

Item 40

Adopted by Members on 3 May 2002

Constitution

IOOF Holdings Ltd

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Constitution

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Constitution of IOOF Holdings Ltd ACN 100 103 722

Preliminary

The Company is a public company limited by shares.

The replaceable rules in the Corporations Act do not apply to the Company.

Interpretation

1. Interpretation

- (a) In this Constitution unless the context requires otherwise:

Approving Resolution has the meaning given in Rule 86.

ASTC means Australian Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532).

ASTC business rules means the operating rules (as that term is defined in the Corporations Act) of the licensed CS facility (as that term is defined in the Corporations Act) operated by ASTC.

ASX means Australian Stock Exchange Limited.

Board means the Directors for the time being of the Company or those of them who are present at a meeting at which there is a quorum.

business day means a day which is a business day for the purposes of the Listing Rules.

call includes any instalment of a call and any amount due on issue of any share.

Chairman means the Chairman of the Board or any other person occupying the position of chairman or acting chairman under Rule 33 or Rule 34.

Chairman of the Board means the Director elected to the office of chairman under Rule 63.

Committee means a Committee to which powers have been delegated by the Board under Rule 65.

Company means IOOF Holdings Ltd.

Constitution means this Constitution as amended.

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

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Director means a person appointed or elected to the office of Director of the Company in accordance with this Constitution.

Exemption Notice has the meaning given in Rule 85.

Listing Rules means the ASX Listing Rules.

Marketable Parcel means a marketable parcel of shares as defined in the ASX's business rules.

Notice Date means the date on which the Company sends a notice to a member in accordance with Rule 85(c).

Office means the registered office of the Company.

person and words importing persons include partnerships, associations and corporations, unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals.

proper ASTC transfer has the meaning given to that term in the *Corporations Regulations 2001* (Cth).

Register means the register of shareholders of the Company.

registered address means the address of a shareholder specified on a transfer or any other address of which the shareholder notifies the Company as a place at which the shareholder is willing to accept service of notices.

retiring Director means a Director who is required to retire under Rule 47 or Rule 57(a) and a Director who ceases to hold office under Rules 55 and 56.

Rules means these Rules, as amended.

Sale Price means the price received by the Company for the member's shares in the Company that are sold by the Company to an arms length purchaser on behalf of the member under Rule 85.

Secretary means a person appointed as, or to perform the duties of, Secretary of the Company.

securities includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity.

shareholders present means shareholders present at a general meeting of the Company in person or by properly appointed representative, proxy or attorney.

transferee superannuation has the meaning given in Rule 25(a)(i).

transferor superannuation has the meaning given in Rule 25(a)(i).

transmitee has the meaning given in Rule 28.

Trustee means the trustee of the 'IOOF Unverified Members Trust' established by the Unverified Members Trust Deed.

Unverified Members Trust Deed means the deed of that name to which the Company is a party and which establishes the 'IOOF Unverified Members Trust'.

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writing and **written** includes printing, typing, lithography, facsimile and other modes of reproducing words in a visible form, whether electronic or otherwise.

- (b) A word or phrase which is given a meaning by the Corporations Act has the same meaning in this Constitution. Words in the singular include the plural and vice versa.
- (c) A reference to the Corporations Act or any other statute or regulation is to the Corporations Act, statute or regulation as modified or substituted.
- (d) A reference to the Listing Rules or the ASTC business rules is to the Listing Rules or the ASTC business rules (as the case may be) in force in relation to the Company after taking into account any waiver or exemption which is in force either generally or in relation to the Company.
- (e) The headings do not affect the construction of this Constitution.

Securities

2. Issue of securities

- (a) Without affecting any special rights conferred on the holders of any shares, any shares or other securities may be issued with preferred, deferred or other special rights, obligations or restrictions, whether in regard to dividends, voting, return of share capital, payment of calls or otherwise, as the Board may determine and on any terms the Board considers appropriate.
- (b) By resolution of the Board, the Company may vary the rights attached to shares in a class of shares by the issue of new shares not having the same rights attached as any shares already issued.

3. Preference shares

If the Company at any time proposes to create and issue any preference shares:

- (a) the preference shares may be issued on the terms that they are, or at the option of either or both the Company and the holder are, liable to be redeemed, whether out of share capital, profits or otherwise;
- (b) the preference shares may confer on the Company or the holder or both the right to convert the preference shares into ordinary shares if and on the basis the Board determines at the time of issue of the preference shares;
- (c)
 - (i) the preference shares may confer on the holders a right to receive out of the profits of the Company available for dividend a preferential dividend at the rate or of the amount (which may be subject to an index) and on the basis determined by the Board at the time of issue of the preference shares;
 - (ii) in addition to the preferential dividend, the preference shares may participate with the ordinary shares in dividends declared by the Board if

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- and to the extent the Board determines at the time of issue of the preference shares; and
- (iii) the preferential dividend may be cumulative if and to the extent the Board determines at the time of issue of the preference shares;
- (d) the preference shares may confer on the holders:
- (i) the right on redemption and in a winding up to payment in cash in priority to any other class of shares of:
- (A) the amount paid or agreed to be considered as paid on each of the preference shares; and
- (B) the amount (if any) equal to the aggregate of any dividends accrued (whether determined or not) but unpaid and of any arrears of dividends; and
- (ii) the right, in priority to any payment of dividend on any other class of shares, to the preferential dividend;
- (e) the preference shares may not confer on the holders any further rights to participate in assets or profits of the Company;
- (f) the holders of the preference shares are to have the same rights as the holders of ordinary shares to receive notices, reports and accounts and to attend and be heard at all general meetings, but are not to have the right to vote at general meetings except as follows:
- (i) on any question considered at a general meeting if, at the date of the meeting, the dividend on the preference shares is in arrears;
- (ii) at a general meeting on a proposal:
- (A) to reduce the share capital of the Company;
- (B) that affects rights attached to the preference shares;
- (C) to wind up the Company;
- (D) for the disposal of the whole of the property, business and undertaking of the Company;
- (iii) at a general meeting on a resolution to approve the terms of a buy-back agreement; and
- (iv) on any question considered at a general meeting held during the winding up of the Company; and
- (g) the Company may issue further preference shares ranking *pari passu* in all respects with (but not in priority to) other preference shares already issued and the rights of the issued preference shares are not to be taken to have been varied by the further issue.

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4. Surrender of shares

In its discretion, the Board may accept a surrender of shares by way of compromise of any question as to whether or not those shares have been validly issued or in any other case where the surrender is within the powers of the Company. Any shares surrendered may be sold or re-issued in the same manner as forfeited shares.

5. Joint holders

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

(a) **Number of holders**

the Company is not bound to register more than three persons as the holders of the shares;

(b) **Liability for payments**

the joint holders of the shares are liable severally as well as jointly in respect of all payments which ought to be made in respect of the shares;

(c) **Death of joint holder**

on the death of any one of the joint holders, the remaining joint holders are the only persons recognised by the Company as having any title to the shares but the Board may require evidence of death and the estate of the deceased joint holder is not released from any liability in respect of the shares;

(d) **Power to give receipt**

any one of the joint holders may give a receipt for any dividend, bonus or return of capital payable to the joint holders;

(e) **Notices and certificates**

only the person whose name stands first in the Register as one of the joint holders of the shares is entitled, if the Company determines to issue certificates for shares, to delivery of a certificate relating to the shares or to receive notices from the Company and any notice given to that person is considered notice to all the joint holders; and

(f) **Votes of joint holders**

any one of the joint holders may vote at any meeting of the Company either personally or by properly authorised representative, proxy or attorney, in respect of the shares as if that joint holder was solely entitled to the shares. If more than one of the joint holders are present personally or by properly authorised representative, proxy or attorney, only the vote of the joint holder whose name appears first in the Register counts.

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6. Non-recognition of equitable or other interests

Except as required by law, the Company is entitled to treat the registered holder of any share as the absolute owner of the share and is not bound to recognise (even when having notice) any equitable or other claim to or interest in the share on the part of any other person.

Form of Holding of Shares

7. Certificates

The Board may determine to issue certificates for shares or other securities of the Company, to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form it thinks fit from time to time.

