

# Constitution

Telstra Corporation Limited (ABN 33 051 775 556) ("**Company**")

A public company limited by shares

Adopted on [insert date]

***Draft: 28 August 2020***

***Proposed form of constitution to be considered at Telstra's 2020  
Annual General Meeting***

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# Constitution

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## 1 Interpretation

### 1.1 Definitions

In this Constitution, unless the contrary intention appears:

**Alternate Director** means a person appointed as an alternate director under article 12.8.

**ASX** means ASX Limited or Australian Securities Exchange as appropriate.

**Associate**, in relation to foreign ownership of shares in the Company, has the meaning given to that term in Schedule 1 of the Telstra Act.

**Committee** means a committee of Directors constituted under article 11.6.

**Company** means Telstra Corporation Limited (ACN 051 775 556), as that name may be changed from time to time.

**Constitution** means this constitution, and a reference to an article is a reference to an article of this constitution.

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

**CS Facility** has the same meaning as prescribed CS facility in the Corporations Act, or such equivalent facility as may be used by ASX from time to time.

**CS Facility Operator** means the operator of a CS Facility.

**Director** means a person holding office as a director of the Company, and where appropriate includes an Alternate Director.

**Directors** means all or some of the Directors acting as a Board.

**Domestic Shares** means those shares held by a Foreign Member which, if those shares were the only shares held by that Member, the Member would not be a Foreign Member.

**Executive Director** means a person appointed as an executive director under article 11.8.

**Foreign Member** means:

- (a) a Member who is a Foreign Person or an Associate of a Foreign Person and who holds an interest in the shares registered in the name of that Member;
- (b) a Member who is the registered holder of shares in which a Foreign Person or an Associate of a Foreign Person has an interest;
- (c) the depository for the American Depositary Receipts or its custodian (unless the Foreign Ownership Regulations provide otherwise);
- (d) a Member holding shares registered on any New Zealand branch share register of the company in respect only of such shares (unless the Foreign Ownership Regulations provide otherwise); or



- (e) a Member who is a person deemed a Foreign Member under the Foreign Ownership Regulations published under article 23.2 from time to time.

**Foreign Ownership Regulations** means the rules, regulations, forms, procedures and policies published by the Directors under article 23.2 from time to time.

**Foreign Person** has the same meaning as in the Telstra Act.

**Foreign Register** means a register containing such information as the Directors consider appropriate in relation to shares held by Foreign Members and foreign ownership generally.

**Issuer Sponsored Holding** means a holding on an electronic sub-register maintained by the Company in accordance with the Listing Rules.

**Listing Rules** means the Listing Rules of ASX and any other rules of ASX which are applicable to the Company while the Company is admitted to the Official List, each as amended or replaced from time to time, subject to any applicable waiver or exemption.

**Managing Director** means a person appointed as a Managing Director under article 11.8.

**Member** means a person entered in the Register as a holder of shares in the capital of the Company.

**Mixed Member** means a Foreign Member, as defined in paragraphs (a) or (b) of that term, who holds Domestic Shares.

**Official List** has the meaning given to it in the Listing Rules.

**Operating Rules** means the operating rules of a CS Facility regulating the settlement, clearing and registration of uncertificated shares as amended, varied or waived (whether in respect of the Company or generally) from time to time.

**Prescribed Interest Rate** means the rate determined by the Directors for the particular purpose or generally under this Constitution, including any revised rate or new determination, and in the absence of a determination means a rate per annum 2% higher than the rate fixed under the *Penalty Interest Rates Act 1983* (Vic). Interest accrues daily and may be capitalised monthly or at such other intervals as decided by Directors.

**Register** means the register of Members of the Company under the Corporations Act and, if appropriate, includes a branch register.

**Registered Office** means the registered office of the Company.

**Representative** means a person appointed to represent a corporate Member at a general meeting of the Company in accordance with the Corporations Act.

**Restriction Agreement** means a restriction agreement in a form set out in the Listing Rules or otherwise approved by ASX.

**Secretary** means a person appointed under article 13.1 as a secretary of the Company and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

**Securities** includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity, in each case as issued or granted by the Company.

**Telstra Act** means the *Telstra Corporation Act 1991* (Cth).

**Unacceptable Individual Foreign Ownership Situation** has the meaning given to the term 'Unacceptable Foreign Ownership Situation' described in section 8BG(b) of the Telstra Act.

**Unacceptable Foreign Ownership Situation** has the same meaning as in section 8BG of the Telstra Act.

**Uncertificated Securities Holding** means Securities that under the Corporations Act, the Listing Rules or any Uncertificated Transfer System may be held in uncertificated form.

**Uncertificated Transfer System** means any system operated under the Corporations Act, the Listing Rules or the Operating Rules that regulates the transfer of registration of, or the settlement transactions affecting, Securities in uncertificated form and includes CHESS (as defined in the operating rules of ASX Settlement Pty Ltd) as it applies to Securities in certificated and uncertificated form, or any replacement system.

## 1.2 Interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this Constitution:

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include all other genders;
- (c) a reference to a document includes any variation or replacement of it;
- (d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (e) a reference to "**person**" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation, and includes that person's successors and legal personal representatives;
- (f) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (g) a reference to "**law**" includes common law, principles of equity and legislation (including regulations);
- (h) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacement of any of them;
- (i) a reference to "**regulations**" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (j) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;

- (k) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (l) a reference to “**writing**” or “**written**” includes printing, typing and other modes of reproducing words in a visible form including any representation of words in a physical document or in an electronic communication or form or otherwise;
- (m) a reference to a “**signature**” or a document (including a notice) being “**signed**” includes that document being executed under hand or under seal, by electronic signature or other signature which is not handwritten, in accordance with Commonwealth electronic transactions legislation, or in any other manner approved by the Directors;
- (n) a chairman appointed under this Constitution may be referred to as a chairperson, chairwoman or chair, as appropriate; and
- (o) a reference to a person being “**present**” at a meeting:
  - (i) at a meeting of Members, includes:
    - (A) a Member present in person;
    - (B) a Member present by proxy, attorney or Representative;
    - (C) to the extent permitted by law, a Member participating using technology approved by the Directors in accordance with this Constitution; and
    - (D) except in any article which specifies a quorum, a Member who has duly lodged a valid direct vote in relation to the meeting under article 9.23; and
  - (ii) at a meeting of Directors, includes participating using technology approved by the Directors in accordance with this Constitution.

### 1.3 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) a word or expression defined or used in the Corporations Act has the same meaning when used in this Constitution in a similar context; and
- (b) “section” means a section of the Corporations Act.

### 1.4 Listing Rules interpretation

In this Constitution, unless the contrary intention appears, a word or expression defined in the Listing Rules has the same meaning when used in this Constitution in an article relating to a matter dealt with by the Listing Rules.

### 1.5 Replaceable rules not to apply

- (a) The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and do not apply to the Company.
- (b) The regulations in Table A in the legislation under which the Company was formed, do not apply to the company except so far as they are repeated in this constitution.

## **1.6 Currency**

The Directors may, at their discretion:

- (a) differentiate between Members as to the currency in which any amount payable to a Member is paid (whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution or other amount to a Member in a currency other than Australian dollars and the amount payable will be converted from Australian dollars in any manner, at any time and at any exchange rate as the Directors think fit; and
- (c) in deciding the currency in which a payment is to be made to a Member, have regard to the registered address of the Member, the register on which a Member's shares are registered and any other matters as the Directors consider appropriate.

Payment in another currency of an amount converted under this article is as between the Company and a Member adequate and proper payment of the amount payable.

## **1.7 Application of Listing Rules**

In this Constitution, a reference to the Listing Rules only applies while the Company is on the official list of ASX.

While the Company is on the official list of ASX:

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

## **1.8 Application of Telstra Act**

Despite anything in this Constitution, the Telstra Act applies to the governance of the Company, and where a provision of this Constitution is inconsistent with a provision of the Telstra Act, the Telstra Act applies to the exclusion of this Constitution to the extent of the inconsistency.

## **1.9 Submission to jurisdiction**

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the Company is taken to be registered for the purposes of the Act, the Federal Court of Australia and the courts which may hear appeals from those courts.

## **1.10 Prohibition and enforceability**

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

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# **2 Share capital**

## **2.1 Directors to issue shares**

The issue of shares in the Company is under the control of the Directors who may:

- (a) issue, allot and cancel or otherwise dispose of shares in the Company;
- (b) grant options over unissued shares in the Company;
- (c) determine the terms on which shares are issued or options granted, the rights and restrictions attached to them, and the persons to whom they are issued; and
- (d) settle the manner in which fractions of a share, however arising, are to be dealt with,

subject to the Corporations Act, the Listing Rules, this Constitution and any special rights conferred on the holders of any shares or class of shares.

## **2.2 Preference shares**

The Company may issue preference shares, and issued shares may be converted into preference shares, provided that the rights of the holders of the preference shares with respect to the repayment of capital, participation in surplus assets and profits, cumulative or non-cumulative dividends, voting and priority of payment of capital and dividends in relation to other shares or other classes of preference shares are:

- (a) as set out in Schedule 1; or
- (b) as approved by a resolution of the Company in accordance with the Corporations Act.

The rights of holders of preference shares issued by the Company other than pursuant to Schedule 1, but in accordance with the Corporations Act, are determined by the terms of issue of those preference shares and the relevant resolution of the Company and are not determined or affected by the rights set out in Schedule 1.

Subject to the Corporations Act and the Listing Rules, the Company may issue preference shares which are, or are at the option of the Company to be liable, to be redeemed or to be converted into other shares on such conditions and in such a manner as the Directors decide under the terms of issue of the preference shares.

Subject to the Corporations Act and the Listing Rules, the Company may issue any combination of fully paid, partly paid or unpaid preference shares.

Despite this article 2.2 and Schedule 1, the Company may not issue a preference share that confers on the holder rights that are inconsistent with those specified in the Listing Rules, except to the extent of any waiver or modification of the Listing Rules by ASX.

## **2.3 Variation of class rights**

- (a) The rights attached to any class of shares may, unless their terms of issue state otherwise, be varied:
  - (i) with the written consent of the holders of 75% of the issued shares of the class; or
  - (ii) by a special resolution passed as a separate meeting of the holders of shares of the class.
- (b) The rights conferred on the holders of any class of shares are to be taken as not having been varied by the creation or issue of further shares ranking equally with them (unless otherwise determined by the Directors in the terms of issue of the existing shares).

## **2.4 Class meetings**

The provisions of this Constitution relating to general meetings apply so far as they are capable of application and with any necessary changes to every separate meeting of the holders of a class of shares except that:

- (a) a quorum is constituted by at least 2 persons who, between them, hold or represent not less than 10% of the issued shares of the class (unless only one person holds all the shares of the class, in which case that person constitutes a quorum); and
- (b) any holder of shares of the class, present in person or by proxy, or attorney or Representative, may demand a poll.

## **2.5 Non-recognition of interests**

Except as required by law, the Company is not required to recognise:

- (a) a person as holding a share on any trust; or
- (b) any other interest in any share or any other right in respect of a share except an absolute right of ownership by the registered holder,

whether or not it has notice of the trust, interest or right.

## **2.6 Joint holders of shares**

Where 2 or more persons are registered as joint holders of any shares, then they are taken to hold the shares as joint tenants with rights of survivorship. However, the Company is not bound:

- (a) to register more than 3 persons as joint holders of a share (except where they are jointly entitled to a share because of the death, bankruptcy or mental incapacity of a Member, or where required by the Listing Rules or Operating Rules); or
- (b) to issue more than one certificate or holding statement for shares jointly held.

## **2.7 General powers relating to shares**

The Directors may, to the extent permitted by law or the terms of issue of a share:

- (a) exempt a share from all or part of any of articles 3, 4 or 5;
- (b) waive or compromise all or any part of any payment due to the Company under any of articles 3, 4 or 5; or
- (c) accept a surrender of a share by way of compromise of a claim (in which case the share may be sold, reissued or otherwise disposed of in the same manner as a forfeited share).

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# **3 Lien**

## **3.1 Lien on share**

To the extent permitted by law, the Company has a first and paramount lien on every share for:

- (a) all due and unpaid calls and instalments in respect of that share;
- (b) all money which the Company is required by law to pay, and has paid, in respect of that share;
- (c) interest at the Prescribed Interest Rate on the amount due from the date it becomes due until payment; and
- (d) reasonable expenses of the Company in respect of any default on payment.

## **3.2 Lien on distributions**

A lien on a share under article 3.1 extends to all distributions for that share, including dividends.

