

# Constitution

## The Royal Automobile Club of W.A. Limited

A Public Company Limited by Guarantee incorporated under the  
*Corporations Act 2001* (Cth)

*(Approved by special resolution of members at the Annual General Meeting held on  
24 November 2025 effective on 1 July 2026.)*

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## **1. The Company**

### **1.1 Name**

The name of the Company is The Royal Automobile Club of W.A. Limited.

### **1.2 Type**

The Company is a public company limited by guarantee.

### **1.3 MCI mutual entity**

- (a) The Company is intended to be a mutual capital instrument (**MCI**) mutual entity for the purposes of the Corporations Act.
- (b) Subject to this Constitution and the Corporations Act, the Board may issue or allot MCIs (including MCIs which are issued upon conversion of another security) to any person on such terms and conditions as the Board may determine.
- (c) MCIs must be issued in accordance with, and subject to, the provisions set out in Schedule 1.

## **2. Objects, not for profit and powers**

### **2.1 Objects**

The Objects of the Company as a mutual are:

- (a) to promote the interests of, and advocate for, Members as a whole;
- (b) to promote road safety;
- (c) to provide Members, and other persons as decided by the Board, with a range of facilities, services, products and assistance; and
- (d) to do all things which may be lawfully done for the benefit of any or all of the Members, in the interest of the Company and the community generally.

### **2.2 Promotion of Objects**

- (a) Each Object is a separate and independent Object and is not subsidiary or ancillary to any of the other Objects.
- (b) The Company must operate solely for the purpose of promoting and advancing the Objects. However, the Company is not required to promote each of the Objects at the same time or in any particular order and may, in the Board's absolute discretion, determine the level and amount of promotion, funding or any other support which should be applied to any one or more specific Object at any given time.

## **2.3 Not for profit**

- (a) Subject to rules 2.3(b) and 2.4, the income and property of the Company must be applied solely towards the Objects and no part of that income or property may be paid, transferred or distributed, directly or indirectly, to a Member.
- (b) Rule 2.3(a) does not prohibit making a payment, transfer or distribution to a Member in good faith:
  - (i) in return for services rendered by, or goods supplied by, the Member to the Company in the ordinary and usual course of business; or
  - (ii) as principal payments on money lent by the Member and interest payments if the interest is at commercial rates; or
  - (iii) in the promotion of the Objects.

## **2.4 Payments to MCI Holders**

Subject to the Corporations Act, the Company may pay a dividend to MCI Holders under the terms of issue of any MCI.

## **2.5 Company powers**

The Company has the powers conferred on it by the Corporations Act.

## **3. Patron**

The Board may appoint a patron of the Company for such period determined by the Board or until removed by the Board.

## **4. Membership**

### **4.1 Number of Members**

The Company must have at least one Member and there is no limit to the number of Members.

### **4.2 Liability of Members and guarantee**

- (a) The liability of the Members is limited under this rule 4.2.
- (b) Each Member undertakes to contribute an amount of not more than one dollar (\$1.00) to the property of the Company if it is wound up while they are a Member or within one year after they cease to be a Member for:
  - (i) payment of the Company's debts and liabilities incurred before the Member ceased being a Member; and
  - (ii) the costs, charges and expenses of winding up.

#### **4.3 Membership classes**

- (a) The Board may establish such class or classes of Membership and prescribe:
  - (i) the criteria or qualifications of persons to become and remain a Member of a particular class;
  - (ii) the rights and privileges of a Member of a particular class;
  - (iii) which class or classes of Members are Voting Members; and
  - (iv) rules regarding Membership, including for transfer between Membership classes, holding Membership in a joint or group capacity, holding concurrent Memberships and suspension of Membership during absentee Member arrangements.
- (b) Unless otherwise determined under this Constitution and the Corporations Act, a class of Membership which exists at the date of registration of the Company under the Corporations Act, continues to exist, and has the rights and privileges as determined by the Board from time to time.
- (c) The rights attached to a class of Membership are not varied by the creation of any new class of Membership.

#### **4.4 Membership fees**

- (a) The Board may determine:
  - (i) fees payable (if any) to become and remain a Member, and the manner of payment; and
  - (ii) any concessions, loadings, remissions and exemptions that may be provided by the Company to a Member or a class of Members.
- (b) Unless the Board otherwise determines, a Member whose fees or other payments are unpaid, is not entitled to receive the relevant Member Services until such amounts are paid.

#### **4.5 Admission to Membership**

- (a) The Board may determine the qualifications for Membership and terms and conditions for the approval of Membership.
- (b) Subject to this Constitution, the Members are:
  - (i) the initial Members named in the application for the Company's registration; and
  - (ii) any other person admitted to Membership in accordance with this Constitution.
- (c) Each person who was a member of 'The Royal Automobile Club of W.A (Incorporated)' immediately before the Company's registration under the Corporations Act, is, on registration of the Company under the Corporations Act, a Member of the Company in the same class of Membership as the person was immediately before registration of the Company.

- (d) A person will be eligible to become a Member if they meet the qualifications for Membership of a particular class as determined by the Board and they agree to become a Member.
- (e) The Board is not required to provide reasons for refusing to admit any person as a Member.
- (f) A register of Members must be kept, maintained and updated in accordance with the Corporations Act.

#### **4.6 Appointment of representatives**

- (a) If a Member is a body corporate it may nominate one individual as the person authorised under the Corporations Act to represent it at meetings of Members.
- (b) Each body corporate Member must notify the Company in writing of any change to its representative.

#### **4.7 Cessation of Membership**

- (a) A Member ceases to be a Member if:
  - (i) they being an individual, die;
  - (ii) they being a corporation, trust or association, is wound up or is or becomes insolvent;
  - (iii) they resign as a Member by giving notice to the Company;
  - (iv) they fail to pay any fees due as determined under Club Policy;
  - (v) they no longer meet the qualification requirements for Membership; or
  - (vi) their Membership is terminated under rule 4.8.
- (b) A Member who ceases to be a Member under rule 4.7(a):
  - (i) ceases to have the rights and privileges arising as a result of Membership, including the use of Member Services;
  - (ii) except as specified in Club Policy, is not entitled to a refund of any fees paid, and continues to be liable to pay any outstanding fees; and
  - (iii) remains bound by the guarantee under rule 4.2 (to the extent provided under that rule).

#### **4.8 Suspension and termination of Membership**

- (a) The Board (or its delegate) may in its discretion terminate a Member's Membership, including if a Member:
  - (i) refuses to comply with this Constitution or any rule or decision made under it; or
  - (ii) engages in conduct which under Club Policy, in the opinion of the Board (or its delegate), is not acceptable to the Company or is prejudicial to

the interests of the Company or any of the Company's related bodies corporate.

- (b) The Board (or its delegate) may, in its discretion, subject to any applicable law and in accordance with Club Policy:
  - (i) caution a Member;
  - (ii) impose upon a Member any terms or conditions for the use of any Member Services; or
  - (iii) suspend a Member for any period, during which the Member is not entitled to receive some or all Member Services, and is not entitled to vote or hold office under this Constitution (if applicable) during the period of suspension.
- (c) The Board (or its delegate) must give the Member notice of the Member's suspension or termination of their Membership from the Company.

#### **4.9 Membership not transferable**

The rights and privileges of Membership are personal and are not capable of being assigned or transferred, except under Club Policy.