8. Computerised share transfer system

Without limiting Rule 7, if the Company participates, or to enable the Company to participate, in any computerised or electronic share transfer system, the Board may:

- (a) provide that shares may be held in certificated or uncertificated form and make any provision it thinks fit, including for the issue or cancellation of certificates, to enable shareholders to hold shares in uncertificated form and to convert between certificated and uncertificated holdings;
- (b) provide that some or all shareholders are not to be entitled to receive a share certificate in respect of some or all of the shares which the shareholders hold in the Company;
- (c) accept any instrument of transfer, transfer document or other method of transfer in accordance with the requirements of the share transfer system; and
- (d) despite any other provision in this Constitution, do all things it considers necessary, required or authorised by the Corporations Act, the Listing Rules or the ASTC business rules in connection with the share transfer system.

Calls

9. Power to make calls

Subject to the terms on which any shares may have been issued, the Board may make calls on the shareholders in respect of money unpaid on their shares. Each shareholder is liable to pay the amount of each call in the manner, at the time and at the place specified by the Board. Calls may be made payable by instalments.

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10. Obligation for calls

The Company may make arrangements on the issue of shares for a difference between the holders of those shares in the amount of calls to be paid and the time of payment of the calls.

11. When a call is made

A call is considered to have been made at the time when the resolution of the Board authorising the call was passed. The call may be revoked or postponed at the discretion of the Board at any time prior to the date on which payment in respect of the call is due. The non-receipt of a notice of any call by, or the accidental omission to give notice of any call to, any shareholder does not invalidate the call.

12. Interest on the late payment of calls

If any sum payable in respect of a call is not paid on or before the date for payment, the shareholder from whom the sum is due is to pay interest on the unpaid amount from the due date to the date of payment at the rate the Board determines. The Board may waive the whole or part of any interest paid or payable under this Rule.

13. Instalments

If, by the terms of an issue of shares, any amount is payable in respect of any shares by instalments, every instalment is payable as if it is a call properly made by the Board of which appropriate notice had been given, and all provisions of this Constitution with respect to the payment of calls and of interest or to the forfeiture of shares for non-payment of calls or with respect to liens or charges apply to the instalment and to the shares in respect of which it is payable.

Forfeiture and Lien

14. Notice requiring payment of sums payable

If any shareholder fails to pay any sum payable in respect of any shares, either for money payable on issue, calls or instalments, on or before the day for payment, the Board may serve a notice on the shareholder requiring that shareholder to pay the sum together with interest accrued and all expenses incurred by the Company by reason of the non-payment. The notice may be served at any time whilst any part of the sum remains unpaid.

15. Time and place for payment

The notice referred to in Rule 14 must state a day on or before which the sum, interest and expenses (if any) are to be paid and the place where payment is to be made and that, if

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payment is not made by the time and at the place specified, the shares in respect of which the sum is payable are liable to be forfeited.

16. Forfeiture on non-compliance with notice

If there is non-compliance with the requirements of any notice given under Rule 14, any shares in respect of which notice has been given may be forfeited by a resolution of the Board passed at any time after the day specified in the notice for payment. The forfeiture is to include all dividends, interest and other money payable by the Company in respect of the forfeited shares and not paid before the forfeiture.

17. Notice of forfeiture

When any share is forfeited, notice of the resolution of the Board must be given to the shareholder in whose name the share was registered immediately prior to the forfeiture, and an entry of the forfeiture and the date of forfeiture must be made in the Register. Failure to give notice or make the entry as required by this Rule does not invalidate the forfeiture. At any time before any forfeited share is sold or otherwise disposed of, the Board may annul the forfeiture of the share on any condition it thinks fit.

18. Disposal of forfeited shares

Any forfeited share is considered the property of the Company and the Board may sell or otherwise dispose of or deal with the share in any manner it thinks fit and with or without any money paid on the share by any former holder being credited as paid up.

19. Liability despite forfeiture

Any shareholder whose shares have been forfeited is, despite the forfeiture, liable to pay and must immediately pay to the Company all sums of money, interest and expenses owing on or in respect of the forfeited shares at the time of forfeiture, together with expenses and interest from that time until payment at the rate the Board determines. The Board may enforce the payment or waive the whole or part of any sum paid or payable under this Rule as it thinks fit.

20. Company's lien or charge

The Company has a first and paramount lien or charge, for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is called on by law to pay in respect of the shares of a shareholder, on shares registered in the name of the shareholder in respect of which the calls, instalments and interest are due and unpaid (whether then payable or not) or in respect of which the amounts are paid and on the proceeds of sale of the shares. The lien or charge extends to all dividends and bonuses declared in respect of the shares but, if the Company registers a transfer of any shares on which it has a lien or charge without giving the transferee notice of any claim it

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may have at that time, the shares are freed and discharged from the lien or charge of the Company in respect of that claim. The Company may do all things necessary or appropriate under the ASTC business rules and the Listing Rules in order to protect or enforce any lien or charge.

21. Sale of shares to enforce lien

For the purpose of enforcing a lien or charge, the Board may sell the shares which are subject to the lien or charge in any manner it thinks fit and with or without giving any notice to the shareholder in whose name the shares are registered.

22. Title to shares forfeited or sold to enforce lien

- (a) In a sale or a re-issue of forfeited shares or in the sale of shares to enforce a lien or charge, an entry in the Board's minute book that the shares have been forfeited, sold or re-allotted in accordance with this Constitution is sufficient evidence of that fact as against all persons entitled to the shares immediately before the forfeiture, sale or re-issue of the shares. The Company may receive the purchase money or consideration (if any) given for the shares on any sale or re-issue.
- (b) In a sale or re-issue, a certificate signed by a Director or the Secretary to the effect that the shares have been forfeited and the receipt of the Company for the price of the shares constitutes a good title to them.
- (c) In a sale, the Company may appoint a person to execute, or may otherwise effect, a transfer in favour of the person to whom the shares are sold.
- (d) On the issue of the receipt or the transfer being executed or otherwise effected the person to whom the shares have been re-allotted or sold is to be registered as the holder of the shares, discharged from all calls or other money due in respect of the shares prior to the re-issue or purchase and the person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration and the person's title to the shares is not affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-issue.
- (e) The net proceeds of any sale or re-issue are to be applied first in payment of all costs in relation to the enforcement of the lien or charge or the forfeiture and of the sale or re-issue, next in satisfaction of the amount in respect of which the lien or charge exists as is then payable to the Company (including interest) or the amount in respect of the forfeited shares then payable to the Company (including interest) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the shares immediately prior to the sale or re-issue or to the person's personal representative on the production of any evidence as to title required by the Board.

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Payments by the Company

23. Payments by the Company

- (a) Rule 23(b) applies if any law of any place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment, or empowers any government or taxing authority or government official to require the Company to make any payment, in respect of any securities held either jointly or solely by any holder or in respect of any transfer of those securities or in respect of any interest, dividends, bonuses or other money due or payable or accruing due or which may become due or payable to the holder by the Company on or in respect of any securities or for or on account or in respect of any holder of securities, whether because of:
- (i) the death of the holder;
 - (ii) the non-payment of any income tax or other tax by the holder;
 - (iii) the non-payment of any estate, probate, succession, death, stamp or other duty by the holder or a personal representative of that holder or by or out of the holder's estate;
 - (iv) any assessment of income tax against the Company in respect of interest or dividends paid or payable to the holder; or
 - (v) any other act or thing,
- (b) In each case referred to in Rule 23(a):
- (i) the Company is to be fully indemnified from all liability by the holder or the holder's personal representative and by any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate;
 - (ii) the Company has a lien or charge on the securities for all money paid by the Company in respect of the securities under or because of any law;
 - (iii) the Company has a lien on all dividends, bonuses and other money payable in respect of the securities registered in the Register as held either jointly or solely by the holder for all money paid or payable by the Company in respect of the securities under or in consequence of any law, together with interest at a rate the Board may determine from the date of payment to the date of repayment, and may deduct or set off against any dividend, bonus or other money payable any money paid or payable by the Company together with interest;
 - (iv) the Company may recover as a debt due from the holder or the holder's personal representative, or any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate, any money paid by the Company under or in consequence of any law which exceeds any dividend, bonus or other money then due or payable by

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- the Company to the holder together with interest at a rate the Board may determine from the date of payment to the date of repayment; and
- (v) except in the case of a proper ASTC transfer, the Company may, if any money is paid or payable by the Company under any law, refuse to register a transfer of any securities by the holder or the holder's personal representative until the money and interest is set off or deducted or, in case the money and interest exceeds the amount of any dividend, bonus or other money then due or payable by the Company to the holder, until the excess is paid to the Company. The power to refuse to register a transfer does not extend to a proper ASTC transfer which is purported to be effected while a holding lock is in place as referred to in Rule 24(c).
 - (c) Nothing in Rules 23(a) and 23(b) affects any right or remedy which any law confers on the Company and any right or remedy is enforceable by the Company whether against the holder or the holder's personal representative.