## **3.3 Extinguishment of lien**

The Company's lien on a share is extinguished if a transfer of the share is registered without the Company giving notice of the lien to the transferee, to the extent it relates to amounts owing by the transferor or a predecessor in title.

## **3.4 Company's rights to recover payments**

A Member (or if the Member is dead, the Member's personal representative) must indemnify the Company on demand in writing for all payments the Company makes in respect of the Member, the death of a Member or the Member's shares or any distributions or other amounts due and payable on the Member's shares, including dividends, where the Company is either:

- (a) required by law to make the relevant payment; or
- (b) advised by a lawyer qualified to practice in the relevant jurisdiction that the Company is required by law to make the relevant payment.

The Company is not obliged to advise the Member in advance of its intention to make the payment.

### **3.5 Reimbursement is a debt due**

The obligation of the Member to indemnify the Company is a debt due to the Company as if it were a call on all the Member's shares, duly made at the time when the written demand is given by the Company to the Member. The provisions of this Constitution relating to non-payment of calls, including payment of interest and sale of the Member's shares under lien, apply to the debt.

### **3.6 Sale under lien**

Subject to article 3.7, the Company may sell, in any manner the Directors think fit, any share on which the Company has a lien.

### **3.7 Limitations on sale under lien**

A share on which the Company has a lien may not be sold by the Company unless:

- (a) an amount in respect of which the lien exists is presently payable; and
- (b) the Company has, not less than 14 days before the date of sale, given to the registered holder of the share a notice setting out, and demanding payment of, the amount which is presently payable in respect of which the lien exists.

### **3.8 Transfer on sale under lien**

For the purpose of giving effect to a sale under article 3.6, the Company may receive the consideration, if any, given for the share so sold and may execute a transfer of the share sold in favour of the purchaser of the share, or do all such other things as may be necessary or appropriate for it to do to effect the transfer. The purchaser is not bound to see to the application of the purchase money.

### **3.9 Irregularity or invalidity**

The title of the purchaser to the share is not affected by any irregularity or invalidity in connection with the sale of the share under article 3.6.

### **3.10 Proceeds of sale**

The proceeds of a sale under article 3.6 must be applied by the Company in payment of the amount in respect of which the lien exists as is presently payable, and the residue, if any, must be paid to the person entitled to the share immediately before the sale.



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## **4 Calls on shares**

### **4.1 Directors to make calls**

The Directors may:

- (a) make calls on a Member in respect of any money unpaid on the shares of that Member, if the money is not by the terms of issue of those shares made payable at fixed times;
- (b) make a call payable by instalments; and
- (c) revoke, waive, or postpone a call, or extend the time for payment.

### **4.2 Time of call**

A call is taken to be made at the time when the resolution of the Directors authorising the call is passed.

### **4.3 Members' liability**

On receiving not less than 14 days' notice (or any other period required by the Listing Rules) specifying the time or times and place of payment, each Member must pay to the Company by the time or times, and at the place, specified in the notice the amount called on that Member's shares.

### **4.4 Joint holders' liability**

The joint holders of a share are jointly and individually liable to pay all calls in respect of the share.

### **4.5 Non-receipt of notice**

The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, a Member does not invalidate the call.

### **4.6 Interest on default**

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due must pay:

- (a) interest on the sum from the day it is due to the time of actual payment at the Prescribed Interest Rate; and
- (b) any costs, expenses or damages that the Company incurs by reason of that non-payment or late payment.

The Directors may waive payment of that amount wholly or in part.

### **4.7 Fixed instalments**

Subject to any notice requirements under the Listing Rules, if the terms of a share make a sum payable on issue of the share or at a fixed date, this is taken to be a call duly made, notified and payable on the date on which, by the terms of issue, the sum becomes payable. In the case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

#### **4.8 Differentiation between holders as to calls**

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

#### **4.9 Prepayment of calls and interest**

The Directors may:

- (a) accept from a Member the whole or a part of the amount unpaid on a share even if no part of that amount has been called;
- (b) repay to a Member any amount accepted under article 4.9(a); and
- (c) authorise payment by the Company of interest on the whole, or any part, of an amount accepted under article 4.9(a) (and not repaid under article 4.9(b)), until the amount becomes payable, at such rate, not exceeding the Prescribed Interest Rate, as is agreed between the Directors and the Member paying the sum.

#### **4.10 Proceedings to recover calls**

In a proceeding to recover a call, or an amount payable due to the failure to pay or late payment of a call, proof that:

- (a) the name of the defendant is entered in the Register as the holder (or one of the holders) of the share on which the call is claimed;
- (b) the resolution making the call is recorded in the minute book; and
- (c) notice of the call was given to the defendant in accordance with this Constitution,

is conclusive evidence of the obligation to pay the call, and it is not necessary to prove the appointment of the Directors who made the call, or any other matter. In this article, a reference to a defendant includes a person against whom the Company alleges a set-off or counterclaim (and a reference to a proceeding is to be interpreted accordingly).

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### **5 Forfeiture of shares**

#### **5.1 Notice requiring payment of call**

If a Member fails to pay a call, or instalment of a call, on the day appointed for payment of the call or instalment, the Directors may give a notice to the Member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs and expenses that may have been incurred by the Company by reason of that non-payment.

#### **5.2 Contents of notice**

The notice must name a further day, which is at least 14 days from the date of service of the notice, on or before which the payment required by the notice is to be made and must state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

### **5.3 Forfeiture for failure to comply with notice**

If a notice under article 5.1 has not been complied with by the date specified in the notice, the Directors may by resolution forfeit the relevant shares, at any time before the payment required by the notice has been made.

### **5.4 Dividends and distributions included in forfeiture**

A forfeiture under article 5.3 includes all dividends, interest and other distributions to be made in respect of the forfeited shares which have not been paid or distributed before the forfeiture.

### **5.5 Sale or re-issue of forfeited shares**

Subject to the Corporations Act, a share forfeited under article 5.3 may be sold, re-issued or otherwise disposed of to such person and on such terms as the Directors think fit.

### **5.6 Notice of forfeiture**

If any share is forfeited under article 5.3, notice of the forfeiture must be given to the Member holding the share immediately before the forfeiture and an entry of the forfeiture and its date must be made in the Register. Any failure to give notice or enter the forfeiture in the Register does not invalidate the forfeiture.

### **5.7 Surrender instead of forfeiture**

The Directors may accept the surrender of any share which they are entitled to forfeit on any terms they think fit and any share so surrendered is taken to be a forfeited share.

### **5.8 Cancellation of forfeiture**

At any time before a sale, re-issue or disposal of a share under article 5.5, the forfeiture of that share may be cancelled on such terms as the Directors think fit.

### **5.9 Effect of forfeiture on former holder's liability**

A person whose shares have been forfeited:

- (a) ceases to be a Member in respect of the forfeited shares; and
- (b) remains liable to pay the Company all money that, at the date of forfeiture, was payable by that person to the Company in respect of the shares (including all calls, interests, costs and expenses), plus interest at the Prescribed Interest Rate from the date of forfeiture and the reasonable expenses of the sale of the shares, until the Company receives payment in full of all money (including interest and expenses) so payable in respect of the shares,

and forfeiture of a share extinguishes all rights attaching to and interests in the share, and any claims or demands against the Company relating to it.

### **5.10 Evidence of forfeiture or sale**

A written statement declaring that the person making the statement is a Director or a Secretary, and that a share has been forfeited or sold, or otherwise disposed of in accordance with this Constitution on the date declared in the statement, is evidence of the facts in the statement as against all persons claiming to be entitled to the share.

### **5.11 Transfer of forfeited share**

The Company may receive any consideration given for a share including a forfeited share on any sale, re-issue or disposal of the share under this Constitution and may execute or effect a transfer of the share in favour of the person to whom the share is sold, re-issued or disposed.

### **5.12 Registration of transferee**

On the execution of the transfer, the transferee must be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.

### **5.13 Irregularity or invalidity**

The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale, re-issue or disposal of the share.

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## **6 Transfer of shares**

### **6.1 Forms of instrument of transfer**

Subject to this Constitution and the Listing Rules and any restrictions attached to the share, a share in the Company is transferable:

- (a) as provided by the Operating Rules of an applicable CS Facility; or
- (b) by any other method of transfer which is required or permitted by the Corporations Act and ASX.

### **6.2 Execution and delivery of transfer**

If a duly completed instrument of transfer:

- (a) is used to transfer a share in accordance with article 6.1(b); and
- (b) is left for registration at the share registry of the Company, accompanied by any information that the Directors properly require to show the right of the transferor to make the transfer,

the Company must, subject to the powers vested in the Directors by this Constitution, register the transferee as the holder of the share.

### **6.3 Effect of registration**

Except as provided by any applicable Operating Rules of a CS Facility, a transferor of a share remains the holder of the share transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the share.

### **6.4 Registration of forms**

The Company must register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and mark or note transfer forms. The Company may impose a charge in connection with registration where permitted by the Listing Rules.

## **6.5 Uncertificated Holdings**

If and for so long as dealings in any shares take place under an Uncertificated Transfer System:

- (a) the Company need not issue any certificate in respect of Securities held as an Uncertificated Securities Holding; and
- (b) the share register may distinguish between Securities held in certificated form and Securities held as an Uncertificated Securities Holding.

## **6.6 Power to refuse to register**

- (a) The Company (or the Company's securities registry) may put in place, and require compliance with, reasonable processes and procedures in connection with determining the authenticity of an instrument of transfer, notwithstanding that this may prevent, delay or interfere with the registration of the relevant instrument of transfer.
- (b) If permitted by the Listing Rules or the Corporation Act, the Directors may:
  - (i) request any applicable CS Facility Operator to apply a holding lock to prevent a transfer of shares in the Company from being registered on the CS Facility's subregister; or
  - (ii) refuse to register a transfer of shares in the Company to which paragraph (a) does not apply.

## **6.7 Obligation to refuse to register**

The Directors must:

- (a) request any applicable CS Facility Operator to apply a holding lock to prevent transfer of shares in the Company from being registered on the CS Facility's subregister; or
  - (b) refuse to register any transfer of shares in the Company to which paragraph (a) does not apply,
- if:
- (c) the Listing Rules require the Company to do so; or
  - (d) the transfer is in breach of the Listing Rules or a Restriction Agreement.

## **6.8 Written notice to security holder of holding lock or refusal**

If in the exercise of their rights under articles 6.6 and 6.7 the Directors request application of a holding lock to prevent a transfer of shares in the Company or refuse to register a transfer of shares they must give written notice of the request or refusal to the holder of the shares, the transferee and any broker lodging the transfer. Failure to give notice does not invalidate the decision of the Directors.

## **6.9 Company to retain instrument of transfer**

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

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## **7 Transmission of shares**

### **7.1 Transmission of shares on death**

If a Member who does not hold shares jointly dies, the Company will recognise only the personal representative of the Member as being entitled to the Member's interest in the shares. The estate of the Member is not released from any liability in respect of the shares.

### **7.2 Information given by personal representative**

- (a) If the personal representative of the Member who has died gives the Directors the information they reasonably require to establish the representative's entitlement to be registered as a holder of the shares:
  - (i) the personal representative may:
    - (A) by giving a signed notice to the Company, elect to be registered as the holder of the shares; or
    - (B) by giving a completed transfer form to the Company, transfer the shares to another person; and
  - (ii) the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.
- (b) On receiving an election under article 7.2(a)(i)(A), the Company must register the personal representative as the holder of the shares.
- (c) A transfer under article 7.2(a)(i)(B) is subject to the articles that apply to transfers generally.

### **7.3 Death of joint owner**

If a Member who holds shares jointly dies, the Company will recognise only the survivor as being entitled to the Member's interest in the shares. The estate of the Member is not released from any liability in respect of the shares.

### **7.4 Transmission of shares on bankruptcy**

- (a) If a person entitled to shares because of the bankruptcy of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares, the person may:
  - (i) by giving a signed notice to the Company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the Company, transfer the shares to another person.
- (b) On receiving an election under article 7.4(a)(i), the Company must register the person as the holder of the shares.
- (c) A transfer under article 7.4(a)(ii) is subject to the articles that apply to transfers generally.
- (d) This article has effect subject to the *Bankruptcy Act 1966* (Cth).

## **7.5 Transmission of shares on mental incapacity**

- (a) If a person entitled to shares because of the mental incapacity of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares:
  - (i) the person may:
    - (A) by giving a signed notice to the Company, elect to be registered as the holder of the shares; or
    - (B) by giving a completed transfer form to the Company, transfer the shares to another person; and
  - (ii) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.
- (b) On receiving an election under article 7.5(a)(i)(A), the Company must register the person as the holder of the shares.
- (c) A transfer under article 7.5(a)(i)(B) is subject to the articles that apply to transfers generally.

