23.10.4. If a Member gives the Company a written request, the Company must make available to any Member a copy of the returning officer's declaration of the ballot.

23.10.5. The returning officer may destroy the ballots no earlier than three months after the declaration of the ballot.

23.11. Voting System

23.11.1. The Candidates with the highest number of votes in accordance with the number of vacancies are appointed as Directors.

23.11.2. If 2 or more candidates have the same number of votes, the Candidate appointed as a Director is determined by lot conducted by the returning officer.

23.12. Irregularity in the Conduct of an Election

23.12.1. The Candidates that the chairman declares to have been appointed under Clause 23.10.3 are appointed unless the Secretary receives a written objection to the ballot specifying an objection to the appointment of one or more Candidates as a Director from and signed by at least five Members within seven days of the annual general meeting.

23.12.2. If the Board by a resolution of all Directors other than those appointed as a result of the ballot to which the objection relates is of the opinion that the objection under Clause 23.12.1 is reasonable in relation to one or more Candidates, it may resolve to declare the chairman's declaration in relation to that Candidate or Candidates void.

23.12.3. Where a declaration is made under Clause 23.12.2, the returning officer must then further scrutinise in accordance with the Constitution to determine the

consequences of the declaration under Clause 23.12.2, whether in relation to the Candidate or Candidates whose appointment has been declared void or other Candidates (other than those Candidates whose appointment has not been declared void under Clause 23.12.2 (unless the Directors otherwise determine)).

23.12.4. The result of any further scrutiny conducted under Clause 23.12.3 must be reported to the Board and the chairman must declare a Candidate or Candidates elected in accordance with the further scrutiny unless the Directors resolve to call a new poll by a resolution of all Directors other than those appointed as a result of the ballot to which the objection relates.

23.12.5. Where a new poll is called under Clause 23.12.4, the provisions of Clause 23.5 to 23.12 will apply, except that the Board may vary the time frames required for the ballot as set out in Clause 23.5 to Clause 23.12.

23.13. Election Rules

23.13.1. Subject to the Act and this Constitution, the Board may from time to time make rules in connection with the conduct of ballots including in relation to the methods of voting and the procedure to be followed by Members to cast a valid vote.

23.13.2. Any election rules in relation to a ballot must be made before nominations for the position of Director are called.

23.13.3. The Company must provide a copy of the election rules to a Candidate or a Member when requested to do so by that Candidate or Member.

24. POWERS & DISCRETIONS OF DIRECTORS

24.1. Business of the Company

The business of the Company must be managed by or under the direction of the Directors who may exercise all the powers of the Company except any powers that the Act or this Constitution require to be exercised by the Company in General Meeting. No resolution made by the Company in general meeting invalidates any prior act of the Directors which would have been valid if the resolution had not been made.

(This substitutes for Section 198A of the Act which is a Replaceable Rule.)

24.2. Appointment of Attorneys

The Directors may by power of attorney appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors), for the period and subject to such conditions as the Directors think fit.

24.3. Appointment of Auditor

The Directors must appoint an auditor of the Company if an auditor has not been appointed by the Company in General Meeting within 1 month after the day on which the Company was registered as a company.

(This reflects Section 327A(1) of the Act)

(For other requirements see Sections 327A to 327I, 328A, 328B, and 329 of the Act)

24.4. Directors may Execute Security Over the Assets of the Company

If the Directors or any of them or any other person becomes personally liable for the payment of any sum primarily due from the Company, the Directors may execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the Directors or persons so becoming liable from any loss in respect of such liability.

24.5. Negotiable Instruments

All cheques, bills of exchange, promissory notes and other negotiable instruments and all receipts for money paid to the Company will be signed, drawn, accepted, made or endorsed as the case may be for and on behalf of the Company in such manner as the Directors may from time to time determine.

(This substitutes for Section 198B of the Act which is a Replaceable Rule)

24.6. Directors Discretion

Unless otherwise provided, if the Directors are given a power or discretion under this Constitution, subject to law and any requirements of APRA in Prudential Standards (if applicable) they may exercise the power or discretion in any manner that they, in their absolute discretion, see fit.

24.7. Delegation

24.7.1. Power to Delegate

The Directors may delegate any of their powers to:

- (a) a committee of Directors; or
- (b) a Director; or
- (c) an employee of the Company; or
- (d) any other person.

24.7.2. Delegate to Act in Accordance with Directions

The delegate must exercise the powers delegated in accordance with any directions of the Directors.

24.7.3. Effectiveness of Exercise of Delegates Power

The exercise of the power by the delegate is as effective as if the Directors had exercised it.

