

28 September 2017

Company Announcements Office  
ASX Limited  
20 Bridge Street  
SYDNEY NSW 2000

**2017 Notice of Annual General Meeting – nib holdings limited**

Please find attached nib's 2017 Notice of Annual General Meeting and Proxy Form which was distributed to nib shareholders today.

At the 2017 Annual General Meeting nib is seeking shareholder approval for a number of amendments to its Constitution. Attached to this announcement is nib's Constitution with the proposed amendments marked-up.

nib's 2017 Notice of Annual General Meeting, Proxy Form and proposed amendments to the nib Constitution can also be viewed online at [nib.com.au/shareholders](http://nib.com.au/shareholders).

Yours sincerely,



Roslyn Toms  
**Company Secretary**

**For further information please contact:**

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## **NOTICE OF MEETING 2017**

Celebrating 10 years on the  
Australian Securities Exchange

Date: Wednesday, 1 November 2017  
Time: 11.00am (AEDT)  
Venue: The Westin  
1 Martin Place, Sydney NSW 2000



## FROM THE CHAIRMAN

Dear Shareholder,

I am pleased to invite you to attend the 2017 nib Annual General Meeting (AGM).

The AGM will be held at The Westin, 1 Martin Place, Sydney on Wednesday, 1 November 2017, commencing at 11.00am (AEDT). The AGM will be webcast from this time at [nib.com.au/shareholders](http://nib.com.au/shareholders) and can be viewed live or as a recording following the AGM.

The following Notice of Meeting contains details on the items of business for the AGM, as well as explanatory notes and voting procedures.

If you are unable to attend the AGM in person you may lodge your proxy form electronically at [investorvote.com.au](http://investorvote.com.au) or complete and return the enclosed proxy form in the reply paid envelope provided.

Shareholders can also submit written questions in advance of the AGM. A shareholder question form is enclosed and this can be returned with your proxy form in the reply paid envelope provided. Questions can also be submitted online at [investorvote.com.au](http://investorvote.com.au).

Further information including a map and transport options for attending the AGM is located on the back cover of this Notice of Meeting.

We look forward to seeing you at the AGM.

Yours sincerely,

**STEVE CRANE**

Chairman

# Notice is given that the 2017 Annual General Meeting (“AGM”) of nib holdings limited (ACN 125 633 856) (“nib” or “Company”) will be held:

**DATE:** WEDNESDAY, 1 NOVEMBER 2017  
**TIME:** 11.00AM (AEDT)  
**VENUE:** THE WESTIN  
1 MARTIN PLACE, SYDNEY NSW 2000

## ITEMS OF BUSINESS

### ORDINARY BUSINESS

#### 1. Consideration of Reports

To receive and consider the Financial Report, the Directors' Report and the Independent Auditor's Report of nib and the entities it controlled (also known as the Group) for the financial year ended 30 June 2017.

Shareholders will be able to ask questions about, or comment on the reports, management and audit of the Group.

*There is no vote on this Item.*

#### 2. Remuneration Report

To consider and, if thought appropriate, pass the following as an advisory ordinary resolution:

“That the Remuneration Report of the Company for the financial year ended 30 June 2017 (set out in the Directors' Report) is adopted.”

Under the Corporations Act, this resolution is advisory only and does not bind the Directors or the Company.

#### 3. Re-election of Ms Lee Ausburn

To consider and, if thought appropriate, pass the following as an ordinary resolution:

“That Ms Lee Ausburn be re-elected as a Non-Executive Director of the Company.”

#### 4. Re-election of Ms Christine McLoughlin

To consider and, if thought appropriate, pass the following as an ordinary resolution:

“That Ms Christine McLoughlin be re-elected as a Non-Executive Director of the Company.”

#### 5. Election of Ms Anne Loveridge

To consider and, if thought appropriate, pass the following as an ordinary resolution:

“That Ms Anne Loveridge be elected as a Non-Executive Director of the Company.”

### SPECIAL BUSINESS

#### 6. Approval of participation in Long-Term Incentive Plan

To consider and, if thought appropriate, pass the following as an ordinary resolution:

“That for the purposes of ASX Listing Rule 10.14 and for all other purposes the following is approved:

- participation in the nib Long-Term Incentive Plan (LTIP) by Mr Mark Fitzgibbon, Managing Director/Chief Executive Officer;
- acquisition accordingly by Mr Fitzgibbon of Performance Rights and in consequence of the vesting of those Performance Rights, of ordinary shares of the Company; and
- the provision of benefits to Mr Fitzgibbon under the LTIP, for the year commencing 1 July 2017,

in accordance with the terms of the LTIP (as approved by the Board, and amended from time to time by the Board) and on the basis described in the Explanatory Notes to this Notice of Meeting.”

#### 7. Approval to increase aggregate fee pool for Non-Executive Directors

To consider and, if thought appropriate, pass the following as an ordinary resolution:

“That for the purposes of ASX Listing Rule 10.17, nib's constitution and for all other purposes, the aggregate amount of fees that may be paid to Non-Executive Directors as a whole be increased from A\$1,500,000 to A\$1,900,000 per annum (an increase of A\$400,000), effective from 1 January 2018.”

#### 8. Amendments to nib's constitution

To consider and if thought appropriate, pass the following resolution as a special resolution:

“That the constitution of nib be amended as set out in the document tabled at the Annual General Meeting and described in the Explanatory Notes.”

## VOTING EXCLUSION STATEMENTS

### Item 2

For the purposes of sections 250R(2) and 250BD(1) of the Corporations Act 2001 (Cth):

1. subject to paragraph 2, a vote must not be cast (in any capacity) on the resolution in Item 2 by or on behalf of a member of the Company's key management personnel (including the Directors) (KMP), details of whose remuneration are included in the Remuneration Report or their closely related parties, whether as a shareholder or as a proxy except that a vote may be cast on the resolution in Item 2 by a KMP, or a closely related party of a KMP if:
  - the vote is cast as a proxy appointed in writing that specifies how the proxy is to vote on the resolution in Item 2; and
  - the vote is not cast on behalf of a KMP or a closely related party of a KMP.
2. if you appoint the Chairman of the AGM as your proxy, and you do not direct your proxy how to vote on the resolution in Item 2 on the proxy form, you will be expressly authorising the Chairman of the AGM to exercise your proxy even if the resolution in Item 2 is connected directly or indirectly with the remuneration of a KMP of the Group, which includes the Chairman of the AGM.

The Chairman of the AGM intends to vote undirected proxies able to be voted in favour of the resolution in Item 2.

### Item 6

For the purposes of section 250BD(1) of the Corporations Act 2001 (Cth):

1. a vote must not be cast on the resolution in Item 6 by a KMP, or a closely related party of a KMP, acting as proxy, if their appointment does not specify the way the proxy is to vote on the resolution in Item 6. However, this voting exclusion does not apply if the KMP is the Chairman of the AGM acting as proxy and their appointment expressly authorises the Chairman of the AGM to exercise the proxy even if the resolution in Item 6 is connected directly or indirectly with the remuneration of a member of the KMP of the Group; and
2. if you appoint the Chairman of the AGM as your proxy, and you do not direct your proxy how to vote on the resolution in Item 6 on the proxy form, you will be expressly authorising the Chairman of the AGM to exercise your proxy even if the resolution in Item 6 is connected directly or indirectly with the remuneration of a member of the KMP of the Group, which includes the Chairman of the AGM.

The Chairman of the AGM intends to vote undirected proxies able to be voted in favour of the resolution in Item 6.

For the purposes of the ASX Listing Rules, the Company will disregard any votes cast on the resolution in Item 6 by:

- any Director of nib who is eligible to participate in the LTIP; and
- an associate of any Director of nib who is eligible to participate in the LTIP.

However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### Item 7

For the purposes of section 250BD(1) of the Corporations Act 2001 (Cth):

1. a vote must not be cast on the resolution in Item 7 by a KMP or a closely related party of a KMP, acting as proxy, if their appointment does not specify the way the proxy is to vote on the resolution in Item 7. However this voting exclusion does not apply if the KMP is the Chairman of the AGM acting as proxy and their appointment expressly authorises the Chairman of the AGM to exercise the proxy even if the resolution in Item 7 is connected directly or indirectly with the remuneration of a member of the KMP; and
2. if you appoint the Chairman of the AGM as your proxy, and you do not direct your proxy how to vote on the resolution in Item 7 on the proxy form, you will be expressly authorising the Chairman of the AGM to exercise your proxy even if the resolution in Item 7 is connected directly or indirectly with the remuneration of a member of the KMP, which includes the Chairman of the AGM.