Transfer and transmission of securities

24. Transfers; proper ASTC transfers

- (a) A transfer of any securities may be effected by:
 - (i) a written transfer in the usual or common form or in any form the Board may prescribe or in a particular case accept, properly stamped (if necessary) being delivered to the Company;
 - (ii) a proper ASTC transfer, which is to be in the form required or permitted by the Corporations Act or the ASTC business rules; or
 - (iii) any other electronic system established or recognised by the Listing Rules in which the Company participates in accordance with the rules of that system.
- (b) Except in the case of a proper ASTC transfer, the transferor is considered to remain the holder of the securities transferred until the name of the transferee is entered on the Register. A proper ASTC transfer is considered recorded in the Register and the name of the transferee to be registered as the holder of the securities comprised in the proper ASTC transfer, as provided in the ASTC business rules.
- (c) The Board may take any action it thinks fit to comply with the ASTC business rules and may request the ASTC to apply a holding lock to prevent a transfer of securities the subject of the ASTC business rules if the Board thinks fit.

25. Board may refuse to register

- (a) Notwithstanding Rule 86, until the earlier of a date determined by the Board in its absolute discretion and the inclusion of the Company in the official list of the ASX, a transfer of shares may only be registered, where:

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- (i) one of the following applies:
 - (A) the transferor is the Trustee and the transfer is made in accordance with the terms of the Unverified Members Trust Deed;
 - (B) the transfer is to the transferor's legal personal representative, being:
 - (1) a person who is an executor of the will or administrator of the estate (in the case of intestacy) of a deceased transferor;
 - (2) the trustee of the estate of a transferor under a legal disability; or
 - (3) a person who holds an enduring power of attorney granted by a transferor who is under a legal disability, provided that the intended transferee provides evidence proving that the transferor is under a legal disability;
 - (C) the transferor is associated with a superannuation fund (the **transferor superannuation fund**) and the transfer is:
 - (4) to a beneficiary of that superannuation fund;
 - (5) to the trustee of another superannuation fund (the **transferee superannuation fund**) and the transfer is made in conjunction with a transfer of membership from the transferor superannuation fund to the transferee superannuation fund; or
 - (6) made upon the winding up of the transferor superannuation fund and the distribution of assets to its beneficiaries;
 - (D) the transferor is in severe financial hardship (for the purposes of this Rule, a transferor is taken to be in severe financial hardship where the Board is satisfied of the matters specified in Regulations 6.01(5)(a)(i) and (ii) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) (**SIS Regulations**) (as if Regulations 6.01(1) and 6.01(5A) of the SIS Regulations applied to those matters mutatis mutandis));
 - (E) the transferee is a member of the transferor's family (for the purposes of this Rule, a person is taken to be a member of the transferor's family if the Board is satisfied that the person would be a member of the transferor's family for the purposes of section 60D(2) of the *Family Law Act 1975* (Cth));
 - (F) the transfer is to the Company and is made in connection with a share buy-back conducted by the Company in accordance with the requirements of the Corporations Act;

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- (G) the transfer is in connection with a sale of shares on terms which the Board considers are in the best interests of the Company; or
 - (H) the transfer is made in connection with a sale of shares, where the Company issued a disclosure document in relation to the offer of the shares for sale; and
- (ii) the transfer is approved by the Board in its absolute discretion.
- (b) The Board may only determine a date for the purposes of Rule 25(a) once and its determination is absolute and irrevocable.
- (c) After the date (if any) determined by the Board for the purposes of Rule 25(a) and until the Company is included in the official list of the ASX:
 - (i) the Board in its discretion may refuse to register any transfer of shares and may decline to give its reasons and grounds for doing so; and
 - (ii) the Register may be closed at any time the Board thinks fit and the Board may specify a time by reference to which the entitlement of persons to vote at any general meeting of the Company is to be determined.
- (d) Where the Company is included in the official list of the ASX, the Board may only refuse to register any transfer of securities:
 - (i) if the registration of the transfer would result in a contravention of or failure to observe the provisions of any applicable law or the Listing Rules;
 - (ii) on which the Company has a lien or which are subject to forfeiture;
 - (iii) if permitted to do so under the Listing Rules; or
 - (iv) as otherwise provided in this Constitution.
- (e) The decision of the Board relating to the registration of a transfer is absolute. Failure to give notice of refusal to register any transfer as may be required under the Corporations Act or the Listing Rules does not invalidate the decision of the Board.

26. Transfer and certificate (if any)

- (a) Every transfer must be left for registration at the Office or any other place the Board determines. Unless the Board otherwise determines either generally or in a particular case, the transfer is to be accompanied by the certificate (if any) for the securities to be transferred. In addition, the transfer is to be accompanied by any other evidence which the Board may require to prove the title of the transferor, the transferor's right to transfer the securities, execution of the transfer or compliance with the provisions of any law relating to stamp duty. The requirements of this Rule do not apply in respect of a proper ASTC transfer.
- (b) Subject to Rule 26(a), on each application to register the transfer of any securities or to register any person as the holder in respect of any securities transmitted to that person by operation of law or otherwise, the certificate (if any) specifying the securities in respect of which registration is required must be delivered to the

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Company for cancellation and on registration the certificate is considered to have been cancelled.

- (c) Each transfer which is registered may be retained by the Company for any period determined by the Board after which the Company may destroy it.

27. Transmission on death

The personal representative of a deceased shareholder (who is not one of several joint holders) is the only person recognised by the Company as having any title to securities registered in the name of the deceased shareholder. Subject to compliance by the transferee with this Constitution, the Board may register any transfer signed by a shareholder prior to the shareholder's death, despite the Company having notice of the shareholder's death.

28. Transmission by operation of law

A person (a **transmittee**) who establishes to the satisfaction of the Board that the right to any securities has devolved on the transmittee by will or by operation of law may be registered as a holder in respect of the securities or may (subject to the provisions in this Constitution relating to transfers) transfer the securities. The Board has the same right to refuse to register the transmittee as if the transmittee was the transferee named in a transfer presented for registration.

General Meetings

29. Calling of general meetings

By a resolution of the Board, the Company may call a general meeting of the Company to be convened at the time and place or places (including at two or more venues using technology that gives shareholders a reasonable opportunity to participate) and in the manner determined by the Board. No shareholder may convene a general meeting of the Company except where entitled under the Corporations Act to do so. By resolution of the Board any general meeting may be cancelled or postponed prior to the date on which it is to be held, except where the cancellation or postponement would be contrary to the Corporations Act. The Board may give notice of cancellation or postponement as it thinks fit, but any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.

30. Notice of general meeting

Where the Company has called a general meeting, notice of the meeting may be given in the form and manner in which the Board thinks fit. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice, does not invalidate any resolution passed at that meeting.

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Proceedings of meetings

31. Business of general meetings

The business of an annual general meeting of the Company is to receive and consider the accounts and reports required by the Corporations Act to be laid before each annual general meeting, to elect Directors, when relevant to appoint an auditor and fix the auditor's remuneration, and to transact any other business which, under this Constitution, is required to be transacted at any annual general meeting. All other business transacted at an annual general meeting and all business transacted at other general meetings is special. Except with the approval of the Board, with the permission of the Chairman or under the Corporations Act, no person may move at any meeting either:

- (a) in regard to any special business of which notice has been given under Rule 30, any resolution or any amendment of a resolution; or
- (b) any other resolution which does not constitute part of a special business of which notice has been given under Rule 30.

32. Quorum

- (a) Two shareholders present constitute a quorum for a meeting. No business may be transacted at any meeting except the election of a Chairman and the adjournment of the meeting unless a quorum is present at the commencement of the meeting.
- (b) If there is not a quorum at a general meeting within 30 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the Board adjourns the meeting to a date, time and place determined by it. If no quorum is present at any adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

33. Chairman

- (a) The Chairman of the Board is entitled to chair every general meeting.
- (b) If at any general meeting the Chairman of the Board:
 - (i) is not present at the specified time for holding the meeting; or
 - (ii) is present but is unwilling to act as chairman of the meeting,the Directors present may choose another Director to chair the meeting and if no Director is present or if each of the Directors present is unwilling to chair the meeting, a shareholder chosen by the shareholders present may chair the meeting.