24.7.4. Meetings of Committees

The meetings and proceedings of a committee must be carried out in accordance with the provisions in this Constitution relating to the meetings and proceedings of Directors, subject to any necessary changes and any directions made by the Directors.

(This reflects Section 198D of the Act.)

24.7.5. Directors Liable for Delegate

If the Directors delegate a power under Clause 24.7.1, a Director is responsible for the exercise of the power by the delegate as if the power had been exercised by the Directors themselves unless exonerated under Section 190(2) of the Act.

(This reflects Section 190(1) of the Act.)

24.7.6. Admission of Member - Delegation of Power

- (a) Without limiting Clause 24.7.1, the Board may delegate its power to admit Members to officers of the Company.
- (b) Any such delegation must not include authority to:
 - i. reject any application to be a Member, such applications being referred to the Board for consideration; or
 - ii. further delegate the power to admit Members.
- (c) The delegation must be evidenced by a resolution of the Board and a copy of that resolution must be given to each delegate.

24.8. Electronic & Other Formats

The Directors may at any time determine that an electronic or other format may be used for any document to be created or other thing to be done under this Constitution which is required to be done or created in writing.

24.9. Dividends on any Investor Shares

Directors must ensure that any dividend payments on any Investor Shares made do not exceed the limits set by the Company in General Meeting as contemplated under Clause 8.7.3.

25. DIRECTORS RESOLUTIONS & MEETINGS

25.1. Circulating Resolutions

- 25.1.1. The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 25.1.2. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 25.1.3. The resolution is passed when the last Director signs.

(This substitutes for Section 248A of the Act which is a Replaceable Rule.)

25.2. Frequency of Directors' Meetings

The Board must meet at least once every three months.

25.3. Calling Directors' Meetings

- 25.3.1. A meeting of the Board may be convened:
 - (a) by any 2 Directors; or
 - (b) by the Secretary upon the authority of 2 Directors.

25.3.2. At least 48 hours notice must be given of all meetings of the Board, except where:

- (a) the chair of the Board (if any) determines there are exceptional circumstances; or
- (b) a majority of the Directors authorise the Secretary to convene a meeting on shorter notice.

(This substitutes for Section 248C of the Act which is a Replaceable Rule.)

25.4. Use of Technology

A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting.

(This reflects Section 248D of the Act.)

25.5. Chairing Directors' Meetings

The Directors may elect a Director to chair their meetings and determine the period for which the chair is to hold office, but if no such chair is elected, or if at any meeting the chair is not present within 15 minutes after the time appointed for holding the meeting, the Directors may elect one of their number present to chair the meeting.

(This substitutes for Section 248E of the Act which is a Replaceable Rule.)

25.6. Quorum at Directors' Meetings

25.6.1. Subject to Clause 25.6.2 a quorum for a meeting of the Board is constituted by the greater of 4 Directors or a number not less than half the total number of Directors or such other number as may be determined by the Board.

25.6.2. The quorum must be present at all times during the meeting.

(This substitutes for Section 248F of the Act which is a Replaceable Rule.)

25.7. Passing of Directors' Resolutions

A resolution of the Directors must be decided by a majority of the votes cast by Directors entitled to vote on the resolution. Each Director present at a Board meeting has 1 vote. In the case of an equality of votes, the chair does not have a second or casting vote.

(This substitutes for Section 248G of the Act which is a Replaceable Rule.)

26. SECRETARY

26.1. Requirement for Secretary

The Company must have at least 1 Secretary.

(This reflects Section 204A(2) of the Act.)

26.2. Appointment of Secretary

A Secretary must be appointed by the Directors.

(This reflects Section 204D of the Act.)

26.3. Natural Person not a Minor as Secretary

A Secretary must be a natural person who has attained the age of 18 years.

(This reflects Section 204B(1) of the Act.)

26.4. Australian Resident as Secretary

The Secretary, or 1 of the secretaries, must be a person who ordinarily resides in Australia.

(This reflects Section 204A(2) of the Act.)

26.5. Acting Secretary

If there is no Secretary, or no Secretary is capable of acting, any act or thing required or authorised to be done by or in relation to the Secretary may be done by any assistant or deputy secretary or, if there is no assistant or deputy secretary, or no assistant or deputy secretary is capable of acting, by an officer authorised by the Directors to act as Secretary, either generally or in relation to the doing of that act or thing.

26.6. Terms & Conditions of Office of Secretary

26.6.1. A Secretary holds office on the terms and conditions (including as to remuneration) that the Directors determine.

(This substitutes for Section 204(F) of the Act which is a Replaceable Rule.)

