

**Constitution
of
Australia and New Zealand Banking
Group Limited**

ACN 005 357 522

*Constitution adopted by the Company's Shareholder by
Special Resolution dated 10 November 2023*

Corporate Governance
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CONSTITUTION OF
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
ACN 005 357 522

1. PRELIMINARY

1.1 Public company

The Company is a public company limited by shares.

1.2 Replaceable rules

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

1.3 Definitions

The following definitions apply in this document.

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

"**Alternate**" means an alternate Director appointed under rule 4.2.

"**Appointor**" in relation to an Alternate, means the Director who appoints that Alternate.

"**applicable law**" includes the Act, the Banking Act, the Listing Rules and any regulatory requirement or standard made in accordance with such legislation applicable to the Company.

"**ASX**" means ASX Limited (ABN 98 008 624 691).

"**ASX Settlement Operating Rules**" means the operating rules of ASX Settlement Pty Limited (ABN 49 008 504 532) and, to the extent they are applicable, the operating rules of each of ASX and ASX Clear Pty Limited (ABN 48 001 314 503).

"**Banking Act**" means the Banking Act 1959 (Cth).

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

"**business day**" has the meaning given by the Listing Rules.

"**Company**" means Australia and New Zealand Banking Group Limited (ACN 005 357 522), 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 a bonus.

"Listing Rules" means the listing rules of the ASX, as they apply to the Company or to the Ultimate Holding Company (as relevant) for the time being, as waived or modified in respect of that company in any particular case.

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

"Non-marketable Parcel" means a parcel of shares of a single class registered in the same name or the same joint names which is less than:

- (a) the number that constitutes a marketable parcel of shares of that class under the Listing Rules; or
- (b) subject to the Act, the Listing Rules and the ASX Settlement Operating Rules, any other number determined by the Board from time to time.

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

"Register" means the register of members kept as required by the Act.

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

"related body corporate" has the meaning given by the Act.

"special resolution" has the meaning given by the Act.

"Ultimate Holding Company" means the ultimate holding company of the Company within the meaning of the Act.

1.4 Interpretation of this document

Headings 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*) or the Listing Rules or the ASX Settlement Operating Rules is to that legislation or those rules as:
 - (A) amended, modified or waived in relation to the Company; or
 - (B) re-enacted, amended or replaced,and includes any subordinate legislation or rules issued under that legislation or those rules;
 - (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;

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- (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.
 - (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 reference to a "document", or something being "**written**" or "**in writing**" or "**printed**", includes a document capable of being, or that thing being:
 - (i) represented or reproduced in any mode in a visible form (*including electronically*); or
 - (ii) communicated in any other manner approved by the Board from time to time.
 - (h) A reference to a document being 'signed' or to 'signature' includes that document being executed under hand or under seal or by any other method and, in the case of a communication in electronic form, includes the document being authenticated in accordance with the Act or any other method approved by the Board.
 - (i) Where:
 - (i) an expression in a rule deals with a matter which is dealt with by a provision of the Act, the Banking Act, the Listing Rules or the ASX Settlement Operating Rules, that expression has the same meaning in this document as in that provision; and
 - (ii) subject to paragraph (i), an expression in a rule that is defined in section 9 of the Act has the same meaning in this document as in that section.

1.5 Single member Company

If at any time the Company has only one member then, unless the contrary intention appears:

- (a) a reference in a rule to 'the members' is a reference to that member;
- (b) a rule which confers a power or imposes an obligation on the members to do a particular thing confers that power or imposes that obligation on that member; and

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- (c) the Company may pass a resolution by the member recording it and signing the record in accordance with rule 12.

2. LISTING RULES AND THE CORPORATIONS ACT

If, and to the extent the Listing Rules, or the Act, are applicable and are inconsistent with this document, the Listing Rules or the Act (as applicable) prevail.

3. DIRECTORS

3.1 Number of Directors

The Board may decide the number of Directors (*not counting Alternates*) not exceeding 10 or any other number the Ultimate Holding Company determines. The Company must have at least 5 Directors (*not counting Alternates*).

3.2 Appointment and removal of Directors

- (a) By notice to the Company, the Ultimate Holding Company may:
 - (i) subject to the maximum number of Directors for the time being fixed under rule 3.1 not being exceeded, appoint a person to be a Director either to fill a casual vacancy or as an addition to the Board; and
 - (ii) remove a Director from office, whether or not that Director's appointment was expressed to be for a specified period.
- (b) Despite anything else in this rule 3.2, if a person is appointed as a Director and the person is not permitted under applicable law to be or act as a Director on the date of their appointment, the person starts to hold office as a Director only upon the person becoming, within 90 days after the date of their election (or such longer period as the Board may allow having regard to any requirements of the Australian Prudential Regulation Authority or other relevant regulator), permitted by applicable law to be and act as a Director. Otherwise, that person is treated as never having been appointed.
- (c) A person who is prohibited from being or acting as an "accountable person", or who is disqualified from being a Director, under the Banking Act is taken not to be permitted under applicable law to be or act as a Director unless and until the person is permitted under the Banking Act to be and act as an accountable person or ceases to be so disqualified, as the case may be.