## **7.6 Transmission of shares to joint holders**

Where two or more persons are jointly entitled to be registered pursuant to articles 7.1, 7.4 or 7.5, they will be taken to hold the shares as joint holders and article 2.6 will apply.

## **7.7 Transfer despite transmission event**

The Directors may register a transfer of shares signed by a Member before death, bankruptcy or mental incapacity, even though the Company has notice of that matter.

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# **8 General meetings**

## **8.1 Annual general meeting**

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

## **8.2 Convening a general meeting**

The Directors may convene and arrange to hold a general meeting of the Company whenever they think fit and must do so if required to do so under the Corporations Act.

## **8.3 Use of technology at general meetings**

- (a) Subject to any applicable law:
  - (i) the Company may hold a meeting of Members using any technology approved by the Directors that give the Members as a whole a reasonable opportunity to participate; and
  - (ii) a meeting conducted using such technology may be held at multiple venues or not held at any specified venue,

and participation in such a meeting will constitute presence as if in person at such a meeting.

- (b) If, before or during a meeting of Members, any technical difficulty occurs, such that the Members as a whole do not have a reasonable opportunity to participate, the chairman may:
  - (i) adjourn the meeting until the difficulty is remedied; or
  - (ii) where a quorum remains present (either at the place at which the chairman is present or by technology as contemplated by article 8.3) and able to participate, subject to the Corporations Act, continue the meeting.

#### **8.4 Notice of general meeting**

- (a) Notice of a general meeting must be given in accordance with article 18, the Corporations Act and the Listing Rules.
- (b) The content of a notice of general meeting called by the Directors is to be decided by the Directors but it must state the general nature of the business to be conducted at the meeting and any other matters required by the Corporations Act, the Listing Rules or this Constitution.

#### **8.5 Calculation of period of notice**

In computing the period of notice under article 8.4, both the day on which the last notice to Members is given or taken to be given and the day of the meeting convened by it are to be disregarded.

#### **8.6 Cancellation or postponement of a meeting**

- (a) Where a general meeting (including an annual general meeting) is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place (if any) for the meeting.
- (b) This article 8.6 does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members or to a meeting convened by a court, without the prior written consent of the person who called or requisitioned the meeting.

#### **8.7 Notice of cancellation or postponement of a meeting**

Notice of cancellation or postponement or change of place of a general meeting must state the reason for cancellation or postponement and be:

- (a) published in a daily newspaper circulating in Australia;
- (b) given to ASX; or
- (c) subject to the Corporations Act and the Listing Rules, given in any other manner determined by the Directors.

#### **8.8 Business at postponed meeting**

The only business that may be transacted at a postponed general meeting is the business specified in the original notice convening the meeting.



## **8.9 Proxy, attorney or Representative at postponed meeting**

Where by the terms of an instrument appointing a proxy or attorney or an appointment of a Representative:

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its Registered Office written notice to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

## **8.10 Non-receipt of or defective notice**

- (a) If a person entitled to receive a notice of general meeting, a proxy form, or a notice of the cancellation, postponement or re-location of a general meeting:
  - (i) does not receive it; or
  - (ii) is not given it due to an accidental omission,that failure does not invalidate any resolution passed at the general meeting, or at the postponed or relocated meeting.
- (b) A person who attends a general meeting waives any objection the person may have to:
  - (i) any failure to give notice, or the giving of a defective notice, of the meeting unless at the start of the meeting the person objects to the holding of the meeting;
  - (ii) any failure to give a proxy form, or the giving of a defective proxy form; and
  - (iii) the consideration of a particular matter which is not within the business referred to in the notice of meeting, unless the person objects to the consideration of the matter when first presented.

## **8.11 Director entitled to notice of meeting**

A Director is entitled to receive notice of and to attend all general meetings and all separate meetings of the holders of any class of shares in the capital of the Company and is entitled to speak at those meetings.

## **8.12 Proxy, attorney or Representative appointments**

- (a) Subject to this Constitution, each Member entitled to vote at a general meeting may vote:
  - (i) in person or, where a Member is a body corporate, by its Representative;

(ii) by not more than 2 proxies; or

(iii) by not more than 2 attorneys,

unless otherwise determined by the Directors.

- (b) A proxy, attorney or Representative may, but need not, be a member of the Company.
- (c) An instrument appointing a proxy, attorney or Representative is valid if it is in accordance with the Corporations Act or in any form (including electronic) and received at any time that the Directors prescribe or accept, or the chairman of a general meeting accepts.
- (d) Where a notice of meeting provides for electronic lodgement of proxy, direct vote, attorney or Representative appointments, an appointment received at the electronic address or by the electronic means specified in the notice is taken to have been received at the registered office of the Company and validated by the Member if there is compliance with the requirements set out in the notice or is otherwise authenticated in accordance with the Corporations Act.
- (e) If the Company receives an instrument or form recording a direct vote or appointing a proxy, attorney or Representative from a Member and the Directors consider that it is not properly executed or authenticated, or is incomplete or unclear:
- (i) if the name, or the name of the office, of the proxy, attorney or Representative, is not filled in or is unclear, then:
- (A) the proxy, attorney or Representative of that Member is the person specified by the Company in the instrument or form of proxy; or
- (B) if no person is specified by the Company, then the proxy, attorney or Representative will be the chairman of that meeting;
- (ii) if the instrument or form has not been duly signed or authenticated, then the Company may (at its discretion) return the instrument or form to the appointing Member and request the Member sign or authenticate the instrument or form and return it to the Company within a period determined by the Directors (which may be later than the time specified in the notice of meeting for the receipt of direct votes or proxy appointments);
- (iii) if the instrument or form is otherwise unclear or incomplete, the Company may:
- (A) by oral or written communication, clarify with the Member any instruction on the appointment; and
- (B) complete or amend the contents of any instrument or form to reflect the clarification in the instructions received from the Member (which may occur later than the time specified in the notice of meeting for the receipt of direct votes or proxy appointments) and the Member appoints the Company as its attorney for this purpose.

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## **9 Proceedings at general meetings**

### **9.1 Membership at a specified time**

The Directors may determine, for the purposes of a particular general meeting, that all the shares that are quoted on ASX at a specified time before the meeting are taken to be held at the time of the meeting by the persons who hold them at the specified time. The determination must be made and published in accordance with the Corporations Act.

### **9.2 Number for a quorum**

- (a) Subject to article 9.5 and any applicable law, the quorum for a general meeting is 3 Members present in person, by proxy, attorney or Representative. In determining whether a quorum is present, each individual attending as a proxy, attorney or Representative is to be counted, except:
  - (i) where a Member has appointed more than one proxy, attorney or Representative, only one is to be counted; and
  - (ii) where an individual is attending both as a Member and as a proxy, attorney or Representative, that individual is to be counted only once.
- (b) A Member placing a direct vote under article 9.25 is not taken into account in determining whether or not there is a quorum at a general meeting.
- (c) Where a meeting is conducted using technology approved by the Directors under this Constitution, and where permitted by law, the 3 Members referred to in article 9.2(a) need not be physically present at the same place (or at any place).

### **9.3 Requirement for a quorum**

- (a) An item of business may not be transacted at a general meeting (other than to elect a chairman or adjourn the meeting) unless a quorum is present when the meeting proceeds to consider it.
- (b) If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairman of the meeting (on the chairman's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

### **9.4 If quorum not present**

If within 30 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a single Director, or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

## **9.5 Adjourned meeting**

At a meeting adjourned under article 9.4(b), the quorum is 3 Members present in person or by proxy, attorney or Representative. If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

## **9.6 Appointment of chairman of general meeting**

If the Directors have elected one of their number as chairman of their meetings, that person is entitled to preside as chairman at a general meeting.

## **9.7 Chairman absent or unable or unwilling to act**

(a) If a general meeting is held and:

- (i) a chairman has not been elected by the Directors; or
- (ii) the elected chairman is not present within 15 minutes after the time appointed for the holding of the meeting, or is unable or unwilling to act for all or part of the meeting,

the following may preside as chairman for all or the relevant part of the meeting (in order of precedence):

- (iii) any deputy chairman;
  - (iv) a Director chosen by a majority of the Directors present;
  - (v) the only Director present; or
  - (vi) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.
- (b) If the chairman withdraws during part of the proceedings, the nominated person acts as chairman for those proceedings, then withdraws and the chairman resumes as chairman of the meeting.
- (c) If a proxy instrument appoints the chairman of the meeting as proxy for the part of the proceedings for which an acting chairman is nominated, the proxy instrument is taken to be in favour of that acting chairman for the relevant part of the proceedings.

## **9.8 Conduct of general meetings**

The chairman of a general meeting (including any person acting with the authority of the chairman):

- (a) has charge of the general conduct of the meeting and the procedures to be adopted in relation to or at the meeting;
- (b) may take any action the chairman considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting;
- (c) may require any person wishing to attend the meeting to comply with searches, restrictions or other security arrangements considered appropriate;
- (d) may refuse entry to, or require security measures be taken in respect of, any person who does not comply with security arrangements, or who possesses a recording or broadcasting device without consent, or who

refuses to comply with a request to turn off a mobile telephone, or other communication, recording or similar device, or who possesses an article considered to be dangerous, offensive or liable to cause disruption, or who was not entitled to notice of the meeting, or who the Chairman has reasonable grounds to believe may behave in a dangerous, offensive or disruptive way;

- (e) if there is insufficient room at a venue used for the meeting, may arrange another or a second or other venue (without giving notice or putting the matter to a vote);
- (f) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting;
- (g) may determine that a vote be disregarded and treated as not having been cast (without requiring that the matter be put to a vote), if a person purports to cast a vote at or for the purposes of a general meeting in contravention of the Corporations Act or Listing Rules;
- (h) subject to the Corporations Act, may refuse to allow:
  - (i) any amendment to be moved to a resolution set out in the notice of that meeting or to a document which relates to such a resolution;
  - (ii) any business to be transacted unless the general nature of the business is stated in the notice calling the meeting;
- (i) may decide not to put to the meeting, or withdraw from consideration by the meeting, any resolution that is set out in the notice of that meeting (other than those requisitioned by Members or required by law); and
- (j) subject to the Corporations Act, may impose time limits or terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting.

A decision by the chairman (including any person acting with the chairman's authority) under this article is final.

## **9.9 Invited attendee**

A person requested by the Directors or the chairman to attend a general meeting, is entitled to be present (and if invited by the chairman, to speak) at the meeting, irrespective of whether the person is a Member.

## **9.10 Adjournment of general meeting**

- (a) The chairman of a general meeting may postpone the meeting before it has started, whether or not a quorum is present, if, at the time for the meeting, he or she considers that:
  - (i) there is not enough room for the number of Members who wish to attend the meeting;
  - (ii) a postponement is necessary in light of the behaviour of persons present; or
  - (iii) a postponement is necessary for any other reason so that the business of the meeting can be properly carried out.

- (b) The chairman of a general meeting may at any time during the meeting:
  - (i) adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place; and
  - (ii) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period or periods as the chairman decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chairman otherwise allows.
- (c) In exercising the discretion under article 9.10(a), the chairman need not seek the approval of the Members present in person or by proxy, attorney or Representative.
- (d) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (e) Unless required by the chairman, a vote may not be taken or demanded in respect of any adjournment by the Members present in person, by proxy, attorney or Representative, or by means of technology approved by the Directors.

#### **9.11 Notice of adjourned meeting**

- (a) Any adjournment or postponement:
  - (i) will be to another time, which may be on the same day as the meeting; and
  - (ii) may be to another place (if any),

and the new time (and place, if any) will be taken to be the time and place for the meeting as if specified in the notice which called the meeting originally.
- (b) Where a meeting is postponed or adjourned, notice of the postponed or adjourned meeting must be given to ASX, but, except as provided in article 9.11(d), need not be given to any other person.
- (c) Where a meeting is postponed or adjourned, the directors may, by notice to ASX, postpone, cancel or change the place of the postponed or adjourned meeting.
- (d) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 60 days or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

#### **9.12 Questions decided by majority**

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

### **9.13 Chairman has casting vote**

If there is an equality of votes on a resolution, the chairman of the general meeting is entitled to a casting vote, in addition to any votes to which the chairman is entitled as a Member or proxy or attorney or Representative.

