

BLAKE DAWSON WALDRON

L A W Y E R S

Constitution of Yackandandah Community Development Company Ltd

ACN 099 899 886

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1. PRELIMINARY

1.1 **Replaceable rules**

The replaceable rules referred to in section 141 do not apply to the Company and are replaced by the rules set out in this document.

1.2 **Definitions**

The following definitions apply in this document.

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

"Alternate" means an alternate Director appointed under rule 3.1.

"Appointor" in relation to an Alternate, means the Director who appointed the Alternate.

"Approved Fees" for a Director (other than an Executive Director) means fees, salary, bonuses, fringe benefits and superannuation contributions provided by the Company, but does not include:

- (a) a payment made as compensation for loss of office or in connection with retirement from office (which includes resignation from office and death while in office);
- (b) an insurance premium paid by the Company or indemnity under rule 10; or
- (c) any issue or acquisition of securities.

"Board" means the Directors acting collectively under this document.

"Called Amount" in respect of a share means:

- (a) the amount of a call on that share which is due and unpaid; and
- (b) any amount the Board requires a member to pay under rule 24.6.

"Company" means the company named at the beginning of this document whatever its name is for the time being.

"Director" means a person who is, for the time being, a director of the Company including, where appropriate, an Alternate.

"dividend" includes bonus.

"Executive Director" means a Director who is an employee of the Company or a subsidiary or acts in an executive capacity for the Company or a subsidiary under a contract for services and includes a Managing Director.

"Interest Rate" means, in respect of each rule in which that term is used:

- (a) the rate for the time being prescribed by the Board in respect of that rule; or
- (b) if no rate is prescribed, 15% each year.

"Managing Director" means a managing director appointed under rule 6.1.

"member" means a person whose name is entered in the Register as the holder of a share.

"ordinary resolution" means a resolution of members other than a special resolution.

See sections 168
and 169

"Register" means the register of members kept as required by sections 168 and 169.

"Secretary" means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this document.

"special resolution" has the meaning given by section 9.

"Voting Member" in relation to a general meeting, or meeting of a class of members, means a member who has the right to be present and to vote on at least 1 item of business to be considered at the meeting.

1.3 Interpretation of this document

Headings and marginal notes are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (iv) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests 1 gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.

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- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
 - (f) The word "agreement" includes an undertaking or other binding arrangement or understanding, whether or not in writing.
 - (g) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
 - (h) A reference to a power is also a reference to authority or discretion.
 - (i) A reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form.
 - (j) A word (other than a word defined in rule 1.2) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.
 - (k) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

2. DIRECTORS

2.1 Number of Directors

The Board may decide the number of Directors (not counting Alternates) but that number must be at least 5.

2.2 Qualification

A person must hold at least 1 share in the Company to be eligible to act as a Director (other than an Alternate). Neither the auditor of the Company for the time being nor any partner or employee of the auditor is eligible to act as a Director.

2.3 Appointment by the Board

Replaces
section 201H

Subject to this document, section 201E and to the number of Directors for the time being fixed under rule 2.1 not being exceeded, the Board may appoint a person to be a Director at any time except during a general meeting. Any Director so appointed:

- (a) automatically retires at the next annual general meeting and is eligible for re-election by that general meeting; and
- (b) is not taken into account in deciding the rotation or retirement of Directors or the number of them to retire under rule 2.6 at that general meeting.

2.4 Election by general meeting

Replaces
section 201G

Subject to this document, section 201E and to the number of Directors for the time being fixed under rule 2.1 not being exceeded, the Company may elect Directors by ordinary resolution. A Director appointed to replace one removed from office under rule 2.10 must

retire when the Director replaced would have been required to retire if not removed and is eligible for re-election.

2.5 Eligible candidates

The Company in general meeting cannot validly elect a person as a Director unless:

- (a) the person retires under rule 2.3, 2.4 or 2.6 and seeks re-election;
- (b) the Board recommends the appointment; or
- (c) at least 30 business days before the meeting at which the relevant resolution will be considered, the Company receives both:
 - (i) a nomination of the person by a member (other than the person); and
 - (ii) a consent to act as a Director signed by the person.

The Company must notify members of every candidate for election as a Director at least 7 days before the relevant general meeting.

2.6 Retirement of Directors

- (a) A Director must retire from office at the third annual general meeting after the Director was elected or last re-elected.
- (b) A Director may elect to retire and seek re-election at an annual general meeting before the time required by rule 2.6(a), provided at least 30 business days (or any other period as the Board may determine) before the annual general meeting the Director has given the Board notice of their intention to do so. If the Director gives such a notice, the Director must then retire from office at the relevant annual general meeting.
- (c) An election of Directors must be held at each annual general meeting. If no election of Directors is scheduled to occur at an annual general meeting under rule 2.3, 2.6(a) or 2.6(b), then 1 Director must retire from office at the annual general meeting.
- (d) None of rules 2.6(a), 2.6(b) and 2.6(c) applies to a Managing Director and Alternates.
- (e) A Director who retires under this rule 2.6 is eligible for re-election.

2.7 Selection of Directors to retire

Subject to rule 2.4, the Directors who retire under rule 2.6 are those who have held office the longest since last being elected or appointed. If 2 or more Directors have been in office for the same period, those Directors may agree which of them will retire. If they do not agree, they must draw lots to decide which of them must retire.

2.8 Time of retirement

A Director's retirement under rule 2.3 or 2.6 takes effect at the end of the relevant annual general meeting unless the Director is re-elected at that meeting.

2.9 Cessation of Director's appointment

A person automatically ceases to be a Director if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a director;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) fails to attend (either personally or by an Alternate) 3 consecutive Board meetings (not including meetings of a committee of the Board) without leave of absence from the Board;
- (e) resigns by notice in writing to the Company;
- (f) is removed from office under rule 2.10; or
- (g) ceases to qualify as a Director under rule 2.2.

Rule 3.9(e)
replaces section
203A

2.10 Removal from office

Whether or not a Director's appointment was expressed to be for a specified period:

- (a) the Company by ordinary resolution; or
- (b) members holding a majority of the issued shares of the Company conferring the right to vote, by writing delivered to the Company,

may remove a Director from office.

The powers to remove a Director under this rule are in addition to section 203D.

2.11 Too few Directors

If the number of Directors is reduced below the minimum required by rule 2.1, the continuing Directors may act as the Board only:

- (a) to appoint Directors up to that minimum number;
- (b) to convene a meeting of members; and
- (c) in emergencies.

3. ALTERNATE DIRECTORS

3.1 Appointment of Alternates

Replaces
section 201K

Subject to rule 2.2, a Director (other than an Alternate) may appoint a person who is approved by the Board (without the vote of the Appointor) to act as Alternate for a specified period or each time the Appointor is unable to attend a Board meeting or act as a Director.

3.2 Notice of Board meetings

If the Appointor requests the Company to give the Alternate notice of Board meetings, the Company must do so. Unless the Appointor has requested it, the Company need not give notice of Board meetings to an Alternate.