26.6.2. The Board may terminate or suspend any appointment of a person as a Secretary.

27. MINUTES

27.1. Company Must Keep Minute Books

The Company must keep minute books in which it records within 1 month:

27.1.1. proceedings and resolutions of General Meetings;

27.1.2. proceedings and resolutions of Directors' meetings (including meetings of a committee of Directors);

27.1.3. resolutions passed by Members without a meeting; and

27.1.4. resolutions passed by Directors without a meeting.

27.2. Minutes to be Signed

The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by either:

27.2.1. the chair of the meeting; or

27.2.2. the chair of the next meeting.

27.3. Resolution Without Meeting

The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

27.4. Location of Minute Books

The Company must keep the minute books of the Company at:

- 27.4.1. the Company's registered office;
- 27.4.2. the Company's principal place of business in Australia; or
- 27.4.3. another place approved by ASIC.

(This reflects Section 251A of the Act.)

27.5. Inspection by Members

The Company must ensure that the minute books for the General Meetings and for resolutions of Members passed without meetings are open for inspection by Members and MCI Holders free of charge.

(This reflects Section 251B(1) of the Act.)

27.6. Requests by Members

27.6.1. A Member and MCI Holders may ask the Company in writing for a copy of:

- (a) any minutes of a General Meeting or an extract of the minutes; or
- (b) any minutes of a resolution passed by Members without a meeting.

27.6.2. If the Company does not require the Member or MCI Holder to pay for the copy, the Company must send it:

- (a) within 14 days after the Member or MCI Holder asks for it; or
- (b) any longer period that ASIC approves.

27.6.3. If the Company requires payment for the copy, the Company must send it:

- (a) within 14 days after the Company receives the payment; or
- (b) within any longer period that ASIC approves.

(This reflects Section 251B of the Act.)

28. CAPITALISATION OF PROFITS

The Company may capitalise profits. The capitalisation need not be accompanied by the issue of shares.

(This reflects Section 254S of the Act.)

29. INSPECTION OF BOOKS

The Directors may but are not required to authorise a Member or MCI Holder to inspect books of the Company.

(This substitutes for Section 247D of the Act which is a Replaceable Rule.)

30. RESERVES

30.1. The Board may create a reserve to be known as the "general reserve" into which the

Board may from time to time allocate funds of the Company.

- 30.2. At the Board's discretion the funds in the general reserve may be used for the business of the Company subject that the funds must not be distributed to Members except upon the winding up of the Company in accordance with Clause 33.

31. INSPECTION OF ACCOUNTS

The Directors may determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them are to be opened to the inspection of MCI Holders and Members not being Directors, and no MCI Holder or Member (not being a Director) has any right of inspecting any account or book or paper of the Company except as conferred by statute or authorised by the Directors.

32. NOTICES

32.1. When Notice is Given

Where a specified period (including a particular number of days) must elapse or expire from or after the giving of a notice before an action may be taken, neither the day on which the notice is given or the day on which the action is to be taken may be counted in calculating the period.

32.2. Notice by Members of Address for Service

Each Member must notify the Company in writing of an address in Australia for service of notice. Subject to this Constitution and the Act, if the Member fails to do so, the Member is not entitled to any notice.

32.3. How Notices are Given

Subject to the Act and this Constitution, the Company may give notice and a person may give notice to the Company:

32.3.1. personally;

32.3.2. by post, to the last known address of the recipient;

32.3.3. by facsimile number or electronic mail address (if any) nominated by the recipient; or

32.3.4. by any other means consented to by the sender and the recipient.


For the avoidance of doubt, the Company may give notice to an MCI Holder, and an MCI Holder may give notice to the Company, in any manner permitted by the Act and any relevant terms of issue of the MCIs.

32.4. When Notices are Taken to be Given

Subject to any relevant terms of issue of the MCIs, a notice sent by post is taken to be given 5 days after it is posted. A notice by facsimile or other electronic means is taken to be given on the day on which the sender obtains machine acknowledgment of successful transmission.

33. WINDING UP

- 33.1. If the Company is wound up whilst a person is a Member or within one year afterwards, and the Member has given a guarantee to the Company under Clause 5.1, the Member undertakes to contribute to the assets of the Company for payment of:

- 
- 33.1.1. debts and liabilities of the Company contracted before the Member ceased to be a Member;
 - 33.1.2. costs, charges and expenses of the winding up of the Company; and
 - 33.1.3. adjustment of the rights of the contributories amongst themselves,
 - 33.1.4. such amount as may be required but not exceeding \$10.
- 33.2.** Subject to Clause 33.7, and Clause 3(b) of Schedule 3, if upon the winding up or dissolution of the Company there remains after the satisfaction of all its debts and liabilities any property whatsoever, the liquidator must:
- 33.2.1. first, seek to repay in full:
 - (a) the issue price for each Member Share held by Members (where relevant); and
 - (b) the amount contributed by Members where in accordance with Clause 33.1 the Company has sought and received payment from Members;
 - 33.2.2. second, seek to repay in full the issue price for each Redeemable Preference Share; and
 - 33.2.3. then distribute any remaining property equally to all Members who became Members:
 - (a) prior to the date this Constitution was initially adopted; or
 - (b) on or after the date this Constitution was initially adopted and who have continuously been Members of the Company for three or more years.
- 33.3.** Subject to Clause 33.7, where the liquidator is unable to repay in full the amounts referred to in Clauses 33.2.1(a) and 33.2.1(b), the liquidator must (if the liquidator has not already done so):
- 33.3.1 seek contribution from all Members who are liable to contribute under Clause 33.1 the maximum amount that each Member is liable to contribute under Clause 33.1; and then
 - 33.3.2 apportion the property (including the property received from Members under Clause 33.1) equally between all Members referred to in Clauses 33.2.1(a) and 33.2.1(b) in proportion to the amount which they have paid in the purchase of Member Shares or in compliance with Clause 33.1.
- 33.4.** For the purposes of Clauses 33.2 and 33.3, the date for calculating whether a Member has continuously been a Member of the Company for three or more years is the earlier of:
- 33.4.1. if applicable, the date upon which the notice of meeting in relation to consideration by the Members of the resolution for winding up the Company was sent by the Company to Members; or
 - 33.4.2. otherwise, the date upon which the final order for winding up the Company was made by a court of competent jurisdiction.
- 33.5.** Notwithstanding Clauses 33.2, in the case of a voluntary winding up, the Members may at the time they resolve to wind up the Company resolve that any property remaining after

the satisfaction of all its debts and liabilities be transferred to another financial institution.

33.6. The Company may set-off against any money held by the Company including in a Member's deposit account with the Company any amount which a Member is required to contribute to the Company under Clause 33.1.

33.7. The obligations of the liquidator under Clauses 33.2 and 33.3 to recover money from Members under Clause 33.1 are subject to the right of the liquidator to determine that the cost of doing so will not justify the action being taken. In this event, the liquidator may make such payments as are able to be made under Clause 33.2 to such Members and in such amounts as the liquidator determines to be fair and reasonable in the circumstances.

34. INDEMNITY

34.1. Indemnity Against Proceedings

Subject to Clause 34.4, to the extent permitted by law and without limiting the powers of the Company, the Company must indemnify on a full indemnity basis each person who is, or has been, an officer of the Company:

34.1.1. against any Director Liability which results from facts or circumstances relating to the person being or having been an officer of the Company;

34.1.2. for legal costs incurred in defending an action for liability which results from facts or circumstances relating to the person being or having been an officer of the Company if the costs are incurred other than as an officer of the Company:

- (a) in defending or resisting civil proceedings in which the person is found to have a liability for which there is no indemnity under Clause 34.1.1;
- (b) in defending or resisting criminal proceedings in which the person is found guilty;
- (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to be established; or
- (d) in connection with proceedings for relief to the person under the Act in which the court denies the relief.

Clause 34.1.2(c) does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.

(See Section 199A of the Act.)

34.2. Indemnity Against Liabilities

Subject to Clause 34.5, every person who is or has been an officer of the Company or of any of its related bodies corporate is indemnified, to the maximum extent permitted by law, out of the property of the Company against any Director Liability incurred by the person as such an officer to another person other than:

34.2.1. a liability owed to the Company or a related body corporate;

- 34.2.2. a liability for a pecuniary penalty order under Section 1317G of the Act or a compensation order under Sections 961M, 1317H, 1317HA or 1317HB of the Act; or
- 34.2.3. a liability that is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith.

(See Sections 199A(1) & (2) of the Act.)

34.3. Insuring Officers of the Company

To the extent permitted by law, the Company or its related bodies corporate may pay a premium for a contract insuring a person who is or has been an officer of the Company against:

- 34.3.1. any liability incurred by that person which results from facts or circumstances relating to the person being or having been an officer of the Company unless such liability arises out of conduct involving a wilful breach of duty in relation to the Company or a contravention of Section 182 or 183 of the Act; and
- 34.3.2. any liability for legal costs incurred by that person which results from facts or circumstances relating to the person being or having been an officer of the Company including in relation to liability arising out of conduct involving a wilful breach of duty in relation to the Company or a contravention of Section 182 or 183 of the Act.

(See Section 199B of the Act.)