The Chairman of the AGM intends to vote undirected proxies able to be voted in favour of the resolution in Item 7.

For the purposes of the ASX Listing Rules, the Company will disregard any votes cast on the resolution in Item 7 by:

- a Director of nib; and
- an associate of that Director of nib.

However, nib need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

Dated: [Date to be inserted when finalised]

By Order of the Board



Roslyn Toms  
Company Secretary

## Notes

1. A shareholder entitled to attend and vote is entitled to appoint not more than two proxies. Shareholders can appoint a body corporate as well as an individual as their proxy. A body corporate may appoint an individual as its representative to exercise any of the powers the body may exercise at general meetings of nib or in the capacity of a shareholder's proxy at general meetings of nib. The appointment may be a standing one. Unless the appointment states otherwise, the representative may exercise all of the powers that the appointing body could exercise at a general meeting or in voting on a resolution.
2. A shareholder who appoints two proxies may state on the proxy form what proportion or number of the shareholder's votes each proxy is being appointed to exercise. If a shareholder appoints two proxies and does not specify the proportion or number of votes each proxy may exercise, each of the proxies may exercise half the shareholder's votes.
3. If a shareholder has appointed two proxies, when a resolution is decided on a show of hands, only the first person named on the proxy form may vote. If two proxy forms have been completed, the person whose name is earlier in alphabetical sequence may vote.
4. A proxy need not be a shareholder of nib.
5. Either the original, facsimile or electronic transmission of the proxy form(s) and any Power of Attorney or authority under which they are signed must be received at least 48 hours prior to the AGM (i.e. by no later than 11.00am (AEDT) on Monday, 30 October 2017,) or any adjournment. Any proxy form received after this deadline, including at the AGM, will be invalid.
6. A proxy form accompanies this Notice of Meeting.
7. Additional proxy forms will be supplied by the nib share registry on request.
8. An electronic proxy facility is also available to shareholders via the nib shareholder website – [nib.com.au/shareholders](http://nib.com.au/shareholders)
9. If a corporate representative is to attend the AGM on behalf of a corporation, a formal Notice of Appointment must be brought to the AGM or lodged with the share registry prior to the AGM.
10. In accordance with Regulation 7.11.37 of the Corporations Regulations (Cth) and ASX Settlement Operating Rule 5.6.1, the Board has determined that a person's entitlement to vote at the AGM will be the entitlement of that person set out in the register of shareholders as at 7.00pm (AEDT) on 30 October 2017. Accordingly, transactions registered after that time will be disregarded in determining shareholders entitled to attend and vote at the AGM.

11. If you wish a question to be put to the Chairman or Auditor and you are not able to attend the AGM, please complete the question form which is included with this Notice of Meeting.
12. Either the original or facsimile transmission of the question form must be received at least five business days prior to the AGM (by no later than 5.00pm on 25 October 2017 or any adjournment). This is to allow time to collate questions and to prepare answers.
13. If the appointment of a proxy specifies the way the proxy is to vote on a particular resolution:
  - the proxy is not required to vote on a show of hands, but if the proxy does so, the proxy must vote as directed (subject to any applicable voting exclusions);
  - if the proxy has two or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands;
  - if the proxy is not the Chairman of the AGM, the proxy need not vote on a poll but if the proxy does so, the proxy must vote as directed (subject to any applicable voting restrictions); and
  - if the proxy is the Chairman of the AGM, the proxy must vote on a poll and must vote as directed.
14. There are now some circumstances where the Chairman of the AGM will be taken to have been appointed as a shareholder's proxy for the purposes of voting on a particular resolution even if the shareholder has not expressly appointed the Chairman of the AGM as their proxy. This will be the case where:
  - the appointment of the proxy specifies the way the proxy is to vote on a particular resolution;
  - the Chairman of the AGM is not named as the proxy;
  - a poll has been called on the resolution; and
  - either of the following applies:
    - the proxy is not recorded as attending the AGM; or
    - the proxy attends the AGM but does not vote on the resolution.

Shareholders should consider directing their proxy how to vote on each resolution by crossing either the "For", "Against", or "Abstain" box when lodging their proxy form to ensure that their proxy is permitted to vote on their behalf in accordance with their instructions.

# EXPLANATORY NOTES

on the business to be transacted at the nib AGM

## ORDINARY BUSINESS

### 1. Consideration of Reports

Section 317(1) of the Corporations Act 2001 (Cth) ("Corporations Act") requires a public company to lay before its annual general meeting the Financial Report, the Directors' Report and the Auditor's Report for the company for the financial year that ended before the annual general meeting.

Shareholders will be able to consider, comment on and ask questions of the Directors and the Auditor of the Company about the management of the Company, the conduct of the audit, and the preparation and contents of the financial statements and reports of the Company for the financial year ended 30 June 2017.

### 2. Remuneration Report

The Corporations Act requires listed companies to put a remuneration report relating to Director and Executive remuneration for each financial year to a resolution of members at each annual general meeting. The Remuneration Report for the Group for the financial year ended 30 June 2017 is set out on pages 24 to 40 of the Company's Annual Report and is also available on the Company's website [nib.com.au/shareholders](http://nib.com.au/shareholders).

Under section 250R(3) of the Corporations Act, the vote on this resolution is advisory only and does not bind the Directors or the Company. Shareholders will be able to ask questions about, and make comments on, the Remuneration Report at the AGM.

The Directors unanimously recommend that shareholders vote in favour of this ordinary resolution to adopt the Remuneration Report.

### 3. Re-election of Ms Lee Ausburn



In accordance with the ASX Listing Rules and nib's constitution (Constitution), Ms Lee Ausburn retires from office at the AGM and, being eligible for re-election, offers herself for re-election as a Non-Executive Director.

Lee was appointed to the Board of nib holdings limited in November 2013. She is also a Director of nib health funds limited.

Lee is Chairman of the People and Remuneration Committee and a member of the Risk and Reputation Committee and Nomination Committee.

With more than 30 years' experience in the pharmaceuticals industry, Lee has a wealth of knowledge in the global health industry. She is currently a Director of Australian Pharmaceutical Industries Ltd and SomnoMed Ltd. She is also the President of the Pharmacy Foundation at the University of Sydney.

Lee retires in accordance with the ASX Listing Rules and the Constitution and, being eligible, offers herself for re-election as a Non-Executive Director.

The Board (with Ms Lee Ausburn abstaining and not voting) supports the re-election of Ms Lee Ausburn and recommends that you vote in favour of this ordinary resolution.

### 4. Re-election of Ms Christine McLoughlin



In accordance with the ASX Listing Rules and the Constitution, Ms Christine McLoughlin retires from office at the AGM and, being eligible for re-election, offers herself for re-election as a Non-Executive Director.

Christine was appointed to the Board of nib holdings limited in March 2011. She is also a Director of nib health funds limited.

Christine is Chairman of the Risk and Reputation Committee and a member of the Audit and Nomination Committees. She was the former Chairman of the People and Remuneration Committee.

Christine is a professional Non-Executive Director. Prior to becoming a professional director she had a range of executive roles in the financial services, telecommunications and professional services sectors. Her work in leading companies with iconic brands included leadership roles spanning Australia, UK and South East Asia.

Christine is also a Non-Executive Director of Suncorp Group Limited, Whitehaven Coal Limited and Spark Infrastructure Group. She is also the Chairman of Venues NSW Ltd and a member of ASIC's Director Advisory Panel.

Christine retires in accordance with the ASX Listing Rules and the Constitution and, being eligible, offers herself for re-election as a Non-Executive Director.

The Board (with Ms Christine McLoughlin abstaining and not voting) supports the re-election of Ms Christine McLoughlin and recommends that you vote in favour of this ordinary resolution.

### 5. Election of Ms Anne Loveridge



Ms Anne Loveridge was appointed by the Board as an Independent Non-Executive Director of nib holdings limited in February 2017 pursuant to the Constitution, which allows the Board to appoint a Director to fill a casual vacancy or to appoint a Director as an additional Director to the Board.