3.3 Obligations and entitlements of Alternates

An Alternate:

- (a) may attend and vote in place of the Appointor at a Board meeting at which the Appointor is not present;
- (b) if also a Director, has a separate right to vote as Alternate;
- (c) if Alternate for more than 1 Appointor, has a separate right to vote in place of each Appointor;
- (d) when acting as Alternate, is an officer of the Company and subject to all the duties, and entitled to exercise all the powers and rights, of the Appointor as a Director; and
- (e) is entitled to reasonable travelling, accommodation and other expenses incurred in attending meetings of the Board or of the Company or while otherwise engaged on the business of the Company on the same basis as other Directors but is not entitled to any other remuneration from the Company (but the Appointor may further remunerate the Alternate).

3.4 Termination of appointment

The Appointor may at any time revoke the appointment of a person as an Alternate whether or not that appointment is for a specified period. Any appointment of an Alternate immediately ceases if:

- (a) the Appointor ceases to be a Director; or
- (b) an event occurs which would cause the Alternate to cease to be a Director under rule 2.9 if the Alternate were a Director.

3.5 Appointments and revocations in writing

The Appointor must appoint, and revoke the appointment of, any Alternate in writing. The appointment or revocation is not effective until a copy is provided to the Company.

4. POWERS OF THE BOARD

4.1 Powers generally

Replaces
section 198A

Except as otherwise required by the Act, any other applicable law or this document, the Board:

- (a) has power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the members.

4.2 Exercise of powers

Note section
34AB of the *Acts
Interpretation Act
1901* (Cth)

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule 10; or
- (b) in accordance with a delegation of the power under rule 6, 7 or 24.16.

5. EXECUTING NEGOTIABLE INSTRUMENTS

Replaces
section 198B

The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept, or endorse negotiable instruments only in the manner for the time being decided by the Board.

6. MANAGING DIRECTOR

6.1 Appointment and power of Managing Director

Replaces
section 198C
and 201J

The Board may appoint 1 or more Directors to be a Managing Director either for a specified term (but not for life) or without specifying a term.

The Board may delegate any of the powers of the Board to a Managing Director:

Note section
34AB of the *Acts
Interpretation Act
1901* (Cth)

- (a) on the terms and subject to any restrictions the Board decides; and
 - (b) so as to be concurrent with, or to the exclusion of, the powers of the Board,
- and may revoke the delegation at any time.

This rule does not limit rule 7.

6.2 Retirement and removal of Managing Director

A Managing Director is not:

- (a) subject to automatic retirement under rule 2.3; or
- (b) required to retire under rule 2.6,

but (subject to any contract between the Company and that Managing Director) is otherwise subject to the same rules regarding resignation, removal and retirement from office as the other Directors.

6.3 Termination of appointment of Managing Director

Replaces
section 203F

The appointment of a Managing Director terminates if:

- (a) the Managing Director ceases for any reason to be a Director; or
- (b) the Board removes the Managing Director from the office of Managing Director (which, without affecting the rights of the Managing Director under any contract between the Company and the Managing Director, the Board has power to do),

whether or not the appointment was expressed to be for a specified term.

7. DELEGATION OF BOARD POWERS

7.1 Power to delegate

The Board may delegate any of its powers as permitted by section 198D.

7.2 Power to revoke delegation

The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.

7.3 Terms of delegation

A delegation of powers under rule 7.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms and subject to any restrictions the Board decides.

A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

7.4 Proceedings of committees

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.

8. DIRECTORS' DUTIES AND INTERESTS

8.1 Compliance with duties under the Act

Each Director must comply with sections 180 to 183.

8.2 Director not disqualified from holding other offices etc

A Director is not disqualified by reason only of being a Director from:

Note section
34AB of the Acts
Interpretation Act
1901 (Cth)

-
- (a) holding any office or place of profit or employment other than that of the Company's auditor;
 - (b) being a member or creditor of any corporation (including the Company) or partnership other than the auditor; or
 - (c) entering into any agreement with the Company.

8.3 Disclosure of interests

Each Director must comply with section 191.

8.4 Director interested in a matter

Each Director must comply with section 195 in relation to being present, and voting, at a Board meeting that considers a matter in which the Director has a material personal interest. Subject to section 195:

- (a) a Director may be counted in a quorum at a Board meeting that considers, and may vote on, any matter in which that Director has an interest;
- (b) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may retain benefits under the transaction even though the Director has the interest; and
- (d) the Company cannot avoid the transaction merely because of the existence of the interest.

If the interest is required to be disclosed under section 191, paragraph (c) applies only if it is disclosed before the transaction is entered into.

8.5 Agreements with third parties

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of an interest; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.

8.6 Obligation of secrecy

Every Director and Secretary must keep the transactions and affairs of the Company and the state of its financial reports confidential unless required to disclose them:

- (a) in the course of duties as an officer of the Company;
- (b) by the Board or the Company in general meeting; or
- (c) by law.

The Company may require a Director, Secretary, auditor, trustee, committee member or other person engaged by it to sign a confidentiality undertaking consistent with this rule. A Director or Secretary must do so if required by the Company.

9. DIRECTORS' REMUNERATION

9.1 Remuneration of Executive Directors

Subject to any contract with the Company, the Board may fix the remuneration of each Executive Director. That remuneration may consist of salary, bonuses commission on profits or dividends, participation in profits or any other elements.

9.2 Remuneration of non-executive Directors

The Directors (other than the Executive Directors and those who are Directors only because they are Alternates) are entitled to be paid, out of the funds of the Company, an amount of Approved Fees which:

- (a) does not in any year exceed in aggregate the amount last fixed by ordinary resolution;
- (b) is allocated among them:
 - (i) on an equal basis having regard to the proportion of the relevant year for which each Director held office; or
 - (ii) as otherwise decided by the Board; and
- (c) is provided in the manner the Board decides, which may include provision of non-cash benefits.

If the Board decides to include non-cash benefits in the Approved Fees of a Director, the Board must also decide the manner in which the value of those benefits is to be calculated for the purposes of this rule.

9.3 Additional Remuneration for extra services

If a Director, at the request of the Board and for the purposes of the Company, performs extra services or makes special exertions (including going or living away from the Director's usual residential address), the Company may pay that Director a fixed sum set by the Board for doing so. Remuneration under this rule may be either in addition to or in substitution for any remuneration to which that Director is entitled under rule 9.1 or 9.2.

9.4 Expenses of Directors

The Company must pay a Director (in addition to any remuneration) all reasonable expenses (including travelling and accommodation expenses) incurred by the Director:

- (a) in attending meetings of the Company, the Board, or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out duties as a Director.

9.5 Directors' retirement benefits

Subject to Division 2 of Part 2D.2, the Company may:

- (a) agree with a Director or person about to become a Director that, when or after the person dies or otherwise ceases to be a Director, the Company will pay a pension or lump sum benefit to:
 - (i) that person; or
 - (ii) after that person's death, any of the surviving spouse, dependants or legal personal representatives of that person; or
- (b) pay such a pension or lump sum benefit whether or not the Company has agreed to do so.

10. OFFICERS' INDEMNITY AND INSURANCE

10.1 Indemnity

Subject to and so far as permitted by the Act, the *Trade Practices Act 1974* (Cth) and any other applicable law:

- (a) the Company must, to the extent the person is not otherwise indemnified, indemnify every officer of the Company and its wholly owned subsidiaries and may indemnify its auditor against a Liability incurred as such an officer or auditor to a person (other than the Company or a related body corporate) including a Liability incurred as a result of appointment or nomination by the Company or subsidiary as a trustee or as an officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith; and
- (b) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee or auditor in defending an action for a Liability incurred as such an officer, employee or auditor or in resisting or responding to actions taken by a government agency or a liquidator.