3.3 No share qualification

A Director need not be a member.

3.4 Cessation of Director's appointment

The office of a Director automatically becomes vacant if the person who holds the office:

- (a) becomes an insolvent under administration;

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- (b) is not permitted by applicable law (including an order made under the Act) to be a director or vacates office by force of applicable law;
 - (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; or
 - (f) is removed from office under rule 3.2,

or if the person was appointed to the office for a specified period and that period expires.

3.5 Too few Directors

If the number of Directors is reduced below the minimum required by rule 3.1, the continuing Directors may only act as the Board:

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

4. ALTERNATES

4.1 Notice of Board meetings

The Company must give the Alternate notice of Board meetings or meetings of a committee of the Board only if the Appointor requests it to do so.

4.2 Appointment and removal of Alternate

A Director (*other than an Alternate*):

- (a) may appoint a person approved by the Ultimate Holding Company to act as Alternate for a specified period or each time the Appointor is unable to attend a Board meeting or a meeting of the committee of the Board or act as a Director; and
- (b) may revoke the appointment whether or not that appointment is for a specified period; and
- (c) must revoke the appointment if requested to do so by the Ultimate Holding Company.

An appointment or revocation of an appointment of any Alternate must be made in writing. The appointment or revocation is not effective until a copy is provided to the Company.

Any appointment of an Alternate made by the Appointor immediately ceases if:

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- (d) the Appointor ceases to be a Director; or
 - (e) an event occurs which would cause the Alternate to vacate office under rule 3.4 if the Alternate were a Director.

4.3 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, hotel and other expenses incurred in attending meetings of the Company of the Board or of committees of the Board 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).

5. POWERS OF THE BOARD

5.1 Powers generally

Except as otherwise required by applicable law, the business and affairs of the Company are to be managed by or under the direction of the Board, which (in addition to the powers and authorities conferred on it by this constitution) may exercise all powers and do all things that are:

- (a) within the power of the Company; and
- (b) not by this constitution or by applicable law directed or required to be done by the Company in general meeting.

5.2 Exercise of powers

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.

5.3 Acting in interests of holding company

Subject to and so far as may be permitted under applicable law, each Director is authorised to act in the best interests of any holding company of the Company.

5.4 Executing negotiable instruments

The Board may decide the manner by which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company.

6. DELEGATION OF BOARD POWERS

6.1 Delegation

The Board may delegate any of its powers as permitted by the Act, including:

- (a) to a Director;
- (b) to a committee (which need not include a Director);
- (c) to any other person or persons; or
- (d) to an attorney,

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

6.2 Terms of delegation

A delegation of powers under rule 6.1 may be made:

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

Power exercised in accordance with a delegation of the Board is treated as exercised by the Board.

6.3 Powers of attorney

A power of attorney granted under rule 6.1 may contain any provisions for the protection and convenience of those who deal with the attorney that the Board thinks appropriate.

6.4 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, so far as they can be (*modified as necessary*), governed by the rules of this document which regulate the meetings and proceedings of the Board.

7. DIRECTOR'S DUTIES AND INTERESTS

7.1 Compliance with law

Each Director must comply with their duties under the Act and under the general law.

7.2 Scope of Directors' duties

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

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

7.3 Declaration of interests

- (a) Each Director must comply with the Act in relation to of disclosure of interests.
- (b) The Board may make regulations requiring the disclosure of interests that a Director, and any person deemed by the Board to be related to or associated with the Director, may have in any matter concerning the Company or a related body corporate. Any regulations made under this constitution bind all Directors.
- (c) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any regulation made under rule 7.3(b).

7.4 Director interested in a matter

Each Director must comply with the Act in relation to not being present, or voting, at a Board meeting that considers a matter in which the Director has a material personal interest. Subject to the Act:

- (a) the Director may be counted in a quorum at a Board meeting that considers, and may vote on:
 - (i) any matter in which the Director has an interest; and
 - (ii) without limiting subparagraph (i), whether the Company enters into an agreement or proposed agreement in which that Director has an interest;
- (b) the Company may enter into the agreement and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may be counted in a quorum at a Board meeting that considers, and may vote on, matters involving the agreement; and

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- (d) if any disclosure required under the Act is made before the agreement is entered into:
 - (i) the Director may retain benefits under the agreement even though the Director has an interest in the agreement; and
 - (ii) the Company cannot avoid the agreement merely because of the existence of the Director's interest.

7.5 Agreements with third parties

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

- (a) fails to disclose an interest required under the Act; or
- (b) is present at, or is counted in a quorum for, a meeting that considers, votes on, or participates in the execution of, that agreement in breach of the Act.