Anne retires in accordance with the Constitution and, being eligible, offers herself for election as an Independent Non-Executive Director. Anne is also a Director of nib health funds limited.

Anne is a highly experienced Non-Executive Director with extensive knowledge of financial and regulatory reporting, risk management and compliance frameworks.

She is currently a Non-Executive Director of Platinum Asset Management, a Non-Executive Director of National Australia Bank Limited (Chairman – Remuneration Committee and immediate past Chairman – Audit Committee) and Chairman of Bell Shakespeare. She is also a Member of the Nominations Committee for the International Federation of Accountants.

Anne brings over 30 years' experience in financial services and regulatory reporting to the nib Board. She has held senior positions with PricewaterhouseCoopers (Australia) for almost two decades and was Deputy Chairman from 2012 to 2015. Anne is also a Fellow of the Chartered Accountants Australia and New Zealand.

The Board (with Ms Anne Loveridge abstaining and not voting) supports the election of Ms Anne Loveridge and recommends that you vote in favour of this ordinary resolution.

## SPECIAL BUSINESS

### 6. Approval of participation in Long-Term Incentive Plan

#### Approval Sought

nib seeks shareholder approval for Mr Mark Fitzgibbon, Managing Director & CEO, to participate in the LTIP via a grant of Performance Rights from July 2017 (with a four-year vesting period).

#### Background

The LTIP forms part of nib's remuneration strategy. The LTIP is designed to align the interests of Executives and shareholders and to assist nib in the attraction, motivation and retention of Executives. In particular, the LTIP provides Executives with an incentive for future performance, thereby encouraging those Executives to remain with and contribute to the future performance of nib.

Under the LTIP, eligible persons participating in the LTIP may be granted performance rights on terms and conditions determined by the Board from time to time (Performance Rights). A Performance Right is a right to acquire a share in nib, subject to the satisfaction of applicable vesting conditions including the achievement of Board-determined performance hurdles.

In 2008, nib adopted the LTIP and the LTIP Rules (LTIP Rules). The LTIP Rules were most recently amended in April 2017. A summary of the LTIP Rules, which apply to Performance Rights granted to Mr Fitzgibbon and others from July 2017, is set out in the Schedule to these Explanatory Notes.

#### Overview of awards to Mr Mark Fitzgibbon

Performance Rights are awarded to Mr Mark Fitzgibbon (Managing Director & CEO) on an annual basis at the discretion of the Board (and subject to any required shareholder approvals). The Performance Rights for each annual award are granted in two tranches of equal value.

The Performance Rights proposed to be issued will have a four-year performance period (from 1 July 2017 to 30 June 2021) (Performance Period).

#### Vesting conditions

The Performance Rights will vest in accordance with the achievement of the following vesting conditions:

Vesting Condition 1	Vesting Condition 2
50% of the Performance Rights ("Tranche 1")	50% of the Performance Rights ("Tranche 2")
Total Shareholder Return targets (TSR) for the relevant Performance Period are met (TSR Hurdle)	Earnings per Share growth targets (EPS) for the relevant Performance Period are met (EPS Hurdle)

The TSR Hurdle and the EPS Hurdle have been chosen by the Board to focus management attention on four-year strategic and financial objectives, as well as shareholder alignment.

#### TSR Hurdle

The TSR Hurdle measures the growth in the price of securities plus cash distributions notionally reinvested in securities. In order for the Tranche 1 Performance Rights to vest, the TSR of nib is compared to companies in the S&P/ASX 200 (which nib forms part of) as at the commencement of the relevant Performance Period. For the purpose of calculating the TSR measurement, the security prices (plus cash distributions notionally reinvested in securities) of each comparator company in the S&P/ASX 200 and of nib will be averaged over the 20 consecutive ASX trading days preceding the start date and end date of the relevant Performance Period.

The percentage of Tranche 1 Performance Rights that vest will be as follows:

nib's TSR performance compared to the relevant peer group	Percentage of Tranche 1 Performance Rights to vest
<50th percentile	No vesting
≥50th percentile to 74th percentile	Pro-rata straight line vesting between 50% and 74%
≥75th percentile	100% vesting

#### EPS Hurdle

The principle used in setting the EPS Hurdle is to use the prior financial year's EPS as a base and apply a range of compound annual growth rates in EPS from 3.0% to 9.0%, which in turn determines the percentage of Tranche 2 Performance Rights that will vest on 1 September 2021 following the end of the relevant Performance Period, depending on the compound annual growth rate in EPS achieved. The EPS targets have been determined with reference to the macro-economic environment, relevant benchmarks and nib's strategy over the measurement period. No Performance Rights will vest if the compound annual growth rate is below 3.0%.

The EPS Hurdle base for the Performance Period is 27.2 cents per share, being nib's 2017 financial year earnings per share, which is calculated based on net profit after tax of \$120.2 million.



# EXPLANATORY NOTES continued

## on the business to be transacted at the nib AGM

The EPS Hurdle for the Performance Period will be determined in accordance with the principles set out in the table below (with the Board setting the EPS hurdles annually):

Percentage of Performance Rights vesting	EPS Hurdle
100%	Compound annual growth rate of 9.0% (equates to EPS of \$0.384 in the financial year ending 30 June 2021)
75%	Compound annual growth rate of 7.0% (equates to EPS of \$0.357 in the financial year ending 30 June 2021)
50%	Compound annual growth rate of 5.0% (equates to EPS of \$0.331 in the financial year ending 30 June 2021)
25%	Compound annual growth rate of 3.0% (equates to EPS of \$0.306 in the financial year ending 30 June 2021)
0%	Nil

Notes:

1. For the purpose of calculation, 25% and 50% will be discrete thresholds (e.g. performance will be assessed at 25% for EPS greater than or equal to \$0.306 but less than \$0.331, with performance above the 50% entitlement calculated on a pro rata basis to a maximum entitlement of 100%).

The EPS Hurdle will be tested as at 30 June 2021 and the percentage of Performance Rights that will vest on 1 September 2021 will be calculated in accordance with the criteria set out in these Explanatory Notes.

### Number of Performance Rights

The number of Performance Rights to be granted to the Managing Director & CEO for the financial year commencing 1 July 2017 is calculated as follows:

$$\frac{125\% \times \text{TFR}}{\text{Strike Price}}$$

TFR = the Managing Director's total fixed remuneration for the relevant financial year (being base salary plus superannuation).

Strike Price = Volume weighted average price (VWAP) for nib shares for the first 10 trading days following the announcement of the full year financial results for the financial year ended 30 June 2017, which is \$5.8615.

If approved by shareholders, the number of Performance Rights to be granted to Mr Fitzgibbon for the financial year commencing 1 July 2017 is calculated as follows:

$$\frac{125\% \times \$1,042,400}{\$5.8615} = 222,298 \text{ Performance Rights}$$

### Delivery of Shares on Vesting of Performance Rights

Mr Fitzgibbon will receive one share for every vested Performance Right, subject to the LTIP Rules, and the Company may elect whether to allocate shares for the purpose of the LTIP by way of an issue of shares or by procuring the on-market purchase and transfer of shares. The Company currently proposes that it will satisfy its obligations to allocate shares for the purpose of the LTIP by arranging for the on-market purchase and transfer of shares to Mr Fitzgibbon after the testing of the particular performance hurdles.

A two-year non-disposal period applies to 50% of the shares allocated to Mr Fitzgibbon on vesting of the Performance Rights.

### Participation in the LTIP by Mr Fitzgibbon

nib seeks shareholder approval for Mr Fitzgibbon, Managing Director & CEO, to participate in the LTIP for the financial year from 1 July 2017 to 30 June 2018, with the number of Performance Rights to be awarded to Mr Fitzgibbon to be calculated in accordance with the formula set out in this Notice of Meeting.

It is proposed that the performance hurdles for Mr Fitzgibbon will be applied to any other offer of Performance Rights to nib's KMP, unless the Board determines otherwise. Details relating to the performance hurdles will be set in the same manner as outlined in relation to Mr Fitzgibbon, unless the Board determines otherwise.

### Further Information

Listing Rule 10.14 provides that a listed company may only permit a director to acquire shares or rights to shares under an employee incentive scheme where that director's participation has been approved by an ordinary resolution of shareholders. It is the Board's current intention that if the Performance Rights vest, shares will be acquired on-market for the purposes of the LTIP. The Board wishes to seek approval for the acquisition of Performance Rights and shares by the Managing Director & CEO under the LTIP as discussed in these Explanatory Notes.