In this rule, "Liability" means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

10.2 Insurance

Subject to the Act and any other applicable law, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

10.3 Former officers

The indemnity in favour of officers under rule 10.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

10.4 Deeds

Subject to the Act, the *Trade Practices Act 1974* (Cth) and any other applicable law, the Company may, without limiting a person's rights under this rule 10, enter into an agreement with a person who is or has been an officer of the Company or any of the Company's subsidiaries, to give effect to the rights of the person under this rule 10 on any terms and conditions that the Board thinks fit.

11. BOARD MEETINGS

11.1 Convening Board meetings

Replaces
section 248C

A Director may at any time, and a Secretary must on request from a Director, convene a Board meeting.

11.2 Notice of Board meeting

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to:
 - (i) each Director who is in Australia; and
 - (ii) each Alternate in respect of whom the Appointor has given notice under rule 3.2 requiring notice of Board meetings to be given to that Alternate or whose Appointor is not given notice due to being outside Australia; and
- (b) may give that notice orally (including by telephone) or in writing,

but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

11.3 Use of technology

A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of 2 or more places, at the place where the chairman of the meeting is located.

11.4 Chairing Board meetings

Replaces
section 248E

The Board may elect a Director to chair its meetings and decide the period for which that Director holds that office. If there is no chairman of Directors or the chairman is not present within 15 minutes after the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

11.5 Quorum

Replaces
section 248F

Unless the Board decides otherwise, the quorum for a Board meeting is 4 Directors and a quorum must be present for the whole meeting. An Alternate who is also a Director or a

person who is an Alternate for more than 1 Appointor may only be counted once toward a quorum. A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending. If a meeting is held in another way permitted by section 248D, the Board must resolve the basis on which Directors are treated as present.

11.6 Majority decisions

Replaces
section 248G

A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. The chairman of a Board meeting does not have a casting vote. If an equal number of votes is cast for and against a resolution, the matter is decided in the negative.

11.7 Procedural rules

The Board may adjourn and, subject to this document, otherwise regulate its meetings as it decides.

11.8 Written resolution

Replaces
section 248A

If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

11.9 Additional provisions concerning written resolutions

For the purpose of rule 11.8:

- (a) 2 or more separate documents in identical terms, each of which is signed by 1 or more Directors, are treated as 1 document;
- (b) signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (c) signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity; and
- (d) a telex, telegram, facsimile or electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

11.10 Valid proceedings

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

12. MEETINGS OF MEMBERS

12.1 Annual general meeting

The Company must hold an annual general meeting as required by section 250N.

12.2 Calling meetings of members

A meeting of members:

- (a) may be convened at any time by the Board or a Director; and
- (b) must be convened by the Board when required by section 249D or 250N or by order made under section 249G.

12.3 Notice of meeting

Subject to rules 12.4 and 12.7, at least 21 days' written notice of a meeting of members must be given individually to:

- (a) each member (whether or not the member is entitled to vote at the meeting);
- (b) each Director (other than an Alternate); and
- (c) to the auditor.

The notice of meeting must comply with section 249L and may be given in any manner permitted by section 249J(3).

12.4 Short notice

Subject to sections 249H(3) and (4):

- (a) if the Company has elected to convene a meeting of members as the annual general meeting, if all the members entitled to attend and vote agree; or
- (b) otherwise, if members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,

a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

12.5 Postponement or cancellation

Subject to sections 249D(5) and 250N, the Board may:

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

by written notice given individually to each person entitled to be given notice of the meeting.

12.6 Fresh notice

Replaces
section 249M

If a meeting of members is postponed or adjourned for 1 month or more, the Company must give new notice of the resumed meeting.

12.7 Notice to joint holders of shares

Replaces
section 249J(2)

If a share is held jointly, the Company need only give notice of a meeting of members (or of its cancellation or postponement) to the joint holder who is named first in the Register.

12.8 Technology

See section 249S

The Company may hold a meeting of members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

12.9 Accidental omission

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of members.

12.10 Class meetings

Rules 12 to 16 apply to a separate meeting of a class of members as far as they are capable of application and modified as necessary.

13. PROCEEDINGS AT MEETINGS OF MEMBERS

13.1 Member present at meeting

If a member has appointed a proxy or attorney or (in the case of a member which is a body corporate) a representative to act at a meeting of members, that member is taken to be present at a meeting at which the proxy, attorney or representative is present.

13.2 Quorum

Replaces
sections 249T(1)
and (2)

Subject to section 249B, the quorum for a meeting of members is 10 Voting Members. Each individual present may only be counted once toward a quorum. If a member has appointed more than 1 proxy or representative only 1 of them may be counted toward a quorum.

13.3 Quorum not present

Replaces
sections 249T(3)
and (4)

If a quorum is not present within 15 minutes after the time for which a meeting of members is called:

- (a) if called as a result of a request of members under section 249D, the meeting is dissolved; and
- (b) in any other case:

-
- (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to members, or if no decision is notified before then, to the same time on the same day in the next week at the same place; and
 - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

13.4 Chairing meetings of members

Replaces
sections
249U(1) to (3)

If the Board has appointed a Director to chair Board meetings, that Director may also chair meetings of members. If:

- (a) there is no Director who the Board has appointed to chair Board meetings for the time being; or
- (b) the Director appointed to chair Board meetings is not present at the time for which a meeting of members is called or is not willing to chair the meeting,

the Voting Members present must elect a member or Director present to chair the meeting.

13.5 Attendance at general meetings

See
section 249V

- (a) Every member has the right to attend all meetings of members whether or not entitled to vote.
- (b) Every Director has the right to attend and speak at all meetings of members whether or not a member.
- (c) The auditor has the right to attend any meeting of members and to speak on any part of the business of the meeting which concerns the auditor in the capacity of auditor.

13.6 Members rights suspended while call unpaid

If a call on a share is due and unpaid, the holding of that share does not entitle the member to be present, speak or vote at, or be counted in the quorum for, a meeting of members.

13.7 Adjournment

Replaces
section 249U(4)

Subject to rule 12.6, the chairman of a meeting of members at which a quorum is present:

- (a) may; and
- (b) must, if directed by ordinary resolution of the meeting,

adjourn it to another time and place.

13.8 Business at adjourned meetings

Replaces
section 249W(2)

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

14. PROXIES, ATTORNEYS AND REPRESENTATIVES

14.1 Appointment of proxies

A member may appoint a proxy to attend and act for the member at a meeting of members. An appointment of proxy must be made by written notice to the Company:

- (a) that complies with section 250A(1); or
- (b) in any other form and mode that is, and is signed or acknowledged by the member in a manner, satisfactory to the Board.

14.2 Member's attorney

A member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of members. If the Appointor is an individual, the power of attorney must be signed in the presence of at least 1 witness.