7.6 Obligation of secrecy

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

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

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.

8. DIRECTORS' REMUNERATION

8.1 Remuneration of Executive Directors

Subject to any contract with the Company and to applicable law, the Board may fix the remuneration of each Executive Director. That remuneration may consist of salary, bonuses or any other elements but must not be a commission on or percentage of profits or operating revenue.

8.2 Remuneration of non-executive Directors

- (a) Subject to any contract between a Director and the Company, or the Ultimate Holding Company, and to the Listing Rules, the Board may subject to the consent of the Ultimate Holding Company fix each Director's remuneration, but if the Ultimate Holding Company in general meeting has fixed a limit on the amount of remuneration payable to the Directors, the total remuneration of the Directors under this rule 8.2 must not exceed that limit.

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- (b) The remuneration of Directors may consist of salary, bonuses, commission on profits or dividends, participation in profits, or any other elements but must not consist of a commission on, or percentage of, profits or operating revenue.
 - (c) If the Board decides to include non cash benefits in a Director's Remuneration, the Board must also decide the manner in which the value of those benefits is to be calculated for the purposes of this rule.
 - (d) The Remuneration of a Director is taken to accrue from day to day, except that Remuneration in the form of a non-cash benefit is taken to accrue at the time that the benefit is provided to the Director, subject to the terms on which the benefit is provided.

8.3 **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 rules 8.1 or 8.2.

8.4 **Expenses of Directors**

The Company may 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.

8.5 **Directors' retirement benefits**

Subject to the Act, the Company may:

- (a) agree with a Director or person about to become a Director that, when or after the person dies or 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 a pension or lump sum benefit of the type referred to in paragraph (a) whether or not the Company has agreed to do so.

9. OFFICERS' INDEMNITY AND INSURANCE

9.1 Indemnity

Subject to and so far as permitted by the Act, the *Competition and Consumer Act 2010* (Cth) and any other applicable law, the Company may:

- (a) indemnify any officer or employee of the Company or any of its related bodies corporate, or its auditor, against any Liability incurred as such an officer, employee or auditor to a person (other than the Company or a related body corporate, including the Ultimate Holding Company) including a Liability incurred as a result of appointment or nomination by the Company or related body corporate (including the Ultimate Holding Company) as a trustee or as an officer or employee of another corporation; and
- (b) 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, a duly constituted Royal Commission or other official inquiry, a liquidator, administrator, trustee in bankruptcy or other authorised official.

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, a duly constituted Royal Commission or other official inquiry, a liquidator, administrator, trustee in bankruptcy or other authorised official.

9.2 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.

9.3 Former officers

Any indemnity in favour of officers under rule 9.1 applies in respect of all acts done by a person while an officer of the Company even though the person is not an officer:

- (a) at the time the claim is made; or
- (b) at the date of adoption of this document.

9.4 Deeds

Subject to the Act, the *Competition and Consumer Act 2010* (Cth) and any other applicable law, the Company may enter into an agreement or execute a deed in favour of a person who is or has been an officer or employee of the Company or any of the Company's related bodies corporate, to give effect to any indemnity it provides under this rule 9.4 on any terms and conditions that the Board thinks fit.

9.5 **No limitation on other rights**

This rule 9 does not limit any other rights of a person or the powers of the Company to indemnify any person or to do anything else which it may do under applicable law.

10. **BOARD MEETINGS**

10.1 **Convening Board meetings**

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

10.2 **Notice of Board meetings**

- (a) The convenor must give reasonable notice (which may be given immediately before the meeting) to each Director and, if requested by a Director, their Alternate entitled to attend, but accidental failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.
- (b) A notice to a Director is taken to have been given upon it having been sent or delivered to the address (including an electronic address) last notified by the Director, if any.
- (c) Notice may be given orally (including by telephone) or in writing.
- (d) Each Director must notify to the Company an address in Australia or New Zealand and may notify an electronic address as the Director's address to which notices of Board meetings are to be given.

10.3 **Use of technology**

- (a) Subject to the Act, a Board meeting may be held using any technology or in any other way permitted by the Act. 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 chairperson of the meeting is located.
- (b) If, before or during a meeting, any technical difficulty occurs where one or more Directors cease to participate, the chairman of the meeting may adjourn the meeting until the difficulty is remedied or may, where a quorum of Directors remains present, continue the meeting.
- (c) All Directors participating in a meeting will (unless there is a specific statement otherwise) be taken to have consented to the holding of the meeting by the relevant technology used for that meeting.

10.4 **Chairing Board meetings**

- (a) The Board may elect a Director as chairperson of its meetings and may elect one or more Directors as deputy chairperson. The Board may decide the period for which those Directors hold their respective offices.

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- (b) If there is no chairperson or deputy chairperson of Directors or if none of them are 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.