### **9.14 Voting on show of hands**

Subject to any rules prescribed by the Directors pursuant to article 9.23, at any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless:

- (a) the chairman decides that a poll will be held without a show of hands; or
- (b) a poll is effectively demanded and the demand is not withdrawn.

A declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect made in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chairman nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

### **9.15 Poll**

- (a) If a poll is effectively demanded:
  - (i) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is a resolution of the meeting at which the poll was demanded;
  - (ii) on a question of adjournment, it must be taken immediately;
  - (iii) the demand may be withdrawn with the consent of the chairman;
  - (iv) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded; and
  - (v) the result of the poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) that the chairman considers appropriate.
- (b) A poll cannot be demanded at a general meeting on the election of a chairman of the meeting.

### **9.16 Entitlement to vote**

Subject to this Constitution, the Corporations Act, article 9.25 and any rules prescribed by the Directors pursuant to article 9.23 and to any rights or restrictions for the time being attached to any class or classes of shares:

- (a) on a show of hands, each Member present in person and each other person present as a proxy, attorney or Representative of a Member has one vote (even where the person represents more than one Member); and
- (b) on a poll:
  - (i) each Member present in person has one vote for each fully paid share held by the Member; and

- (ii) each person present as proxy, attorney or Representative of a Member (or Members) has one vote for each fully paid share held by the Member (or Members) that the person represents; and
- (iii) each Member who has duly lodged a valid direct vote in respect of the relevant resolution under article 9.23 has one vote for each fully paid share held by the Member.

A Member is not entitled to vote at a general meeting in respect of shares which are the subject of a current Restriction Agreement for so long as any breach of that agreement by that Member, or any breach of the Listing Rules relating to those shares, subsists.

In this article 9.16 a person is “present” even where attending by means of technology approved by the Directors.

### **9.17 Voting on a poll for partly paid shares**

Subject to article 9.20 and the terms on which shares are issued, if a Member holds partly paid shares, the number of votes the Member has in respect of those shares on a poll or pursuant to a direct vote under article 9.24 will be the number of votes which, as a proportion, the amount paid (not credited) on the share bears to the total amounts paid and payable (excluding amounts credited) on the share. An amount paid in advance of a call is disregarded for this purpose.

### **9.18 Fractions disregarded for a poll**

On the application of article 9.17, any fraction which arises is to be disregarded.

### **9.19 Joint shareholders’ vote**

If a share is held jointly and more than one Member votes in respect of that share, only the vote of the Member whose name appears first in the Register counts.

### **9.20 Effect of unpaid call**

A Member is not entitled at a general meeting to cast a vote attached to a share on which a call or any other amount is due and payable and has not been paid.

### **9.21 Validity of vote in certain circumstances**

- (a) Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:
  - (i) the appointing Member dies;
  - (ii) the Member is mentally incapacitated;
  - (iii) the Member revokes the appointment or authority;
  - (iv) the Member revokes the authority under which the appointment was made by a third party; or
  - (v) the Member transfers the share in respect of which the appointment or authority was given.



- (b) The parent or guardian of an infant Member may vote at any general meeting upon such evidence being produced of the relationship or of the appointment of the guardian as the Directors may require and any vote so tendered by a parent or guardian of an infant Member must be accepted to the exclusion of the vote of the infant Member.
- (c) If a Member is of unsound mind or is a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health, then the Member's committee or trustee or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

## **9.22 Objection to voting qualification**

An objection to the right of a person to attend or vote at the meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting, or where the objection relates to a specific vote, before or immediately after the vote is declared; and
- (b) must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

## **9.23 Direct voting**

The Directors may determine that at any general meeting or class meeting, a Member who is entitled to attend and vote on a resolution at that meeting (or where approved by the Directors, an attorney, proxy or Representative appointed by such a Member) is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the Company by post or electronic means approved by the Directors. The Directors may prescribe rules to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

## **9.24 Treatment of direct votes**

Subject to any rules prescribed by the Directors under article 9.23, a direct vote on a resolution at a meeting in respect of a share cast in accordance with article 9.23 is of no effect and will be disregarded:

- (a) if, at the time of the resolution, the person who cast the direct vote:
  - (i) is not entitled to vote on the resolution in respect of the share; or
  - (ii) would not be entitled to vote on the resolution in respect of the share if the person were present at the meeting at which the resolution is considered;
- (b) if, had the vote been cast in person at the meeting at which the resolution is considered:
  - (i) the vote would not be valid; or
  - (ii) the Company would be obliged to disregard the vote; or
- (c) if the direct vote was cast otherwise than in accordance with any regulations, rules and procedures prescribed by the Directors under article 9.23.

## **9.25 Treatment of direct votes where person attends**

Subject to any rules prescribed by the Directors under article 9.23, where:

- (a) a direct vote is cast on a resolution at a meeting in respect of a share in accordance with article 9.23; and
- (b) either:
  - (i) the Member who is registered in respect of the share(s) for which the direct vote was cast; or
  - (ii) if not that Member, the person who cast the direct vote on behalf of that Member,

is present in person at the meeting at the time the resolution is considered (including in the case of a body corporate, by Representative),

then the direct vote will be disregarded unless the Member or other person instructs otherwise.

## **9.26 Multiple votes**

Subject to any rules prescribed by the Directors under article 9.23, if the Company receives a valid direct vote on a resolution and after receipt of the direct vote:

- (a) the Company receives an instrument appointing a proxy, attorney or Representative to vote on behalf of the same Member on that resolution; or
- (b) the Company receives a further direct vote from the same Member on that resolution,

the Company may disregard that direct vote and may regard the later-received instrument or direct vote as effective in respect of that resolution.

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# **10 The Directors**

## **10.1 Number of Directors**

Unless otherwise determined by the Company in general meeting:

- (a) the minimum number of Directors will be 3; and
- (b) the maximum number of Directors will be 11, or any other number determined by the Directors in accordance with the Corporations Act and subject to article 10.2.

## **10.2 Change of number of Directors**

Subject to the Corporations Act, the Company in general meeting may by ordinary resolution increase or reduce the number of Directors (including to approve a Board limit proposed by the Directors) provided that the maximum number must not be less than the number of Directors in office at the time that it takes effect.

### **10.3 Retirement and election of Directors**

- (a) A Director must not hold office without re-election:
  - (i) past the third annual general meeting following the Director's appointment or last election; or
  - (ii) for more than 3 years,whichever is the longer.
- (b) There must be an election of Directors at each annual general meeting of the Company. This can be satisfied by one or more of the following, so long as the number of Directors determined in accordance with article 10.1 is not exceeded:
  - (i) a person standing for election as a new Director in accordance with articles 10.5 or 10.6;
  - (ii) any Director who was appointed under article 10.7 standing for election as a Director;
  - (iii) any Director who is retiring at the end of the annual general meeting due to the tenure limitation in article 10.3(a), standing for re-election; or
  - (iv) if no person or Director is standing for election or re-election in accordance with paragraphs (i), (ii) or (iii), any Director who wishes to retire and stand for re-election. Otherwise, the person who has been a Director the longest without re-election must retire and stand for re-election. If 2 or more Directors have been a Director the longest and an equal time without re-election, then in default of agreement, the Director to retire will be determined by ballot.
- (c) Paragraph (b) does not require a Director to retire and stand for re-election, or relieve a Director from retiring and standing for re-election, because of a change in the number or identity of the Directors after the date of the notice of meeting but before the meeting closes.
- (d) This article 10.3 does not apply to one Managing Director who is exempt from retirement and re-election in accordance with article 11.10.

### **10.4 Office held until conclusion of meeting**

A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for re-election.

### **10.5 Director elected at general meeting**

The Company may, at a general meeting at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.

### **10.6 Eligibility for election as Director**

- (a) Except for:
  - (i) a person who is eligible for election or re-election under articles 10.3 or 10.7; or

- (ii) a person recommended for election by the Directors,

a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the person has been lodged at the Registered Office at least 45 business days before the meeting, but no more than 90 business days before the meeting.

- (b) A Director is not required to hold any shares in the Company to qualify for appointment.
- (c) An auditor of the Company, or a partner, employee or employer of an auditor of the Company, may not be appointed or elected as Director.

## **10.7 Casual vacancy or additional Director**

- (a) The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number specified in article 10.1.
- (b) Subject to article 10.7(c), a Director appointed under this article holds office until the conclusion of the next annual general meeting of the Company but is eligible for election at that meeting.
- (c) Article 10.7(b) does not apply to one Managing Director nominated by the Directors under article 11.10.

## **10.8 Remuneration of Directors**

Subject to the Listing Rules and applicable law, the Directors are to be remunerated for their services as Directors as follows:

- (a) the amount of the remuneration of the Directors is a yearly sum not exceeding the sum from time to time determined by the Company in general meeting. The notice convening the meeting must include any proposal to increase the Directors' remuneration and specify both the amount of any increase and the new yearly sum proposed for determination;
- (b) the amount of the remuneration of the Directors is to be divided among them in the proportion and manner they agree or, in default of agreement, among them equally;
- (c) the remuneration is to be provided wholly in cash unless the Directors, with the agreement of the Director concerned, determine that part is to be satisfied in the form of non-cash benefits, including the issue or purchase of shares in the Company or the grant of options or rights to subscribe for such shares;
- (d) the sum determined by the Company in general meeting under article 10.8(a) does not include:
  - (i) remuneration in the form of share, option or other equity plans approved separately by the Company in general meeting;
  - (ii) payments or remuneration for additional special duties under article 10.10 (unless otherwise determined);
  - (iii) payment or reimbursement of expenses under article 10.11 or
  - (iv) payments under article 20;

- (e) in making a determination under paragraph (c), the Directors may fix the value of any non-cash benefit; and
- (f) the Directors' remuneration accrues from day to day, except for any non-cash benefit which is taken to accrue at the time the benefit is provided, subject to the terms on which the benefit is provided.

This article 10.8 does not apply to the remuneration of the Managing Director or any other Director appointed under article 11.8.

The remuneration of a Director (other than a Managing Director or any other Director appointed under article 11.8) must not include a commission or a percentage of profits or operating revenue.

## **10.9 Superannuation contributions**

If required by law, the Company may make contributions to a fund for the purpose of making provision for or obtaining superannuation benefits for a Director.

If required by the Listing Rules, these contributions are included in the sum determined by the Company in general meeting under article 10.8(a).

## **10.10 Additional or special duties**

If a Director at the request of the Directors performs additional or special duties for the Company (including as an officer of the Company or related body corporate, other than as a Director), the Company may remunerate that Director as determined by the Directors and that remuneration may be either in addition to or in substitution for that Director's remuneration under article 10.8.

## **10.11 Expenses**

A Director is entitled to be reimbursed out of the funds of the Company such travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company.

## **10.12 Director's interests**

Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:

- (a) hold any office or place of profit in the Company, except that of auditor;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind, on terms (including remuneration and tenure) decided by the Directors;
- (c) hold any office or place of profit in any other company, body corporate, trust or entity;
- (d) enter into any contract or arrangement with the Company;
- (e) participate in any association, institution, fund, trust or scheme for past or present employees of the Company or Directors or persons dependent on or connected with them;

- (f) act in a professional capacity (or be a member of a firm, or an officer or employee of a body corporate, which acts in a professional capacity) for the Company, except as auditor;
- (g) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors;
- (h) sign or participate in the execution of a document by or on behalf of the Company (including by witnessing the fixing of the Company's seal);
- (i) do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement;
- (j) exercise the voting power conferred by securities in any entity held by the Company, in accordance with the terms of their appointment, even in circumstances where a Director may be interested in the exercise (such as a resolution appointing a Director as an officer of the entity or providing for the payment of remuneration to officers of the entity); and
- (k) act as a nominee or representative of a Member of the Company.

A reference to the Company in this article 10.12 is also a reference to each related body corporate of the Company.

The Directors may make regulations in relation to the disclosure of interests and other matters described in this article 10.12.

### **10.13 Vacation of office of Director**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant (unless the Board determines otherwise) if the Director:

- (a) is a Managing or Executive Director and ceases to be employed by the Company or a related body corporate;
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (c) resigns from the office by notice in writing to the Company;
- (d) is not present (personally, using technology, by proxy or Alternate Director) at 3 consecutive meetings of the Board (except where the majority of the other Directors have not, within 14 days of receiving notice from the company secretary giving details of the absence, resolved that leave of absence be granted);
- (e) is convicted of an indictable offence, provided the Directors do not resolve to confirm the Directors' appointment or election within one month after that conviction;
- (f) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors; or

- (g) is removed from office by resolution under section 203D of the Corporations Act.