14.3 Deposit of proxy forms and powers of attorney

An appointment of a proxy or an attorney is not effective for a particular meeting of members unless:

- (a) in the case of a proxy, the proxy form and, if it is executed by an attorney, the relevant power of attorney or a certified copy of it; and
- (b) in the case of an attorney, the power of attorney or a certified copy of it,

is received by the Company at its registered office or a fax number at that office (or another address specified for the purpose in the relevant notice of meeting) at least 48 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the resumption of the meeting.

14.4 Corporate representatives

A member that is a body corporate may appoint an individual to act as its representative at meetings of members as permitted by section 250D.

14.5 Standing appointments

A member may appoint a proxy, attorney or representative to act at a particular meeting of members or make a standing appointment and may revoke any appointment. A proxy, attorney or representative may, but need not, be a member.

14.6 Suspension of proxy or attorney's powers if member present

A proxy or attorney has no power to act for a member at a meeting at which the member is present:

- (a) in the case of an individual, in person; or
- (b) in the case of a body corporate, by representative.

A proxy has no power to act for a member at a meeting at which the member is present by attorney.

14.7 Priority of conflicting appointments of attorney or representative

If more than 1 attorney or representative appointed by a member is present at a meeting of members and the Company has not received notice of revocation of any of the appointments:

- (a) an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
- (b) subject to rule 14.7(a), an attorney or representative appointed under a more recent appointment may act to the exclusion of an attorney or representative appointed earlier in time.

14.8 More than 1 current proxy appointments

An appointment of proxy by a member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that member.

14.9 Continuing authority

Replaces
section 250C(2)

An act done at a meeting of members by a proxy, attorney or representative is valid even if, before the act is done, the appointing member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an insolvent under administration or is wound up;
- (c) revokes the appointment or the authority under which the appointment was made by a third party; or
- (d) transfers the share to which the appointment relates,

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

15. ENTITLEMENT TO VOTE

15.1 Number of votes

Replaces
section 250E(1)

Subject to section 250A(4), rules 13.6, 14, 15.3, 15.4 and 15.5 and terms on which shares are issued, a member:

- (a) on a show of hands has 1 vote; and
- (b) on a poll has 1 vote for every share held.

15.2 Casting vote of chairman

Replaces
section 250E(3)

The chairman of a meeting of members does not have a casting vote. If an equal number of votes is cast for and against a resolution the matter is decided in the negative.

15.3 Votes of joint holders

If more than 1 of the joint holders of a share (including, for the purposes of this rule, joint legal personal representatives of a dead member) are present at a meeting of members and tender a vote in respect of the share, the Company may only count the vote cast by the most senior joint holder who tenders a vote. For this purpose, seniority depends on the order in which the names of the joint holders are listed in the Register.

15.4 Votes of transmittees and guardians

Subject to section 1072C, if the Board is satisfied at least 48 hours before the time fixed for a meeting of members, that a person:

- (a) is entitled to the transmission of a share under rule 29.6(b); or
- (b) has power to manage a member's property under a law relating to the management of property of the mentally incapable,

that person may vote as if registered as the holder of the share and the Company must not count the vote (if any) of the actual registered holder.

15.5 Voting restrictions

If:

- (a) the Act requires that some members are not to vote on a resolution, or that votes cast by some members be disregarded, in order for the resolution to have an intended effect; and
- (b) the notice of the meeting at which the resolution is proposed states that fact,

those members have no right to vote on that resolution and the Company must not count any votes purported to be cast by those members. If a proxy purports to vote in a way or in circumstances that contravene section 250A(4), on a show of hands the vote is invalid and the Company must not count it and on a poll rule 16.3(c) applies.

15.6 Decision on right to vote

A Voting Member or Director may challenge a person's right to vote at a meeting of members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the chairman, whose decision is final.

16. HOW VOTING IS CARRIED OUT

16.1 Method of voting

Replaces
sections 250J(1)
and (2)

A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded under rule 16.2 either before or on declaration of the result of

the vote on a show of hands. Unless a poll is demanded, the chairman's declaration of a decision on a show of hands is final.

16.2 Demand for a poll

See section
250L

A poll may be demanded on any resolution (except a resolution concerning the election of the chairman of a meeting) by:

- (a) at least 5 members entitled to vote on the resolution; or
- (b) members entitled to cast at least 5% of the votes that may be cast on the resolution on a poll (worked out as at the midnight before the poll is demanded); or
- (c) the chairman.

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

16.3 When and how polls must be taken

Replaces
section 250M

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule 16.3(c), in the manner that the chairman of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and, subject to rule 16.3(c), in the manner that the chairman of the meeting directs;
- (c) votes which section 250A(4) requires to be cast in a given way must be treated as cast in that way;
- (d) a person voting who has the right to cast 2 or more votes need not cast all those votes and may cast those votes in different ways; and
- (e) the result of the poll is the resolution of the meeting at which the poll was demanded.

17. SECRETARY

17.1 Appointment of Secretary

See section
204D

The Board:

- (a) must appoint at least 1 individual; and
- (b) may appoint more than 1 individual,

to be a Secretary either for a specified term or without specifying a term.

17.2 Terms and conditions of office

Replaces
section 204F

A Secretary holds office on the terms (including as to remuneration) that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

17.3 Cessation of Secretary's appointment

A person automatically ceases to be a Secretary if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 17.4.

17.4 Removal from office

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

18. MINUTES

18.1 Minutes must be kept

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's members;
- (b) the name of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 7);
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures and notices of Directors' interests,

to be kept in accordance with sections 191, 192 and 251A.

18.2 Minutes as evidence

A minute recorded and signed in accordance with section 251A is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

18.3 Inspection of minute books

The Company must allow members to inspect, and provide copies of, the minute books for the meetings of members in accordance with section 251B.

19. COMPANY SEALS

19.1 Common seal

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2).

19.2 Use of seals

The common seal and duplicate seal (if any) may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 123.

19.3 Fixing seals to documents

The fixing of the common seal, or any duplicate seal, to a document must be witnessed:

- (a) by 2 Directors;
- (b) by 1 Director and 1 Secretary; or
- (c) by any other signatories or in any other way (including the use of facsimile signatures) authorised by the Board.

20. FINANCIAL REPORTS AND AUDIT

20.1 Company must keep financial records

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited,

and must allow a Director and the auditor to inspect those records at all reasonable times.

20.2 Financial reporting

The Board must cause the Company to prepare a financial report and a directors' report that comply with Part 2M.3 and must report to members in accordance with section 314 no later than the deadline set by section 315.

20.3 Audit

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report. The eligibility, appointment, removal, remuneration, rights and duties of the auditor are regulated by sections 324 to 331, 1280 and 1289.

20.4 Conclusive reports

Audited financial reports laid before the Company in general meetings are conclusive except as regards errors notified to the Company within 3 months after the relevant general meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

20.5 Inspection of financial records and books

Subject to rule 18.3 and section 247A, a member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by ordinary resolution.

21. SHARES

21.1 Issue at discretion of Board

Subject to section 259C, the Board may, on behalf of the Company, issue, grant options over or otherwise dispose of, unissued shares to any person on the terms, with the rights, and at the times that the Board decides.

21.2 Brokerage and commissions

The Company may pay brokerage or commissions to a person in respect of that person or another person agreeing to take up shares in the Company.