In accordance with the Listing Rules, the following information is provided for shareholders:

1. the maximum number of Performance Rights for which approval is sought will be calculated as described above and will be provided to shareholders in the relevant Annual Report;
2. the Performance Rights will be granted at no cost to Mr Fitzgibbon and the Board has determined that no amount is payable by Mr Fitzgibbon on the vesting of each Performance Right granted under the LTIP;
3. upon satisfaction of the performance hurdles set by the Board, the Performance Rights will vest and Mr Fitzgibbon will be allocated or issued shares on a one-for-one basis;
4. no loan will be made by nib in connection with the acquisition of Performance Rights or shares by Mr Fitzgibbon under the LTIP;
5. Mr Fitzgibbon is the only person referred to in Listing Rule 10.14 entitled to receive an award of Performance Rights under the LTIP;
6. Mr Fitzgibbon is the only person referred to in Listing Rule 10.14 who has received Performance Rights and securities under the LTIP since the last approval. Mr Fitzgibbon received 225,978 Performance Rights since the last approval with an acquisition price of nil; and
7. no Performance Rights will be granted under this approval later than 12 months after the date of the AGM.

### Recommendation

The Board (with Mr Fitzgibbon abstaining and not voting) recommends that shareholders vote in favour of the ordinary resolution in Item 6 on the basis that the overall remuneration of Mr Fitzgibbon, which includes his participation in the LTIP, is reasonable having regard to the Company's circumstances and that the grant of Performance Rights to Mr Fitzgibbon under the LTIP and on the terms described in these Explanatory Notes:

- is in the best interests of the Company as a whole; and
- is consistent with the Company's remuneration policy, in particular the Company's policy of linking remuneration to achievement, and the objective of attracting and retaining highly-skilled Executives.

## 7. Approval to increase aggregate fee pool for Non-Executive Directors

### a) Proposal for increase

It is proposed that the fee pool for Non-Executive Directors be increased from A\$1,500,000 to A\$1,900,000 per annum (an increase of A\$400,000), effective from 1 January 2018. The fee pool is inclusive of statutory entitlements (including superannuation).

In accordance with the ASX Listing Rules and the Constitution, the Company must not increase the aggregate fee pool for Non-Executive Directors' remuneration without the approval of shareholders.

### b) Reasons for proposed increase

The reasons for the proposed increase are as follows.

- The current aggregate Non-Executive Director fee pool limit of A\$1,500,000 per annum was set at the nib Annual General Meeting on 29 October 2013. The Board has not sought to increase the total fee pool since 2013.
- Since this time, nib has expanded its operations domestically and acquired World Nomads Group on 31 July 2015, the third largest travel insurance company in Australia.
- Based on the current composition of the Board, and including fees paid to the Non-Executive Directors of nib's subsidiary boards (nib New Zealand and World Nomads Group), the total fees payable to Directors for the 2017/18 financial year will be approximately \$1.4 million, which represents 93.5% of the total current fee pool.

The proposed increase to the Non-Executive Director fee pool is sought:

- to provide sufficient scope for possible Board expansion, succession planning and ongoing flexibility; and
- to allow for the Board to set fees in light of the future workload of Non-Executive Directors.

No shares have been issued to any Non-Executive Directors of nib under Listing Rules 10.11 or 10.14 with approval at any time in the last three years.

## Recommendation

The Board recommends that shareholders vote in favour of the ordinary resolution in Item 7 for the reasons set out above.

## 8. Approval to amend nib's constitution

### Why is it proposed that nib's constitution be amended?

A number of amendments to the Constitution are proposed to ensure that:

- the Company is able to utilise unclaimed dividends for the benefit of the community;
- shareholders can exercise voting rights through a broader range of mechanisms; and
- the Constitution contains updated procedures to better enfranchise shareholders.

Each of the proposed amendments and the reasons for each of the proposed amendments are summarised below. A copy of the proposed amendments to the Constitution is available at [nib.com.au/shareholders/company-profile/corporate-governance](http://nib.com.au/shareholders/company-profile/corporate-governance). If you would like a copy of the proposed amendments mailed out to you, please call +61 2 4914 1741.

### a. Re-allocation of unclaimed dividends

nib is seeking shareholder approval to amend the Constitution to allow Directors to revoke entitlements to unclaimed dividends if:

- the dividends have remained unclaimed for five years; and
- affected shareholders have been provided with at least six months notification that their entitlement to the dividends will be revoked.

Unclaimed dividends are comprised of dividends belonging to shareholders who have not provided nib's share registry with their bank details or who nib have been unable to pay dividends to (as nib has not received correct bank details). nib attempts to contact shareholders with unclaimed dividends on a regular basis.

Under the Unclaimed Money Act 1995 (NSW) organisations are required to transfer any monies that are not claimed after six years to the NSW Office of State Revenue (OSR). Shareholders then have six years from the time the OSR receives the unclaimed money to make a claim, with the OSR Chief Commissioner able to consider a claim even after the six year period has passed.

If nib were to proceed with this change to its Constitution, the Directors would be able to transfer unclaimed dividends to third parties. The Directors intend to transfer unclaimed dividends to the nib foundation, a not-for-profit charitable trust, six months prior to when nib would be required to transfer these amounts to the OSR. This means that shareholders will have five years and six months to claim their unclaimed dividends. Once the transfer occurs, shareholders will no longer have an entitlement to those dividends.

nib will attempt to contact affected shareholders at least twice each calendar year for the five-year period and will also place advertisements in national newspapers as appropriate.

### What is the rationale for this change?

Currently unclaimed dividends are retained until the time at which they are claimed or are required to be transferred to the OSR (whichever is earlier). The Directors believe that unclaimed dividends are better utilised by donating those amounts to charity thereby enabling these funds to directly fund charitable organisations to support community-focused health and wellbeing initiatives.

### b. Modernise optionality for dividend reinvestment plans

The Constitution limits the ability for dividends to be re-invested by stating that the dividends must be invested in nib shares.

nib is seeking shareholder approval to broaden the re-investment provisions in the Constitution such that nib is able implement a broader array of dividend reinvestment plans.

### What is the rationale for this change?

Through this change, nib is seeking to provide further optionality to shareholders and enable shareholders to reinvest their dividends in other nib entities if nib determines that it wishes to offer this facility.

## EXPLANATORY NOTES continued

### on the business to be transacted at the nib AGM

#### c. Direct Voting

The Constitution does not currently provide for direct voting by shareholders at a meeting. Direct voting includes votes delivered by post, fax or other electronic means approved by the Directors.

Direct voting allows shareholders to vote without physically attending a meeting by lodging their vote with the company beforehand. It is different to a proxy vote because it allows the non-attending shareholder to vote directly and not through a nominee/representative. A direct vote has the same effect as a vote cast in person at a meeting.

nib is seeking shareholder approval to insert direct voting provisions into the Constitution enabling nib's Directors to determine both:

- when direct voting is allowed; and
- the rules surrounding how direct voting will be implemented.

#### *What is the rationale for this change?*

Your Directors believe that introducing direct voting through amending the Constitution:

- has the potential to increase shareholder voting participation; and
- minimises the risks associated with agency, including where a vote is not counted if the proxy fails to attend or stay at a meeting.

#### d. Flexibility to correct or complete proxy/attorney appointments

The Constitution does not currently have flexibility to allow nib to correct unclear or incorrect instruments appointing proxies. This means that incorrectly completed proxy forms may be disregarded and/or not counted.

nib is seeking shareholder approval to update proxy provisions in the Constitution to allow for electronic proxy voting and to allow nib to deal with routine issues associated with unclear proxy instruments by allowing nib to (for example):

- seek clarification of proxy instructions/power of attorney authorities from shareholders and amend appointments to reflect the clarification; and
- return a defectively executed proxy form so that it can be properly executed before a meeting.

#### *What is the rationale for this change?*

Your Directors believe that enabling nib to correct or complete proxy/attorney appointments will better enfranchise shareholders by giving effect to their voting wishes.