#### **4.10 MCI Holder**

For the avoidance of doubt, unless expressly stated otherwise in this Constitution, an MCI Holder:

- (a) is not a Member of the Company merely by virtue of holding an MCI;
- (b) may be (or become) a Member of the Company if they are otherwise admitted to Membership in accordance with this Constitution; and
- (c) who is also a Member of the Company is not deemed to be a Member (and the provisions of this Constitution relating to Membership do not apply) in respect of any MCIs held by that person.

### **5. General meetings**

#### **5.1 Annual general meeting**

The Company must hold an annual general meeting each year within five months after the end of the Company's financial year, at a time and place determined by the Board.

#### **5.2 Calling a general meeting**

A general meeting of the Company may only be called:

- (a) by resolution of the Board; or
- (b) as otherwise provided in the Corporations Act.

### **5.3 Notice of general meeting**

- (a) Notice of a general meeting must be given:
  - (i) in accordance with the Corporations Act; and
  - (ii) to each Voting Member, each Director and the auditor of the Company.
- (b) Notice to joint Members must be given to the joint Member named first in the register of Members.
- (c) The Board may determine:
  - (i) the content of a notice of a general meeting, but the notice must include the general nature of the business to be transacted at the meeting and any other matters required by the Corporations Act, including under section 249L; and
  - (ii) subject to the Corporations Act, the manner in which the notice of a general meeting may be given.
- (d) The accidental omission to give or send notice of any general meeting, or the postponement of any general meeting, or the non-receipt of a notice by any person entitled to receive such notice, will not invalidate the proceedings or any resolution passed at any such general meeting.

### **5.4 Waiving notice**

A person may waive notice of a general meeting by written notice to the Company or by attendance at the general meeting.

### **5.5 Postponing or cancelling a meeting**

Subject to the Corporations Act, the Board may in its discretion:

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

by giving notice to each Voting Member, each Director and the auditor of the Company.

### **5.6 Business at a general meeting**

Unless the Corporations Act provides otherwise:

- (a) no business (except of a formal nature) can be transacted at a general meeting unless the general nature of the business has been specified in the notice of meeting; and
- (b) except with the approval of the Board or the Chairperson, no person may move any amendment to a proposed resolution the terms of which are set out in the notice of meeting or to a document which relates to that resolution and a copy of which has been made available to Members to inspect or obtain.

### **5.7 Quorum at general meetings**

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of Members is present.
- (b) A quorum for all general meetings is 10 Voting Members.
- (c) For the purpose of determining whether a quorum is present, a person attending as a body corporate representative or a proxy of a Voting Member is counted. However:
  - (i) if a Voting Member has appointed more than one proxy or representative, only one is counted; and
  - (ii) if an individual is attending both as a Voting Member and proxy or body corporate representative, they are only counted once.
- (d) If a quorum is not present within 30 minutes after the time appointed for a general meeting, the meeting must be dissolved, unless the Chairperson adjourns the meeting to a later date, time and place determined by the Chairperson. If no quorum is present at any adjourned general meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

### **5.8 Chairperson of a general meeting**

- (a) Subject to this Constitution, the Chairperson will preside as chairperson at each general meeting.
- (b) In the Chairperson's absence, the Deputy Chairperson will preside as chairperson at a general meeting.
- (c) The Directors present at a general meeting must elect one of the Directors as chairperson of the meeting if:
  - (i) there is no Chairperson or Deputy Chairperson;
  - (ii) the Chairperson or Deputy Chairperson are not present within 15 minutes after the time appointed for the meeting; or
  - (iii) the Chairperson or Deputy Chairperson is present, but is not willing or able to act as chairperson of the meeting.

### **5.9 Conduct at general meetings**

- (a) The conduct of a general meeting of the Company and the procedures to be adopted at the meeting are as determined at, during or prior to, the meeting by the chairperson.
- (b) The chairperson may make rulings without putting the question (or any question) to the vote if the chairperson considers action is required to ensure the orderly conduct of the meeting.
- (c) At any time the chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting, the chairperson may demand the cessation of debate or discussion on any business, question, motion or resolution being

considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Voting Members.

- (d) Subject to this Constitution, any determination by the chairperson in relation to matters of procedure (including any procedural motions moved at, or put to, any meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, any meeting). Any challenge to:

- (i) a right to vote (whether on a show of hands or on a poll); or
- (ii) a determination to allow or disregard a vote,

may only be made at the meeting and may be determined by the chairperson, whose decision is final.

- (e) The chairperson may take any action they consider appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting, and may refuse admission to a person, or require that person to leave and remain out of the meeting, if the chairperson reasonably considers that the person's conduct is inappropriate.

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

- (a) Subject to the Corporations Act, the Company may hold a general meeting:
- (i) at one or more physical venues; or
  - (ii) at one or more physical venues and using virtual meeting technology; or
  - (iii) using any virtual meeting technology only,
- that gives the Voting Members, as a whole, a reasonable opportunity to participate in the meeting.
- (b) The participation by a Voting Member in a meeting under rule 5.10(a) will constitute presence as if in person at the meeting.
- (c) The use and type of virtual meeting technology will be determined by the Board, and may include a combination of telephone, audio, audio visual, messaging communications or devices which permit instantaneous communication.
- (d) If, before or during the general meeting, a technical difficulty occurs which means that the Voting Members as a whole do not have a reasonable opportunity to participate, the chairperson may:
- (i) adjourn the meeting until the difficulty is remedied; or
  - (ii) continue the meeting if a quorum of Voting Members remains present (either at the place at which the person presiding at the meeting is present or by technology as contemplated by rule 5.10(a)) and able to participate, subject to any applicable law.

- (e) Where a general meeting is held using technology, the Voting Members need not be physically present at the same place (or at any place) for the purposes of the quorum requirement in rule 5.7.
- (f) If the general meeting is convened at a physical venue and the chairperson considers that there is not enough room for the Members who wish to attend, the chairperson may arrange for any person they consider cannot be seated in the main meeting room to observe or attend the general meeting in a separate room. Even if Members present in the separate room are not able to participate in the conduct of the meeting, the meeting is treated as validly held in the main room.
- (g) The Board may prescribe Regulations to regulate the conduct of any general meeting held under this rule 5.10.
- (h) Subject to this rule 5.10, the provisions of this Constitution, and the principles of law that apply to general meetings, apply to any such general meeting with the necessary adaptations.

#### **5.11 Direct voting**

- (a) The Board may decide that a Voting Member (or where approved by the Board, an attorney, body corporate representative or proxy of the Voting Member) may cast their vote in relation to a resolution to be considered at a general meeting:
  - (i) in real time during the general meeting by electronic means; or
  - (ii) in advance of the general meeting by recording their vote with the Company using electronic or other means (including by post).
- (b) Subject to the Corporations Act, the Board may prescribe rules to regulate voting under this rule 5.11, including in respect of:
  - (i) the form, method and timing of voting; and
  - (ii) the treatment of votes, including when votes must be received by the Company to be valid and effective or the circumstances in which a vote is taken to be withdrawn if the Voting Member participates in the general meeting.

#### **5.12 Representation and voting rights of Members**

- (a) Subject to this Constitution and any rights or restrictions attached to a class of Membership, at a general meeting, each Voting Member:
  - (i) may attend and vote in person or by representative, proxy or attorney; and
  - (ii) present, has one vote on a show of hands and one vote on a poll.
- (b) Members holding joint Membership may exercise their vote as provided for in the Regulations.