21.3 Surrender of shares

The Board may accept a surrender of shares:

- (a) to compromise a question as to whether those shares have been validly issued; or
- (b) if surrender is otherwise within the Company's powers.

The Company may sell or re-issue surrendered shares in the same way as forfeited shares.

22. CERTIFICATES

22.1 Issue of share certificate

The Company must issue a certificate of title to shares that complies with section 1070C and deliver it to the holder of those shares in accordance with section 1071H.

22.2 Multiple certificates and joint holders

If a member requests the Company to issue several certificates each for a part of the shares registered in the member's name, the Company must do so. For this purpose, joint

holders of shares are a single member. The Company may issue only 1 certificate that relates to each share registered in the names of 2 or more joint holders and may deliver the certificate to any of those joint holders.

22.3 Lost and worn out certificates

If a certificate:

- (a) is lost or destroyed and the owner of the relevant securities applies in accordance with section 1070D(5), the Company must; or
- (b) is defaced or worn out and is produced to the Company, the Company may, issue a new certificate in its place.

23. REGISTER

23.1 Joint holders

If the Register names 2 or more joint holders of a share, the Company must treat the person named first in the Register in respect of that share as the sole owner of it for all purposes (including the giving of notice) except in relation to:

- (a) delivery of certificates (to which rule 22.2 applies);
- (b) the right to vote (to which rule 15.3 applies);
- (c) the power to give directions as to payment of, or a receipt for, dividends (to which rules 26.7 and 26.8 apply);
- (d) liability for instalments or calls (which, subject to section 1072E(8), is joint and several); and
- (e) transfer.

23.2 Non-beneficial holders

Subject to sections 169(5A) and 1072E, unless otherwise ordered by a court of competent jurisdiction or required by statute, the Company:

- (a) may treat the registered holder of any share as the absolute owner of it; and
- (b) need not recognise any equitable or other claim to or interest in a share by any person except a registered holder.

24. PARTLY PAID SHARES

24.1 Fixed instalments

If a share is issued on terms that some or all of the issue price is payable by instalments, the registered holder of the share must pay every instalment to the Company when due. If the registered holder does not do so, rules 24.6 to 24.15 apply as if the registered holder had failed to pay a call.

24.2 Prepayment of calls

The Board may:

- (a) accept prepayment of some or all of the amount unpaid on a share above the sums actually called as a payment in advance of calls;
- (b) agree:
 - (i) to payment by the Company of interest at a rate no higher than the Interest Rate on that part of the advance payment which for the time being exceeds the aggregate amount of the calls then made on the shares in respect of which it was paid; or
 - (ii) that the amount paid in advance will be taken into account in calculating participation in profit or ascertaining entitlement to surplus on a winding up or other distributions attributable to that share; and
- (c) unless otherwise agreed between the member and the Company, repay the sum or part of it.

24.3 Calls made by Board

Subject to the terms of issue of a share and to any special resolution passed under section 254N, the Board may:

- (a) make calls on a member for some or all of the money unpaid on a share held by that member;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call before the due date for payment,

and must give the relevant member written notice of the call specifying to whom the call must be paid and the time for payment (which must be at least 14 days after the notice is given).

24.4 Classes of shares

The Board may issue shares on terms as to the amount of calls to be paid and the time for payment of those calls which are different as between the holders of those shares. The Board may make different calls on different classes of shares.

24.5 Obligation to pay calls

Subject to section 1072E(8), a member subject to a call must pay the amount of the call to the payee named in the notice of call no later than the time specified in the notice. Joint holders of a share are jointly and severally liable for calls.

24.6 Called Amounts

If a call is not paid on or before the day specified for payment, the Board may require the member liable for the call to pay:

-
- (a) interest on the amount of the call at the Interest Rate from that day until payment is made; and
 - (b) all costs and expenses incurred by the Company because payment was not made on that day.

24.7 Proof of call

If on the hearing of an action for recovery of a Called Amount it is proved that:

- (a) the minute books of the Company record the Board's resolution making the call;
- (b) notice of the call was given under rules 24.3 and 34.1; and
- (c) the person sued appears in the Register as a holder of the share in respect of which the call was made,

proof of those matters is conclusive proof of the debt.

24.8 Forfeiture notice

At any time until a Called Amount is paid, the Board may give the relevant member a notice which:

- (a) requires the member to pay the Called Amount;
- (b) states the Called Amount at the date of the notice;
- (c) specifies how to calculate the Called Amount when payment is made;
- (d) specifies a date at least 14 days after the date of the notice by which and a place at which payment must be made; and
- (e) states that if payment is not made at that place on or before that date, the share to which the call relates is liable to be forfeited.

24.9 Forfeiture

If the requirements of a notice given under rule 24.8 are not satisfied, the Board may forfeit the share in respect of which that notice was given (and all dividends, interest and other money payable in respect of that share and not actually paid before the forfeiture) by resolution passed before the Called Amount is paid.

24.10 Disposal and re-issue of forfeited shares

A share forfeited under rule 24.9 immediately becomes the property of the Company and the Board, on behalf of the Company, may:

- (a) re-issue the share with or without any money paid on it by any former holder credited as paid; or
- (b) sell or otherwise dispose of the share, and execute and register a transfer of it,

to the person and on the terms it decides.

24.11 Notice of forfeiture

The Company must promptly:

- (a) give notice of the forfeiture of a share to the member who held the share immediately before the resolution for forfeiture was passed; and
- (b) enter the forfeiture and its date in the Register.

A written declaration that a share was forfeited on a specified date and notice of forfeiture was given in accordance with this document signed by a Director or Secretary is, in the absence of proof to the contrary, evidence of those facts and of the Company's right to dispose of the share.

24.12 Cancellation of forfeiture

The Board may cancel the forfeiture of a share on any terms at any time before it disposes of that share under rule 24.10.

24.13 Effect of forfeiture

A person who held a share which has been forfeited under rule 24.9 ceases to be a member in respect of that share but remains liable to pay the Called Amount until it is paid in full. The Board may elect not to enforce payment of an amount due to the Company under this rule.

24.14 Application of proceeds

The Company must:

- (a) apply the net proceeds of any re-issue, sale or disposal of a forfeited share under rule 24.10 (after payment of all costs and expenses) to satisfy the Called Amount; and
- (b) pay any surplus to the person who held the share immediately before forfeiture.

24.15 Title of new holder

The title of the new holder of a forfeited share is not affected by any irregularity in the forfeiture or the re-issue, sale or disposal. The sole remedy of any person previously interested in the share is damages which may be recovered only from the Company. The new holder is not liable for the Called Amount.

24.16 Mortgage of uncalled capital

If the Company grants a mortgage or charge over uncalled capital, the Board may delegate its power to make calls to:

- (a) the person in whose favour the mortgage or charge is granted; or
- (b) a trustee or agent for that person,

on the terms and subject to any restrictions the Board decides. If the Board does so, a call made in accordance with the delegation is treated as made by the Board.

This rule does not limit rule 7.

25. COMPANY LIENS

25.1 Existence of liens

Unless the terms of issue provide otherwise, the Company has a first and paramount lien on each share for:

- (a) all money called or payable at a fixed time in respect of that share (including money payable under rule 24.6) whether or not payment is due; and
- (b) amounts for which the Company is indemnified under rule 25.3.