#### e. Improving provisions regarding notice to shareholders

The Constitution is able to become more flexible in relation to notice requirements and voting entitlements.

nib is seeking shareholder approval to update notice and voting entitlement provisions in the Constitution to:

- enable the Company to give notice of meetings to shareholders who are not able to be contacted, by exhibiting notice at the Company's registered office for two business days;
- enable the Directors to reduce the time for when a member will be taken to hold shares, for the purposes of voting entitlements at a meeting, to less than 48 hours before the meeting; and
- enable the Directors to provide documents to Members electronically (if agreed by the Members).

#### *What is the rationale for this change?*

Your Directors believe that introducing these changes will enable flexibility, increase efficiency and reduce costs in relation to the provision of notice to shareholders.

#### Recommendation

The Board recommends that shareholders vote in favour of the special resolution in Item 8 on the basis set out above.

## ENCLOSURES

Enclosed with the Notice of Meeting are:

- i. a proxy form to be completed if you would like to be represented at the AGM by proxy. An electronic proxy facility is also available to shareholders via the nib shareholders website – [nib.com.au/shareholders](http://nib.com.au/shareholders);
- ii. an AGM question form to be completed if you would like a specific question to be addressed by the Chairman or Auditor at the AGM; and
- iii. a reply paid envelope for you to return either or both of the proxy form and AGM question form.

# SCHEDULE

## SUMMARY OF THE LTIP RULES

A grant of performance rights is subject to both the LTIP Rules and the terms of the specific grant as determined by the Board. The Board is responsible for administering the LTIP in accordance with the LTIP Rules and the terms and conditions of specific grants of performance rights to participants in the LTIP.

### Eligibility and Participation

The Board may determine which persons are eligible to participate in the LTIP from time to time. Eligible persons may be invited to apply to participate in the LTIP. The Board may, in its discretion, accept such applications.

### Performance Rights

A person participating in the LTIP ("Executive") may be granted performance rights on terms and conditions, including tenure conditions and performance hurdles, determined by the Board. A performance right has a nil exercise price and is exercised automatically on vesting unless determined otherwise by the Board.

### Consideration for Grant

The Board may determine the amount (if any) payable for the grant of a performance right from time to time.

### Vesting

Following the satisfaction of the performance hurdles applying to a performance right, the performance right vests on a date predetermined by the Board ("Vesting Date").

### Accelerated Vesting at Board's Discretion

The Board may, in its discretion, decide to accelerate the vesting of all or part of the performance rights held by an Executive if there is a winding up of the Company, a delisting of the Company, a change of control, reconstruction or amalgamation of the Company, death of a participant or a cessation of employment as a result of total disablement, redundancy or retirement.

### Lapse

An unvested performance right will lapse on the earliest of:

- a. the expiry date applicable to that performance right;
- b. the Board determining that the vesting conditions in respect of the performance right are not satisfied and not capable of being satisfied on the relevant testing date and that the performance right has lapsed;
- c. the Board making a determination in accordance with the terms and conditions of grant of the performance rights that the performance right has lapsed;
- d. the date the Executive ceases to be employed by nib or a company in the Group due to being a "bad leaver" (being an Executive who ceases employment with nib or a company in the Group by reason of summary dismissal, resignation (other than a mutually agreed separation) and any other reason the Board determines creates a "bad leaver" (other than a reason specified in e below)), unless the Board determines otherwise;
- e. the date the Executive ceases to be employed by nib or a company in the Group due to:
  - i. death;
  - ii. total and permanent disablement;
  - iii. retirement;
  - iv. redundancy; or
  - v. mutually agreed separation,

in which case a pro rata number of each tranche of that Executive's unvested performance rights (calculated in

accordance with the LTIP Rules) will lapse 30 days after the date the Executive ceases employment and the balance of the Executive's unvested performance rights will continue to be held by the Executive subject to the terms and condition of the grant of the performance rights and the LTIP Rules, unless the Board determines otherwise; or

- f. the Board determining that the Executive has committed (or it is evident that the Executive intends to commit) any act (whether by omission or commission) of dishonesty, fraud, wilful misconduct, wilful breach of duty, serious and wilful negligence or incompetence in the performance of the Executive's duties, the Executive is convicted of a criminal offence (other than minor/trivial offences) or is guilty of wilful or recklessly indifferent conduct which may injure the reputation or business of an nib entity, the Executive has breached a confidentiality or non-compete obligation, or the Executive has been involved or contributed to a material financial misstatement and that the performance right has lapsed.

### Delivery of Shares on Vesting of Performance Rights

Following the Vesting Date or the accelerated vesting of a performance right, the Executive will be allocated or issued the number of shares comprised in each performance right.

The Board has the discretion to have shares issued or transferred to an Executive on vesting of performance rights. Any shares issued or allotted under the LTIP will rank equally with those shares of the same class for the time being on issue, except for any rights attaching to those shares by reference to a record date prior to the date of issue or allotment.

### Clawback

If the Board becomes aware of a material financial misstatement and determines that a Performance Right which has been awarded to an Executive or become a vested Performance Right would not have been awarded or become a vested Performance Right if the Board had been aware of the material financial misstatement at the time the Performance Right was awarded or became a vested Performance Right, the Board may (in its absolute discretion):

- a. lapse or cancel the Performance Right (including a vested Performance Right); or
- b. require the Executive to transfer to the Company's nominee, for nil consideration, any shares which the Executive has received in respect of the vested Performance Right or to pay to the Company the sale proceeds of any shares.

### Adjustment

In the event of any capital reorganisation by the Company (including any bonus issues), an Executive's performance rights, and the shares allocated to the Executive on vesting of the Executive's performance rights, will be adjusted as set out in the LTIP Rules and otherwise in accordance with the Listing Rules. In general, it is intended that the Executive will not receive any advantage or disadvantage from such adjustment.

### Restrictions on Disposal of Shares

An Executive may not dispose of, deal in, or grant a security interest over any interest in, a share allocated to the Executive on the vesting of a performance right for any relevant period determined by the Board. The Board may implement such arrangements (including a holding lock) as it determines are necessary to enforce this restriction. Once the restriction is removed, and subject to the Company's Trading Policy, shares acquired on the vesting of performance rights may be dealt with freely.

## FURTHER INFORMATION

nib's 2017 AGM will be held at The Westin, 1 Martin Place, Sydney on Wednesday, 1 November 2017, commencing at 11.00am (AEDT).

The AGM will be webcast live at [nib.com.au/shareholders](http://nib.com.au/shareholders)

nib's 2017 Annual Report and Shareholder Review is available to view online at [nib.com.au/shareholders](http://nib.com.au/shareholders)

If you would like any further information about nib's AGM, please visit [nib.com.au/shareholders](http://nib.com.au/shareholders), call 1300 664 316 or email [nibshareregistry@computershare.com.au](mailto:nibshareregistry@computershare.com.au)

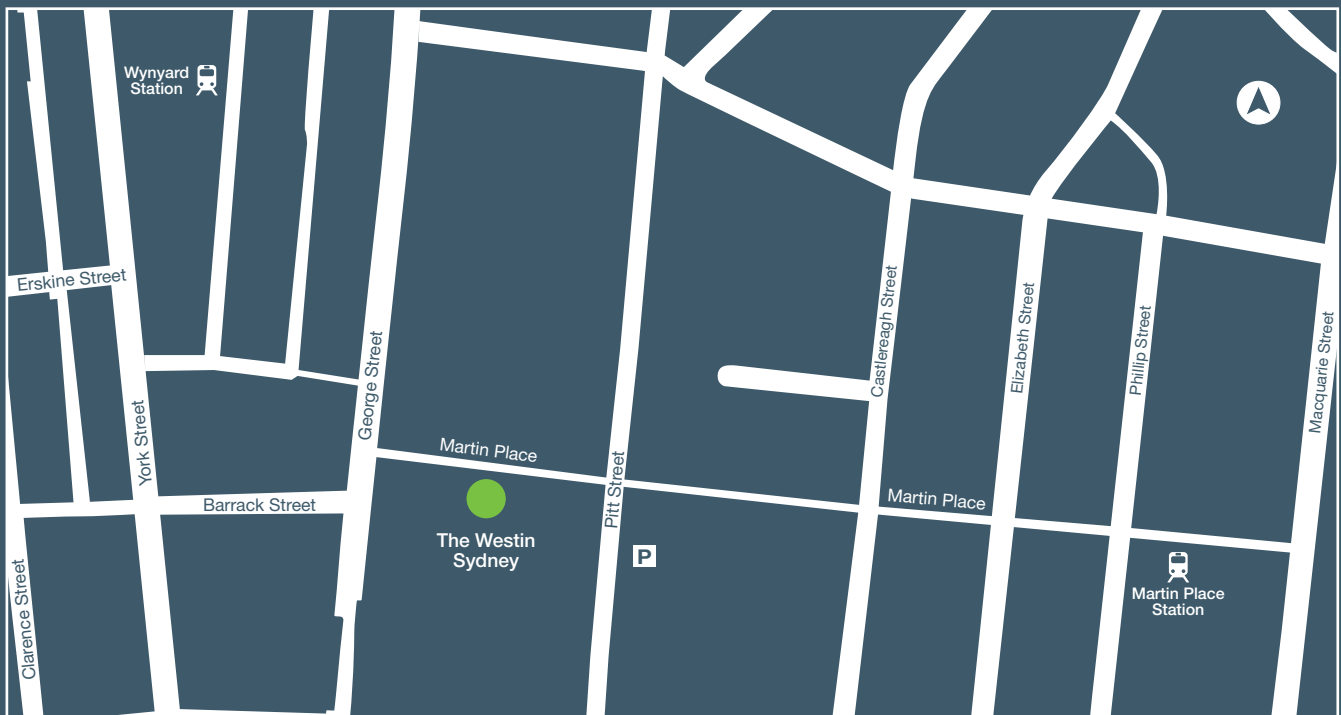
### REQUEST AN AUSLAN INTERPRETER SERVICE