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## **11 Powers and duties of Directors**

### **11.1 Directors to manage Company**

The Directors are responsible for overseeing the proper management of the business of the Company. They may exercise all the powers of the Company as are not by the Corporations Act or by this Constitution required to be exercised by the Company in general meeting.

### **11.2 Specific powers of Directors**

Without limiting the generality of article 11.1, the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

### **11.3 Appointment of attorney**

The Directors may:

- (a) appoint or employ any person or persons to be an attorney, agent or officer of the Company (including under a power of attorney) for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit;
- (b) authorise that person to delegate any of the powers, authorities or discretions vested in them; and
- (c) remove or dismiss any attorney, agent or officer at any time, with or without cause.

### **11.4 Provisions in power of attorney**

A power of attorney granted under article 11.3 may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

### **11.5 Signing of receipts and negotiable instruments**

The Directors may determine the manner in which and persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

### **11.6 Committees**

The Directors may delegate any of their powers, other than powers required by law to be exercised by Directors as a Board, to a Committee or Committees consisting of one or more of their number as they think fit.

### **11.7 Powers delegated to Committees**

A Committee to which any powers have been delegated under article 11.6 must exercise those powers in accordance with any directions of the Directors.

### **11.8 Appointment of Managing and Executive Directors**

- (a) The Directors may appoint an employee of the Company or one of its subsidiaries to the office of managing director or executive director of the Company, to hold office as Director for the period determined at the time of appointment, but not to exceed the term of employment of the employee.
- (b) The Directors may, subject to the terms of any employment contract between the relevant Director and the Company or subsidiary, at any time remove or dismiss any Managing Director or Executive Director from employment with that company, in which event the appointment as a Director will automatically cease unless the Directors decide otherwise.

### **11.9 Ceasing to be a Managing or Executive Director**

- (a) Subject to article 11.10, a Managing Director or Executive Director appointed under article 11.8 is subject to re-election as director in accordance with article 10.3.
- (b) If re-elected, their term as Director ends when their employment contract with the Company or its subsidiary ceases, unless the Directors decide otherwise.

### **11.10 One Managing Director exempt**

One Managing Director, nominated by the Directors, is, while holding that office, exempt from retirement by rotation under article 10.3.

### **11.11 Remuneration of Managing and Executive Directors**

The remuneration of a Managing Director or an Executive Director may be fixed by the Directors and may be by way of salary or commission or participation in profits or by all or any of those modes, but may not be by a commission on or percentage of profits or operating revenue.

### **11.12 Powers of Managing and Executive Directors**

The Directors may:

- (a) confer on a Managing Director or an Executive Director such of the powers exercisable by them, on such terms and conditions and with such restrictions, as they think fit; and
- (b) withdraw, suspend or vary any of the powers conferred on a Managing Director or an Executive Director.

### **11.13 Delegation of Directors' powers**

- (a) The Directors may delegate any of their powers to any person or persons (including any Director) they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.



- (b) The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

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## **12 Proceedings of Directors**

### **12.1 Directors' meetings**

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

### **12.2 Director may convene a meeting**

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

### **12.3 Use of technology for Directors' meetings**

- (a) 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.
- (b) Where a Director takes part in a meeting by telephone or using any other technology, that Director is taken to be present in person at the meeting and all Directors participating in the meeting will be taken to have consented to the holding of the meeting using that technology unless there is a specific statement otherwise.
- (c) If, before or during a Directors' meeting, any technical difficulty occurs where all Directors may not be able to participate in a meeting, the chairman may adjourn the meeting until the difficulty is remedied or (if a quorum remains present) continue with the meeting.

### **12.4 Questions decided by majority**

- (a) A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.
- (b) A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy and, if that person is also a Director, has one vote as a Director in that capacity.

### **12.5 Chairman and deputy chairman of Directors**

The Directors may elect one of their number as chairman of their meetings and one of their number as deputy chairman. They may also determine the periods for which the chairman and deputy chairman are to hold office.

### **12.6 Absence of chairman at Directors' meeting**

If a Directors' meeting is held and:

- (a) a chairman has not been elected under article 12.5; or
- (b) the chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the deputy chairman will be the chairman of the meeting. If a deputy chairman has not been elected, or is not present or willing to act, the Directors present must elect one of their number to be chairman of the meeting.

## **12.7 Chairman's casting vote at Directors' meetings**

If there are an equal number of votes for and against a question, the chairman of the Directors' meeting has a casting vote, unless only 2 Directors are present and entitled to vote on the question.

## **12.8 Appointment of Alternate Director**

- (a) Subject to the Corporations Act, a Director may appoint a person approved by a majority of the other Directors to be an Alternate Director in the Director's place for any period as the Director thinks fit.
- (b) A person may be appointed as an Alternate Director for more than one Director.

## **12.9 Alternate Director and meetings**

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointor's place.

## **12.10 Alternate Director's powers**

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.

## **12.11 Alternate Director responsible for own acts and defaults**

While acting as a Director, an Alternate Director:

- (a) is an officer of the Company and not the agent of the appointor; and
- (b) is responsible to the exclusion of the appointor for the Alternate Director's own acts and defaults.

## **12.12 Alternate Director and remuneration**

An Alternate Director is not entitled to receive from the Company any remuneration or benefit under article 10.9 but may be reimbursed for expenses in accordance with article 10.11.

## **12.13 Termination of appointment of Alternate Director**

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director for any reason.

#### **12.14 Appointment or termination**

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice signed by the Director who makes or made the appointment and delivered to the Company.

#### **12.15 Alternate Director and number of Directors**

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors or whether a quorum is present.

#### **12.16 Director attending and voting by proxy**

A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) the appointment is signed by the appointor.

The appointment may be general or for one or more particular meetings. A Director present as a proxy for another Director, who would be entitled to vote if present at the meeting, has one vote for the appointor and one vote in his or her own capacity as a Director.

#### **12.17 Quorum for Directors' meeting**

No business may be transacted at a Directors' meeting unless a quorum is present that the time the business is dealt with.

At a meeting of Directors, the number of Directors whose presence in person or by proxy is necessary to constitute a quorum is as determined by the Directors and, unless so determined, is 3.

#### **12.18 Continuing Directors may act**

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by article 10.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

#### **12.19 Chairman of Committee**

The members of a Committee may elect one of their number as chairman of their meetings. If a meeting of a Committee is held and:

- (a) a chairman has not been elected; or
- (b) the chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be chairman of the meeting.

#### **12.20 Meetings of Committee**

A Committee may meet and adjourn as it thinks proper.

## 12.21 Determination of questions at Committee

Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members of the Committee present and voting.

If there are an equal number of votes for and against a question, the chairman of the meeting has a casting vote.

## 12.22 Circulating resolutions

(a) If:

- (i) at least 75% of the Directors (other than any Director on leave of absence approved by the Directors, any Director who disqualifies himself or herself from considering the resolution in question and any Director who would be prohibited by the Act from voting on the resolution in question) sign or consent to a written resolution; and
- (ii) the Directors who sign or consent to the resolution would have constituted a quorum at a meeting of Directors held to consider that resolution,

then the resolution is taken to have been passed by a meeting of the Directors.

(b) A Director may consent to a resolution by:

- (i) signing the document containing the resolution (or a copy of that document);
- (ii) giving to the Company at its registered office a written notice (including by email, fax or other electronic means) addressed to the secretary or to the chairman of Directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them;
- (iii) telephoning the secretary or the chairman of Directors and signifying assent to the resolution and clearly identifying its terms; or
- (iv) if the Director has notified the Company in writing of a specified means by which his or her consent must be authenticated (including by providing particular personal information or an allocated code), that authenticates the Director's consent by those specified means.

(c) The resolution is passed when the last participating Director consents to the resolution in accordance with this article 12.22. The resolution is not invalidated if it is consented to by a Director who is not entitled to vote.

(d) Any document referred to in this article may be in the form of a fax or electronic notification. Separate copies of a document (including in electronic form) may be signed (or otherwise consented to in accordance with article 12.22(b) by the Directors if the wording of the resolution and statement is identical in each copy.

(e) This article 12.22 applies to resolutions of Committees as if the references to Directors were references to Committee members.

## **12.23 Validity of acts of Directors**

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

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## **13 Secretary**

### **13.1 Appointment of Secretary**

The Company must have at least one Secretary who is to be appointed by the Directors.

### **13.2 Suspension and removal of Secretary**

The Directors may suspend or remove a Secretary from that office.

### **13.3 Powers, duties and authorities of Secretary**

- (a) A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors.
- (b) The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

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## **14 Seals**

### **14.1 Safe custody of common seals**

The Directors must provide for the safe custody of any seal of the Company.

### **14.2 Use of common seal**

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

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## **15 Inspection of records**

### **15.1 Inspection by Members**

Subject to the Corporations Act, the Directors may determine whether, to what extent, at what time and places, and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors).

### **15.2 Right of a Member or other person to inspect**

A Member or other person (other than a Director) does not have the right to inspect any document of the Company except as provided by law or this Constitution, or authorised by the Directors or by the Company in general meeting.

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## **16 Dividends and reserves**

### **16.1 Payment of dividend**

- (a) Subject to the Corporations Act, this Constitution and the terms of issue or rights of any shares with special rights to dividends, the Directors may determine or declare that a dividend is payable, fix the amount and the time for payment and authorise the payment or crediting by the Company to, or at the direction of, each Member entitled to that dividend. The Directors may rescind or alter any such determination or declaration before payment is made.
- (b) Paying a dividend does not require confirmation at a general meeting.
- (c) The Directors may, before paying any dividend to Members:
  - (i) set aside any sums as it thinks proper as a reserve, which at the discretion of the Directors may be applied for any purpose it decides, including being used in the business of the Company or invested in investments selected by the Directors (and the Directors may vary and deal with those investments as it decides);
  - (ii) carry forward any amount which the Directors decide not to distribute or to transfer to a reserve; or
  - (iii) carry out the steps in both articles 16.1(c)(i) and 16.1(c)(ii).

### **16.2 No interest on dividends**

Interest is not payable by the Company on a dividend.

### **16.3 Calculation and apportionment of dividends**

Subject to the rights of any persons entitled to shares with special rights as to dividend and to the terms of issue of any shares to the contrary, all sums that the Company determines are to be distributed among the Members as dividends are divisible among the Members so that, on each occasion on which a dividend is paid:

- (a) the same sum is paid on each fully paid share; and

- (b) the sum paid on a share on which all amounts payable have not been paid is the proportion of the sum referred to in article 16.3(a) that the amount paid on the shares bears to the total of the amounts paid and payable on the share.

To determine the amount paid on a share, exclude any amount:

- (c) paid or credited as paid in advance of a call; and
- (d) credited as paid on a share to the extent that it exceeds the value (ascertained at the time of issue of the share) of the consideration received for the issue of the share.

All dividends are to be apportioned and paid proportionately to the amounts paid on the shares during any portion or portions of the period for which the dividend is paid, but, if any share is issued on terms providing that it will rank for dividend as from a particular date, that share ranks for dividend accordingly.

#### **16.4 Deductions from dividends**

The Directors may retain from any dividend payable to, or at the direction of, a Member any amount presently payable by that Member to the Company on account of calls or otherwise in relation to shares in the Company, and apply the amount retained to the amount owing.

#### **16.5 Distribution of specific assets**

When resolving to pay a dividend or to return capital by a reduction of capital, a buy-back or otherwise, the Directors may:

- (a) direct payment of the dividend or return of capital from any available source permitted by law; and
- (b) resolve that the dividend or return of capital be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend or return of capital, including shares, debentures or other securities of the Company or any other body corporate or trust;
- (c) direct that the dividend or return of capital payable in respect of any particular shares be satisfied wholly or partly by such distribution, and that the dividend or return of capital payable in respect of other shares be paid in cash; and
- (d) unless prevented by the Listing Rules, direct payment to particular Members wholly or partly out of any particular fund or reserve or out of profits derived from any particular source, and to the other Members wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source.