The lien extends to all dividends payable in respect of the share and to proceeds of sale of the share.

25.2 Sale under lien

If:

- (a) the Company has a lien on a share;
- (b) an amount secured by the lien is due and payable;
- (c) the Company has given notice to the member registered as the holder of the share:
 - (i) requiring payment of the amount which is due and payable and secured by the lien;
 - (ii) stating the amount due and payable at the date of the notice;
 - (iii) specifying how to calculate the amount due when payment is made; and
 - (iv) specifying a date (at least 14 days after the date of the notice) by which and a place at which payment of that amount must be made; and
- (d) the requirements of the notice given under paragraph (c) are not fulfilled,

the Company may sell the share as if it had been forfeited under rule 24.9. Rules 24.10, 24.14 and 24.15 apply, to the extent practical and modified as necessary, as if the Called Amount in respect of that share were the aggregate of the amount referred to in paragraph (b) and the costs and expenses incurred by the Company because the amount was not paid when due.

25.3 Indemnity for payments required to be made by the Company

If the law of any jurisdiction imposes or purports to impose any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, on account of a member or referable to a

share held by that member (whether alone or jointly) or a dividend or other amount payable in respect of a share held by that member, the Company:

- (a) is fully indemnified by that member from that liability;
- (b) may recover as a debt due from the member the amount of that liability together with interest at the Interest Rate from the date of payment by the Company to the date of repayment by the member; and
- (c) may refuse to register a transfer of any share by that member until the debt has been paid to the Company.

Paragraph (c)
replaces section
1072F(3)(b)

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

26. DIVIDENDS

26.1 Accumulation of reserves

Before:

- (a) paying any dividend to members; or
- (b) distributing any profits of the Company under rule 27.1,

the Board may:

- (c) set aside out of profits of the Company reserves to be applied, in the Board's discretion, for any purpose it decides and use any sum so set aside in the business of the Company or invest it in investments selected by the Board and vary and deal with those investments as it decides; or
- (d) carry forward any amount out of profits which the Board decides not to distribute without transferring that amount to a reserve; or
- (e) do both.

26.2 Dividends must be paid out of profits

The Company must not pay a dividend except out of profits of the Company (including profits previously set aside as a reserve). The Company does not incur a debt merely by fixing the amount or time for payment of a dividend. A debt arises only when the time fixed for payment arrives. The decision to pay a dividend may be revoked by the Board at any time before then. A resolution of the Board as to the amount of the Company's profits and the amount of them available for dividend is conclusive.

26.3 Payment of dividends

Subject to the Act, rules 26.2, 26.4, and 26.9, and the terms of issue of shares, the Board may resolve to pay any dividend it thinks appropriate and fix the time for payment provided that the total amount of dividends paid to members in a financial year must not

exceed 50% of the profits (including profits previously set aside as a reserve) of the Company.

26.4 Amount of dividend

Subject to the terms of issue of shares and this document, the Company may pay a dividend on 1 class of shares to the exclusion of another class. Subject to rule 26.5, each share of a class on which the Board resolves to pay a dividend carries the right to participate in the dividend in the same proportion that the amount for the time being paid on the share bears to the total issue price of the share.

26.5 Prepayments and payments during dividend period

For the purposes of rule 26.4:

- (a) an amount paid in advance of calls is not taken into account as part of the amount for the time being paid on a share; and
- (b) if an amount was paid on a share during the period to which a dividend relates, the Board may resolve that only the proportion of that amount which is the same as the proportion which the period from the date of payment to the end of the period to which the dividend relates bears to the total period to which the dividend relates, counts as part of the amount for the time being paid on the share.

26.6 Dividends in kind

The Board may resolve to pay a dividend (either generally or to specific members) in cash or satisfy it by distribution of specific assets (including shares or securities of any other corporation), the issue of shares or the grant of options. If the Board satisfies a dividend by distribution of assets, the Board may:

- (a) fix the value of any asset distributed;
- (b) make cash payments to members on the basis of the value fixed so as to adjust the rights of members between themselves; and
- (c) vest an asset in trustees.

26.7 Method of payment

The Company may pay any cash dividend, interest or other money payable in respect of shares by cheque sent, and may distribute assets by sending the certificates or other evidence of title to them, through the post directed to:

- (a) the address of the member (or in the case of a jointly held share, the address of the joint holder named first in the Register); or
- (b) to any other address the member (or in the case of a jointly held share, all the joint holders) directs in writing,

or by any other method of payment or distribution the Board decides.

26.8 Joint holders' receipt

Any one of the joint holders of a share may give an effective receipt for any dividend, interest or other money payable in relation to that share.

26.9 Retention of dividends by Company

The Company may retain the dividend payable on a share:

- (a) of which a person seeks to be registered as the holder under rule 31.2 or 31.3, until that person is registered as the holder of that share or transfers it; or
- (b) on which the Company has a lien, to satisfy the liabilities in respect of which the lien exists.

26.10 No interest on dividends

No member may claim, and the Company must not pay, interest on a dividend (either in money or kind).

27. COMMUNITY COMMITMENT

27.1 Authority to distribute funds

The Board may resolve to distribute (in any manner determined by the Board, including by way of gift or loan, and on any conditions) an amount not exceeding 50% of the profits (including profits previously set aside as a reserve) of the Company in a financial year to a person or persons.

27.2 Community Commitment

The Board must only exercise its powers under rule 27.1 in accordance with each of the following principles:

- (a) a distribution must at the time of the resolution to make the distribution reasonably be intended to benefit the economic, social or cultural condition of the Yackandandah community or its surrounding areas; and
- (b) a distribution cannot be to a person in respect of whom a Director (including a person who was a Director at any time in the 2 years before the proposed distribution):
 - (i) is a spouse, de facto, child, parent, or sibling;
 - (ii) has a material personal or commercial relationship; or
 - (iii) if the person is a not for profit body corporate – is a director, officer or significant shareholder of the person, or a director, officer or significant shareholder of a related body corporate of the person.

28. SHARE PLANS

28.1 Implementing share plans

The Company in general meeting may by ordinary resolution authorise the Board to implement one or more of:

- (a) a re-investment plan under which any dividend or other cash payment in respect of a share or convertible security may, at the election of the person entitled to it, be:
 - (i) retained by the Company and applied in payment for fully paid shares issued under the plan; and
 - (ii) treated as having been paid to the person entitled and simultaneously repaid by that person to the Company to be held by it and applied in accordance with the plan;
- (b) any other plan under which members or security holders may elect that dividends or other cash payments in respect of shares or other securities:
 - (i) be satisfied by the issue of shares or other securities of the Company or a related body corporate, or that issues of shares or other securities of the Company or a related body corporate be made in place of dividends or other cash payments;
 - (ii) be paid out of a particular reserve or out of profits derived from a particular source; or
 - (iii) be forgone in consideration of another form of distribution from the Company, another body corporate or a trust; or
- (c) a plan under which shares or other securities of the Company or a related body corporate may be issued or otherwise provided for the benefit of employees or Directors of the Company or any of its related bodies corporate.