- (c) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
  - (i) the previous death or unsoundness of mind of the principal; or
  - (ii) the revocation of the instrument (or of the authority under which the instrument was executed) or the power,if no notice in writing of the death, unsoundness of mind or revocation (as the case may be) has been received by the Company at its registered office before the commencement of the general meeting, or adjourned meeting, at which the instrument is used or the power is exercised.
- (d) The power of attorney must be produced for inspection at the Company's registered office not less than 24 hours before the time for holding the general meeting or adjourned meeting, unless the document has previously been produced for inspection in accordance with this rule 5.12.

### **5.13 Decisions at general meetings**

- (a) Except where required by law or this Constitution, decisions and resolutions at a general meeting must be decided by a majority of votes cast by the Voting Members present at the meeting.
- (b) A resolution put to the vote at a general meeting is to be decided on a show of hands of the Voting Members present, unless a poll is demanded under rule 5.14.
- (c) Where the votes on a proposed resolution are equal, the chairperson of the meeting has a casting vote in addition to their vote as a Voting Member or as a proxy or attorney of a Voting Member.
- (d) Unless a poll is demanded under rule 5.14(a), a declaration by the chairperson following a vote on a show of hands that a resolution has been passed or lost, is conclusive evidence of the result of the vote on a particular resolution. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded for or against a resolution.

### **5.14 Polls**

- (a) A poll may be demanded by:
  - (i) at least five Voting Members present and entitled to vote on the resolution; or
  - (ii) Voting Members present in person with at least 5% of the total votes that may be cast on the resolution on a poll; or
  - (iii) the chairperson of the meeting.
- (b) The demand for a poll may be withdrawn.
- (c) The poll may be demanded before a vote on a show of hands is taken, before the voting results on a show of hands are declared or immediately after the voting results on a show of hands are declared.

- (d) When demanded, a poll may be taken in the manner and at the time the chairperson directs.
- (e) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the chairperson considers appropriate.
- (a) A demand for a poll does not prevent a general meeting continuing for the transaction of any business, except the question on which the poll has been demanded.
- (b) A poll cannot be carried out on a resolution concerning the:
  - (i) election of the chairperson of a meeting; or
  - (ii) adjournment of a meeting.
- (c) The result of the poll is the resolution of the meeting at which the poll was demanded.

### **5.15 Proxies**

- (a) A Voting Member may appoint an individual or a body corporate as a proxy to attend and vote for the Voting Member in accordance with the Corporations Act.
- (b) A proxy may, but need not be, a Member of the Company.
- (c) A proxy may be appointed for:
  - (i) any number of general meetings; or
  - (ii) a particular general meeting.
- (d) A proxy appointed in accordance with the Corporations Act to attend and vote at a general meeting of the Company may exercise the rights of the Voting Member on the basis and subject to the restrictions provided in the Corporations Act.
- (e) The instrument appointing a proxy:
  - (i) must be in writing (in a form prescribed by the Board) and duly executed by the appointer;
  - (ii) is deemed to confer authority to demand or join in demanding a poll; and
  - (iii) must be in accordance with the Corporations Act.
- (f) The instrument appointing a proxy for a Voting Member and a copy of the power of attorney or other authority under which it is signed shall be deposited at the registered office of the Company (or such other place as is specified for that purpose in the notice convening the general meeting) not less than 48 hours before the time for holding the general meeting or adjourned general meeting at which the person named in the instrument proposes to vote. No instrument

appointing a proxy will be valid after the expiration of 12 months from the date of its execution.

- (g) Any appointment of proxy under this rule 5.15 which is incomplete may be completed by the Secretary on the authority of the Directors and the Directors may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.
- (h) Where a notice of meeting provides for electronic lodgement of proxies, a proxy lodged at the electronic address specified in the notice is taken to have been received at the Company's registered office and validated by the Voting Member provided that the requirements for electronic lodgement of proxies set out in the notice have been complied with.
- (i) A proxy is not entitled to vote on a show of hands (but this does not prevent a Member appointed as a proxy from voting as a Voting Member on a show of hands).
- (j) Subject to any other rule in this rule 5.15, a proxy is entitled to a separate vote for each Voting Member the person represents, in addition to any vote the person may have as a Voting Member in his or her own right.
- (k) The appointment of a proxy is revoked by the appointor attending and taking part in the general meeting.

#### **5.16 Adjourning general meetings**

- (a) During the course of a general meeting, the chairperson may in their sole discretion, adjourn the meeting or any business, motion, question, debate, discussion or resolution being considered, either to a later time in the meeting, or to an adjourned meeting to be held at a place and time determined by the chairperson.
- (b) No business may be transacted at an adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- (c) Where a general meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Where a general meeting is adjourned, the Directors may change the venue for, postpone or cancel the adjourned meeting, unless the meeting was called and arranged to be held under the Corporations Act.

#### **5.17 Class meetings**

All of the provisions of this Constitution as to general meetings apply, with the necessary changes, to separate class meetings which may be held pursuant to this Constitution or the Corporations Act as if they were general meetings.

## **6. Directors**

### **6.1 Number and composition of Directors**

- (a) Subject to section 201N of the Corporations Act and this rule 6, the Board:
  - (i) shall be comprised of a minimum of four and a maximum of six Elected Directors; and
  - (ii) may be comprised of up to three Appointed Directors as determined by the Board.
- (b) The majority of Directors must ordinarily reside in Australia.
- (c) Each Director must be a natural person.

### **6.2 Members eligible to be Directors**

- (a) A Director must be a Member who is at least 18 years of age.
- (b) To be eligible to be an Elected Director, a person must:
  - (i) be a Voting Member who has been entitled to vote at the Company's annual general meeting for at least each of the five years preceding the election; and
  - (ii) meet the nomination requirements under the Regulations.
- (c) A Member who:
  - (i) is an employee of the Company or any of the Company's subsidiaries;
  - (ii) is bankrupt or insolvent;
  - (iii) is prohibited under the Corporations Act (or an order made under the Corporations Act) from acting as a director of a company;
  - (iv) is disqualified or becomes ineligible from holding office as a director under any Australian legislation or any regulatory requirement or standard made in accordance with such legislation applicable to the Company or its subsidiaries;
  - (v) is elected as a member of an Australian state, territory or federal parliament;
  - (vi) is elected as a member of a governing body of a local government in an Australian state or territory; or
  - (vii) does not meet any requirement specified in any Regulations,is not eligible to hold office as a Director.
- (d) Subject to this Constitution, the Board may determine the qualifications, suitability guidelines, skills and experience (if any), a person must hold or meet in order to be eligible for election or appointment as a Director.

### **6.3 Term of office of Directors**

- (a) Subject to this Constitution, an Elected Director is elected or deemed elected for a period of up to three years (as determined by the Board) which:
  - (i) commences from the conclusion of the annual general meeting at which they are elected or deemed elected under rule 6.4; and
  - (ii) ends at the conclusion of the annual general meeting at which they are subject to retirement.
- (b) Subject to this Constitution, an Appointed Director is appointed by the Board for a period of up to three years from the date of their appointment.
- (c) Subject to this Constitution, a retiring Director is eligible for election or appointment (as the case may be).
- (d) Subject to rule 6.3(e), a Director must not hold office for a period of more than nine years.
- (e) In exceptional circumstances as set out in Board Policy, the Board may resolve to extend the nine year period under rule 6.3(d) for a Director for a period of one year at a time, up to a maximum of three years, in which case in respect of that Director (as applicable):
  - (i) an Appointed Director term is extended by a period of one year; or
  - (ii) an Elected Director's term is extended by a period of one year until the conclusion of the next annual general meeting.
- (f) Subject to this Constitution, the Directors in office on the date of registration of the Company under the Corporations Act, continue in office for the duration of their then current term.