#### **16.6 Ancillary powers regarding distributions**

- (a) In relation to any decision to pay a dividend or to return capital by a reduction of capital, buy-back or otherwise, the Directors may:
  - (i) settle any difficulty that arises in making the distribution as they think expedient and, in particular:
    - (A) make cash payments in cases where Members are entitled to fractions of shares, debentures or other securities;

- (B) decide that amounts or fractions of less than a particular value decided by the Directors may be disregarded in order to adjust the rights of all parties;
  - (C) withhold assets, cash, shares, debentures or other securities where the Company is required to make a payment in respect of the Member to a government or taxing authority in relation to the distribution or issue; and
  - (D) decide to make distributions by disregarding transfers of shares or aggregating parcels of shares where they form the opinion that shareholdings have been split or aggregated to obtain the benefit of rounding on fractions of shares;
  - (E) for an electronic transfer, if no account is nominated, or payment is rejected or refunded, the Company may credit the amount to an account of the Company until the Member nominates a valid account, or the amount is otherwise dealt with under article 16.11;
- (ii) fix the value for distribution of any specific assets;
  - (iii) pay cash or issue shares, debentures or other securities to any Member in order to adjust the rights of all parties;
  - (iv) vest any of those specific assets, cash, shares, debentures or other securities in a trustee or nominee on trust for the persons entitled to the distribution or capitalised amount, on any terms that seem expedient to the Directors; and
  - (v) authorise any person to make, on behalf of the Members, or a particular Member, entitled to any specific assets, cash, shares, debentures or other securities as a result of the decision, an agreement (including in writing) with the Company or another person which provides, as appropriate, for the distribution or issue to them of the assets, cash, shares, debentures or other securities and by applying to them their respective proportions of the amount resolved to be distributed.
- (b) Any agreement made under an authority referred to in article 16.6(a)(v) is effective and binds all Members concerned.
  - (c) Instead of making a distribution or issue of specific assets, shares, debentures or other securities to a particular Member, the Directors may make a cash payment to that Member or allocate some or all of the assets, shares, debentures or other securities to a trustee to be sold on behalf of, and for the benefit of, or in respect of, that Member, if:
    - (i) the distribution or issue would otherwise be illegal or unlawful;
    - (ii) the distribution or issue would give rise to parcels of securities which do not constitute a marketable parcel;
    - (iii) in the Directors' discretion, the distribution or issue would, for any reason, be impracticable; or
    - (iv) the Member so agrees.



- (d) If the Company distributes to Members (either generally or to specific Members) shares, debentures or securities of the Company or another body corporate or trust (whether as a dividend or return of capital or otherwise and whether or not for value), each of those Members appoints the Company, and any officer of the Company nominated on their behalf by the Directors, as his or her agent or attorney to do anything needed or desirable to give effect, or assist in giving effect, to that distribution, including agreeing to become a member, holder of shares, holder of debentures or holder of securities of the Company or that other body corporate or trust.

## **16.7 Payments in respect of shares**

A dividend, distribution, interest or other money payable in cash in respect of shares may be paid using any payment method chosen by the Directors in their discretion, including:

- (a) by means of a direct credit or other means determined by the Directors to an account (of a type approved by the Directors) as provided in writing by the holder or holders shown on the Register; or
- (b) by cheque sent through the post directed to the address in the Register of the holder or, in the case of joint holders, to the address of the joint holder first named in the Register or to such other address as the holder or joint holder directs in writing (in which case payment will be deemed to have been made to the joint holders in full).

Payment of money is at the risk of the holder or holders to whom it is sent.

## **16.8 Effectual receipt from one joint holder**

Any one of 2 or more joint holders may give an effectual receipt for any dividend, interest or other money payable in respect of the shares held by them as joint holders.

## **16.9 Election to reinvest dividend**

Subject to the Listing Rules, the Directors may grant to Members or any class of Members the right to elect to reinvest cash dividends paid by the Company (or any other amount due to Members) by subscribing for or otherwise acquiring securities in the Company or a related body corporate on such terms and conditions as the Directors think fit.

## **16.10 Elections in respect of dividends or other distributions**

Subject to the Listing Rules, the Directors may determine for any dividend or other distribution which it is proposed to pay on any shares of the Company that holders of the shares may elect:

- (a) to receive a dividend or distribution paid wholly or partly out of any available source, including any particular fund or reserve, or out of profits derived from a particular source; or
- (b) to forego the right to share in the proposed dividend or distribution or part of such proposed dividend or distribution; and to receive instead some other form of distribution from the Company or another body corporate or trust, including an issue of securities credited as fully paid on such terms as the Directors think fit.

## **16.11 Unclaimed dividends or other distributions**

- (a) If:
- (i) a cheque for a payment under this article 16 is not presented for payment for 11 calendar months after issue; or
  - (ii) an amount is held in an account under article 16.6(a)(i)(E) for 11 calendar months,
- it will be an “unclaimed amount” for the purposes of this article 16.11.
- (b) The Directors may:
- (i) invest any unclaimed amount into shares in the Company on behalf of, and in the name of, the Member concerned (which shares may be acquired on market or by way of new issue, at a price the Directors accept is market price at the time); or
  - (ii) deal with any unclaimed amount as they think fit for the benefit of the Company,
- until claimed, or until required to be dealt with in accordance with any law related to unclaimed money; and
- (iii) may do anything necessary or desirable (including executing any document) on the Member’s behalf to invest or deal with an amount under this article 16.11;
  - (iv) may determine other rules to give effect to it; and
  - (v) may delegate their powers under it to any person.
- (c) Any residual sum arising from reinvestment in accordance with article 16.11(b) may be donated to charity on behalf of the Member, as the Directors decide, and may be but need not be carried forward.
- (d) The Company may deduct from the unclaimed amount any brokerage, fees or costs incurred by the Company in dealing with the amount under this article 16.11.

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## **17 Capitalisation of profits**

### **17.1 Capitalisation of reserves and profits**

Subject to the Listing Rules, any special resolution, and any rights or restrictions attaching to any security, the Directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members; and
- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in article 17.2, for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

## **17.2 Applying a sum for the benefit of Members**

The ways in which a sum may be applied for the benefit of Members under article 17.1 are:

- (a) in paying up any amounts unpaid on shares held by Members;
- (b) in paying up in full unissued shares or other securities to be issued to Members as fully paid; or
- (c) partly as mentioned in article 17.2(a) and partly as mentioned in article 17.2(b).

## **17.3 Implementing the resolution**

The Directors may do all things necessary to give effect to the resolution under article 17.1 and in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

- (a) make cash payments in cases where shares or debentures become issuable in fractions;
- (b) authorise any person to make, on behalf of all or any of the Members entitled to any further shares or debentures on the capitalisation, an agreement with the Company providing for:
  - (i) the issue to them, credited as fully paid up, of any further shares or debentures; or
  - (ii) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,and any agreement so made is effective and binding on all the Members concerned;
- (c) fix the value of specified assets; or
- (d) vest property in trustees.

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# **18 Service of documents**

## **18.1 Document includes notice**

In this article 18, a reference to a document includes a notice and a notification by electronic means.

## **18.2 Form of document**

Unless expressly stated otherwise in this Constitution, all notices, certificates, statements, demands, appointments, directions and other documents referred to in this Constitution must be in writing.

## **18.3 Methods of service**

The Company may give a document to a Member:

- (a) personally;

- (b) by delivering it or sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to an electronic address nominated by the Member;
- (d) by notifying the Member by an electronic means nominated by the Member that:
  - (i) the document is available; and
  - (ii) how the Member may use the nominated access means to access the document;
- (e) by fax, to a fax number nominated by the Member; or
- (f) by any other means permitted by law.

#### **18.4 Post**

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and, in either case, is taken to have been given and received on the day after the day of its posting.

#### **18.5 Electronic delivery**

A document sent or given by electronic means:

- (a) is taken to be effected by properly addressing and transmitting the electronic transmission; and
- (b) is taken to have been given and received on the day after the date of its transmission.

#### **18.6 Deemed notice to uncontactable Members**

If a Member does not have an address in the Register, or has not nominated an alternative address in accordance with article 18.3, or if the Company reasonably believes that a Member is not known at the Member's address in the Register or any alternative address provided, a document is taken to be given to the Member if the document is available for inspection at the registered office of the Company for 48 hours. The document is taken to be served at the start of that period. It need not be addressed to the Member.

#### **18.7 Evidence of service**

A certificate signed by a Director or a Secretary stating that a document was sent, delivered or given to a Member personally, by post, fax or other electronic means on a particular date is evidence that the document was sent, delivered or given on that date and by that means.

#### **18.8 Joint holders**

A document may be given by the Company to the joint holders of a share by giving it to the joint holder first named in the Register for the share.

## **18.9 Persons entitled to shares**

A person who by operation of law, transfer or other means whatsoever becomes entitled to any share is absolutely bound by every document given in accordance with this article 18 to the person from whom that person derives title prior to registration of that person's title in the Register.

## **18.10 Notice on a transmission event**

Where a person is entitled to a share as a result of a Member's death, bankruptcy or mental incapacity (whether jointly or solely, and whether or not the Company or other person has notice of that fact):

- (a) if that person has notified their details to the Company, the Company may give notice to them using those details;
- (b) otherwise, the Company may give notice using the details that would have been used if the person had not become entitled to the shares and that notice will be deemed to be valid and effective; and
- (c) a notice given to the Member in accordance with this article 18 will be deemed to be valid and effective:
  - (i) in respect of any shares registered in the Member's name or the person's name; and
  - (ii) to the person entitled to the shares; and
- (d) to avoid doubt, notice given to a person who is entitled to the share is sufficiently served on the Member in whose name the share is registered.

## **18.11 Notification of address**

A Member whose registered address is not in Australia may specify in writing an address in Australia to be deemed the Member's registered address within the meaning of this article 18.

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# **19 Winding up**

## **19.1 Distribution of assets**

If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as the liquidator considers fair on any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

## **19.2 Powers of liquidator to vest property**

The liquidator may, with the sanction of a special resolution of the Company, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any shares or other securities in respect of which there is any liability.

### 19.3 Shares issued on special terms

Articles 19.1 and 19.2 do not prejudice or affect the rights of a Member holding shares issued on special terms and conditions.

### 19.4 Ancillary powers

Article 16.6 applies (so far as it can and with any necessary changes) to a division by the liquidator under article 19.1 as if references to the Directors were references to the liquidator, and as if references to the distribution or capitalisation were references to the division under article 19.1.

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## 20 Indemnity and insurance

### 20.1 Definitions

In this article 20:

- (a) **Employee** means a person who is or has been an employee of the Company or a related body corporate of the Company.
- (b) **Officer** means any person who is or has been a director, alternate director, secretary (including, where appropriate, an acting secretary or a person appointed by the directors of the Company to perform all or any of the duties of a secretary of the Company) or senior manager of the Company or a related body corporate of the Company.
- (c) **Outside Entity** means a body corporate which is not the Company or a related body corporate of the Company.

### 20.2 Indemnity as Officer of the Company

The Company may indemnify each Officer to the maximum extent permitted by law, against:

- (a) any liability the Officer may incur in that capacity (except a liability for legal costs); and
- (b) any liability for legal costs that the Officer may incur in that capacity, including:
  - (i) legal costs incurred in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an Officer, if that expenditure has been incurred in accordance with the terms of any applicable deed or agreement entered into pursuant to article 20.7 or any applicable policy of the Company; and
  - (ii) legal costs in preparing for, defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature or alternative dispute resolution proceedings, in which the person becomes involved because of that capacity.

It is not necessary for an Officer to incur expense or make payment before enforcing a right of indemnity against the Company.

## **20.3 Indemnity as director or officer of an Outside Entity**

Without limiting the scope of article 20.2, the Company may indemnify each Employee and Officer to the maximum extent permitted by law, against any liability incurred by the Employee or Officer as a director or an alternate director or other officer of an Outside Entity.

## **20.4 Indemnity of Employee**

Without limiting the scope of articles 20.2 and 20.3, the Company may indemnify an Employee to the maximum permitted by law, against any liability the Employee may incur in their capacity as an Employee.

## **20.5 Insurance**

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay, whether directly or through an interposed entity, a premium for insurance,

for each Officer against any liability incurred by the Officer in that capacity (including a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome).

## **20.6 Saving provisions**

Nothing in articles 20.2 to 20.5:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any liability referred to in those articles; or
- (b) limits the capacity of the Company to indemnify or provide or pay for insurance for any other person.

## **20.7 Deed or agreement**

The Company may enter into a deed or agreement with any Officer, Employee or, pursuant to article 20.6(b), any other person, to give effect to the rights conferred by this article 20 or the exercise of a discretion under this article 20 on such terms as the Directors think fit.

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# **21 Restricted Securities**

## **21.1 Definitions**

In this article 21:

**dispose** and **disposed of** have the meaning given in the Listing Rules.

**Escrow Period** means, in relation to Restricted Securities, the escrow period applicable to those Restricted Securities under the Listing Rules.