28.2 Board obligations and discretions

The Board:

- (a) must do everything necessary or desirable to give effect to a plan implemented under rule 28.1 and the rules governing it; and
 - (b) may:
 - (i) vary the rules governing; or
 - (ii) suspend or terminate the operation of,
- a plan implemented under rule 28.1 as it thinks appropriate.

29. TRANSFER OF SHARES

29.1 Modes of transfer

Subject to this rule 29.3, a member may transfer a share:

- (a) by a document the form of which is permitted by law and which is signed by or on behalf of both the transferor and the transferee; and
- (b) at a price which is equal, to the Transfer Price.

The Company must not register a transfer that does not comply with this rule.

29.2 Transfer price

For the purpose of rule 29.1, the price of a share transferred under this rule (“Transfer Price”) is the net asset backing attributed to the share calculated by reference to the most recent audited or reviewed financial statement of the Company for a financial year or a half year.

29.3 Delivery of transfer and certificate

A document of transfer under rule 29.1 must be:

- (a) delivered to the registered office of the Company or the address of the Register last notified to members by the Company;
- (b) accompanied by the certificate (if any) for the shares to be transferred or evidence satisfactory to the Board of its loss or destruction; and
- (c) marked with payment of any stamp duty payable.

Property in and title to a document of transfer that is delivered to the Company (but not the shares to which it relates) passes to the Company on delivery.

29.4 Refusal to register transfer

The Board, without giving any reason, may refuse to register a transfer of shares and, subject to section 259C, must not register a transfer to a subsidiary of the Company. If the Board refuses to register a transfer, the Company must give the transferee notice of the refusal within 2 months after the date on which the transfer was delivered to it.

29.5 Transferor remains holder until transfer registered

The transferor of a share remains the holder of it until the transfer is registered and the name of the transferee is entered in the Register in respect of it.

29.6 Powers of attorney

The Company may assume, as against a member, that a power of attorney granted by that member that is lodged with or produced or exhibited to the Company remains in force, and may rely on it, until the Company receives express notice in writing at its registered office of:

-
- (a) the revocation of the power of attorney; or
 - (b) the death, dissolution or insolvency of the member.

30. SHAREHOLDING LIMIT

30.1 Application

This rule 30 applies despite anything else in this document.

30.2 Definitions

In this rule 30:

- (a) a person will be taken to own a Voting Share if, and only if:
 - (i) that person has a relevant interest in the Voting Share; or
 - (ii) an associate of that person has such a relevant interest in the Voting Share;
- (b) "associate" in relation to a person (the "primary person") means:
 - (i) if the primary person is a body corporate, a person who in relation to that body corporate is a person mentioned in section 11(a), 11(b) or 11(c) of the Corporations Act;
 - (ii) if the primary person is a body corporate:
 - (A) a body corporate the primary person controls; or
 - (B) a body corporate that controls the primary person; or
 - (C) a body corporate that is controlled by an entity that controls the primary person;
 - (iii) the person is a person with whom the primary person has, or proposes to enter into, a relevant agreement for the purpose of controlling or influencing the composition of the Company's board or the conduct of the Company's affairs; or
 - (iv) the person is a person with whom the primary person is acting, or proposing to act, in concert in relation to the Company's affairs;
- (c) a person acquires Voting Shares in the Company if, and only if:
 - (i) the person acquires a relevant interest in those Voting Shares as a result of a transaction entered into by or on behalf of the person in relation to those Voting Shares, in relation to any other securities of the Company or in relation to securities of any other body corporate; or
 - (ii) the person acquires any legal or equitable interest in the securities of the Company or in securities of any other body corporate and, as a result of the

acquisition, another person acquires a relevant interest in those Voting Shares;

- (d) a person disposes of Voting Shares if, and only if, having a relevant interest in those Voting Shares, the person ceases to have a relevant interest in those Voting Shares;
- (e) "person" does not include the Company or a subsidiary of the Company;
- (f) a reference to the formation by the Board of an opinion or a belief is a reference to an opinion or belief, as the case may be, formed by a simple majority of the Directors in their absolute discretion present and voting at a meeting of directors. The Directors are not obliged to provide to any person any reason or grounds for any such opinion or belief; and
- (g) "Voting Share" means a share in the capital of the Company that is a "voting share" for the purposes of the Act.

30.3 No more than 10% of Voting Shares

- (a) A person must not own more than 10% of the Voting Shares.
- (b) A person must not acquire any Voting Shares if any person would, immediately after the acquisition, own more than 10% of the Voting Shares.
- (c) The Board must not issue any unissued Voting Shares if they are of the opinion that if those Voting Shares were issued a person would contravene rule 30.3(a).
- (d) Subject to the Corporations Act, the Board will decline to register any transfer or transmission of Voting Shares if they are of the opinion that if the transfer or transmission were registered a person would contravene rule 30.3(a).
- (e) The Board must not authorise the issue or allotment of any securities of the Company convertible which are convertible or may be converted into Voting Shares unless the terms or conditions of issue provide that those securities may not be so converted by their holder if the Board is of the opinion that such a conversion will result in a person contravening rule 30.3(a).
- (f) A person who contravenes rule 30.3(a), and any person believed by the Board to be a member in respect of any Voting Share owned by the first mentioned person, does not, while the contravention continues, have any right:
 - (i) to vote any Voting Share owned by that person at any general meeting of the Company. At any general meeting:
 - (A) a ruling by the chairman that a person does not have a right to vote for the reason set out in this paragraph will be final and binding on the person concerned; and
 - (B) no resolution will be invalid by reason only that it is found later that a person voted on that resolution when that person did not have a

right to vote at that meeting for the reasons set out in this paragraph; and

- (ii) to dividend or other distribution by the Company (including any distribution on a winding up of the Company) under this document in relation to any Voting Shares owned by that person.
- (g) a member who is paid a distribution by the Company to which a person is not entitled under paragraph (f)(ii) unless the Board believe that such a members was not aware that such person contravened rule 30.3(a) must refund that payment to the Company promptly on notice from the Company requiring that payment be refunded. The Company has a first and paramount lien on any Voting Share (even if fully paid) on which a payment mentioned in this paragraph is made and may enforce that lien in the manner specified in rule 25.

30.4 Directors may require disposition

- (a) If the Board is of the opinion that a person (in this rule 30.4 the "owner") contravenes rule 30.3(a), the Board may cause a notice to be given to any person believed by the Board to be a member in respect of any Voting Share owned by the owner, requiring the disposal, within a period of not less than 28 days specified in the notice, of such number of Voting Shares as the notice may specify or, if the notice does not specify a number, so many of the Voting Shares held by that member as the Board may consider necessary to ensure that, after that disposal, the owner will not contravene rule 30.3(a).
- (b) If the requirements of a notice given under rule 30.4(a) are not complied with, the Company may sell, in such manner and on such terms as the Board in its absolute discretion determines, the number of Voting Shares specified in the notice or, if the notice did not specify a number, so many of the Voting Shares owned by the owner as the Board may consider necessary to ensure that, after that sale, the owner will not contravene rule 30.3(a), and a transfer of any such Voting Shares signed by a Director for the purposes of giving effect to the sale shall be as valid and effectual as if signed by the member in respect of the Voting Shares.
- (c) The Company may receive and give a good discharge for the proceeds of a sale under rule 30.4(b), may pay or recoup out of those proceeds all costs and expenses of or incidental to the sale and shall pay the net amount to the person (the "former member") who immediately before the sale was the member in respect of the Voting Shares sold.
- (d) The Company will not be bound to see to the application of the net amount paid to the former member under rule 30.4(c) and that amount may be paid by cheque posted to the former member at his address appearing in the register.
- (e) The omission to give a notice to a person under rule 30.4(a) will not affect the validity of a notice given to another person in respect of a Voting Share owned by the owner.