### **6.4 Nomination and election of Elected Directors**

- (a) The procedures which govern the nomination, assessment, and approval process for election (or deemed election) to the Board as an Elected Director, must be set out in the Regulations.
- (b) If the number of Candidates:
  - (i) is the same as the number of vacancies on the Board in Elected Director positions, the Candidates are deemed to be elected with effect from the conclusion of the next annual general meeting;
  - (ii) is less than the number of vacancies on the Board in Elected Director positions:
    - (A) the Candidates are deemed to be elected with effect from the conclusion of the next annual general meeting; and
    - (B) the Board may fill the vacancies under rule 6.6; and
  - (iii) is greater than the number of vacancies on the Board in Elected Director positions, then an election must be held under this rule.

- (c) Voting on the election of Elected Directors will be conducted according to the voting and election procedures determined by the Board that are consistent with this Constitution.
- (d) The non-receipt by the Company of any vote by a Voting Member will not invalidate the election.

### **6.5 Appointment of Appointed Directors**

Subject to this Constitution, the Board may appoint an eligible Member as an Appointed Director.

### **6.6 Vacation of office**

- (a) A person automatically ceases to be a Director if the person:
  - (i) dies;
  - (ii) resigns from office by written notice to the Company;
  - (iii) is no longer eligible to be a Director under rule 6.2;
  - (iv) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
  - (v) is absent without the consent of the Directors from three consecutive Board meetings; or
  - (vi) is removed by resolution of Voting Members under the Corporations Act.
- (b) Subject to this Constitution, the Board may appoint an eligible Voting Member to fill a casual vacancy in the position of an Elected Director on the Board, to hold office as an Elected Director as determined by the Board, either:
  - (i) for the unexpired portion of the former Elected Director's term; or
  - (ii) until the conclusion of the next following annual general meeting.
- (c) A Director appointed by the Board under rule 6.6(b) may, subject to this Constitution, upon their retirement from office offer themselves for election or appointment under this Constitution.
- (d) In the event of a vacancy or vacancies in the office of Directors, the remaining Directors may act for any purpose under this Constitution, but if there are less than four Directors in office at any time, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum, meet the minimum number of Directors or convening a general meeting.

### **6.7 Removal of directors**

A Director may be removed from office in accordance with section 203D of the Corporations Act.

## **6.8 Director's remuneration**

- (a) Each Director is entitled to be paid remuneration out of the funds of the Company for their services as a Director, but if the Company in general meeting has fixed a limit on the amount of remuneration payable to the Directors, the aggregate remuneration of the Directors must not in any financial year exceed that limit.
- (b) The Board may allocate remuneration among the Directors in such manner as it sees fit.
- (c) In addition to the remuneration paid to Directors under rule 6.8(a), the Company may reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company, as approved by the Board.
- (d) Nothing in rule 6.8(a) restricts the remuneration a Director may be entitled as an officer of the Company, or of a related body corporate of the Company, in a capacity other than Director, which may be either in addition to or in substitution for the Director's remuneration under rule 6.8(a).
- (e) For the purposes of rule 6.8(a), the maximum amount (if any) fixed by the Company as remuneration payable to Directors does not include any amount paid by the Company or a related body corporate of the Company:
  - (i) to a superannuation fund for a Director;
  - (ii) for any insurance premium paid or agreed to be paid for a Director under rule 13(d); or
  - (iii) to a Director for their role as an officer of a related body corporate of the Company.

## **7. Office bearers**

### **7.1 Election of Chairperson and Deputy Chairperson**

- (a) Each year, the Board must elect from the Directors:
  - (i) a Chairperson, who shall be the President; and
  - (ii) a Deputy Chairperson, who shall be the Vice-President,who, subject to rule 7.1(b), hold office as determined by the Board.
- (b) A vacancy arises in the office of Chairperson or Deputy Chairperson (as applicable) if the person:
  - (i) resigns from their position as an office bearer;
  - (ii) is removed under rule 7.2(a); or
  - (iii) ceases to be a Director under this Constitution.
- (c) The Board may elect a Director to fill an office that becomes vacant under rule 7.1(b).

- (d) Subject to this Constitution, the Directors holding office as President and Vice-President on the date of registration of the Company under the Corporations Act, continue in office as the Chairperson and Deputy Chairperson (as applicable).

## **7.2 Removal of office bearers**

- (a) The Board may remove a Director from the office of Chairperson or Deputy Chairperson (as the case may be).
- (b) The Chairperson will not have a casting vote for their removal from the office of “Chairperson” under rule 7.2(a).

## **8. Board powers and meetings**

### **8.1 Powers of the Board**

- (a) The Board is vested with the management of the Company’s affairs and the control of the funds and other property of the Company.
- (b) The Board may exercise all of the powers of the Company except those which must, under this Constitution or the Corporations Act, be exercised by the Company in a general meeting.
- (c) The Board may, on the terms and conditions and with any restrictions it determines, delegate any of its powers, other than those which by law must be dealt with by the Board, to:
  - (i) a Committee;
  - (ii) a Director;
  - (iii) an officer of the Company;
  - (iv) the Chief Executive Officer; or
  - (v) any other person,and may authorise sub-delegation.
- (d) The Board may revoke, vary, suspend or impose restrictions on the delegation previously given.
- (e) The Directors may continue to exercise all of their powers despite any delegation.
- (f) The Board must record delegations in the Company’s minute book in accordance with section 251A of the Corporations Act.

### **8.2 Meetings of the Board**

The Board may meet together to attend to business and may adjourn and otherwise regulate its meetings as it determines.

### **8.3 Convening Board meetings**

- (a) The Chairperson may convene a Board meeting whenever the Chairperson thinks fit.
- (b) The Secretary must, on the request of the Chairperson or a majority of Directors, convene a Board meeting.

### **8.4 Notice of Board meetings**

- (a) Subject to this Constitution, reasonable notice of a Board meeting must be given to each Director, other than a Director on a leave of absence approved by the Directors.
- (b) Notice of a Board meeting:
  - (i) must specify the date, time and place of the meeting (and any technology to be used);
  - (ii) must state the nature of the business to be transacted at the meeting; and
  - (iii) may be given by post, personal delivery, email or other electronic means.
- (c) A Director may waive notice of a Board meeting by written notice to the Board.
- (d) The date, time or place of a Board meeting must not unreasonably prevent a Director from attending.
- (e) Subject to the Corporations Act, the non-receipt of notice of a Board meeting by, or an accidental omission to give notice of a Board meeting to, any person entitled to receive notice of a Board meeting does not invalidate the Board meeting or any proceeding at the Board meeting.