34. Acting Chairman

If during any general meeting the Chairman acting under Rule 33 is unwilling to chair any part of the proceedings, the Chairman may withdraw during the relevant part of the

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proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be Acting Chairman of the meeting during the relevant part of the proceedings. On the conclusion of the relevant part of the proceedings the Acting Chairman is to withdraw and the Chairman is to resume to chair the meeting.

35. General conduct of meeting

- (a) The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the Chairman.
- (b) The Chairman or a person acting with the Chairman's authority may require any person who wishes to attend the meeting to comply with searches, restrictions or other security arrangements the Chairman or a person acting with the Chairman's authority considers appropriate. The Chairman or a person acting with the Chairman's authority may refuse entry to any person who does not comply with the arrangements, any person who possesses a recording or broadcasting device without the consent of the Chairman or a person acting with the Chairman's authority, or any person who possesses an article which the Chairman or person acting with the Chairman's authority considers to be dangerous, offensive or liable to cause disruption. At any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting, the Chairman may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the shareholders present.
- (c) The Chairman may require the adoption of any procedures which are in the Chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.
- (d) Any determination by the Chairman in relation to matters of procedure (including any procedural motions moved at, or put to, any meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at or put to, any meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) may only be made at the meeting and may be determined by the Chairman whose decision is final.

36. Adjournment

During the course of the meeting the Chairman may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting. If the Chairman exercises a right of adjournment of a meeting under this Rule, the Chairman has the sole discretion to decide whether to seek the approval of the shareholders present to the adjournment and, unless the Chairman exercises that

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discretion, no vote may be taken by the shareholders present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

37. Voting

- (a) The Chairman may determine that any question to be submitted to a general meeting be determined by a poll without first submitting the question to the meeting to be decided by a show of hands.
- (b) Unless the Chairman makes the determination referred to in Rule 37(a) each question submitted to a general meeting is to be decided in the first instance by a show of hands.
- (c) In the case of an equality of votes, the Chairman has, both on a show of hands and on a poll, a casting vote in addition to the vote or votes to which the Chairman may be entitled as a shareholder or as a proxy, attorney or properly appointed representative of a shareholder.
- (d) Unless a poll is demanded, a declaration by the Chairman following a vote on a show of hands that a resolution has been passed or lost is conclusive, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (e) A poll may be demanded by a shareholder in accordance with the Corporations Act (and not otherwise) or by the Chairman. No poll may be demanded on the election of a chairman of a meeting or, unless the Chairman otherwise determines, the adjournment of a meeting. A demand for a poll may be withdrawn.

38. Taking a poll

- (a) If a poll is demanded as provided in Rule 37, it is to be taken in the manner and at the time and place as the Chairman directs, and the result of the poll is the meeting's resolution of the motion on which the poll was demanded. In the case of any dispute as to the admission or rejection of a vote, the Chairman's determination in relation to the dispute is final.
- (b) A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.
- (c) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the Chairman considers appropriate.

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39. Special meetings

All the provisions of this Constitution as to general meetings apply to any special meeting of any class of shareholders which may be held under the operation of this Constitution or the Corporations Act.

Votes of shareholders

40. Voting rights

Subject to restrictions on voting affecting any class of shares and to Rules 3, 5(f) and 43:

- (a) on a show of hands:
 - (i) subject to paragraphs (ii) and (iii), each shareholder present has one vote;
 - (ii) where a shareholder has appointed more than one person as representative, proxy or attorney for the shareholder, none of the representatives, proxies or attorneys is entitled to vote; and
 - (iii) where a person is entitled to vote because of paragraph (i) in more than one capacity, that person is entitled only to one vote;
- (b) subject to Rule 40(c), on a poll, each shareholder present:
 - (i) has one vote for each fully paid share held; and
 - (ii) for each other share held, has a vote in respect of the share which carries the same proportionate value as the proportion of the amount paid up or agreed to be considered as paid up on the total issue price of that share at the time the poll is taken bears to the total issue price of the share; and
- (c) on a poll only shareholders present may vote unless, consistently with the Corporations Act, the Board has approved other means (including electronic) for the casting and recording of votes by shareholders on any resolution to be put to a general meeting.

41. Voting rights of personal representatives, etc

Where a person satisfies the Board at least 48 hours before the holding of a general meeting (unless the person has previously satisfied the Board as to the person's right to vote) that the person is a personal representative as referred to in Rule 27 or a transmittee as referred to in Rule 28, the person may vote at the general meeting in the same manner as if the person were the registered holder of the securities referred to in Rule 27 or 28, as the case requires.

42. Proxies

- (a) A shareholder who is entitled to attend and vote at a meeting of the Company may appoint a person as a proxy to attend and vote for the shareholder in accordance with the Corporations Act but not otherwise. A proxy appointed in accordance with

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the Corporations Act to attend and vote may exercise the rights of the shareholder on the basis and subject to the restrictions provided in the Corporations Act but not otherwise.

- (b) A form of appointment of a proxy is valid if it is:
 - (i) in writing (including an electronic form), signed by the principal or the attorney of the principal, or if the principal is a corporation, under its common seal or signed by a duly authorised officer;
 - (ii) in the form which the Board may prescribe or accept; and
 - (iii) where the appointment is to be used not only at the next meeting of the Company, specifies the subsequent meetings at which the appointment may be used.
- (c) A form of appointment of a proxy and the original or a certificated copy of any authority under which the form of appointment of a proxy was signed must be received by the Company at least 48 hours before the meeting in respect of which the proxy has been appointed. If the meeting in respect of which a proxy has been appointed is adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.
- (d) Any duly signed proxy which is incomplete may be completed by the Secretary on the authority of the Board and the Board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.
- (e) Any Director or employee of the Company who is appointed as proxy under this Constitution is entitled to vote in accordance only with those instructions given on appointment (if any), unless notice in writing signed by the principal, in accordance with Rule 42(b)(i):
 - (i) of any variation to those instructions; or
 - (ii) of any instructions given in the absence of any instructions given on appointment

is received at the Office at least 48 hours before the meeting or adjourned meeting.
- (f) Where a notice of meeting provides for electronic lodgement of proxies, a proxy (or a notice of varied instructions or instructions given in the absence on any instructions on appointment) lodged at the electronic address specified in the notice is taken to have been received at the Office and validated by the shareholder if there is compliance with the requirements set out in the notice.

43. Validity of vote

- (a) The validity of any resolution is not affected by the failure of any proxy or attorney to vote in accordance with instructions (if any) of the appointing shareholder.

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- (b) A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid despite the previous death or mental incapacity of the appointing shareholder, revocation of the instrument of proxy or power of attorney or transfer of the shares in respect of which the vote is given, provided no notice in writing of the death, mental incapacity, revocation or transfer has been received at the Office at least 48 hours before the relevant meeting or adjourned meeting.
- (c) A proxy is not revoked by the appointing shareholder attending and taking part in the meeting, unless the appointing shareholder votes at the meeting on the resolution for which the proxy is proposed to be used.

44. Board may issue forms of proxy

The Board may issue with any notice of general meeting of shareholders or any class of shareholders forms of proxy for use by the shareholders. Each form may include the names of any of the Directors or of any other persons willing to act as proxies or as persons who are to be proxies where the shareholder does not specify in the form the name of the person or persons to be appointed as proxies. The forms may be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

45. Attorneys of shareholders

Any shareholder may, by properly executed power of attorney, appoint an attorney to act on the shareholder's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine together, in each case, with evidence of the proper execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the shareholder granting the power of attorney.

Directors

46. Number of Directors

The number of Directors must be the number, not being less than five nor more than eleven, which the Board may determine but the Board may not reduce the number below the number (the **Relevant Number**) of Directors in office at the time the reduction takes effect. For the avoidance of doubt, the Relevant Number will not include any Director who has retired or resigned immediately before such reduction. All Directors are to be natural persons. A majority of Directors must be non-executive Directors.

47. Power to appoint Directors

The Board has the power at any time to appoint any person as a Director, either to fill a casual vacancy or as an addition to the Board but so that the number of Directors does not

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exceed the maximum number determined under Rule 46. Any Director appointed under this Rule may hold office only until the end of the next annual general meeting of the Company and is eligible for election at that meeting but is not to be taken into account in determining the number of Directors who are to retire by rotation at the meeting.