10.5 **Quorum**

Unless the Board decides otherwise, the quorum for a Board meeting is 2 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 any technology if the Director is able to communicate with all others attending. If a meeting is held in another way permitted by the Act (including any other means of technology), the Board must resolve the basis on which Directors are treated as present.

10.6 **Majority decisions**

A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. If an equal number of votes is cast for and against a resolution:

- (a) the chairperson of the meeting has a second or casting vote unless:
 - (i) only 2 Directors are entitled to vote; or
 - (ii) the chairperson of the meeting is not entitled to vote; and
- (b) if the chairperson does not have a second or casting vote under rule 10.6(a), the matter is decided in the negative.

10.7 **Procedural rules**

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

10.8 **Written resolutions of the Board**

If:

- (a) each Director, and each Alternate in respect of whom the Appointor has given notice under rule 4.1, is given a document setting out a proposed resolution; and
- (b) at least two-thirds of the Directors who are entitled to vote on the resolution state that they are in favour of the resolution by signing the document,

a Board resolution in those terms is passed at the time when the last of the Directors who constitute the majority signs.

10.9 Additional provisions about circulating resolutions of the Board

For the purpose of rule 10.8:

- (a) a document may be given to a Director or Alternate by sending it to the place or address (*including electronic address*) notified by the Director or Alternate from time to time;
- (b) 2 or more separate documents in identical terms, each of which is signed by 1 or more Directors, are treated as 1 document;
- (c) signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (d) signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity; and
- (e) a message in electronic form containing the text of the document expressed to have been signed by a Director and sent to the Company is a document deemed to be signed by that Director at the time of its receipt by the Company;
- (f) if a Director informs the chairperson of the Board or the Secretary (including by telephonic or other electronic means) that they approve a proposed resolution which is set out in a document, the document setting out the proposed resolution is deemed to be signed by the Director at the time when the chairperson or Secretary is so informed by the Director;
- (g) if the chairperson of the Board or the Secretary records in writing that they have been informed by a Director by telephonic or other electronic means that they approve a proposed resolution which is set out in a document, that record is taken to be conclusive evidence that the Director so informed the chairperson of the Board or the Secretary that they approved the proposed resolution set out in the document; and
- (h) accidental failure to give notice of a document under rule 10.8, or non-receipt of such document by a Director, does not result in the resolution being invalid.

10.10 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 done.

11. MEETINGS OF MEMBERS

11.1 Calling meetings of members

A meeting of members:

- (a) may be convened at any time by the Board or by a Director; and
- (b) must be convened by the Board when required by the Act or by order made under the Act (including annual general meetings as required by the Act).

The Board may postpone, cancel or change the venue for a meeting of members.

11.2 Notice of meeting

Subject to any regulation made under the Act, notice of a meeting of members must be given in accordance with the Act and may be given in any manner permitted by the Act.

11.3 Short notice

Subject to the Act, a resolution may be proposed and passed at a meeting of which less than 28 days' notice has been given if all the members entitled to attend and vote agree.

11.4 Member present at meeting

- (a) A member that is a body corporate may appoint an individual to act as its representative at meetings of members as provided in the Act.
- (b) If a member has appointed a proxy or an 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.

11.5 Proxies and attorneys

- (a) A member of the Company who is entitled to attend and cast a vote at the meeting of the Company's members may appoint a person as the member's proxy or attorney to attend and vote for the person at the meeting. The appointment may specify the proportion or number of votes that the proxy or attorney may exercise.
- (b) If the member is entitled to cast 2 or more votes at the meeting, the member may appoint 2 proxies. If the member appoints 2 proxies and the proxy or attorney does not specify the proportion or number of the member's votes each proxy may exercise half of the votes. (*Any fraction resulting from the application of the two preceding sentences is to be disregarded.*)
- (c) The provisions of the Act with respect to proxies and the appointment of them apply.

11.6 Quorum

Subject to the Act, the quorum for a meeting of members is:

- (a) if the number of members entitled to vote is 2 or more – 2 members; or
- (b) if only one member is entitled to vote – that member.

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.

11.7 Method of voting

Unless a poll is demanded in accordance with the Act, a resolution put to the vote at a members' meeting must be decided on a show of hands. Subject to the Act, and the terms on which shares are issued:

- (a) on a show of hands:
 - (i) if a member has appointed two proxies, neither of those proxies may vote;
 - (ii) a member who is present and entitled to vote and is also a proxy, attorney or representative of another member has 1 vote; and
 - (iii) subject to paragraphs (a)(i) and (a)(ii), every individual present who is a member, or a proxy, attorney or representative of a member, entitled to vote has one vote;
- (b) on a poll, a member has 1 vote for every share held; and
- (c) the chairman of a members' meeting does not have a second or casting vote. If an equal number of votes is cast for and against a resolution the matter is decided in the negative.