### **8.5 Quorum at Board meetings**

- (a) No business may be transacted at a Board meeting unless a quorum of Directors is present at the time the business is dealt with.
- (b) A quorum for a Board meeting is a majority of the Directors in office as at the date of the relevant Board meeting.
- (c) If a quorum is not present within 30 minutes after the notified commencement time of the Board meeting, the meeting stands adjourned to the date, time and place as the Board decides.
- (d) A notice of an adjourned meeting must be given to the Directors. No business may be conducted at an adjourned meeting except the business that was meant to be conducted at the meeting that was adjourned. The quorum necessary before an adjourned meeting of the Board can take place is the same quorum under rule 8.5(b) for the original meeting of the Board. If a quorum is not present within 30 minutes after the scheduled commencement time of an adjourned meeting, then the meeting is dissolved.

## **8.6 Board meetings by technology**

- (a) A Board meeting may take place:
  - (i) where the Directors are physically present together; or
  - (ii) using any technology consented to by a majority of the Directors, that gives the Directors entitled to be heard at a Board meeting a reasonable opportunity to participate; or
  - (iii) any combination of the methods under rules 8.6(a)(i) and 8.6(a)(ii).
- (b) A Director who participates in a Board meeting as set out in 8.6(a)(ii):
  - (i) is deemed to be present at the Board meeting;
  - (ii) must not leave the meeting by disconnecting the communication device; and
  - (iii) continues to be present at the Board meeting for the purposes of establishing a quorum,

until the Director notifies the other Directors that they are no longer taking part in the Board meeting.
- (c) A Director may withdraw the consent given under rule 8.6(a)(ii) (in respect of a particular meeting or all meetings) within a reasonable period before the relevant Board meeting.
- (d) All the rules in this Constitution relating to Board meetings apply, so far as they can and with any necessary changes, to Board meetings using technology.
- (e) A Board meeting using technology is taken to be held at the place decided by the chairperson of the Board meeting, as long as at least one of the Directors involved was at that place for the duration of the Board meeting.
- (f) If, before or during the Board meeting, a technical difficulty occurs which means that one or more Directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, if a quorum of Directors remains present, continue with the Board meeting.

## **8.7 Chairperson of Directors**

- (a) Subject to this Constitution, the Chairperson will preside as chairperson at each meeting of the Board.
- (b) In the Chairperson's absence, the Deputy Chairperson will preside as chairperson of the Board meeting.
- (c) The Directors present at the meeting must elect one of the Directors as chairperson of the meeting if:
  - (i) there is no Chairperson or Deputy Chairperson; or

- (ii) the Chairperson and Deputy Chairperson are not present at the time appointed for the commencement of the meeting or are not willing or able to act as chairperson of the meeting.

## **8.8 Decisions of Directors**

- (a) A Board meeting at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board under this Constitution.
- (b) Subject to this Constitution, decisions and resolutions at a Board meeting must be decided by a majority of votes cast by the Directors present at the meeting and entitled to vote.
- (c) Each Director has one vote.
- (d) Subject to this Constitution, in the case of an equality of votes at a Board meeting, the chairperson of the meeting has a casting vote in addition to the chairperson's deliberative vote.

## **8.9 Resolutions in writing**

- (a) The Directors may pass a resolution without a Board meeting being held if:
    - (i) all of the Directors who would be entitled to receive notice of a meeting of the Board and to vote on a resolution are given a document setting out that resolution;
    - (ii) a majority of the Directors, other than any or all of the following:
      - (A) a Director on leave of absence approved by the Directors;
      - (B) a Director who disqualifies themselves from considering the resolution in question on the grounds that they are not entitled at law to do so or has a conflict of interest; and
      - (C) a Director, who the Directors reasonably believe, is not entitled to vote on the resolution in question,  
  
assent to that resolution; and
    - (iii) the Directors who assent to that resolution would have constituted a quorum at a meeting of the Board held to consider that resolution.
  - (b) Two or more copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy.
  - (c) The resolution is passed when the last of the Directors who constitute the requisite majority assents.
  - (d) A Director may signify assent to a document by:
    - (i) signing the document; or
    - (ii) by notifying the Company of the Director's assent in person or by post, fax, electronic, telephone or other method of written, audio or audiovisual communication.
-

- (e) Where a Director signifies assent to a document otherwise than by signing the document, the Director must confirm their assent by signing the document as soon as practicable and no later than the next meeting of the Board attended by that Director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (f) Where a document is assented to under this rule 8.9, the document is to be taken as a minute of the passing of the resolution.

### **8.10 Validity of acts**

An act done by a person acting as a Director or at a Board or a Committee meeting attended by a person acting as a Director, is not invalidated merely because of:

- (a) a defect in the appointment of the person;
- (b) the person being disqualified or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the Board (as applicable) when the act was done.

## **9. Material personal interests of Directors**

### **9.1 Declaration of Interest**

- (a) A Director who has a material personal interest in a matter that relates to the affairs of the Company, including in a contract or proposed contract, any office or any property such that the Director might have duties or interests which conflict or may conflict either directly or indirectly with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting unless section 191(2) of the Corporations Act applies.
- (b) A notice of a material personal interest must set out:
  - (i) the nature and extent of the interest; and
  - (ii) the relation of the interest to the affairs of the Company.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

### **9.2 Voting by interested Directors**

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

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless

- (c) sections 195(2) or (3) of the Corporations Act allows the Director to be present; or

- (d) the interest does not need to be disclosed under section 191 of the Corporations Act.

### **9.3 Other activities of the Director**

- (a) Subject to this rule 9 and the Corporations Act, a Director:
  - (i) may enter into contracts with, or otherwise have dealings with, the Company; and
  - (ii) may hold other offices in the Company.
- (b) A Director is not liable to account to the Company for any profit realised by any contract or arrangement, by reason only of holding the office of Director or of the fiduciary relationship established by the office.
- (c) Despite having an interest in any contract or arrangement, a Director may participate in the execution of any document evidencing or connected with the contract or arrangement.

## **10. Secretary**

- (a) The Company must have at least one Secretary who ordinarily resides in Australia.
- (b) The Board must appoint and may terminate the appointment of the Secretary.
- (c) The Board may determine the terms and conditions of appointment and removal of a Secretary, including remuneration (if any).

## **11. Chief Executive Officer**

The Board may appoint a Chief Executive Officer for such period on such terms as it determines who is responsible for the day to day management of the business and affairs of the Company and has the powers and undertakes the responsibilities in the manner determined by the Board.

## **12. Committees**

### **12.1 Establishment of Committees**

- (a) The Board may establish Committees for such purposes and with such powers as the Board determines.
- (b) Without limiting rule 12.1(a), the Board must establish a remuneration and nominations committee.

### **12.2 Composition and role of Committees**

Unless inconsistent with this Constitution, the Board may:

- (a) appoint and remove Committee members, or make provision for the appointment and removal of Committee members;
- (b) determine the responsibilities and powers of any Committee; and

- (c) make and amend the rules governing the proceedings and conduct for each Committee.

### 12.3 Determination of Committees

The determination of any Committee is subject to confirmation by the Board unless the Committee is given full power to act by the Board.