48. Remuneration of Directors

As remuneration for services each non-executive Director is to be paid or provided with the amount determined by the Board, but the aggregate remuneration paid or provided to all the non-executive Directors in any financial year by the Company, its subsidiaries and any entity controlled by the Company may not exceed an amount fixed by the Company in general meeting. The expression **remuneration** in this Rule does not include any amount which may be paid by the Company under any of Rules 49, 50, 51(a), 51(b) and 84.

49. Remuneration of Directors for extra services

Any Director who serves on any committee, who devotes special attention to the business of the Company, who otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director or who, at the request of the Board, engages in any journey on the business of the Company, may be paid extra remuneration as determined by the Board.

50. Travelling and other expenses

Every Director is, in addition to any other remuneration provided for in this Constitution, entitled to be paid from Company funds all reasonable travel, accommodation and other expenses incurred by the Director in attending meetings of the Company or of the Board or of any Committees or while engaged on the business of the Company.

51. Retirement benefits and superannuation contributions

- (a) Any person (including any officer of the Company) may be paid or provided with a benefit in connection with the retirement from office of any officer of the Company, in accordance with the Corporations Act. The Board may make arrangements with any officer with respect to, providing for, or effecting payment or provision of, benefits in accordance with this Rule.
- (b) Without limiting Rule 48, the Company may pay superannuation contributions for each Director to the extent necessary for the avoidance or minimisation of any penalty, charge, tax, or other impost on the Company under any applicable legislation which imposes a penalty, charge, tax or other impost on employers if a minimum level of superannuation contributions is not paid for an employee (within the meaning of the legislation).

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52. Contracts with Company and participation in share issues

- (a) A Director is not disqualified by the office of Director from contracting or entering into any arrangement with the Company either as vendor, purchaser or otherwise and no contract or arrangement entered into with the Company by a Director nor any contract or arrangement entered into by or on behalf of the Company in which a Director is in any way interested may be avoided for that reason. A Director is not liable to account to the Company for any profit realised by any contract or arrangement, by reason only of holding the office of Director or of the fiduciary relationship established by the office.
- (b) A Director who is in any way interested in a contract or proposed contract with the Company shall, as soon as practicable after becoming aware of the relevant facts, declare the nature of his or her interest at a meeting of the Directors.
- (c) Except where a Director is constrained by the Corporations Act, a Director may be present at a meeting of the Board while a matter in which the Director has an interest is being considered and may vote in respect of that matter.
- (d) Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.
- (e) A Director or any person who is an associate of a Director for the purposes of the Listing Rules may participate in any issue by the Company of securities unless the Director is precluded from participating by the Listing Rules.

53. Director may hold other office

- (a) A Director may hold any other office or position under the Company (except that of auditor) in conjunction with the office of Director, on terms and at a remuneration in addition to remuneration (if any) as a Director, as the Board approves.
- (b) A Director may be or become a director of or hold any other office or position under any corporation promoted by the Company, or in which it may be interested, whether as a vendor or shareholder or otherwise, or with any other corporation or organisation, and the Director is not accountable for any benefits received as a director or shareholder of, or holder of any other office or position under, the corporation or organisation.

54. Exercise of voting power in other corporations

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director of the Company may vote in favour of the exercise of those voting rights, despite the fact that the Director is, or may be about to be appointed, a

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director of that other corporation and may be interested in the exercise of those voting rights.

Termination of office of Director

55. Termination of office by Director

- (a) The office of a Director is terminated on the Director:
 - (i) being absent from meetings of the Board during a period of three consecutive calendar months without leave of absence from the Board where the Board has not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;
 - (ii) resigning office by notice in writing to the Company;
 - (iii) being removed from office under the Corporations Act; or
 - (iv) being prohibited from being a Director by reason of the operation of the Corporations Act.
- (b) A Director whose office is terminated under Rule 55(a) is not to be taken into account in determining the number of Directors who are to retire by rotation at any annual general meeting.

56. Directors who are employees of the Company

The office of a Director who is an employee of the Company or any of its subsidiaries is terminated on the Director ceasing to be employed but the person concerned is eligible for reappointment or re-election as a Director of the Company.

Election of Directors

57. Retirement and nomination of Directors

- (a) Subject to Rules 47 and 55(b) at every annual general meeting, one-third of the Directors (other than an exempt Managing Director under Rule 59) or, if their number is not a multiple of three, then the number nearest to but not less than one-third must retire from office. A Director (other than an exempt Managing Director under Rule 59) must retire from office at the conclusion of the third annual general meeting after which the Director was elected or re-elected. Any Director who retires at a meeting (whether under this Rule or otherwise) at a general meeting and seeks re-election at the meeting retains office until the dissolution or adjournment of the meeting. The Directors to retire under this Rule are the Directors or Director longest in office since last being elected. As between Directors who were elected on the same day the Directors to retire are (in default of agreement between them) determined by ballot. The length of time a Director has

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been in office is calculated from the Director's last election or appointment. A retiring Director is eligible for re-election.

- (b) No person (other than a retiring Director) is eligible for election to the office of Director at any general meeting unless the person or a shareholder intending to nominate the person has given notice in writing signed by the nominee giving consent to the nomination and signifying either candidature for the office or the intention of the shareholder to nominate the nominee. To be valid, the notice is required to be left at the Office not less than 30 business days nor more than 40 business days before the meeting unless the nominee has been recommended by the Board for election, in which case the notice is required to be left at the Office at least 28 days before the meeting.

Managing Director

58. Appointment of a Managing Director

The Board may appoint one or more persons to be Managing Director (who may bear that title or any other title determined by the Board) for a period ending on the happening of events (if any) stipulated by the Board (and, in any event, upon the Managing Director ceasing to hold office as a Director), and at a remuneration and on terms determined by the Board. A Managing Director must be a Director for the duration of his or her office as Managing Director. The Board may confer on and withdraw from a Managing Director any of the powers exercisable under this Constitution by the Board as it thinks fit and on any conditions it thinks expedient but the conferring of powers by the Board on a Managing Director does not exclude the exercise of those powers by the Board.

59. Exempt Managing Director

An exempt Managing Director is the Managing Director appointed under Rule 58 or, if there is more than one such Managing Director, the Managing Director designated by the Board to be an exempt Managing Director. An exempt Managing Director is not subject to retirement as a Director by rotation while continuing to hold the office of Director and is not to be taken into account in determining the rotation or retirement of Directors or the number of Directors to retire, but is subject to the same provisions as to removal as the other Directors of the Company. This Rule does not affect the operation of Rules 47, 55 and 56.

Proceedings of Directors

60. Procedures relating to Board meetings

- (a) The Board may meet together, adjourn and otherwise regulate its meetings as it thinks fit. The Secretary must, on the request of the Chairman of the Board or any two Directors, convene a meeting of the Board.

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- (b) Until otherwise determined by the Board, a majority of those directors currently in office form a quorum. Notice of meeting of the Board may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or at any other address given to the Secretary by the Director or by any technology agreed by all the Directors.

61. Meetings by telephone or other means of communication

The Board may meet either in person or by telephone, audio-visual link or by using any other technology consented to by all the Directors. A consent may be a standing one. A Director may only withdraw consent within a reasonable period before the meeting. A meeting conducted by telephone, audio-visual link or other means of communication is considered held at the place agreed on by the Directors attending the meeting if at least one of the Directors present at the meeting was at that place for the duration of the meeting.

62. Votes at meetings

Questions arising at any meeting of the Board are decided by a majority of votes, and, in the case of an equality of votes, the chairman of the meeting appointed under Rule 63 has (except when only two Directors are present or except when only two Directors are competent to vote on the question then at issue) a second or casting vote. A Director with a material personal interest in a matter that is being considered at a meeting of the Board may be counted in a quorum and may vote on the matter, subject to the Corporations Act.

63. Chairman

The Board may elect a chairman of its meetings and determine the period for which each is to hold office. If no Chairman of the Board is elected or if at any meeting the Chairman of the Board is not present at the time specified for holding the meeting, the Directors present may choose one of their number to be chairman of the meeting.

64. Powers of meetings

A meeting of the Board at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

65. Committees

- (a) The Board may delegate any of its powers to Committees consisting of any one or more Directors or any other person or persons as the Board thinks fit. In the exercise of delegated powers, any Committee formed or person or persons appointed to the Committee must conform to any regulations that may be imposed

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by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

- (b) The meetings and proceedings of any Committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under Rule 65(a).