11.8 Accidental omission

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

12. RESOLUTIONS WITHOUT MEETINGS

12.1 Circulating resolutions of sole member

Subject to the Act, if the Company has only one member it may pass a resolution without a general meeting being called or held if the resolution is set out in a document, and signed in the manner required by the Act.

12.2 **Signature of resolutions**

The Company may treat a document on which an electronic signature appears, or which is otherwise acknowledged by a member in a manner satisfactory to the Board, as being signed by that member.

13. **SECRETARY**

The Board:

- (a) must appoint at least 1 or more individuals to be a Secretary of the Company either for a specified term or without specifying a term; and
- (b) may, subject to any contract between the Company and the Secretary, remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

14. **MINUTES**

14.1 **Minutes to be kept**

The Board must cause minutes to be kept of:

- (a) proceedings and resolutions of the Board, each committee of the Board and the Company's members; and
- (b) disclosures and notices of Directors' interests,

in accordance with the Act.

14.2 **Minutes as evidence**

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

15. **COMPANY SEALS**

15.1 **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 the Act.

15.2 **Use of seals**

The common seal and duplicate seal (*if any*) may only be used with the authority of the Board (*which authority may be given before or after the affixing of the seal*). The Board must not authorise the use of a seal that does not comply with the Act.

15.3 **Fixing seals to documents**

Without limiting the ways in which the Company can execute documents in accordance with the Act (or otherwise) if the Company has a common seal or other duplicate seal, any document to which the seal is fixed must be signed by 2 Directors or by a Director and Secretary, unless a different procedure is decided by the Board.

16. **ACCOUNTS AND AUDIT**

16.1 **Company to keep accounts**

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.

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

16.2 **Financial reporting**

The Board must cause the Company to prepare a financial report and a Directors' report that comply with the Act and must report to members in accordance with the Act no later than the deadline set by the Act.

16.3 **Audit**

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report, unless it is not required to do so under the Act. The eligibility, appointment, removal, remuneration, rights and duties of the auditor are regulated by the Act.

17. **SHARES**

17.1 **Issue at discretion of Board**

Subject to the Act and rule 17.2, 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 the Board decides.

17.2 **Preference and redeemable preference shares**

The Company may issue preference shares (*including preference shares that are liable to be redeemed*). The rights attached to preference shares are:

- (a) the rights set out in or determined in accordance with rule 18; or
- (b) the rights otherwise approved in accordance with the Act.

18. PREFERENCE SHARES

18.1 Rights attaching to preference shares

- (a) The Board may, subject to this constitution, issue preference shares with any rights attaching to them (including rights denoted in foreign currency) that the Board determines prior to issue. The rights so determined need not be the same as those attached to any preference shares then on issue.
- (b) Preference shares may be issued in one or more separate series and each series will be identified in the manner determined by the Board.

18.2 Dividend rights

- (a) Without limiting the powers of the Board under this constitution, before allotting any preference shares, the Board must determine the following matters or the manner in which those matters are to be determined:
 - (i) the rate or amount of dividends payable on the shares (if any);
 - (ii) the times or circumstances for payment of dividends on the shares;
 - (iii) the periods in respect of which the dividends are payable;
 - (iv) any priority in payment of dividends on the shares in relation to other classes of shares;
 - (v) whether the shares have a right to cumulative dividends or non-cumulative dividends; and
 - (vi) whether the shares have any further right to participate in profits available for dividends.
- (b) The terms of issue of any preference shares may also provide:
 - (i) the basis (if any) upon which the amount of a dividend will be adjusted to take account of, or by reference to, any tax or other fiscal impost, or franking or imputation credits or both; and
 - (ii) that to the extent that an amount is paid to a holder of preference shares other than by way of dividend paid by the Company, the amount of any dividend that would (but for the terms of issue) have been payable to the holder of the preference shares shall be reduced or extinguished.

18.3 Priority as to payment of dividends

Such of the following provisions (in whole or part) as the Board determines prior to allotment shall apply in relation to any particular preference shares:

- (a) the Company shall pay dividends on the preference shares:
 - (i) in priority to the payment of any dividends on the ordinary shares;

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- (ii) equally with dividends on all other preference shares expressed to rank equally with them for participation in profits; and
 - (iii) behind dividends on all preference shares (if any) expressed to rank in priority to them for participation in profits.
 - (b) Where the holder of a preference share has a right to cumulative dividends, on redemption or in a winding up the Company must pay to the holder an amount equal to all arrears of or accrued dividends (whether declared or not) to the date of redemption or of commencement of the winding up (as the case may be) with the same priority in relation to other shares as determined under rule 18.3(a).
 - (c) Where the holder of a preference share has a right to non-cumulative dividends, on redemption or in a winding up, the Company must pay to the holder an amount equal to any dividend declared but not paid before the date of redemption or of commencement of the winding up (as the case may be) with the same priority in relation to other shares as determined pursuant to rule 18.3(a).