If you are attending nib's AGM on 1 November 2017 and you require an Auslan interpreter, please contact nib in either of the ways detailed below by close of business on 27 October 2017 to request an Auslan interpreter service.

Telephone: +61 2 4914 1741

Email: [corporate.affairs@nib.com.au](mailto:corporate.affairs@nib.com.au)

### GETTING THERE



#### Train

Martin Place Station and Wynyard Station are located within a short distance from the venue. For information on train timetables please visit [www.transportnsw.info](http://www.transportnsw.info) or call 131 500.

#### Bus

For information on bus routes and timetables please visit [www.transportnsw.info](http://www.transportnsw.info) or call 131 500.

#### Parking

Venue parking is managed by Secure Parking and accessed via 159 Pitt Street, Sydney. For parking rates and further information visit [www.secureparking.com.au](http://www.secureparking.com.au) or call 1300 727 483.



000001  
000  
SAM  
MR JOHN SAMPLE  
FLAT 123  
SAMPLE STREET  
SAMPLE STREET  
SAMPLE STREET  
SAMPLETOWN VIC 3030



## Lodge your vote:

Online:  
[www.investorvote.com.au](http://www.investorvote.com.au)



By Mail:  
Computershare Investor Services Pty Limited  
GPO Box 242  
Melbourne Victoria 3001 Australia



By Fax  
1800 783 447 (within Australia)  
+61 3 9473 2555 (outside Australia)



## For all enquiries call:

1300 664 316 (within Australia)  
0800 451 326 (within New Zealand)  
+61 3 9415 4651 (outside Australia)



Investorvote Control Number: 123456  
SRN/HIN: X0123456789

## Proxy Form

For your vote to be effective it must be received by 11.00am (AEDT) on Monday 30 October 2017

### How to Vote on Items of Business

All your securities will be voted in accordance with your directions.

### Appointment of Proxy

**Voting 100% of your holding:** Direct your proxy how to vote by marking one of the boxes opposite each item of business. If you do not mark a box your proxy may vote or abstain as they choose (to the extent permitted by law). If you mark more than one box on an item your vote will be invalid on that item.

**Voting a portion of your holding:** Indicate a portion of your voting rights by inserting the percentage or number of securities you wish to vote in the For, Against or Abstain box or boxes. The sum of the votes cast must not exceed your voting entitlement or 100%.

**Appointing a second proxy:** You are entitled to appoint up to two proxies to attend the annual general meeting (meeting) and vote on a poll. If you appoint two proxies you must specify the percentage of votes or number of securities each proxy may vote, otherwise each proxy may exercise half of the votes. When appointing a second proxy write both names and the percentage of votes or number of securities for each in Step 1 overleaf.

**A proxy need not be a securityholder of nib holdings limited.**

### Signing Instructions for this Form

**Individual:** Where the holding is in one name, the securityholder must sign.

**Joint Holding:** Where the holding is in more than one name, all of the securityholders should sign.

**Power of Attorney:** If you have not already lodged the Power of Attorney with the registry, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** Where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the Corporations Act 2001) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please sign in the appropriate place to indicate the office held. Delete titles as applicable.

### Attending the Meeting

Bring this form to assist registration. If a representative of a corporate securityholder or proxy is to attend the meeting you will need to provide the appropriate "Certificate of Appointment of Corporate Representative" prior to admission. A form of the certificate may be obtained from Computershare or online at [www.investorcentre.com](http://www.investorcentre.com) under the help tab, "Printable Forms".

**Comments & Questions:** If you have any comments or questions for nib holdings limited, please write them on the "Questions from Shareholders" form accompanying the Notice of Meeting.

GO ONLINE TO LODGE YOUR FORM, or turn over to complete the form ➔

MR JOHN SAMPLE  
FLAT 123  
123 SAMPLE STREET  
THE SAMPLE HILL  
SAMPLE ESTATE  
SAMPLEVILLE VIC 3030



**Change of address.**

If incorrect, mark this box and make the correction in the space to the left. Securityholders sponsored by a broker (reference number commences with 'X') should advise your broker of any changes.



I 1234567890 I N D

Please mark ☒ to indicate your directions

## Proxy Form

### STEP 1

#### Appoint a Proxy to Vote on Your Behalf

XX

I/We being a member/s of nib holdings limited hereby appoint

☐

The Chairman  
of the Meeting

OR

**PLEASE NOTE:** Leave this box blank if you have selected the Chairman of the Meeting. Do not insert your own name(s).

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chairman of the Meeting, as my/our proxy to act generally at the Meeting on my/our behalf and to vote in accordance with the following directions (or if no directions have been given, and to the extent permitted by law and in accordance with any applicable voting exclusions, as the proxy sees fit) at the Annual General Meeting of nib holdings limited to be held at The Westin, 1 Martin Place, Sydney NSW 2000 on Wednesday, 1 November 2017 at 11.00am (AEDT), and at any adjournment or postponement of that Meeting.

**Chairman authorised to exercise undirected proxies on remuneration related resolutions:** Where I/we have appointed the Chairman of the Meeting as my/our proxy (or the Chairman becomes my/our proxy by default), I/we expressly authorise the Chairman to exercise my/our proxy on Items 2, 6 and 7 (except where I/we have indicated a different voting intention below) even though Items 2, 6 and 7 are connected directly or indirectly with the remuneration of a member of key management personnel, which includes the Chairman.

**Important Note:** If the Chairman of the Meeting is (or becomes) your proxy you can direct the Chairman to vote for or against or abstain from voting on Items 2, 6 and 7 by marking the appropriate box in step 2 below.

### STEP 2

#### Items of Business

**PLEASE NOTE:** If you mark the **Abstain** box for an item, you are directing your proxy not to vote on your behalf on a show of hands or a poll and your votes will not be counted in computing the required majority.

##### ORDINARY BUSINESS

		FOR	AGAINST	ABSTAIN
Item 2	That the Remuneration Report of the Company for the financial year ended 30 June 2017 (set out in the Directors' Report) is adopted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 3	Re-election of Ms Lee Ausburn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 4	Re-election of Ms Christine McLoughlin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 5	Election of Ms Anne Loveridge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

##### SPECIAL BUSINESS

Item 6	Approval of participation in the Long Term Incentive Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 7	Approval to increase aggregate fee pool for Non-Executive Directors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 8	Amendments to nib's constitution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Chairman of the Meeting intends to vote all available proxies able to be voted in favour of each item of business. In exceptional circumstances, the Chairman of the Meeting may change his/her voting intention on any resolution, in which case an ASX announcement will be made.