31. TRANSMISSION OF SHARES

31.1 Death of joint holder

The Company must recognise only the surviving joint holders as being entitled to shares registered jointly in the names of a deceased member and others. The estate of the deceased joint holder is not released from any liability in respect of the shares.

31.2 Death of single holder

The Company must not recognise anyone except the legal personal representative of the deceased member as having any title to shares registered in the sole name of a deceased member. If the personal representative gives the Board the documents described in section 1071B(9) or 1071B(13) or other information that satisfies the Board of the representative's entitlement to be registered as holder of the shares:

- (a) subject to rules 29.4 and 31.4 the Company must register the personal representative as the holder of the shares as soon as practical after receipt of a written and signed notice to the Company from the representative requiring it to do so; and
- (b) whether or not registered as the holder of the shares, the personal representative:
 - (i) may, subject to rule 29, transfer the shares to another person; and
 - (ii) has the same rights as the deceased member.

31.3 Transmission of shares on insolvency or mental incapacity

Subject to the *Bankruptcy Act* 1966, if a person entitled to shares because of the insolvency or mental incapacity of a member gives the Board the information it reasonably requires to establish the person's entitlement to be registered as holder of the shares:

- (a) subject to rules 29.4 and 31.4 the Company must register that person as the holder of the shares as soon as practical after receipt of a written and signed notice to the Company from that person requiring it to do so; and
- (b) whether or not registered as the holder of the shares, that person:
 - (i) may, subject to rule 29, transfer the shares to another person; and
 - (ii) has the same rights as the insolvent or incapable member.

If section 1072C applies, this rule is supplemental to it.

31.4 Refusal to register holder

The Company has the same right to refuse to register a personal representative or person entitled to shares on the insolvency or mental incapacity of a member as it would have if that person were the transferee named in a transfer signed by a living, solvent, competent member.

32. ALTERATION OF SHARE CAPITAL

32.1 Capitalisation of profits

The Company may capitalise profits, reserves or other amounts available for distribution to members. Subject to the terms of issue of shares, members are entitled to participate in a capital distribution in the same proportions in which they are entitled to participate in dividends.

32.2 Adjustment of capitalised amounts

The Board may settle any difficulty that arises in regard to a capitalisation of profits as it thinks appropriate and necessary to adjust the rights of members among themselves, including:

- (a) fix the value of specific assets;
- (b) issue fractional certificates;
- (c) make cash payments to members on the basis of the value fixed for assets or in place of fractional entitlements so as to adjust the rights of members between themselves;
- (d) disregard fractional entitlements; and
- (e) vest cash or specific assets in trustees.

32.3 Conversion of shares

Subject to Part 2H.1 and rules 1.1 and 32.6, the Company may convert:

- (a) shares into a larger or smaller number of shares;
- (b) an ordinary share into a preference share; and
- (c) a preference share into an ordinary share,

by resolution passed at a meeting of members.

32.4 Adjustments on conversion

The Board may do anything it thinks appropriate and necessary to give effect to a resolution converting shares including, if a member becomes entitled to a fraction of a share as a result of the conversion:

- (a) issue fractional certificates;
- (b) make cash payments to members or disregard fractional entitlements so as to adjust the rights of members between themselves; or
- (c) vest fractional entitlements in a trustee.

32.5 Reduction of capital

The Company may reduce its share capital:

- (a) by reduction of capital in accordance with Division 1 of Part 2J.1;
- (b) by buying back shares in accordance with Division 2 of Part 2J.1;
- (c) in the ways permitted by sections 258E and 258F; or
- (d) in any other way for the time being permitted by the Act.

32.6 Variation of rights

If the Company issues different classes of shares, or divides issued shares into different classes, the rights attached to shares in any class may (subject to sections 246C and 246D) be varied or cancelled only:

- (a) with the written consent of the holders of 75% of the issued shares of the affected class; or
- (b) by special resolution passed at a separate meeting of the holders of the issued shares of the affected class.

Subject to the terms of issue of shares, the rights attached to a class of shares are not treated as varied by the issue of further shares of that class.

33. WINDING UP

33.1 Entitlement of members

Subject to the terms of issue of shares and this rule 33, the surplus assets of the Company remaining after payment of its debts are divisible among the members in proportion to the number of fully paid shares held by them and, for this purpose, a partly paid share is counted as a fraction of a fully paid share equal to the proportion which the amount paid on it bears to the total issue price of the share.

33.2 Distribution of assets generally

If the Company is wound up, the liquidator may, with the sanction of a special resolution:

- (a) divide the assets of the Company among the members in kind;
- (b) for that purpose fix the value of assets and decide how the division is to be carried out as between the members and different classes of members; and
- (c) vest assets of the Company in trustees on any trusts for the benefit of the members as the liquidator thinks appropriate.

33.3 No distribution of liabilities

The liquidator cannot compel a member to accept marketable securities in respect of which there is a liability as part of a distribution of assets of the Company.

33.4 Distribution not in accordance with legal rights

If the liquidator decides on a division or vesting of assets of the Company under rule 33.2 which does not accord with the legal rights of the contributories, any contributory who would be prejudiced by it may dissent and has ancillary rights as if that decision were a special resolution passed under section 507.

34. NOTICES

34.1 Notices by Company

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered personally;
 - (ii) sent by prepaid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (iii) sent by fax to the fax number (if any) nominated by that person; or
 - (iv) sent by electronic message to the electronic address (if any) nominated by that person.

34.2 Overseas members

A member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

34.3 When notice is given

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally or sent by fax or electronic message:
 - (i) by 5.00 pm (local time in the place of receipt) on a business day - on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day; and
- (b) if it is sent by mail:
 - (i) within Australia - 1 business day after posting; or
 - (ii) to a place outside Australia - 3 business days after posting.

A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

34.4 Business days

For the purposes of rule 34.3, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

34.5 Notice to joint holders

Notice to joint holders of shares must be given to the joint member named first in the Register. Every person who becomes entitled to a share is bound by every notice in respect of that share that was properly given to a person registered as the holder the share before the transfer or transmission of the share was entered in the Register.

34.6 Counting days

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

34.7 Notices to "lost" members

If:

- (a) on 2 or more consecutive occasions a notice served on a member in accordance with this rule is returned unclaimed or with an indication that the member is not known at the address to which it was sent; or
- (b) the Board believes on other reasonable grounds that a member is not at the address shown in the Register or notified to the Company under rule 34.2,

the Company may give effective notice to that member by exhibiting the notice at the Company's registered office for at least 48 hours.

This rule ceases to apply if the member gives the Company notice of a new address.

35. UNCLAIMED MONEY

The Company must deal with unclaimed dividends and distributions and unclaimed proceeds of shares sold or reissued under this document in accordance with the law relating to unclaimed money in the Company's jurisdiction of registration.