18.4 Notices and reports

If required under the Act, the Listing Rules or the terms of issue of preference shares, the Company must give the holder of a preference share notice of each meeting of members in accordance with rule 11 and send the holder financial reports in accordance with rule 16.2.

18.5 Voting rights

A holder of preference shares has the right to speak and vote at a meeting of members of the Company in each of the following circumstances and in no others:

- (a) during a period in which a dividend (or part of a dividend) in respect of the preference share is in arrears;
- (b) on a proposal to reduce the Company's share capital;
- (c) on a resolution to approve the terms of a buy-back agreement;
- (d) on a proposal that affects rights attached to the preference share;
- (e) on a proposal to wind up the Company;
- (f) on a proposal for the disposal of the whole of the Company's property, business and undertaking;
- (g) during the winding up of the Company; and
- (h) in such other circumstances as the Board determines prior to the issue of the preference shares.

18.6 Non-cumulative preference shares

All or any of the following provisions in whole or part shall apply in relation to any particular non-cumulative preference shares if so determined by the Board prior to issue:

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- (a) If, in the opinion of the Board, the distributable profits of the Company are sufficient to cover the payment in full of dividends on the non-cumulative preference shares on any dividend payment date, and also the payment in full of all dividends stated to be payable on that date on any other preference shares expressed to rank equally with them for participation in profits, then each such dividend shall be declared and paid in full.
- (b) If, in the opinion of the Board, the distributable profits of the Company are insufficient to cover the payment in full of dividends on the non-cumulative preference shares on any dividend payment date, and also the payment in full of all dividends stated to be payable on that date on any other preference shares expressed to rank equally with them for participation in profits, then dividends shall be declared by the Board pro rata for the non-cumulative preference shares and such other preference shares to the extent of the available distributable profits (if any) to the intent that the amount of dividend declared per share on each such non-cumulative preference share and other preference share will bear to each other the same ratio as the dividends accrued per share on each such non-cumulative preference share and on each other preference share (including cumulative dividends accrued if any) bear to each other. If it subsequently appears that any such dividend should not, in accordance with the provisions of this sub-paragraph, have been so paid, then provided the Directors have acted in good faith they shall not incur any liability for any loss which any shareholder may suffer in consequence of such payment having been made.
- (c) If, in the opinion of the Board, the payment of any dividend on any non-cumulative preference shares would breach or cause a breach of, or the Company is in breach of, the capital adequacy requirements applicable to the Company and/or any of its subsidiaries under the rules applicable to Australian banks then the amount of the dividend shall be reduced or extinguished to the extent the Board considers necessary having regard to those rules.
- (d) Subject to rule 18.8, the non-cumulative preference shares shall carry no further right to participate in the profits of the Company and if and to the extent that all or any part of a dividend is on any occasion not paid for the reasons described in paragraphs (b) or (c) of this rule 18.6, the holders of such shares shall have no claim in respect of such non-payment.
- (e) If any day on which dividends are payable on non-cumulative preference shares is not a day on which banks in Melbourne (or such other city as may be determined by the Board prior to issue) are open for business in Melbourne or such other city ("**Business Day**"), then payment of the dividend payable on such day will be made on the next Business Day.
- (f) Dividends payable on non-cumulative preference shares shall accrue from and to the dates determined by the Board prior to issue, and the amount of dividend payable in respect of any period shorter than a full dividend period will be calculated on the basis of a 365 day year (or, if the Board so determines prior to allotment, a 360 day year and 30 day months) and the actual number of days elapsed in such period.

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- (g) If the dividend stated to be payable on the non-cumulative preference shares on the most recent dividend payment date has not been declared and paid in full, or if a sum has not been set aside to provide for such payment in full, no dividends may be declared on any other share capital of the Company and no sum may be set aside for the payment thereof, unless, on the date of declaration, an amount equal to the dividend stated to be payable on the non-cumulative preference shares in respect of the then current dividend period is set aside for the payment in full of such dividend on the dividend payment date relating to the then current dividend period.
 - (h) If any dividend stated to be payable on the non-cumulative preference shares on any dividend payment date has not been declared and paid in full, or if a sum has not been set aside to provide for such payment in full, the Company may not without approval of a special resolution passed at a separate general meeting of holders of the non-cumulative preference shares in accordance with rule 21.4 redeem or purchase or otherwise acquire for any consideration any other share capital of the Company and may not set aside any sum nor establish any sinking fund for the redemption, purchase or other such acquisition, or pay a cash dividend on any share capital over which the non-cumulative preference shares rank in priority for participation in profits until such time as dividends stated to be payable on the non-cumulative preference shares in respect of successive dividend periods together aggregating no less than 12 months have been declared and paid in full.