66. Validity of acts

- (a) All actions at any meeting of the Board or by a Committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been properly appointed and was qualified and continued to be a Director or a member of the Committee.
- (b) If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

67. Resolution in writing

A resolution in writing signed by all Directors or a resolution in writing of which notice has been given to all Directors and which is signed by a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Board) is a valid resolution of the Board and is effective when signed by the last of all the Directors or the last of the Directors constituting the majority, as required. The resolution may consist of several documents in the same form each signed by one or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director.

Powers of the Board

68. General powers of the Board

The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred on it by this Constitution) may exercise all powers and do all things as are within the power of the Company and are not by this Constitution or by law required to be exercised or done by the Company in general meeting.

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69. Seal

The Company may have a common seal and a duplicate common seal which are to be used by the Company as determined by the Board.

Dividends

70. Determination of dividend

- (a) The Board may determine that a dividend (including an interim dividend on account of the next forthcoming dividend) is payable to the shareholders entitled and fix the amount, time for payment and method of payment. The dividend is (subject to the rights of, or any restrictions on, the holders of shares created or raised under any special arrangement as to dividend) payable on each share on the basis of the proportion which the amount paid is of the total amounts paid, agreed to be considered paid or payable on the share. The dividend may be declared at a rate per annum in respect of a specified period but no amount paid on a share in advance of calls is to be treated as paid on that share.
- (b) Without limiting Rule 2, where the terms of any new issue of shares provide for the new shares to have different rights to a dividend to other shares then on issue, the new shares have those different dividend rights.

71. Dividend Plans

The Board may establish, maintain, suspend, reinstate, amend and terminate one or more dividend plans (including the establishment of rules) under which shareholders may elect with respect to some or all of their shares (subject to the rules of the relevant plan):

- (a) to reinvest in whole or in part dividends paid or payable or which may become payable by the Company to the shareholder in cash by subscribing for shares in the capital of the Company;
- (b) to be issued with shares instead of being paid a dividend or part of a dividend;
- (c) that dividends from the Company not be declared or paid and that instead a payment or distribution other than a dividend (including, without limitation, an issue of bonus shares, with no amount credited to the share capital account in connection with the issue of those shares) be made by the Company;
- (d) that cash dividends from the Company not be paid and that instead a cash dividend or payment or other distribution (including, without limitation, an issue or transfer of securities) be received from the Company, a related corporation of the Company or any other entity determined by the Board; and
- (e) to participate in a dividend selection plan, including but not limited to a plan under which shareholders may elect to receive a dividend from the Company or any related corporation which is less in amount but franked to a greater extent than the ordinary cash dividend declared by the Company or any related corporation or to

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receive a dividend from the Company or any related corporation which is greater in amount but franked to a lesser extent than the ordinary cash dividend declared by the Company or any related corporation.

72. Employee Share Plan

The Board may:

- (a) establish and give effect to any employee share plan for the purchase or acquisition of shares, rights to shares or options to acquire shares by or for the benefit of employees of the Company and its subsidiaries; and
- (b) in addition to its powers under Rule 74, resolve to apply the whole or a portion of any sum, standing to the credit of any reserve or other account in paying up in full unissued shares of the Company to be issued to the holders of shares, options or other securities of the Company in accordance with the employee share plan.

73. Distribution otherwise than in cash

- (a) When declaring a dividend the Board may determine that payment of the dividend be effected wholly or in part by the distribution of specific assets or documents of title and in particular by the issue or transfer of paid up shares, debentures, debenture stock or grant of options or other securities of the Company or any other corporation or entity.
- (b) The Board may appoint any officer of the Company to sign on behalf of each shareholder entitled to participate in the dividend any document in the Board's opinion desirable or necessary:
 - (i) to vest in the shareholder title to assets; and
 - (ii) in the case of a distribution of shares in any corporation, to constitute the shareholder's agreement to become a member of the corporation,
 and, in executing the document, the officer acts as agent and attorney for the shareholder.

74. Capitalisation of profits

- (a) The Board may resolve that the whole or any portion of any sum forming part of the undivided profits of the Company, any reserve or other account which is available for distribution, be capitalised and distributed to shareholders in the same proportions in which the shareholders would be entitled to receive it if distributed by way of dividend or in accordance with either the terms of issue of any shares or the terms of any plan for the issue of securities for the benefit of officers or employees and that all or any part of the sum be applied on their behalf either in paying up the amounts for the time being unpaid on any issued shares held by them, or in paying up in full unissued shares or other securities of the Company to be issued to them accordingly, or partly in one way and partly in the other.

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- (b) The Board may specify the manner in which any fractional entitlements and any difficulties relating to distribution are to be dealt with, including specifying that fractions are to be disregarded or that any fractional entitlements are to be increased to the next whole number or that payments in cash in lieu of fractional entitlements be made.
- (c) The Board may make all necessary appropriations and applications of the amount to be capitalised under Rule 74(a) and all necessary issues of fully paid shares or debentures.
- (d) Where required, the Board may appoint a person to sign a contract on behalf of the shareholders entitled on a capitalisation to any shares or debentures, which provides for the issue to them, credited as fully paid, of any further shares or debentures or for 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.

75. Transfer of shares

A transfer of a share only passes the right to any dividend determined but not paid on the share at the time of transfer:

- (a) in the case of a proper ASTC transfer, if that is the effect of the ASTC business rules; and
- (b) in any other case, if the transfer is effected by the relevant record date.

76. Retention of dividends; unclaimed dividends

- (a) The Board may retain the dividends payable on securities which any person is under Rules 27 and 28 entitled to transfer until the personal representative or the transmittee (as the case requires) becomes registered as the holder of the securities or properly transfers them.
- (b) All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed or otherwise disposed of according to law.

77. How dividends are payable; currency of payments

- (a) Payment of any dividend may be made in any manner and by any means as determined by the Board. Without affecting any other method of payment which the Board may adopt, in each case at the risk of the shareholder, payment of any dividend may be made to the shareholder entitled to the dividend or, in the case of joint holders, to the shareholder whose name appears first in the Register in respect of the joint holding. Where payment is effected by post, on posting the payment is at the risk of the shareholder.

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- (b) Payments of dividends and other distributions by the Company may be made in Australian dollars or any other currency determined by the Board in its discretion. Payments in different currencies may be made to different shareholders as determined by the Board in its discretion. If a payment is made in a currency other than Australian dollars the Board may determine in its discretion the appropriate exchange rate and the time of calculation to calculate the amount payable in the relevant currency. The determinations of the Board are, in the absence of manifest error, final.

Notices

78. Service of notices

A notice may be given by the Company to any shareholder, or in the case of joint holders to the shareholder whose name appears first in the Register, personally, by leaving it at the shareholder's registered address or by sending it by prepaid post or facsimile transmission addressed to the shareholder's registered address or, in any case, by other electronic means determined by the Board. If the notice is signed, the signature may be original or printed.

79. When notice considered to be served

Any notice sent by post is considered to have been served at the expiration of 24 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a shareholder personally or left at the shareholder's registered address is considered to have been served when delivered. Any notice served on a shareholder by facsimile or other electronic transmission is considered to have been served when the transmission is sent.

80. Shareholder not known at registered address

Where a shareholder does not have a registered address or where the Company has a reason in good faith to believe that a shareholder is not known at the shareholder's registered address, a notice is considered to be given to the shareholder if the notice is exhibited in the Office for a period of 48 hours (and is taken to be served at the commencement of that period) unless and until the shareholder informs the Company of a registered place of address.

81. Notice to transferor binds transferee

Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any shares is bound by every notice which, prior to the person's name and address being entered in the Register in respect of the shares, was properly given to the person from whom the person derived title to those shares.

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82. Service on deceased shareholders

A notice served in accordance with this Constitution is (despite the fact that the shareholder is then dead and whether or not the Company has notice of the shareholder's death) considered to have been properly served in respect of any registered shares, whether held solely or jointly with other persons by the shareholder, until some other person is registered in the shareholder's place as the holder or joint holder. The service is sufficient service of the notice or document on the shareholder's personal representative and any persons jointly interested with the shareholder in the shares.