34.4. Company may Make Separate Contracts & Bring Separate Actions

- 34.4.1. The Company may enter into an agreement or other document under which the Company may give indemnities contemplated in this Clause 34. The terms of such agreement or other document may apply to acts or omissions prior to or after the time of entering into the indemnity.
- 34.4.2. Any indemnities given by the Company in connection with this Clause 34 do not affect the right of the Company to bring any demand or action against any Director, Secretary or executive officer of the Company or its related bodies corporate, including any demand or action arising out of the negligence of that person.

34.5. Directors may Resolve to Not Indemnify

The Directors may resolve that the indemnities in Clause 34:

- 34.5.1. are not to apply to a specified person or class of persons; or
- 34.5.2. will not apply unless the Company has confirmed the indemnity under Clause 34.4.1 by a contract which is in force.

34.6. Interpretation

- 34.6.1. Nothing in Clauses 34.1 to 34.4 is to be taken to limit the power of the Company, as permitted by the Act, to indemnify or pay a premium for a contract insuring a person who is, or has been, an officer of the Company or its related bodies corporate.
- 34.6.2. The benefit of any indemnity previously provided by the Company to an officer of the Company in respect of liabilities incurred prior to 13 March 2000 is not affected by this Clause 34.

34.6.3. Subject to the Act, the benefit of any indemnity given under this Clause 34 continues even after the terms of this Clause 34 are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

34.7. Payments Not Remuneration

Any payment made by the Company under Clauses 34.1 to 34.3 does not constitute remuneration for the purposes of this Constitution.

35. BRANCH REGISTERS

35.1. Company may Keep Branch Registers

The Company may establish and cause to be kept outside the state (including outside of Australia) where its principal Register is kept a branch register in accordance with the provisions of the Act.

35.2. Directors to Determine Manner in Which Branch Registers are Kept

Subject to the provisions of the Act and of the provisions of this Constitution, any branch register must be established and kept in the manner the Directors determine.

35.3. Delegation

The Directors may empower any officer of the Company or any other person to establish and keep any branch register in a manner that the Directors determine and may delegate the following duties:

- 35.3.1. examining, passing or refusing transfers;
- 35.3.2. approving or refusing to approve transferees of shares; and
- 35.3.3. giving certificates of shares.

36. AMENDING THIS CONSTITUTION

36.1. General Amendments

Subject to the Act and Clause 36.2:

36.1.1. The Company may modify or repeal this Constitution or a provision of this Constitution, by special resolution.

(This reflects Section 136(2) of the Act.)

36.1.2. A special resolution modifying or repealing this Constitution takes effect:


- (a) if no later date is specified in the resolution, the date on which the resolution is passed; or
- (b) on a later date specified in or determined in accordance with the resolution.

(This reflects Section 137 of the Act.)

36.2. Additional Requirements for Particular Amendments

A modification or repeal of this Constitution or a provision of this Constitution that:

36.2.1. removes or otherwise amends Clause 8.6.2(g) or Clause 30 (other than where such

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- amendment is required by law or is required to be consistent with the law); or
- 36.2.2. modifies or in any way results in the modification of the Constitution in a way which would have one or more of the effects stated in Section 29(1) of Schedule 4 of the Act,
- 36.2.3. does not have effect unless and until:
- 36.2.4. passed by a special resolution of the Company and that special resolution is also passed by at least 25% of all Members; and
- 36.2.5. passed by a special resolution of the Company, where Members who have become Members of the Company after 22nd February 2007 (being the date at which this amendment was made) are not entitled to vote on the special resolution unless at that time they have continuously been Members of the Company for at least 2 years and that special resolution is also passed by at least 25% (by number) of all Members entitled to vote on that special resolution; and

these resolutions are passed in accordance with Clauses 36.2.3 and 36.2.4 at a meeting at which no business other than consideration of the special resolution is transacted.

(Refer to Clause 16.11 for notice requirements for the meeting.)

36.3. MCIs

36.2.6. The provisions of Clause 36.2 will not apply in relation to:

- (a) the creation or issuance of, or the agreement to create or issue; nor
- (b) the cancellation or variation of any rights attached to or reduction in capital in relation to,

any MCIs or capital instruments convertible to MCIs (including, in each case, MCIs with different rights).


36.3.1 The provisions of Clause 36.2 will not apply to the extent any amendment to this Constitution relates to or facilitates anything referred to in clause 36.3.1.

36.3.2 Any proposed resolution(s) passed at a General Meeting of the Company and approved in accordance with the terms of Clause 36.2, that would result in the Company ceasing to be an “MCI mutual entity” (as defined in the Act) can only take effect if:

- (a) there are no MCIs in the Company; or
- (b) subject to Clause 15.1, the proposed resolution(s) to approve provides for each MCI to be cancelled at or before the time the Company ceases to be an “MCI mutual entity” (as defined by the Act) (whether or not the holders of the MCIs to be cancelled are to receive other securities in respect of those MCIs).