## 13. Officers' indemnity, insurance and access

To the extent permitted by law, the Company:

- (a) In this rule 13:
  - (i) **Officer** means:
    - (A) an existing or former Director, Secretary or Chief Executive Officer; or
    - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Company;
  - (ii) **Duties of the Officer** include, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an Officer by the Company or, where applicable, the subsidiary of the Company;
  - (iii) **to the Relevant Extent** means:
    - (A) to the extent the Company is not precluded by law from doing so;
    - (B) to the extent and for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including a subsidiary or an insurer under any insurance policy); and
    - (C) where the Liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the Duties of the Officer in relation to another corporation, to the extent and for the amount that the Officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation; and
  - (iv) **Liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind, including legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.
- (b) The Company is to indemnify each Officer out of the assets of the Company to the Relevant Extent against any Liability incurred by the Officer in, or arising out of, the conduct of the business of the Company or in, or arising out of, the discharge of the Duties of the Officer for the period ending seven years after the date the Officer ceases to be an officer of the Company, except for fraud

and wilful misconduct or any Liability arising out of conduct involving lack of good faith.

- (c) Subject to this rule 13, where the Directors consider it appropriate, the Company may execute an indemnity document in any form in favour of any Officer of the Company or a subsidiary.
- (d) Where the Directors consider it appropriate, the Company may to the Relevant Extent:
  - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an Officer of the Company or a subsidiary against any Liability incurred by the Officer in, or arising out of, the conduct of the business of the Company or in, or arising out of, the discharge of the Duties of the Officer; and
  - (ii) bind itself in any contract or deed with any Officer of the Company to make the payments.
- (e) Where the Directors consider it appropriate, the Company may:
  - (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
  - (ii) bind itself in any contract with a Director or former Director to give the access.

#### **14. Execution of documents**

The Company may execute a document if the document is signed by:

- (a) two Directors;
- (b) a Director and the Secretary; or
- (c) any person duly authorised to sign on behalf of the Company, whether under a power of attorney or otherwise.

#### **15. Notices**

- (a) Subject to the Corporations Act, the Company may give a notice under this Constitution by, in the Company's discretion:
  - (i) delivering it personally;
  - (ii) posting it to the address in the relevant Company register or the address the person gives the Company for the giving of notices;
  - (iii) sending it to an email address nominated by the person for the giving of notices;
  - (iv) sending it electronically (including by providing a URL link to any notice or attachment) to the electronic address the person gives the Company for the giving of notices; or

- (v) any other legally permissible means.
- (b) A notice is taken to be given when:
  - (i) delivered in person, or left at the recipient's address, on the day it is delivered;
  - (ii) sent by post, on the third day after it is posted;
  - (iii) sent by email, on the day it was sent; and
  - (iv) if given under rule 15(a)(iv), on the day the notification that the notice is available was sent,

but if the delivery or email is not on a Business Day or is after 5.00pm on a Business Day, the notice is taken to be received at 9.00am on the Business Day after that delivery, email or electronic message.

- (c) Subject to the Corporations Act, where:
  - (i) a Member does not have a registered address and has not nominated an address (whether electronic or physical) for the giving of notices; or
  - (ii) the Company has a reason in good faith to believe that a Member is not known at either the Member's registered address or their nominated address for the giving of notices (as applicable),

a notice is conclusively deemed to be given to the Member if the notice is exhibited in the Company's registered office for a period of 48 hours (and is conclusively deemed to be duly served at the commencement of that period) and published on the Company's website, unless and until the Member informs the Company of a new registered or nominated address.

## **16. Amending this Constitution**

This Constitution may be amended, or repealed and replaced, by a Special Resolution of the Voting Members.

## **17. Regulations**

- (a) The Board may, from time to time, pass, make, amend and repeal Regulations to give effect to this Constitution and for any matter of a nature authorised by this Constitution to be capable of being subject of a Regulation.
- (b) Regulations are binding on the Company, its officers and Members as if they were part of this Constitution.

## **18. Winding up**

- (a) If upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities (including any payment to MCI Holders), any assets, the assets must not be paid to or distributed among the Members but must, subject to the Corporations Act and any applicable law or court order, be transferred to another company or body corporate which:
  - (i) has objects similar to the Objects; and

- (ii) prohibits distribution of its income and property among its members to an extent at least as great as is imposed on the Company by rule 2.3.
- (b) The identity of the company or body corporate to be given the surplus assets under rule 18(a) must be decided by:
  - (i) the Board at or before the time of winding up or dissolution; or
  - (ii) if no decision is made under rule 18(b)(i) by applying to the Supreme Court of Western Australia to make this decision.

## **19. Change of ownership approval procedure**

### **19.1 Approval procedure**

- (a) No Demutualisation may be entered into, implemented or carried out except with the prior authority of a Special Resolution that complies with the terms of this rule 19.
- (b) Entering into, implementing or carrying out of a Demutualisation is only authorised under this rule if:
  - (i) it is first approved by a Special Resolution passed at a general meeting where (in addition to the quorum required by rule 5.7) there is throughout the time the meeting debates and casts votes on that resolution, a quorum equal to 15% of the Voting Members;
  - (ii) the notice for the meeting at which that Special Resolution is to be considered and voted on sets out:
    - (A) what financial benefits (if any) Members will be offered if the proposed Demutualisation occurs;
    - (B) why the financial benefits (if any) Members will be offered in that case are considered to be appropriate;
    - (C) the basis on which each Member's entitlement to those financial benefits will be determined including:
      - (1) any minimum period of membership that a Member must satisfy to receive benefits; and
      - (2) whether a Member must pay an amount or provide other consideration to receive benefits;
    - (D) why the basis for that determination of each Member's entitlement to those financial benefits (if any) is considered to be appropriate;
    - (E) preferential allocation of those benefits to Members, or a group of Members, and how that allocation is to be determined;
    - (F) why any preferential allocation of those benefits to Members and the process for that allocation is considered to be appropriate;

- (G) the expected impact of the Demutualisation on the conduct of the business of the Company and its subsidiaries; and
- (H) the expected impact of the Demutualisation on the provision (including the terms of provision) to Members of products and services by the Company and its subsidiaries.

## 19.2 Additional Procedure

To the extent that a Demutualisation involves or requires a modification or repeal of this Constitution or a provision of this Constitution, or the doing of any other acts under this Constitution, the requirements of this rule 19 are in addition to any further requirements under the Corporations Act.

## 20. Definitions and interpretation

### 20.1 Definitions

**Appointed Director** means an eligible Member who is appointed to the Board under rule 6.5.

**Board** means the board of Directors of the Company.

**Board Policy** means a policy as determined from time to time by the Board in respect of the Board's activities.

**Business Day** means a day which is not a Saturday, Sunday, public holiday or bank holiday in the city of Perth, Western Australia.

**Candidate** means a Voting Member who is eligible for election as an Elected Director and who has been approved under the Regulations.

**Chairperson** means the Director appointed under rule 7.1, and **chairperson** means either the Chairperson or a Director elected to be the chairperson for any general meeting under rule 5.8(b) or any Board meeting under rule 8.7(b).