18.7 Redeemable preference shares

- (a) Before issuing any preference shares, the Board must determine whether the shares are to be redeemable or non-redeemable and, if redeemable, the Board must determine the following matters or the manner in which those matters are to be determined:
 - (i) whether the shares are to be redeemable at the option of the Company alone or otherwise;
 - (ii) the redemption date or dates (which may be specified or determined by reference to a particular event) or the circumstances in which the shares are liable to be redeemed;
 - (iii) the amount payable on redemption;
 - (iv) any notice required or other conditions for exercise of the rights of redemption; and
 - (v) the manner in which the shares are to be redeemed.
- (b) Any redeemable preference shares shall be redeemed by the Company in accordance with the terms of issue determined by the Board prior to issue.

18.8 Conversion

If so determined by the Board prior to issue any series of preference shares shall be convertible to ordinary shares on such terms as the Board determines prior to allotment.

18.9 Variation of rights

Except in accordance with rule 21.4, the Board shall not authorise or create, or increase the amount of, any shares of any class or any security convertible into shares of any class ranking for participation in the profits or assets of the Company in priority to that class of preference shares.

18.10 Priority in winding up

- (a) The Board shall determine before allotment of any preference shares the priority of the preference shares with respect to repayment of capital and the rights (if any) of the holders to participate in any surplus assets on a winding up of the Company.
- (b) If so determined by the Board before allotment, the following provisions shall apply, namely, that the holders of the preference shares shall have the right on a winding up of the Company to payment of a sum equal to the amount paid up or credited as paid up on the preference shares, and of the dividends and any other amount to which the holder is entitled in accordance with the terms of issue:
 - (i) in priority to any payment to ordinary shareholders;
 - (ii) equally with payments to holders of all other preference shares expressed to rank equally with them on a winding up; and
 - (iii) behind payments to holders of all preference shares (if any) expressed to rank in priority to them on a winding up,

but shall not participate in any surplus or other distribution of profits or assets of the Company.

19. DIVIDENDS

19.1 Accumulation of reserves

The Board may:

- (a) 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;
- (b) carry forward any amount out of profits which the Board decides not to distribute without transferring that amount to a reserve; or
- (c) do both.

19.2 Payment of dividends

Subject to the Act, rule 19.3, and the terms of issue of shares, the Board may resolve to pay any dividend (including an interim dividend) it thinks appropriate and fix the time for payment. 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.

19.3 Amount of dividend

Subject to the terms of issue of shares and the Act:

- (a) the Company may pay a dividend on 1 class of shares to the exclusion of another class; and
- (b) 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 as the amount for the time being paid on the share bears to the total issue price of the share.

19.4 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 specific 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 the cash or an asset in trustees.

19.5 Source of dividends

Subject to the Act and the Listing Rules, the Board may resolve to pay a dividend to some members from a particular source and pay the same dividend to other members entitled to it from another source.

19.6 Payment of dividend by way of securities in another corporation

Where the Company satisfies a dividend by way of distribution of specific assets, being shares or other securities in another corporation, each member is taken to have agreed to become a member of that corporation and to have agreed to be bound by the constitution of that corporation. Each member also appoints each Director and each Secretary their agent and attorney to:

- (a) agree to the member becoming a member of that corporation;
- (b) agree to the member being bound by the constitution of that corporation; and
- (c) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that member.

20. TRANSFER OF SHARES

20.1 Mode of transfer

Subject to this constitution, a member may transfer a share by any means permitted by the Act or by law.

20.2 Market obligations

The Company:

- (a) may do anything permitted by the Act, the Listing Rules and the ASX Settlement Operating Rules that the Board thinks necessary or desirable in connection with the Company taking part in a computerised or electronic system established or recognised by the Act, the Listing Rules, or the ASX Settlement Operating Rules for the purpose of facilitating dealings in shares; and
- (b) must comply with obligations imposed on it by the Listing Rules or the ASX Settlement Operating Rules in relation to transfers of shares.

20.3 Transfer by written document

Except in the case of a proper ASTC transfer (within the meaning of the Act), a document of transfer 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.

20.4 Fee for registration of a transfer of shares

The Company must not charge a fee for registering a transfer of shares unless:

- (a) the Company is not listed on the ASX; or
- (b) the fee is permitted by the Listing Rules.

20.5 Verification of instrument authenticity

The Company (or the Company's securities registry) may put in place, and require compliance with, reasonable processes and procedures in connection with determining the authenticity of an instrument of transfer, notwithstanding that this may prevent, delay or interfere with the registration of the relevant instrument of transfer.