37. PROCEEDS OF DEMUTUALISATION

If there is any modification of this Constitution in a way which would have one or more of the effects set out in Clause 29 (1) of Schedule 4 of the Act and, as a result of, incidental to or in



connection with that modification, some or all of the Members become entitled to receive any amounts of money, any securities or any other benefits (“Benefits”), then the Members who have become Members of the Company after 22 February 2007 (being the date on which this amendment was made) will not be entitled to share in any of the Benefits unless at that time they have continuously been Members of the Company for at least 2 years.

SCHEDULE 1 COMMON BOND

Common Bond for Natural Persons

A natural person (for the avoidance of doubt not a body corporate) is eligible to be a Member under any one of the following categories:

| | Category | Description |
|---|---|--|
| 1 | Employment | <p>(a) An officeholder or employee or contractor or student of any organisation in Australia performing:</p> <ul style="list-style-type: none"> i. Policing, Law Enforcement, Justice or related vocations; ii. Border Protection, Immigration, National Security or related vocations; iii. Education, training and mentoring services for i) or ii). <p>(b) An officeholder or employee of the Company.</p> <p>(c) An officeholder or employee or contractor of any of the Police Association of New South Wales, the Australian Federal Police Association or a Police Association or other organisation in Australia performing comparable services or functions in relation to Police.</p> <p>(d) An officeholder or employee of the Police Federation of Australia or other organisation in Australia performing comparable services or functions in relation to Police.</p> <p>(e) An officeholder or employee of any organisation involved in regulating and administering the affairs of the Company including APRA and ASIC.</p> <p>(f) An officeholder, employee, contractor or legatee of New South Wales Police Legacy or a Police Legacy or other organisation in Australia performing comparable services or functions in relation to persons related to Police or former Police.</p> <p>(g) An officeholder or employee of any organisation or persons with whom the Company has a business relationship.</p> |
| 2 | Service Providers to Specified Organisations | <p>(a) A person who attends or provides services to a business:</p> <ul style="list-style-type: none"> i. which provides security or security related services; or ii. which is associated with the law or its enforcement <p>(b) A person who provides services to a community service organisation.</p> <p>(c) A person who attends or provides services to an organisation that provides education, training or mentoring services in relation to 1 a) (i) and (ii).</p> |
| 3 | Family | The spouse (including de facto), child, parent, brother, sister, grandparent, grandchild, aunt, uncle, niece or nephew, whether by blood or by marriage or otherwise, or same sex partner of a person admitted as a Member under category 1 Employment. |
| 4 | Extended Family | The spouse (including de facto), child, parent, brother, sister, grandparent, grandchild, aunt, uncle, niece or nephew, whether by blood or by marriage or otherwise, or same sex partner of a person admitted to Membership under category 3 Family. |

| | | |
|---|------------------------------|--|
| 5 | Unincorporated Bodies | The office bearers, from time to time, of such unincorporated bodies as are approved by the Board. |
| 6 | Other Persons | Any other person or class of persons approved by the Board. |
| 7 | Approved Members | A person who does not qualify within categories 1-6 of the Common Bond who is qualified to take out a product with the Company, up to a limit of 20% of the total number of Members. |

Common Bond for Bodies Corporate

A body corporate is eligible to be a Member where the body corporate:

- (a) has an employee or officeholder who is a Member of the Company; or
- (b) acts as a trustee of a trust of which a Member is a beneficiary.

Common Bond After Transfer of Engagements

Upon the issue of a certificate by APRA or such other relevant body confirming the transfer of engagements from another Mutual ADI, each person who was a member of the transferring Mutual ADI and any person who would have been eligible for membership of the transferring Mutual ADI if the engagements had not been transferred to the Company are eligible to be a Member.

SCHEDULE 2

TERMS OF ISSUE OF REDEEMABLE PREFERENCE SHARES

1. ISSUE PRICE

The issue price of each Redeemable Preference Share issued pursuant to these Terms will be the **Face Value**.

2. DIVIDENDS

2.1. Dividends

Subject to these Terms, the holder of each RPS is entitled to participate in any dividends declared in respect of the RPSs.

2.2. Payment of the Dividend

The payment of a dividend on the RPSs is subject to:

- (a) Clause 8.7.2 of the Constitution;
- (b) the Directors, in their discretion, declaring the dividend to be payable or otherwise resolving to pay the dividend;
- (c) there being funds legally available for the payment of dividends;
- (d) such payment not resulting in the risk-based total capital ratio of the Company not complying with APRA's then current risk-based capital adequacy requirements as they are applied to the Company at the time; and
- (e) APRA not otherwise objecting to the payment of the dividend.