### SIGN

#### Signature of Securityholder(s) This section must be completed.

##### Individual or Securityholder 1

Sole Director and Sole Company Secretary

Contact \_\_\_\_\_

##### Securityholder 2

Director

Daytime  
Telephone \_\_\_\_\_

##### Securityholder 3

Director/Company Secretary

Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_





# Constitution

NIB Holdings Limited ACN 125 633 856 (“Company”)

A public company limited by shares

**Mallesons Stephen Jaques**

Level 61

Governor Phillip Tower

1 Farrer Place

Sydney NSW 2000

Australia

T +61 2 9296 2000

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DX 113 Sydney

[www.mallesons.com](http://www.mallesons.com)

# Constitution

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# Constitution

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## 1 Definitions and interpretation

### 1.1 Definitions

In this Constitution unless the contrary intention appears:

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

**ASX** means Australian Securities Exchange Limited

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

**Company** means NIB Holdings Limited.

**Constitution** means this constitution as amended from time to time, and a reference to an article is a reference to an article of this Constitution.

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

**CS Facility** has the same meaning as prescribed CS facility in the Corporations Act.

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

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

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

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

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

**Listing Rules** means the Listing Rules of ASX and any other rules of ASX which are applicable to the Company while the Company is admitted to the official list of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

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

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

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

**Part** means a Part of this Constitution.

**Prescribed Interest Rate** means the rate determined by the Directors for the purpose of this Constitution, and in the absence of a determination means 10% per annum.

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

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

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

**Restriction Agreement** means a restriction agreement within the meaning and for the purposes of the Listing Rules.

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

**State** means the State or Territory in which the Company is for the time being registered.

## **1.2 Interpretation**

In this Constitution unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (e) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (f) **(from time to time)** a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (g) **(amount paid)** a reference to an amount paid on a share includes an amount credited as paid on that share;
- (h) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be

satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors; and

- (i) **(writing)** “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise.

### **1.3 Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) “section” means a section of the Corporations Act.

### **1.4 Listing Rules interpretation**

In this Constitution, unless the contrary intention appears the expressions “closing price on SEATS”, “Takeover Bid”, “Uncertificated Securities”, “disposed of”, “disposed”, “Escrow Period” and “Restricted Securities” have the same meaning as in the Listing Rules.

### **1.5 Headings and Parts**

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

This Constitution is divided into Parts as indicated by its Contents.

### **1.6 Replaceable rules not to apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

### **1.7 Currency**

The Directors may:

- (a) differentiate between Members as to the currency in which any amount payable to a Member is paid (whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution in a currency other than Australian and the amount payable will be converted from Australian currency in any manner, at any time and at any exchange rate as the Directors think fit; and

- (c) in deciding the currency in which a payment is to be made to a Member, have regard to the registered address of the Member, the register on which a Member's shares are registered and any other matters as the Directors consider appropriate.

## **1.8 Application of Listing Rules**

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

While the Company is on the official list of ASX:

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

---

## **2 Share capital**

### **2.1 Directors to issue shares**

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

- (a) Issue and cancel shares in the Company;
- (b) grant options over unissued shares in the Company; and
- (c) settle the manner in which fractions of a share, however arising, are to be dealt with,

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

## **2.2 Class meetings**

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

- (a) a quorum is constituted by at least two persons who, between them, hold or represent one-third of the issued shares of the class (unless only one person holds all of the shares of the class, in which case that person constitutes a quorum); and
- (b) any holder of shares of the class, present in person or by proxy, or attorney or Representative, may demand a poll.

## **2.3 Non-recognition of interests**

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

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

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

## **2.4 Joint holders of shares**

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

- (a) to register more than three persons as joint holders of a share; or
- (b) to issue more than one certificate or holding statement in respect of shares jointly held.

---

# **3 Lien**

## **3.1 Lien on share**

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

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

### **3.2 Lien on loans under employee incentive schemes**

The Company also has a first and paramount lien on each share registered in the name of the Member for all money payable to the Company by the Member under loans made under an employee incentive scheme.

### **3.3 Lien on distributions**

A lien on a share under article 3.1 or 3.2 extends to all distributions in respect of that share, including dividends.

### **3.4 Exemption from article 3.1 or 3.2**

The Directors may at any time exempt a share wholly or in part from the provisions of article 3.1 or 3.2.

### **3.5 Extinguishment of lien**

The Company's lien on a share is extinguished if a transfer of the share is registered without the Company giving notice of the lien to the transferee.

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

A Member must reimburse the Company on demand in writing for all payments the Company makes to a government or taxing authority in respect of the Member, the death of a Member or the Member's shares or any distributions on the Member's shares, including dividends, where the Company is either:

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

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

### **3.7 Reimbursement is a debt due**

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

### **3.8 Sale under lien**

Subject to article 3.9, the Company may sell, in any manner the Directors think fit, any share on which the Company has a lien.

### **3.9 Limitations on sale under lien**

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

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

### **3.10 Transfer on sale under lien**

For the purpose of giving effect to a sale under article 3.8, the Company may receive the consideration, if any, given for the share so sold and may execute a transfer of the share sold in favour of the purchaser of the share, or do all such other things as may be necessary or appropriate for it to do to effect the transfer. The purchaser is not bound to see to the application of the purchase money.

### **3.11 Irregularity or invalidity**

The title of the purchaser to the share is not affected by any irregularity or invalidity in connection with the sale of the share under article 3.8.

### **3.12 Proceeds of sale**

The proceeds of a sale under article 3.8 must be applied by the Company in payment of the amount in respect of which the lien exists as is presently payable, and the residue, if any, must be paid to the person entitled to the share immediately before the sale.

---

## **4 Calls on shares**

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

The Directors may:

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

### **4.2 Time of call**

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



#### **4.3 Members' liability**

Each Member must, upon receiving not less than 30 business days' notice specifying the time or times and place of payment, pay to the Company by the time or times, and at the place, so specified the amount called on that Member's shares.

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

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

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

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

#### **4.6 Interest on default**

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due must pay interest on the sum to the time of actual payment at the Prescribed Interest Rate. The Directors may waive payment of that interest wholly or in part.

#### **4.7 Fixed instalments**

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

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

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

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

The Directors may:

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

---

## **5 Forfeiture of shares**

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

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

### **5.2 Contents of notice**

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

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

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

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

A forfeiture under article 5.3 includes all dividends and other distributions declared or to be made in respect of the forfeited shares and not actually paid or distributed before the forfeiture.

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

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

### **5.6 Notice of forfeiture**

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

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

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

## **5.8 Cancellation of forfeiture**

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

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

A person whose shares have been forfeited:

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

## **5.10 Evidence of forfeiture**

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

## **5.11 Transfer of forfeited share**

The Company may receive the consideration (if any) given for a forfeited share on any sale, re-issue or disposal of the share under article 5.5 and may execute or effect a transfer of the share in favour of the person to whom the share is sold, re-issued or disposed.

## **5.12 Registration of transferee**

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

## **5.13 Irregularity or invalidity**

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

---

# **6 Transfer of shares**

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

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

- (a) as provided by the Operating Rules of a CS Facility if applicable; or

- (b) by any other method of transfer which is required or permitted by the Corporations Act and ASX.

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

If a duly completed instrument of transfer:

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

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

## **6.3 Effect of registration**

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

## **6.4 Company to register forms without charge**

The Company must register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and mark or note transfer forms without imposing a charge except where a charge is permitted by the Listing Rules.

## **6.5 Power to refuse to register**

If permitted by the Listing Rules the Directors may:

- (a) request any applicable CS Facility Operator to apply a holding lock to prevent a transfer of shares in the Company from being registered on the CS Facility's subregister; or
- (b) refuse to register a transfer of shares in the Company to which paragraph (a) does not apply.

## **6.6 Obligation to refuse to register**

The Directors must:

- (a) request any applicable CS Facility Operator to apply a holding lock to prevent transfer of shares in the Company from being registered on the CS Facility's subregister; or
- (b) refuse to register any transfer of shares in the Company to which paragraph (a) does not apply,

if:

- (c) the Listing Rules require the Company to do so; or

- (d) the transfer is in breach of the Listing Rules or a Restriction Agreement.

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

If in the exercise of their rights under articles 6.5 and 6.6 the Directors request application of a holding lock to prevent a transfer of shares in the Company or refuse to register a transfer of shares they must give written notice of the request or refusal to the holder of the shares, the transferee and the broker lodging the transfer, if any. Failure to give such notice does not invalidate the decision of the Directors.