**Holding Lock** has the meaning given in the Listing Rules.

**Restricted Securities** has the meaning given in the Listing Rules.

## 21.2 Disposal during Escrow Period

- (a) A holder of Restricted Securities must not dispose of, or agree to dispose of, Restricted Securities during the Escrow Period applicable to those securities except as permitted by the Listing Rules or ASX.
- (b) The Company must not, and will refuse to, acknowledge any disposal (including, without limitation, by registering any transfer) of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.

## 21.3 Agreement

If the Restricted Securities are in the same class as shares that are quoted on ASX, the holder will be deemed to have agreed in writing that the Restricted Securities must be kept on the Company's issuer sponsored sub-register and are to have a holding lock applied for the Escrow Period.

## 21.4 No entitlement

The holder of Restricted Securities will not be entitled to participate in any return of capital on those Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.

## 21.5 Breach

If a holder of Restricted Securities breaches a Restriction Agreement or this article 21, the holder of the Restricted Securities will not be entitled to any dividend or distribution, or to exercise any voting rights, in respect of the Restricted Securities for so long as the breach continues.

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# 22 Small Holdings

## 22.1 Definitions

In this article 22:

**Divestment Notice** means a notice given under article 22.2 to a Small Holder or a New Small Holder;

**Market Value** in relation to a Share means the closing price of the Share on a Trading Platform, excluding special crossings, overnight sales and exchange traded options;

**New Small Holder** is a Member who is the holder or a joint holder of a New Small Holding;

**New Small Holding** means a holding of Shares created after the date on which article 22 came into effect by the transfer of a parcel of Shares the aggregate Market Value of which at the time a proper transfer was initiated or a paper based transfer was lodged, was less than a marketable parcel of Shares as provided under the Listing Rules;

**Relevant Period** means the period specified in a Divestment Notice under article 22.3;

**Relevant Shares** are the Shares specified in a Divestment Notice;

**Shares** for the purposes of article 22 are shares in the Company all of the same class;



**Small Holder** is a Member who is the holder or a joint holder of a Small Holding; and

**Small Holding** means a holding of Shares the aggregate Market Value of which at the relevant date is less than a marketable parcel of Shares as provided under the Listing Rules.

## **22.2 Divestment Notice**

If the Directors determine that a Member is a Small Holder or a New Small Holder the Company may give the Member a Divestment Notice to notify the Member:

- (a) that the Member is a Small Holder or a New Small Holder, the number of Shares making up and the Market Value of the Small Holding or New Small Holding and the date on which the Market Value was determined;
- (b) that the Company intends to sell the Relevant Shares in accordance with this article after the end of the Relevant Period specified in the Divestment Notice;
- (c) if the Member is a Small Holder, that the Member may at any time before the end of the Relevant Period notify the Company in writing that the Member desires to retain the Relevant Shares and that if the Member does so the Company will not be entitled to sell the Relevant Shares under that Divestment Notice; and
- (d) after the end of the Relevant Period the Company may for the purpose of selling the Relevant Shares that are in a CS Facility holding initiate a holding adjustment to move those Shares from that CS Facility holding to an Issuer Sponsored Holding or certificated holding.

If the Operating Rules of a CS Facility apply to the Relevant Shares, the Divestment Notice must comply with those Operating Rules.

## **22.3 Relevant Period**

- (a) For a Divestment Notice given to a Small Holder, the Relevant Period must be at least 6 weeks from the date the Divestment Notice was given.
- (b) For a Divestment Notice given to a New Small Holder, the Relevant Period must be at least 7 days from the date the Divestment Notice was given.

## **22.4 Company can sell Relevant Shares**

At the end of the Relevant Period the Company is entitled to sell on-market or in any other way determined by the Directors:

- (a) the Relevant Shares of a Member who is a Small Holder, unless that Member has notified the Company in writing before the end of the Relevant Period that the Member desires to retain the Relevant Shares or has increased their shareholding to be greater than a Small Holding, in which event the Company must not sell those Relevant Shares under that Divestment Notice; and
- (b) the Relevant Shares of a Member who is a New Small Holder.

## **22.5 No obligation to sell**

The Company is not bound to sell any Relevant Shares which it is entitled to sell under this article 22 but unless the Relevant Shares are sold within 6 weeks after the end of the Relevant Period the Company's right to sell the Relevant Shares under the Divestment Notice relating to those Shares lapses and it must notify the Member to whom the Divestment Notice was given accordingly.

## **22.6 Company as Member's attorney**

To effect the sale and transfer by the Company of Relevant Shares of a Member, the Member appoints the Company and each Director and Secretary jointly and severally as the Member's attorney in the Member's name and on the Member's behalf to do all acts and things which the Company considers necessary or appropriate to effect the sale or transfer of the Relevant Shares and, in particular:

- (a) to initiate a holding adjustment to move the Relevant Shares from a CS Facility holding to an Issuer Sponsored Holding or a certificated holding; and
- (b) to execute on behalf of the Member all deeds instruments or other documents necessary to transfer the Relevant Shares and to deliver any such deeds, instruments or other documents to the purchaser.

## **22.7 Conclusive evidence**

A statement in writing by or on behalf of the Company under this article 22 is (in the absence of manifest error) binding on and conclusive against a Member. In particular, a statement that the Relevant Shares specified in the statement have been sold in accordance with this article is conclusive against all persons claiming to be entitled to the Relevant Shares and discharges the purchaser from all liability in respect of the Relevant Shares.

## **22.8 Registering the purchaser**

The Company must register the purchaser of Relevant Shares as the holder of the Relevant Shares transferred to the purchaser under this article. The purchaser is not bound to see to the application of any money paid as consideration. The title of the purchaser to the Relevant Shares transferred to the purchaser is not affected by any irregularity or invalidity in connection with the actions of the Company under this article.

## **22.9 Payment of proceeds**

Subject to article 22.10, where:

- (a) Relevant Shares of a Member are sold by the Company on behalf of the Member under this article; and
- (b) the certificate for the Relevant Shares (unless the Company is satisfied that the certificate has been lost or destroyed or the Relevant Shares are on the Issuer Sponsored subregister) has been received by the Company,

the Company must, within 60 days of the completion of the sale, send the proceeds of sale to the Member using any payment method chosen by the Company including under article 16.7. Payment of any money under this article is at the risk of the Member to whom it is sent.

## **22.10 Costs**

- (a) In the case of a sale of the Relevant Shares of a New Small Holder in accordance with this article, the Company is entitled to deduct and retain from the proceeds of sale, the costs of the sale as determined by the Company.
- (b) In any other case, the Company or a purchaser must bear the costs of sale of the Relevant Shares.
- (c) The costs of sale include all stamp duty, brokerage and government taxes and charges (except for tax on income or capital gains of the Member) payable by the Company in connection with the sale and transfer of the Relevant Shares.

## **22.11 Remedy limited to damages**

The remedy of a Member to whom this article applies, in respect of the sale of the Relevant Shares of that Member is expressly limited to a right of action in damages against the Company to the exclusion of any other right, remedy or relief against any other person.

## **22.12 Dividends and voting suspended**

Unless the Directors determine otherwise, where a Divestment Notice is given to a New Small Holder in accordance with this article, then despite any other provision in this Constitution, the rights to receive payment of dividends and to vote attached to the Relevant Shares of that Member are suspended until the Relevant Shares are transferred to a new holder or that Member ceases to be a New Small Holder. Any dividends that would, but for this article, have been paid to that Member must be held by the Company and paid to that Member within 60 days after the earlier of:

- (a) the date the Relevant Shares of that Member are transferred; and
- (b) the date that the Relevant Shares of that Member cease to be subject to a Divestment Notice.

## **22.13 Twelve month limit**

If it is a requirement of the Listing Rules, the Company must not give a Small Holder more than one Divestment Notice in any 12 month period (except as contemplated by article 22.14).

## **22.14 Effect of a takeover bid**

From the date of the announcement of a takeover bid for the Shares until the close of the offers made under the takeover bid, the Company's powers under this article to sell Relevant Shares of a Member cease. After the close of the offers under the takeover bid, the Company may give a Divestment Notice to a Member who is a Small Holder or a New Small Holder, despite article 22.13 and the fact that it may be less than 12 months since the Company gave a Divestment Notice to that Member.

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## 23 Foreign ownership

### 23.1 Foreign ownership restrictions in Telstra Act

- (a) The Telstra Act restricts the holding of particular foreign ownership stakes in the Company. Compliance with the restrictions is essential as a failure to comply is an offence and may lead to severe penalties.
- (b) The purpose of this article 23 is to facilitate the Company's compliance with the foreign ownership restrictions in the Telstra Act and to ensure that any breach is remedied as soon as possible.
- (c) This article 23 will only apply while the Telstra Act restricts the holding of particular foreign ownership stakes in the Company.

### 23.2 Foreign Ownership Regulations

- (a) The Directors may, from time to time, publish any rules, regulations, forms, procedures and policies as the Directors reasonably consider necessary or convenient to facilitate the Company's compliance with the foreign ownership restrictions in the Telstra Act and to ensure that any breach is remedied as soon as possible.
- (b) The Foreign Ownership Regulations will be binding on Members.
- (c) Without limiting article 23.2(a), the Foreign Ownership Regulations may specify, for the purposes of this article 23:
  - (i) whether a Member's shareholding (or a part of a Member's shareholding) will be deemed a Foreign Holding and counted towards the limit on foreign ownership under this constitution and the Foreign Ownership Regulations (**foreign ownership limit**).
  - (ii) mechanisms used by the Directors to assess whether a Member's shareholding (or a part of a Member's shareholding) will be counted towards the foreign ownership limit;
  - (iii) mechanisms used by the Directors to monitor foreign ownership levels and the holdings of individual Members that the Directors believe or suspect may count towards the foreign ownership limit;
  - (iv) discretion for the Directors to deem a Member's shareholding (or a part of a Member's shareholding) as a Foreign Holding and counting towards the foreign ownership limit in particular circumstances, including if the Member has not provided the information required by the Directors; and
  - (v) when and how a Member's shares must be disposed of to facilitate the Company's compliance with the foreign ownership restrictions in the Telstra Act and to ensure that any breach is remedied as soon as possible.
- (d) Without limiting article 23.2(a) the Foreign Ownership Regulations may:
  - (i) require Members to provide the Directors with such information as the Directors request to facilitate the Company's compliance with the foreign ownership restrictions in the Telstra Act and to ensure that any breach is remedied as soon as possible; and

- (ii) specify the form and times in which the information is to be provided.
- (e) Members must provide the requested information in accordance with the Foreign Ownership Regulations.

### **23.3 Notification of foreign ownership**

A Member must notify the Directors at the times and in the form and manner specified in the Foreign Ownership Regulations:

- (a) whether the Member is, or is not, a Foreign Member or a Mixed Member;
- (b) whether the Foreign Member has a Domestic Holding and a Foreign Holding;
- (c) the number of shares in the Foreign Member or Mixed Member's Foreign Holding; and
- (d) any change to the number of shares in the Foreign Member or Mixed Member's Foreign Holding.

### **23.4 Unacceptable Individual Foreign Ownership Situation**

- (a) A Foreign Member must, as soon as practicable, notify the Directors if the Foreign Member becomes aware that an Unacceptable Individual Foreign Ownership Situation exists in relation to any shares held by the Foreign Member or in relation to any person who has an interest in shares registered in the name of the Member.
- (b) The Directors may, at any time, send to a Member a request for information in a form approved by the Directors which requires the Member to inform the Directors whether the Member is aware that an Unacceptable Individual Foreign Ownership Situation exists in relation to any shares held by that Member, or in relation to any person who has an interest in shares registered in the name of the Member (and if so, the name of the relevant Foreign Person and the shares in which that person has an interest), and the Member must comply with the request.

### **23.5 Directors' power to dispose of shares if Unacceptable Foreign Ownership Situation**

- (a) The Directors may, for the purpose of seeking to prevent an Unacceptable Foreign Ownership Situation occurring or continuing, procure the disposal of shares. In exercising this power, the Directors must follow the Foreign Ownership Regulations.
- (b) For the purposes of article 23.5(a):
  - (i) the Directors may sell the Foreign Member's shares at the best price reasonably obtainable at the relevant time. For this purpose, any sale of shares by the Directors on ASX will be regarded as discharging this obligation; and
  - (ii) each Member appoints the Company and each of the Directors jointly and severally as its attorney (with power to appoint sub attorneys) in the name of the Member and on behalf of the Member to execute any documents and implement any procedures as may be necessary or desirable in the opinion of the attorney to procure the transfer of shares on behalf of the Member.