2.3. Non-Cumulative Dividends

The entitlement to a dividend is non-cumulative so that if, for any reason, including the matters referred to in Paragraph 2.2, a dividend is not paid in respect of a dividend period or the dividend paid in respect of a dividend period is less than the dividend entitlement for that dividend period, the holder of a RPS has no claim in respect of that part of the dividend entitlement which was not paid for that dividend period.

2.4. Calculation of Dividends

For the purposes of making any dividend payment in respect of a holder's aggregate holding of RPSs any fraction of a cent will be disregarded.

2.5. Deductions

The Company may deduct from any dividend payable to the holder of an RPS the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such amount. If any such deduction has been made and the amount of the deduction is accounted for by the Company to the relevant revenue authority and the balance of the amount payable has been paid to the holder concerned, then the full amount payable to such holder will be deemed to have been duly paid and satisfied by the Company. The Company will pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring penalty under the applicable law and will, if required by any holder, deliver to that holder the relevant receipt issued by the revenue authority without

delay after it is received by the Company.

3. REDEMPTION

3.1. Redemption by Company

- (a) Subject to the Corporations Act, the Company must redeem each RPS on issue on the Maturity Date.
- (b) On redemption of an RPS on the Maturity Date, the Company must pay to the holder of an RPS the Face Value.

3.2. Redemption at Option of Company

- (a) Subject to this paragraph 3.2, a holder of an RPS may request the Company to redeem the holder's RPS at a date earlier than the Maturity Date where the holder is suffering financial hardship by giving written notice to the Company.
- (b) The Redemption Request must include details of the financial hardship being suffered by the holder of the RPS and the Directors may request the holder to provide to them such evidence as is satisfactory to the Board of the financial hardship being suffered.
- (c) Subject to the Corporations Act and APRA's prior approval, if the Board is satisfied that the holder of the RPS is suffering financial hardship it may, in its absolute discretion, redeem the RPS the subject of the Redemption Request by paying to the holder the Face Value for each RPS the subject of the Redemption Request.

4. RPS GENERAL RIGHTS

4.1. RPS Ranking

- (a) RPSs rank equally amongst themselves in all respects and are subordinated to all the depositors and other creditors of the Company.
- (b) The issue of any other preference shares (other than Member Shares) which rank in priority to the RPSs in respect of dividends or the return of capital on a winding up constitutes an alteration of the rights attached to the RPSs.
- (c) The Company reserves the right to issue further RPSs or preference shares which rank equally with existing RPSs with respect to dividends, the return of capital on a winding up or otherwise. Such an issue does not constitute a variation or cancellation of the rights attached to the then existing RPSs.

4.2. Preferential Dividend

- (a) Until redemption, the RPSs rank in priority to Member Shares for the payment of dividends.
- (b) In any dividend period, the Directors must not pay a dividend on any other shares of the Company which rank equally with RPSs as to dividends, unless dividends are paid in relation to the RPSs and paid on those other shares in proportion to the amounts to which the holders of RPSs and the other shares respectively are entitled in respect of that dividend period.

4.3. No Set Off

Any amount due to a holder in respect of an RPS may not be set off against any claims by the

Company on the holder.

4.4. Return of Capital

Until redemption, if there is a return of capital on a winding up of the Company, the holders of RPSs will be entitled to receive out of the assets of the Company available for distribution to holders of shares, in respect of each RPS held, a cash payment equal to the Face Value after the Company has satisfied its obligations under Clause 33.2.1 of the Constitution but before any return of capital is made to holders of any other class of shares ranking behind the RPSs.

The RPSs do not confer on the holders any right to participate in profits or property except as set out in these Terms.

4.5. Shortfall on a Winding Up

If, upon a return of a capital on a winding up of the Company, there are insufficient funds to pay in full the amount referred to in Paragraph 4.4 and the amount payable in respect of any other shares in the Company ranking as to such distribution equally with the RPSs on a winding up of the Company, holders of the RPSs and the holders of any such other shares will share in any distribution of assets of the Company in proportion to the amounts to which they respectively are entitled.

4.6. No Participation in Surplus Assets

The RPSs do not confer on their holders any further right to participate in the surplus assets of the Company on a winding up beyond payment of the Face Value.

4.7. Participation in New Issues

The RPSs confer no rights to subscribe for new securities in the Company or to participate in any bonus issues.

4.8. Restrictions of Transfer

An RPS may not be Transferred.

5. VOTING RIGHTS

The holder of an RPS shall not be entitled to vote at any General Meeting of the Company by reason of holding that RPS, except as required by law.