83. Winding up

- (a) If the Company is wound up, whether voluntarily or otherwise, the liquidator may divide among all or any of the contributories as the liquidator thinks fit in kind any part of the assets of the Company, and may vest any part of the assets of the Company in trustees on any trusts for the benefit of all or any of the contributories as the liquidator thinks fit.
- (b) Any division may be otherwise than in accordance with the legal rights of the contributories and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part, but if any division otherwise than in accordance with the legal rights of the contributories is determined, any contributory who would be prejudiced by the division has a right to dissent and ancillary rights as if the determination were a special resolution passed under the Corporations Act relating to the sale or transfer of the Company's assets by a liquidator in a voluntary winding up.
- (c) If any shares to be divided in accordance with Rule 83(a) involve a liability to calls or otherwise, any person entitled under the division to any of the shares may, by notice in writing within ten business days after the passing of the special resolution, direct the liquidator to sell the person's proportion and pay the person the net proceeds and the liquidator is to act accordingly, if practicable.

Indemnity, Insurance and Access

84. Indemnity of officers, insurance and access

- (a) The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.
- (b) In addition to Rule 84(a), an officer of the Company and an officer of a subsidiary of the Company may be indemnified to the relevant extent out of the assets of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or the subsidiary or in or arising out of the

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discharge of the duties of the officer where the Board considers it appropriate to do so.

- (c) Where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company or a subsidiary.
- (d) Where the Board considers it appropriate, the Company may:
 - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Company to make the payments.
- (e) Where the Board considers it appropriate, the Company may:
 - (i) give a former Director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give the access.
- (f) In this Rule 84:
 - (i) **officer** means:
 - (A) a Director or secretary; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Company,
 and includes a former officer.
 - (ii) **duties of the officer** includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, the subsidiary of the Company to any other corporation.
 - (iii) to the relevant extent means:
 - (A) to the extent the Company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for

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the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.

- (iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

Unmarketable parcels

85. Unmarketable parcels – rationalisation

- (a) The provisions of this Rule 85 have effect as from the inclusion of the Company in the official list of ASX and, from then, notwithstanding any provision in this Constitution to the contrary.
- (b) Subject to Rule 85(o), a member must not hold less than a Marketable Parcel of shares in the Company unless otherwise determined by the Directors.
- (c) Subject to Rule 85(m), the Company may notify a member who holds less than a Marketable Parcel of shares in the Company that the Company intends selling the member's shares in the Company on the member's behalf under this Rule 85.
- (d) Subject to Rule 85(o), a member who holds less than a Marketable Parcel of shares in the Company, is deemed irrevocably to have appointed the Company as the member's agent on the date immediately following the expiry of six weeks after the Notice Date, to sell all that member's shares within seven days at the Sale Price and to receive the sale proceeds on behalf of the member, unless the member's shareholding has increased to at least a Marketable Parcel by the date immediately following the expiry of six weeks after the Notice Date.
- (e) The Secretary or a person nominated in writing by the Secretary may, in respect of any sale of a member's shares under this Rule, execute on behalf of any such member an instrument of transfer of all of the member's shares in the Company in such manner and form as the Secretary or such other person nominated by the Secretary to execute such transfers considers necessary and to deliver such share transfer to the purchaser. The Company may register a transfer of shares notwithstanding that any certificate or certificates for the shares the subject of the transfer have not been delivered up to the Company for cancellation.
- (f) A certificate under the hand of a Director or the Secretary to the effect that shares sold under this Rule have been duly sold will discharge the purchaser from all liability in respect of the purchase of those shares.
- (g) A purchaser of shares sold under this Rule will, upon being entered in the Register as the holder of the shares:

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- (i) not be bound to see to the regularity of the actions and proceedings of the Company pursuant to this Rule or to the application of the purchase money or consideration; and
 - (ii) have title to the shares which is not affected by any irregularity or invalidity in the actions and proceedings of the Company.
- (h) If all the shares of two or more members to whom this Rule applies are sold to one purchaser, the transfer may be effected by one instrument of transfer.
- (i) If a member's shares in the Company are sold by the Company on the member's behalf under this Rule, the Company must:
 - (i) within a reasonable time after completion of the sale, inform the former member that the former member's shares in the Company have been sold, the price per share at which those shares were sold and the total sale proceeds received by the Company on the former member's behalf; and
 - (ii) provided that any certificate for the shares the subject of the transfer has been received by the Company, within 21 days after completion of the sale, cause the proceeds of the sale to be sent to the member entitled to those proceeds by sending a cheque or warrant made payable to the member through the post to the address of that member in the Register (or, in the case of joint holders, to that one whose name stands first in the Register in respect of the joint holding). Payment of any moneys under this Rule is at the risk of the member to whom it is sent.
- (j) The remedy of any member to whom this Rule applies in respect of the sale of that member's shares is hereby 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.
- (k) All moneys paid to members under this Rule which are unclaimed for one year after having been paid may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed or otherwise disposed of according to law. No moneys payable under this Rule by the Company to members are to bear interest as against the Company.
- (l) The provisions of this Rule 85 apply to all members in receipt of a notice under this Rule on the day immediately following the specified six week period, only if they have not:
 - (i) given an Exemption Notice in accordance with the provisions of Rule 85(o);
 - (ii) increased their shareholding in the Company to at least a Marketable Parcel by that day; or
 - (iii) sold their shares by that day.
- (m) Rule 85:
 - (i) is, subject to Rule 85(m)(ii), only to be invoked once by the Company in any 12 month period; and

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- (ii) on the date on which there is publicly announced a takeover bid or a similar bid under a foreign regime in respect of the Company's shares, ceases to have any force or effect (except insofar as any shares to which this Rule applies have already been sold or transferred pursuant to this Rule). Notwithstanding Rule 85(m)(i), upon the close of the offers made under the relevant bid, the Company may invoke this Rule 85.
- (n) The Company will bear all stamp duty, brokerage and government taxes and charges (except for tax on income or capital gains of the member) payable by the transferor on the sale of shares pursuant to this Rule 85.
- (o) Where a member has given written notice (**Exemption Notice**) to the Company within six weeks of the Notice Date that the member desires its shareholding to be exempted from the provisions of this Rule 85, these provisions (other than Rules 85(o) and 85(p)), do not apply to that member.
- (p) Where a member has given an Exemption Notice, the member may at any time revoke or withdraw that Exemption Notice and the provisions of this Rule 85 apply thereafter to that member.

Proportional Takeover Bids

86. Approval of proportional takeover bids

- (a) Without limiting any other Rule, where offers have been made under a proportional takeover scheme in respect of shares in a class of shares in the Company, the registration of a transfer giving effect to a contract resulting from the acceptance of an offer made under the takeover scheme is prohibited unless and until a resolution (in this Rule referred to as an **Approving Resolution**) to approve the proportional takeover scheme is passed in accordance with this Rule.
- (b) Where offers have been made under a proportional takeover scheme in respect of shares in a class of shares in the Company:
 - (i) a person (other than the offeror or an associate of the offeror) who, as at the end of the day on which the first offer under the proportional takeover scheme was made, held shares in that class is entitled to vote on an Approving Resolution and, for the purpose of voting, is entitled to one vote for each of the shares held in that class; and
 - (ii) the offeror or an associate of the offeror is not entitled to vote on an Approving Resolution.
- (c) An Approving Resolution is to be voted on at a meeting, convened and conducted by the Company, of the persons entitled to vote on the Approving Resolution.
- (d) The provisions of this Constitution that apply in relation to a general meeting of the Company apply, with modifications as the circumstances require, in relation to a meeting that is convened to vote on an Approving Resolution and apply as if the meeting was a general meeting of the Company.

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- (e) An Approving Resolution that has been voted on in accordance with this Rule is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is to be taken to have been rejected.
- (f) This Rule ceases to have effect on the third anniversary of the date of the adoption or last renewal of this Rule.

87. Restricted securities

- (a) Restricted securities within the meaning of the Listing Rules cannot be disposed of except as permitted by the Listing Rules or the ASX.
- (b) The Company must refuse to acknowledge a disposal (including registering a transfer) of restricted securities within the meaning of the Listing Rules except as permitted by the Listing Rules or the ASX.
- (c) During a breach of the Listing Rules relating to restricted securities within the meaning of the Listing Rules or a breach of a restriction agreement relating to the restricted securities, the holder of the restricted securities is not entitled to any dividend or distribution or voting rights in respect of the restricted securities except as permitted by the restriction agreement, the Listing Rules or the ASX.