20.6 Restricted securities

If, at any time, any of the share capital of the Company is classified by the ASX as 'restricted securities', then despite any other provision of this constitution:

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- (a) a holder of restricted securities must not dispose of, or agree to offer to dispose of, the restricted securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the ASX;
 - (b) if the restricted securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the restricted securities are to be kept on the Company's issuer sponsored subregister and are to have a holding lock applied for the duration of the escrow period applicable to those securities;
 - (c) the Company must refuse to acknowledge any disposal (including, without limitation, to register any transfer) of the restricted securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the ASX;
 - (d) a holder of restricted securities will not be entitled to participate in any return of capital on those securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the ASX; and
 - (e) if a holder of restricted securities breaches a restriction deed or a provision of this constitution restricting a disposal of those securities the holder will not be entitled to any dividend or distribution, or to exercise any voting rights, in respect of those securities for so long as the breach continues.

In this rule 20.6, "**dispose**" (and other grammatical forms of it) has the meaning given by the Listing Rules.

20.7 Refusal to register transfer

The Board:

- (a) may refuse to register a transfer of shares only if that refusal would not contravene the Listing Rules or the ASX Settlement Operating Rules;
- (b) subject to the Act, must not register a transfer to a subsidiary of the Company;
- (c) must not register a transfer if the Act, the Listing Rules or the ASX Settlement Operating Rules forbid registration; and
- (d) without limiting paragraph (a), subject to the Act, the Listing Rules and the ASX Settlement Operating Rules, may refuse to register a transfer of shares where the registration of the transfer would create a new holding of a Non-marketable Parcel.

If the Board refuses to register a transfer, the Company must give the lodging party notice of the refusal and the reasons for it within 5 business days after the date on which the transfer was delivered to it.

20.8 Transferor remains holder until transfer registered

The transferor of a share remains the holder of it until:

- (a) in the case of a proper ASTC transfer, the time the Act or the ASX Settlement Operating Rules provide that the transfer takes effect; and

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- (b) otherwise, the transfer is registered and the name of the transferee is entered in the Register.

20.9 Member 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.

21. SHARE CAPITAL

21.1 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.

21.2 Conversion of shares

Subject to the Act and rules 17.2 and 21.4, 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.

21.3 Reduction of capital

The Company may reduce its share capital:

- (a) by reduction of capital in accordance with the Act;
- (b) by buying back shares in accordance with the Act; or
- (c) in any other way for the time being permitted by the Act.

21.4 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 the Act*) be varied or cancelled only:

- (a) with the written consent of the holders of a majority of the issued shares of the class affected; or

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- (b) by ordinary resolution passed at a meeting of the holders of the issued shares of the class affected.

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.

21.5 Payments in kind

Where the Company reduces its share capital in accordance with the Act, it may do so by way of payment of cash, distribution of specific assets (including shares or other securities in another corporation), or in any other manner permitted by law. If the reduction is by distribution of specific assets, the Board may:

- (a) fix the value of any assets 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 the cash or an asset in trustees.

21.6 Payment in kind by way of securities in another corporation

Where the Company reduces its share capital by way of distribution of specific assets, being shares or other securities in another corporation, each member is taken to have agreed to become a member of that corporation and to have agreed to be bound by the constitution of that corporation. Each member also appoints each Director and each Secretary their agent and attorney to:

- (a) agree to the member becoming a member of that corporation;
- (b) agree to the member being bound by the constitution of that corporation; and
- (c) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that member.

22. CERTIFICATES

22.1 Uncertificated securities

Unless the Listing Rules and ASX Settlement Operating Rules allow the Company to issue a certificate for particular securities, the Company:

- (a) must not issue a certificate for those securities; and
- (b) may cancel a certificate for those securities without issuing another certificate.

23. WINDING UP

23.1 Entitlement of members

Subject to the terms of issue of shares and this rule 23.1, 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.

23.2 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 and 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
- (b) vest assets of the Company in trustees on any trusts for the benefit of the members as the liquidator thinks appropriate.

23.3 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.

23.4 Distribution not in accordance with legal rights

If the liquidator decides on a division or vesting of assets of the Company under rule 23.2 which is not in accordance with the legal rights of the contributories, any contributory who would be prejudiced by it has a right to dissent and ancillary rights as if that decision were a special resolution passed under the Act.

24. NOTICES

24.1 Notices by Company

Unless this document provides otherwise, a notice is properly given by the Company to a person, or by the Ultimate Holding Company to the Company, if it is in writing signed on behalf of the Company or the Ultimate Holding Company (*as the case requires and by original, electronic or printed signature*) or otherwise expressed to be a notice of the Company or Ultimate Holding Company and either left at the addressee's address or sent to the addressee by mail or electronic message.

A notice from the Company is taken to be served:

- (a) if the notice is sent by post, on the business day after it is posted; or
- (b) if the notice is sent electronically, at the time it was sent.

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

24.2 Counting days

Subject to the Act and the Listing Rules, if a specified period must pass after a notice is given before an action may be taken, the day on which the notice is given is excluded and the day on which the action is to be taken is included in reckoning the period.

25. JURISDICTION AND ENFORCEABILITY

25.1 Submission to jurisdiction

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

25.2 Prohibition and enforceability

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