**Chief Executive Officer** means the person appointed as Chief Executive Officer of the Company under rule 11.

**Club Policy** means a policy in respect of the Members determined from time to time by the Board.

**Committee** means a committee established and governed by rule 12.

**Company** means the company named in rule 1.

**Constitution** means this constitution and any amendments to or substitutions for it.

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

**Demutualisation** means any arrangement which would have the purpose or effect of:

- (a) creating or issuing shares in the Company;
- (b) the Company agreeing to create or issue shares in it;

- (c) varying the rights of Members, or a class of Members, to the Company's:
  - (i) reserves; or
  - (ii) assets on a winding up; or
- (d) transferring, exhausting, surrendering, cancelling or terminating some or all rights of Members (including the complete resignation of Membership, whether in exchange for value or not),

and includes:

- (e) any arrangement that would have the purpose or effect of authorising any of the matters set out in paragraphs (a) to (d); and
- (f) any proposed modification or repeal of any part of this definition or rule 19,

but excludes:

- (g) an agreement for a demutualisation entered into by the Company and authorised by the Board, provided that the agreement is conditional upon, and that the demutualisation may only be carried out with, authorisation under rule 19; and
- (h) the creation or issuance of, or the agreement to create or issue, or any amendment to this Constitution to facilitate the creation or issuance of, MCIs (including MCIs of different classes and with different rights) and the cancellation or variation of any rights attached to MCIs (or a class of MCIs).

**Deputy Chairperson** means the Director appointed under rule 7.1.

**Director** means a person appointed as a director of the Company under rule 6.

**Elected Director** means an eligible Voting Member who is elected or deemed elected to the Board under this Constitution.

**MCI** (short for mutual capital instrument) has the meaning given to that term in section 9 of the Corporations Act.

**MCI Holder** means a holder of an MCI.

**Member** means any person who is a member of the Company under rule 4, and the term **Membership** has a corresponding meaning.

**Member Services** means any or all of products, services, facilities and other benefits offered by the Company (or any of its related bodies corporate) to Members or a particular class of Membership.

**Objects** means the objects referred to in rule 2.1.

**President** means the Director who holds the office as "President" under this Constitution.

**Regulation** means any regulation made in accordance with rule 17.

**Secretary** means any person appointed as a secretary of the Company under rule 10.

**Special Resolution** has the meaning given to it in the Corporations Act.

**Vice-President** means the Director who holds the office of “Vice-President” under this Constitution.

**Voting Member** means a Member of a class prescribed by the Board as entitled to receive notice of, attend and vote at meetings of Members.

## 20.2 Interpretation

In this Constitution, unless a contrary intention is expressed:

- (a) If a word or phrase is defined, then its other grammatical forms have a corresponding meaning.
- (b) The singular includes the plural and vice versa.
- (c) A reference to a gender includes any gender.
- (d) Headings are used for convenience only and do not affect the interpretation of this Constitution.
- (e) A reference to a rule is a reference to a rule of this Constitution.
- (f) The word *includes* and similar words are not words of limitation and do not restrict the interpretation of a word or phrase in this Constitution.
- (g) A reference to a document includes a variation or replacement of it.
- (h) A reference to a statute includes its subordinate legislation and a modification, replacement or re-enactment of either.
- (i) A reference to a person includes a reference to an individual, company, body corporate, trust, partnership, incorporated association, unincorporated body, joint venture, organisation and any other form of entity.
- (j) A reference to a Director present at a Board meeting is a reference to a Director present in person or by technology.
- (k) A reference to a person holding or occupying a particular position or office is a reference to any person who occupies or performs the duties of that office or position.
- (l) A reference to notices includes formal notices of meetings and all documents and other communications from the Company to Members.
- (m) A reference to writing and written includes printing, electronic documents and other ways of representing or reproducing words in a visible form.
- (n) If the date on which a thing must be done is not a Business Day, then that thing must be done on the next Business Day.
- (o) If a period of time runs from a given date, act or event, then the time is calculated exclusive of the date, act or event.

## **21. Application of the Corporations Act**

- (a) A word or expression that is not defined in this Constitution has the same meaning as given under the Corporations Act.
- (b) The replaceable rules do not apply to the Company.
- (c) Despite any rule, if:
  - (i) the Corporations Act prohibits a thing being done, it must not be done;
  - (ii) the Corporations Act requires something to be done, it must be done; and
  - (iii) a provision of this Constitution is or becomes inconsistent with the Corporations Act, that provision must be read down or, failing that, severed from this Constitution to the extent of the inconsistency.

## Schedule 1

MCIIs (rule 1.3)

### 1. Preliminary

#### 1.1 Definitions

In this Schedule:

Term	Definition
CS Facility	has the same meaning as a prescribed CS facility under the Corporations Act.
Listing Rules	means the listing rules (and any other rules) of any Securities Exchange as they apply to the Company from time to time.
Operating Rules	means the operating rules of ASX Settlement Pty Ltd or such other applicable CS Facility as they apply from time to time.
Securities Exchange	means the Australian Securities Exchange or other securities exchange on which MCIIs are listed or quoted.

#### 1.2 Application of Listing Rules and Operating Rules

- (a) A reference to the Listing Rules and the Operating Rules only applies while the Company is included in the official list of a Securities Exchange.
- (b) While the Company is included in the official list of a Securities Exchange:
  - (i) despite anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
  - (ii) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
  - (iii) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done as the case may be;
  - (iv) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is taken to contain that provision;
  - (v) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is taken not to contain the provision; and
  - (vi) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is taken not to contain that provision to the extent of the inconsistency.

### 1.3 Quotation of MCIs

- (a) Subject to this Constitution and the terms of issue, the Company may seek quotation of MCIs (or any class of MCIs) on a Securities Exchange.
- (b) Where any MCIs (or class of MCIs) are quoted on a Securities Exchange:
  - (i) notwithstanding any other provision of this Schedule, the relevant MCIs may be transferred in accordance with the Operating Rules or by any other method of transfer which is required or permitted by the Listing Rules;
  - (ii) the Company may participate in any computerised or electronic system established or recognised by Corporations Act, the Listing Rules or the Operating Rules for the purpose of facilitating dealings in MCIs (or the relevant class of MCIs);
  - (iii) except as provided by any applicable Operating Rules, a transferor of an MCI remains the holder until the transfer is registered and the name of the transferee is registered in the register of MCI Holders in respect of the MCI;
  - (iv) if permitted by the Listing Rules, the Board may:
    - A. request the operator of any applicable CS Facility to apply a holding lock to prevent a transfer of MCIs from being registered on the CS Facility's subregister; or
    - B. refuse to register a transfer of MCIs to which paragraph (i) does not apply; and
  - (v) the Board must:
    - A. request the operator of any applicable CS Facility to apply a holding lock to prevent a transfer of MCIs from being registered on the CS Facility's subregister; or
    - B. refuse to register a transfer of MCIs to which paragraph (i) does not apply,  
if:
      - C. the Listing Rules require the Company to do so; or
      - D. the transfer is in breach of the Listing Rules or the Corporations Act.
- (c) If in the exercise of their rights under rules 1.3(b)(iii) and 1.3(b)(iv)B of this Schedule, the Board requests application of a holding lock to prevent a transfer of MCIs or refuse to register a transfer of MCIs, it must give written notice of the request or refusal to the relevant MCI Holder, the transferee and any broker lodging the transfer. Failure to give notice does not invalidate the decision of the Board.

## **2. Issuance of MCIs**

### **2.1 Issue of MCIs**

The Company may issue MCIs, including MCIs which are, or at the option of the Company are, liable to be redeemed.