6. AMENDMENTS TO THE TERMS OF ISSUE

Subject to complying with all applicable laws and with APRA's prior approval, the Company may without the authority, assent or approval of holders of the RPSs amend or add to these Terms if such amendment or addition is, in the opinion of the Company:

- 6.1 of a formal, minor or technical nature;
- 6.2 made to correct a manifest error; or
- 6.3 not likely (taken as a whole and in conjunction with all other modifications, if any, to be made contemporaneously with that modification) to be materially prejudicial to the interests of the holders of the RPSs.

7. INTERPRETATION & DEFINITIONS

7.1. Definitions

The following definitions apply in these Terms:

"Face Value" means the face value determined by the Board on or before the date of issue of that Redeemable Preference Share.

"Maturity Date" for an RPS means the date determined by the Board on or before the date of issue of that RPS.

"Redemption Date" for an RPS means the first to occur of:

- (a) the date of redemption of that RPS; and
- (b) the Maturity Date for that RPS.

"Redemption Request" means a request in writing made by a holder to redeem an RPS prior to the Maturity Date in accordance with paragraph 3.2.

"Terms" means the terms and conditions of the RPSs as set out in this Schedule 2.

"Transfer" means dispose of in any way and includes, without limitation, assign, assure, declare a trust, transfer and sell and also includes agreeing to do any of those things.

7.2. Rules for Interpreting These Terms

(a) Unless the context otherwise requires, if there is any inconsistency between the provisions of these Terms and the Constitution, then, to the maximum extent permitted by law, the provisions of these Terms prevail.

(b) Unless otherwise specified, the Directors may exercise all powers of the Company under these Terms as are not, by the Corporations Act or by the Constitution, required to be exercised by the Company in General Meeting.

(c) Definitions and interpretation under the Constitution will also apply to these Terms subject to paragraph 7.2(a).

(d) References to paragraphs are to paragraphs of these Terms.

(e) Any provisions which refer to the requirements of APRA or any other prudential regulatory requirements will apply to the Company only if the Company is an entity or the holding Company of an entity subject to regulation and supervision by APRA at the relevant times.

SCHEDULE 3 MCIs

1. Share capital from MCIs

- (a) Subject to compliance with the Act and satisfying the requirements of APRA in Prudential Standards (where applicable), the Company may raise capital by issuing MCIs or capital instruments convertible into MCIs.
- (b) The Company may create or issue MCIs at any time. The creation or issue of MCIs does not vary the rights attached to MCIs or any other shares that the Company has already issued (or may issue in future).

2. Issue

- (a) The Subscription Price for an MCI, or a capital instrument convertible to an MCI, will be determined by the Board.
- (b) Each MCI must be issued as a fully paid up share.
- (c) Any dividends in respect of an MCI are non-cumulative.

3. Rights of MCI Holders

- (a) The terms of issue of an MCI (including any terms, conditions or rights attaching to the MCI) will be determined by the Board in its sole discretion, subject to the requirements of this Constitution, the requirements for MCIs in the Act and any applicable Prudential Standards.
- (b) Subject to the terms of issue of an MCI, an MCI Holder is entitled to a claim on the surplus assets and profits of the Company in a winding-up of the Company after all senior claims, including the aggregate subscription price paid for any Member Shares by Members, have been satisfied and:
 - i. the MCI Holder's claim ranks equally and proportionately with the claims of all other MCI Holders; and
 - ii. the amount of the MCI Holder's claim cannot exceed the Subscription Price of the MCI.
- (c) Notwithstanding anything to the contrary in this Constitution, but subject to the requirements for MCIs in the Act, the Board may determine that the terms of issue of any MCIs contain such terms and conditions or attach such rights as the Board considers necessary or desirable for those MCIs to be eligible for inclusion as regulatory capital under any applicable Prudential Standards.
- (d) The rights attached to MCIs (or a class of MCIs) may only be varied or cancelled by special resolution of the Company and:
 - i. by a special resolution passed at a meeting of MCI Holders holding MCIs in the relevant class; or
 - ii. with the written consent of MCI Holders of at least 75% of the issued MCIs of that class.

Any variation of the rights attached to MCIs which constitute Common Equity Tier 1 Capital (as defined by APRA from time to time) of the Company is subject to the prior written approval of APRA, if the variation may affect the eligibility of such MCIs for inclusion as Common Equity Tier 1 Capital of the Company.

- (e) Except as provided by the rules of a licensed CS facility (as defined in the Act) which apply in

relation to an MCI, a person becomes registered as an MCI Holder upon entry by the Company in its Register of Members of the person's particulars in relation to the MCI as required by the Act.