- (c) The proceeds of any sale of shares under this article 23.5 will be dealt with in accordance with articles 2.7 and 5.10 to 5.13 of this Constitution.
- (d) The net amount payable to the Foreign Member may be paid in any manner determined by the Directors under article 16.7(a).

### **23.6 Exercise of powers by Directors**

- (a) The Company and its Members acknowledge and recognise that the exercise of the powers given to the Directors under this article 23 and the Foreign Ownership Regulations may disadvantage individual Members (including possible adverse financial and taxation consequences).
- (b) Despite article 23.6(a), the Members and the Company acknowledge that the powers set out in this article 23 are reasonable and necessary to facilitate compliance with the foreign ownership restrictions set out in the Telstra Act.
- (c) To the fullest extent permitted by law, the Directors shall be under no liability to the Company or any Member, and the Company shall be under no liability to any Member, for any loss or disadvantage incurred by a Member as a result, whether directly or indirectly, of the Directors exercising the powers provided by this article 23 or those powers set out in the Foreign Ownership Regulations from time to time.
- (d) Any resolution, determination or decision to exercise any discretion or power by the Directors under this article 23 and the Foreign Ownership Regulations shall be final and conclusive and may be made or exercised by the Directors at their discretion including, without limitation, a decision to sell shares under article 23.5(a).

### **23.7 Foreign Register**

- (a) The Company may establish and maintain a Foreign Register in a manner and form determined by the Directors from time to time.
- (b) The Foreign Register does not form part of the Register of the Company.
- (c) If a Foreign Member has a Domestic Holding and a Foreign Holding, the Directors may:
  - (i) treat the Member (for the purposes of this article 23) as if the Member were 2 separate Members each holding a different holding;
  - (ii) allocate different HINs or SRNs for the Domestic Holding and the Foreign Holding of that Member;
  - (iii) require the Member to ensure that only Domestic Shares are recorded in the HIN or SRN of the Domestic Holding.
- (d) The Foreign Ownership Regulations may prescribe other details in relation to the establishment and maintenance of a Foreign Register by the Company.
- (e) The information contained in the Foreign Register is to be taken as correct unless proven otherwise.

- (f) The Directors may rely on information in the Foreign Register when forming a belief as to whether an Unacceptable Foreign Ownership Situation exists.

## **23.8 Delegation**

The Directors may delegate any of their powers under this article 23, other than the powers set out in article 23.2, to any person. The provisions of this article 23 apply to each person to whom the Directors have delegated a power under this article 23 as if a reference to the Directors included a reference to that person.

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# **24 Interpretation**

## **24.1 Further Interpretation**

A reference in this Constitution to:

- (a) a partly paid share is a reference to a share on which there is an amount unpaid;
- (b) an amount unpaid on a share includes a reference to any amount of the issue price which is unpaid;
- (c) a call or an amount called on a share includes a reference to a sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date;
- (d) to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position.

The Company may, but is not obliged to, treat a Member as a separate Member in respect of each separate HIN or SRN (as those terms are defined in the Operating Rules) (or such other identifier as may be used by the Company) under which its shares are recorded in the Register.

This Constitution is to be read together with all attached schedules (if any) and a reference to this Constitution includes a reference to its schedules.

## **24.2 Exercising powers**

- (a) The Company may, in any way the Corporations Act permits:

- (i) exercise any power;
- (ii) take any action; or
- (iii) engage in any conduct or procedure,

which, under the Corporations Act a company limited by shares may exercise, take or engage in.

- (b) Where this Constitution:

- (i) provides that a person “may” do a particular act or thing, the act or thing may be done at the person’s discretion;
- (ii) confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a

power exercisable in the same way and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing;

- (iii) confers a power to do a particular act or thing, the power may be exercised from time to time and may be exercised subject to conditions; and
  - (iv) confers a power to do a particular act or thing concerning particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing as to only some of those matters or as to a particular class of those matters, and to make different provision concerning different matters or different classes of matters.
- (c) Where this Constitution confers a power to make appointments to an office or position (except the power to appoint a Director under article 10.7(a)), the power is, unless the contrary intention appears, to be taken to include a power:
- (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
  - (ii) to remove or suspend any person appointed (without prejudice to any rights or obligations under any contract between the person and the Company); and
  - (iii) to appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.
- (d) Where this Constitution gives power to a person to delegate a function or power:
- (i) the delegation may be concurrent with, or (except in the case of a delegation by the Directors) to the exclusion of, the performance or exercise of that function or power by the person;
  - (ii) the delegation may be either general or limited in any way provided in the terms of delegation;
  - (iii) the delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
  - (iv) the delegation may include the power to delegate; and
  - (v) where performing or exercising that function or power depends on that person's opinion, belief or state of mind about a matter, that function or power may be performed or exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.

### 24.3 Transitional provisions

- (a) This Constitution must be interpreted in such a way that:
- (i) every Director, Managing Director and Secretary in office in that capacity immediately before this Constitution is adopted continues in office subject to, and is taken to have been appointed or elected under, this Constitution;



- (ii) any register maintained by the Company immediately before this Constitution is adopted is taken to be a register maintained under this Constitution;
  - (iii) any seal adopted by the Company as a seal immediately before this Constitution is adopted is taken to be a seal which the Company has under a relevant authority given by this Constitution;
  - (iv) any money held at the date of adoption of this Constitution for a Member under the predecessor of article 16.11 is taken to have been held in an account under article 16.11, and any money held at the date of adoption of this Constitution for a Member the Company regards as uncontactable is taken to have been held in an account under article 16.11; and
  - (v) unless a contrary intention appears in this Constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the Constitution of the Company in force before this Constitution is adopted continue to have the same status, operation and effect after this Constitution is adopted.
- (b) Notwithstanding article 24.3(a), from the date this Constitution is adopted, the indemnities given under rule 30 ("Indemnity and insurance") of the constitution in force immediately prior to that date, or under any equivalent provision under a previous constitution of the Company, will cease to have any force or effect. This does not affect any indemnity given by the Company under any deed or agreement (other than any constitution) entered prior to the date this Constitution is adopted.

# Constitution

## Schedule 1 Terms of preference shares

The Company may issue preference shares under article 2.2 on the following terms.

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### 1 Dividend rights and priority of payment

- (a) Each preference share confers on the holder a right to receive a dividend ("Dividend") at the rate or in the amount and on the conditions decided by the Directors under the terms of issue unless, and to the extent that, the Directors decide under the terms of issue that there is no right to receive a Dividend.
- (b) Without limiting the conditions which, under the terms of issue, the Directors may impose upon any right to receive a Dividend, the Directors may under the terms of issue, impose conditions upon the right to receive a Dividend which may be changed or reset at certain times or upon certain events and in the manner and to the extent the Directors decide under the terms of issue.
- (c) Any Dividend:
  - (i) is non-cumulative unless, and to the extent that, the Directors decide otherwise under the terms of issue; and
  - (ii) will rank for payment:
    - (A) in priority to ordinary shares unless, and to the extent that, the Directors decide otherwise under the terms of issue;
    - (B) in priority to shares in any other class of shares or class of preference shares expressed under the terms of issue to rank behind for the payment of dividends;
    - (C) equally with shares in any other class of shares or class of preference shares expressed under the terms of issue to rank equally for the payment of dividends; and
    - (D) behind shares in any other class of shares or class of preference shares expressed under the terms of issue to rank in priority for the payment of dividends.
- (d) If, and to the extent that, the Directors decide under the terms of issue, each preference share may, in addition to any right to receive a Dividend, participate equally with the ordinary shares in distribution of profits available as dividends.
- (e) Each preference share confers on its holder:
  - (i) if, and to the extent that the Dividend is cumulative, the right in a winding up or on redemption to payment of the amount of any Dividend accrued but unpaid on the share at the commencement of the winding up or the date of redemption, whether earned or determined or not;

- (ii) if, and to the extent that the Dividend is non-cumulative, and if, and to the extent that, the Directors decide under the terms of issue, the right in a winding up or on redemption to payment of the amount of any Dividend accrued but unpaid for the period commencing on the dividend payment date which has then most recently occurred and ending on the commencement of the winding up or the date of redemption, whether earned or determined or not,

with the same priority in relation to each other class of shares as the priority that applies in relation to the payment of the Dividend.

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## **2 Entitlement to payment of capital sum**

- (a) Each preference share confers on its holder the right in a winding up or on a redemption to payment of:
  - (i) any amount paid on the share, or any amount fixed by the Directors under the terms of issue or capable of determination pursuant to a mechanism adopted by the Directors under the terms of issue; and
  - (ii) a further amount out of the surplus assets and profits of the Company on the conditions decided by the Directors under the terms of issue unless, and to the extent that, the Directors decide under the terms of issue that there is no right to any payment of a further amount out of the surplus assets and profits of the Company,

in priority to ordinary shares and, unless the Directors decide otherwise under the terms of issue, in priority to shares in any other class of shares or class of preference shares expressed to rank behind on a winding up, equally with shares in any other class of shares or class of preference shares expressed to rank equally on a winding up, and behind shares in any other class of shares or class of preference shares expressed to rank in priority on a winding up.

- (b) Unless otherwise decided by the Directors under the terms of issue, a preference share does not confer on its holder any right to participate in the profits or property of the Company except as set out in this Schedule 1.

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## **3 Bonus issues and capitalisation of profits**

- (a) If, and to the extent that the Directors decide under the terms of issue, a preference share may confer a right to a bonus issue or capitalisation of profits in favour of holders of those shares only.

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## **4 Voting rights**

- (a) A preference share does not entitle its holder to vote at any general meeting of the Company except on the questions, proposals or resolutions or during periods of time or in circumstances identified by the Directors in the terms of issue, which, unless the Directors decide otherwise under the terms of issue, are as follows:
  - (i) a proposal:

- (A) to reduce the share capital of the Company;
  - (B) that affects rights attached to the share;
  - (C) to wind up the Company; or
  - (D) for the disposal of the whole of the property, business and undertaking of the Company;
- (ii) a resolution to approve the terms of a buy-back agreement;
  - (iii) during a period in which a Dividend or part of a Dividend on the share is in arrears;
  - (iv) during the winding up of the Company;
  - (v) in any other circumstances in which the Listing Rules require holders of preference shares to be entitled to vote.
- (b) Each holder of a preference share who has a right to vote on a resolution is entitled to the number of votes specified in article 9.16 of the Constitution.

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## 5 Meeting

Each preference share confers on its holder the same rights as those conferred by the Constitution upon the holders of ordinary shares in relation to receiving notices (including notices of general meetings), reports, balance sheets and audited accounts and of attending and being heard at all general meetings of the Company.

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## 6 Foreign Currency

Where any amount is payable by the Company to the holder of a preference share in a currency other than Australian dollars, and the amount is not paid when due or the Company has commenced winding up, the holder may give notice to the Company requiring payment of an amount in Australian dollars equal to the foreign currency amount calculated by applying the reference rate on the date of payment for the sale of the currency in which the payment is to be made for Australian dollars. Reference rate means the rate applicable in the market and at the time determined by the Directors before allotment of those preference shares and specified in the terms of issue for those preference shares.

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## 7 Conversion to ordinary shares

Subject to the Corporations Act, any other applicable laws and the terms of issue of a preference share as determined by the Directors:

- (a) a preference share which may be converted into an ordinary share in accordance with its terms of issue, at the time of conversion and without any further act:
  - (i) has the same rights as a fully paid ordinary share; and
  - (ii) ranks equally with other fully paid ordinary shares on issue,

however, the terms of issue of the preference share may provide otherwise including for the issue of additional ordinary shares on conversion as determined by the Directors; and

- (b) the conversion does not constitute a cancellation, redemption or termination of the preference share or the issue, allotment or creation of new shares, but has the effect of varying the status of, and the rights attaching to, the preference share so that it becomes an ordinary share.

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## **8 Amendment to the terms**

Subject to complying with all applicable laws, the Company may, without the consent of preference shareholders, amend or add to the terms of the preference shares if, in the opinion of the Company, the amendment or addition is:

- (a) of a formal, minor or technical nature;
- (b) to correct a manifest error;
- (c) made to comply with any applicable law, Listing Rule or requirement of ASX;
- (d) convenient for the purpose of obtaining or maintaining the listing of the Company or quotation of the preference shares; or
- (e) is not likely to be or become materially prejudicial to the preference shareholders.

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## **9 Restrictions on transfer**

Subject to the Listing Rules, a preference shareholder must not transfer (and the Directors must not register a transfer of) a preference share if it would contravene any restrictions set out in the share terms.