### **2.2 Terms of issue of MCIs**

Each MCI issued by the Company must be issued as a fully paid share and:

- (a) may confer a right to receive dividends as specified in the terms of issue (provided that an MCI must not confer on the holder a right to receive dividends that are cumulative);
- (b) may confer a right on its holder to receive dividends in priority to, equally with, or subordinated to, the payment of any dividend on any other class of MCIs;
- (c) may confer a right on its holder in a winding up and on redemption (if redeemable) to payment in priority to, equally with, or subordinated to, any other class of MCIs as specified in the terms of issue, of:
  - (i) the amount of any dividend accrued but unpaid on the MCI at the date of winding up or the date of redemption (if redeemable); and
  - (ii) any amount paid up on the MCI or any other amount stated in, or calculated under, the terms of issue;
- (d) does not confer on its holder any right to participate in the surplus assets or property of the Company except as set out in this Schedule;
- (e) may confer a right to a bonus issue or capitalisation of profits in favour of holders of those MCIs only, as specified in the terms of issue;
- (f) may be redeemed on such conditions as specified in the terms of issue (if any); and
- (g) may entitle its holder to vote at, or may prohibit its holder from voting at, any general meeting of the Company, as specified in the terms of issue (provided that each MCI Holder will be limited to one vote in respect of their MCIs, regardless of the number of MCIs they hold),

in each case, as determined by the Board under the terms of issue, provided that the rights attaching to MCIs must comply with this Constitution and the Corporations Act.

### **2.3 Dividends**

- (a) Subject to the Corporations Act, this Constitution and the terms of issue of any MCIs, the Board may determine that a dividend is payable, fix the record date, amount and time for payment and authorise the payment to (or at the direction of) an MCI Holder entitled to that dividend. The Board may rescind or alter any such determination before payment is made.
- (b) Interest is not payable by the Company on a dividend.

- (c) Dividends on MCIs must not be paid other than in the form of cash, but may be reinvested in accordance with a dividend reinvestment plan (if any such plan has been approved by the Board).
- (d) A dividend may be paid using any payment method determined by the Board, including by means of direct credit or cheque. Payment of money is at the risk of the holder or holders to whom it is sent.

#### **2.4 Additional MCIs**

Subject always to these terms of the Constitution and this Schedule, the Company may at any time create and issue MCIs ranking equally with, or in priority to, MCIs already on issue or with different rights to MCIs already on issue.

#### **2.5 Variation of rights attached to MCIs**

The rights attached to MCIs (or a class of MCIs) may only be varied or cancelled by Special Resolution of the Company and either:

- (a) by a Special Resolution passed at a meeting of MCI Holders holding MCIs (or that class of MCIs in the event of a variation of rights attaching only to a class of MCIs); or
- (b) with the written consent of MCI Holders holding at least 75% of the issued MCIs (or that class of MCIs in the event of a variation of rights attaching only to a class of MCIs).

#### **2.6 Meetings of MCI Holders**

Subject to the Corporations Act, the terms of issue of any MCIs and this Schedule, the provisions of this Constitution which deal with general meetings of Members of the Company (including relating to the appointment of proxies and attorneys, and direct voting) shall apply, so far as they are capable of application and with any necessary changes, to meetings of MCI Holders.

#### **2.7 Joint MCI Holders**

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

- (a) the Company is not bound to register more than three persons as the holders of an MCI (except in the case of trustees, executors or administrators of a deceased MCI Holder);
- (b) the joint holders are jointly and severally liable for all payments required to be made in respect of the MCIs;
- (c) only the person whose name appears first in the register is entitled to receive notices in respect of the MCIs; and
- (d) any one of the joint holders may vote at a meeting of MCI Holders (either personally or by proxy, or attorney, or representative) in respect of the MCIs and, if more than one joint holder is present at any meeting (either personally or by proxy or attorney or representative), the joint holder who is present and

whose name appears first in the register is entitled alone to vote in respect of the MCIs.

## **2.8 Register**

The Company must maintain a register of MCI Holders.

## **2.9 Notices**

A notice may be given to an MCI Holder in any manner permitted by the relevant terms of issue.

## **3. Transfer of MCIs**

### **3.1 Forms of instrument of transfer**

Subject to this Constitution, and the terms of issue of any MCIs, an MCI Holder may transfer all or any of their MCIs by any method of transfer required or permitted by the Corporations Act.

### **3.2 Execution and delivery of transfer**

If a duly completed instrument of transfer:

- (a) is used to transfer an MCI in accordance with rule 3 of this Schedule; and
- (b) is left for registration at the share registry of the Company, accompanied by any information that the Board properly requires to show the right of the transferor to make the transfer,

the Company must, subject to this Constitution and the terms of issue of any MCIs, register the transferee as the holder of the MCI.

### **3.3 Effect of registration**

A transferor of an MCI remains the holder of the MCI transferred until the transfer is registered and the name of the transferee is entered in the register of MCI Holders.

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

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

### **3.5 Power to suspend registration of transfers**

The registration of transfers may be suspended at such time and for such period as the Board may determine from time to time, not exceeding 30 days in any calendar year (or otherwise as permitted or required by any applicable Operating Rules).

## **4. Transmission of MCIs**

### **4.1 Transmission of MCIs on death**

If an MCI Holder who does not hold MCIs jointly dies, the Company will recognise only the personal representative of the MCI Holder as being entitled to the MCI Holder's interest in the MCI.

#### **4.2 Information given by personal representative**

- (a) If the personal representative of an MCI Holder who has died gives the Board the information it reasonably requires to establish the representative's entitlement to be registered as a holder of the MCIs:
  - (i) the personal representative may:
    - A. by giving a signed notice to the Company, elect to be registered as the holder of the MCIs; or
    - B. by giving a completed transfer to the Company, transfer the MCIs to another person; and
  - (ii) the personal representative is entitled, whether or not registered as the holder of the MCIs, to the same rights as the MCI Holder.
- (b) On receiving an election under rule 4.2(a)(i) of this Schedule, the Company must register the personal representative as the holder of the MCIs.
- (c) A transfer under rule 4.2(a)(i)B of this Schedule is subject to the rules that apply to transfers generally.

#### **4.3 Death of joint MCI Holder**

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

#### **4.4 Transmission of MCIs on bankruptcy**

- (a) If a person entitled to MCIs because of the bankruptcy of an MCI Holder gives the Board the information it reasonably requires to establish the person's entitlement to be registered as the holder of the MCIs, the person may:
  - (i) by giving a signed notice to the Company, elect to be registered as the holder of the MCIs; or
  - (ii) by giving a completed transfer form to the Company, transfer the MCIs to another person.
- (b) On receiving an election under rule 4.4(a) of this Schedule, the Company must register the person as the holder of the MCIs.
- (c) A transfer under rule 4.4(a)(i) of this Schedule is subject to the rules that apply to transfers generally.
- (d) This rule has effect subject to the *Bankruptcy Act 1966* (Cth).

#### **4.5 Transmission of MCIs on mental incapacity**

- (a) If a person entitled to MCIs because of the mental incapacity of an MCI Holder gives the Board the information it reasonably requires to establish the person's entitlement to be registered as the holder of the MCIs:

- (i) the person may:
    - A. by giving a signed notice to the Company, elect to be registered as the holder of the MCIs; or
    - B. by giving a completed transfer to the Company, transfer the MCIs to another person; and
  - (ii) the person is entitled, whether or not registered as the holder of the MCIs, to the same rights as the MCI Holder.
- (b) On receiving an election under rule 4.5(a)(i) of this Schedule, the Company must register the person as the holder of the MCIs.
  - (c) A transfer under rule 4.5(a)(i)B of this Schedule is subject to the rules that apply to transfers generally.