Limitation On Share Ownership

88. Overriding Provisions

- (a) Rules 89 to 95 apply despite anything else in this Constitution.
- (b) Rules 89 to 95 cease to have effect on the date which is five years after the inclusion of the Company in the official list of the ASX.

89. Definitions and Interpretations

For the purposes of Rules 88 to 95:

associate has the same meaning that expression has when used in section 12 of the Corporations Act.

Default Securities means where, in the opinion of the Directors, there has been a contravention of Rule 90(a), voting shares which contribute to the voting power in the Company of a person mentioned in that Rule.

relevant interest and **voting power** have the same meaning as those expressions have when used in the Corporations Act, and are calculated as if the provisions of Chapter 6 of the Corporations Act applied.

Relevant Default Securities means:

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- (a) those Default Securities, which the Directors determine would be sufficient to ensure that, if the Relevant Default Securities were disposed of by the registered holder of the Relevant Default Securities, the voting power in the Company of:
 - (i) the holder;
 - (ii) an associate of the holder; or
 - (iii) a person having a relevant interest in the Relevant Default Securities, would be reduced to an amount not exceeding 10%; and
- (a) voting shares which the Directors have determined under Rule 95(e) are Relevant Default Securities.

A Voting Security ceases to be a Default Security or a Relevant Default Security, as the case may be:

- (b) where a contravention of Rule 90(a) has led to the Voting Security being a Default Security or a Relevant Default Security, as the case may be – when the contravention ceases;
- (c) where the Directors have determined under Rule 95(e) that the Voting Security is a Relevant Default Security – when the person referred to in that Rule complies with the direction referred to in that Rule; or
- (d) in any case – when the Voting Security is disposed of under Rule 94.

Rights means the rights of a member under this Constitution:

- (i) to exercise a vote at any meeting of members;
- (ii) to receive dividends; and
- (iii) to receive a distribution out of the property of the Company, whether as a result of winding up or otherwise.

90. Prohibition on certain acquisitions

- (a) Subject to Rule 91, a person must not acquire a relevant interest in issued voting shares in the Company through a transaction entered into by or on behalf of the person if, because of the transaction, that person's or some else's voting power in the Company would exceed 10%.
- (b) A contravention of Rule 90(a) is deemed to continue for so long as the voting power of a person mentioned in that Rule continues to exceed 10%.

91. Exceptions

Rule 90(a) does not apply to:

- (a) the Company;
- (b) a subsidiary of the Company; or
- (c) the Trustee.

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92. Issue of new securities and transfers

- (a) The Directors shall not issue any voting shares to a person if they are of the opinion that if those voting shares were issued the person would contravene Rule 90(a).
- (b) The Directors shall decline to register any transfer or transmission of any voting shares if they are of the opinion that if that transfer or transmission were registered, a person would contravene Rule 90(a).
- (c) The Directors shall not authorise the issue of any securities of the Company, which, by virtue of any terms or conditions applicable to them, are convertible, or may be converted, into voting shares unless those terms or conditions provide that those securities may not be so converted by their holder if the Directors are of the opinion that such a conversion will result in a person contravening Rule 90(a).
- (d) For the avoidance of doubt, the terms and conditions specified in Rule 92(c) may provide that on conversion of the securities referred to therein, voting shares will be issued to a nominee selected by the Directors, and that the nominee will arrange for the disposal of the voting shares for the benefit of the person to whom the voting shares would otherwise be issued.
- (e) Nothing in this Rule affects the validity of an issue of securities.

93. Suspension of Rights where contravention occurs

- (a) The Rights attaching to each Relevant Default Security are suspended while the security is a Relevant Default Security.
- (b) Dividends or distributions otherwise payable in respect of a Relevant Default Security may be retained by the Company without any liability to pay interest. When the security ceases to be a Relevant Default Security, the amounts retained by the Company must be paid to the person to whom they would have been paid had it not been for suspension under Rule 93(a).
- (c) Where a dividend or distribution is paid by the Company in respect of Default Securities:
 - (i) after the contravention of Rule 90(a) which renders the securities Default Securities; and
 - (ii) before the Directors determine that the securities are Relevant Default Securities,

then, the person to whom the dividend or distribution was paid shall refund that payment to the Company promptly upon notice from the Company requiring that payment to be refunded. The Company has a first and paramount lien on any security (even if fully paid) on which a payment mentioned in this Rule is made and may enforce that lien in the manner specified in Rules 20 to 22.

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- (d) If the Rights attached to a Relevant Default Security have been suspended under Rule 93(a), the Directors must promptly cause a notice to be given to the holder of the Relevant Default Security advising that such suspension has occurred.
- (e) Failure to give, or delay in giving, a notice under Rule 93(d) does not invalidate the suspension of Rights under Rule 93(a).

94. Disposal of securities where contravention occurs

- (a) The Directors may cause a notice to be given to the holder of Relevant Default Securities requiring, within the period specified in the notice (being a period of not less than 30 days), the disposal by the holder of the Relevant Default Securities.
- (b) If the requirements of a notice under Rule 94(a) are not complied with, the Directors may dispose of the Relevant Default Securities specified in the notice, or such lesser number of the Relevant Default Securities as the Directors may determine.
- (c) The following provisions apply if Relevant Default Securities are, or are to be, disposed of under Rule 94(b):
 - (i) The holder of the Relevant Default Securities is deemed to have irrevocably appointed the Company as the holder's agent to sell the securities at the price and on the terms determined by the Secretary and to receive the proceeds of sale on behalf of the holder.
 - (ii) The Secretary may execute on behalf of a holder a transfer of the securities in the manner and form the Secretary considers necessary and to deliver the transfer to the purchaser. The Secretary may take any other action on behalf of the holder as the Secretary considers necessary or desirable to effect the sale and transfer of the securities.
 - (iii) The Company may register a transfer of securities whether or not any certificate for the securities has been delivered to the Company.
 - (iv) If the shares of two or more holders to whom this Rule applies are sold to one purchaser, the transfer may be effected by one transfer.
 - (v) If securities are sold under this Rule, the Company must:
 - (A) within a reasonable time after completion of the sale, inform the former holder of the sale and the total sale proceeds received by the Company; and
 - (B) if any certificate for the securities the subject of the transfer has been received by the Company (or the Company is satisfied that the certificate has been lost or destroyed or that its production is not essential), within 60 days after completion of the sale, cause the proceeds of sale (less the costs and expenses of and incidental to the disposal of the securities) to be sent to the former holder (or, in the case of joint holders, to the holder whose name appeared first in the Register in respect of the joint holding). Payment may

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be made in any manner and by means as determined by the Board and is at the risk of the former holder.

- (vi) A certificate signed by the Secretary stating that securities sold under this Rule have been properly sold discharges the purchaser of those securities from all liability in respect of the purchase of those securities.
- (vii) When a purchaser of securities is registered as the holder of the securities, the purchaser:
 - (A) is not bound to see to the regularity of the actions and proceedings of the Company under this Rule or to the application of the proceeds of sale; and
 - (B) has title to the securities which is not affected by any irregularity or invalidity in the actions and proceedings of the Company.

95. Tracing beneficial ownership of shares

- (a) The Directors may, in respect of voting shares, direct:
 - (i) the registered holder of the voting shares; or
 - (ii) a person named in a previous disclosure under Rule 95(b) as having a relevant interest in, or having given instructions about, the voting shares; to make the disclosure required by Rule 95(b).
- (b) A person given a direction under Rule 95(a) must disclose to the Directors:
 - (i) full details of their own relevant interest in the voting shares and of the circumstances that gave rise to that interest;
 - (ii) the name and address of each other person who has a relevant interest in any of the voting shares together with full details of:
 - (A) the nature and extent of the interest; and
 - (B) the circumstances that gave rise to the other person's interest;
 - (iii) the name and address of each person who has given the person instructions about:
 - (A) the acquisition or disposal of the voting shares; or
 - (B) the exercise of any voting or other rights attached to the voting shares; or
 - (C) any other matter relating to the voting shares or interests, together with full details of those instructions (including the date or dates on which they were given).
- (c) A matter referred to in Rule 95(b)(ii) or 95(b)(iii) need only be disclosed to the extent to which it is known to the person required to make the disclosure.
- (d) The disclosure required by Rule 95(b) must be made within 2 business days after the person is given the direction.

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- (e) Where a person fails to comply with a direction given under Rule 95(a) within the period set out in Rule 95(d), the Directors may determine that the voting shares to which the direction relates are Relevant Default Securities.