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

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

#### **6.9 Resolution required for proportional takeover provisions**

Despite articles 6.1, 6.2 and 6.3, if offers are made under a proportional takeover bid for securities of the Company in accordance with the Corporations Act:

- (a) articles 6.9 to 6.13 apply;
- (b) the registration of a transfer giving effect to a takeover contract resulting from acceptance of an offer made under the takeover bid is prohibited unless and until a resolution (an “approving resolution”) to approve the bid is passed or taken to be passed in accordance with article 6.12 or article 6.13; and
- (c) the Directors must ensure that an approving resolution is voted on in accordance with articles 6.10 to 6.11 before the fourteenth day before the last day of the bid period.

#### **6.10 Procedure for resolution**

The Directors may determine whether the approving resolution is voted on:

- (a) at a meeting of persons entitled to vote on the resolution convened and conducted, subject to the provisions of article 6.11, as if it were a general meeting of the Company convened and conducted in accordance with this Constitution and the Corporations Act with such modifications as the Directors determine the circumstances require; or
- (b) by means of a postal ballot conducted in accordance with the following procedure:
  - (i) a notice of postal ballot and ballot paper must be sent to all persons entitled to vote on the resolution not less than 14 days before the date specified in the notice for closing of the postal ballot, or such lesser period as the Directors determine the circumstances require;

- (ii) the non-receipt of a notice of postal ballot or ballot paper by, or the accidental omission to give a notice of postal ballot or ballot paper to, a person entitled to receive them does not invalidate the postal ballot or any resolution passed under the postal ballot;
- (iii) the notice of postal ballot must contain the text of the resolution and the date for closing of the ballot and may contain any other information the Directors consider appropriate;
- (iv) each ballot paper must specify the name of the person entitled to vote;
- (v) a postal ballot is only valid if the ballot paper is duly completed and:
  - (A) if the person entitled to vote is an individual, signed by the individual or a duly authorised attorney; or
  - (B) if the person entitled to vote is a corporation, executed under seal or as permitted by the Corporations Act or under the hand of a duly authorised officer or duly authorised attorney;
- (vi) a postal ballot is only valid if the ballot paper and the power of attorney or other authority, if any, under which the ballot paper is signed or a copy of that power or authority certified as a true copy by statutory declaration is or are received by the Company before close of business on the date specified in the notice of postal ballot for closing of the postal ballot at the Registered Office or share registry of the Company or at such other place as is specified for that purpose in the notice of postal ballot; and
- (vii) a person may revoke a postal ballot vote by notice in writing which to be effective must be received by the Company before the close of business on the date for closing of the postal ballot.

## **6.11 Persons entitled to vote**

The only persons entitled to vote on the approving resolution are those persons who, as at the end of the day on which the first offer under the bid was made, held bid class securities. Each person who is entitled to vote is entitled to one vote for each bid class security held by that person at that time.

Neither the bidder nor any associate of the bidder is entitled to vote on the resolution.

## **6.12 Resolution passed or rejected**

If the resolution is voted on in accordance with articles 6.9 to 6.11 then it is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is to be taken to have been rejected.

## **6.13 Resolution taken as passed**

If a resolution to approve the bid has not been voted on as at the end of the day before the fourteenth day before the last day of the offer period, then a resolution to approve the bid is taken to have been passed in accordance with articles 6.10 to 6.12.

## **6.14 Takeover articles cease to have effect**

Articles 6.9 to 6.13 cease to have effect on the day three years after the later of their adoption or last renewal.

---

# **7 Transmission of shares**

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

If a Member, who does not hold shares jointly, dies, the Company will recognise only the personal representative of the Member as being entitled to the Member's interest in the shares.

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

If the personal representative gives the Directors the information they reasonably require to establish the representative's entitlement to be registered as a holder of the shares:

- (a) the personal representative may:
  - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under paragraph (a)(i), the Company must register the personal representative as the holder of the shares.

A transfer under paragraph (a)(ii) is subject to the articles that apply to transfers generally.

## **7.3 Death of joint owner**

If a Member, who holds shares jointly, dies, the Company will recognise only the survivor as being entitled to the Member's interest in the shares. The



estate of the Member is not released from any liability in respect of the shares.

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

If a person entitled to shares because of the bankruptcy of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares, the person may:

- (a) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
- (b) by giving a completed transfer form to the Company, transfer the shares to another person.

On receiving an election under paragraph (a), the Company must register the person as the holder of the shares.

A transfer under paragraph (b) is subject to the articles that apply to transfers generally.

This article has effect subject to the Bankruptcy Act 1966 (Cwlth).

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

If a person entitled to shares because of the mental incapacity of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares:

- (a) the person may:
  - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under paragraph (a)(i), the Company must register the person as the holder of the shares.

A transfer under paragraph (a)(ii) is subject to the articles that apply to transfers generally.

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## **8 General meetings**

### **8.1 Annual general meeting**

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

## 8.2 Convening a general meeting

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

## 8.3 Notice of general meeting

Notice of a general meeting must be given in accordance with Part 18 and the Corporations Act and may be given as set out below.

If a Member nominates:

- (a) an electronic means by which the Member may be notified that notices of meeting are available; and
- (b) an electronic means the Member may use to access notices of meeting,

the Company may give the Member notice of the meeting by notifying the Member (using the notification means nominated by the Member):

- (c) that the notice of meeting is available; and
- (d) how the Member may use the electronic means nominated by the Member to access the notice of meeting.

A notice of meeting given to a Member by this electronic means is taken to be given on the business day after the day on which the Member is notified that the notice of meeting is available.

## 8.1 Proxy, attorney or Representative appointments

- (a) An instrument appointing a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) and received at any time that the Directors prescribe or accept, or the chairman of a general meeting accepts.
- (b) Where a notice of meeting provides for electronic lodgement of proxy appointments, an appointment received at the electronic address or by the electronic means specified in the notice is taken to have been received at the registered office of the Company and validated by the Member if there is compliance with the requirements set out in the notice.
- (c) If the Company receives an instrument or form appointing a proxy, attorney or representative from a Member and the Directors consider that it is not properly executed or authenticated, or is incomplete or unclear:
  - (i) if the name, or the name of the office, of the proxy, attorney or representative, is not filled in or is unclear, then the proxy, attorney or representative of that Member is the person

specified by the Company in the instrument or form of proxy or if no person is specified, the chairman of that meeting;

(ii) if the instrument or form has not been duly signed or authenticated, the Company may return the instrument or form to the appointing Member and request the Member sign or authenticate the instrument or form and return it to the Company within a period determined by the Directors (which may be later than the time specified in the notice of meeting for the receipt of proxy appointments);

(iii) if the instrument or form is otherwise unclear or incomplete, the Company may:

(A) by oral or written communication, clarify with the Member any instruction on the appointment; and

(B) complete or amend the contents of any instrument or form to reflect the clarification in the instructions received from the Member (which may occur later than the time specified in the notice of meeting for the receipt of proxy appointments) and the Member appoints the Company as its attorney for this purpose.

#### **8.48.2 Calculation of period of notice**

In computing the period of notice under article 8.3, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

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

Where a general meeting (including an annual general meeting) is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This article 8.3 does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members or to a meeting convened by a court.

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

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

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

#### **8.78.5 Contents of notice of postponement of meeting**

A notice of postponement of a general meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

#### **8.88.6 Number of clear days for postponement of meeting**

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days<sup>2</sup> notice of the general meeting required to be given by this Constitution or the Corporations Act.

#### **8.98.7 Business at postponed meeting**

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

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

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

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

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

#### **8.118.9 Non-receipt of notice**

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any

resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

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

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

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## **9 Proceedings at general meetings**

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

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

(b) A person may vote in respect of a share at a meeting of Members if the person, if required, satisfies the Directors of that entitlement by the date and time set by the Directors under article 9.1(a).

### **9.2 Reference to a Member**

Unless the contrary intention appears, a reference to a Member in this Part 9 means a person who is a Member, or a:

- (a) proxy;
- (b) attorney; or
- (c) Representative,

of that Member.

### **9.3 Number for a quorum**

Subject to article 9.6, two Members present in person or by proxy, attorney or Representative are a quorum at a general meeting. In determining whether a quorum is present, each individual attending as a proxy, attorney or Representative is to be counted, except that:

(a) where a Member has appointed more than one proxy, attorney or Representative, only one is to be counted; and

(b) where an individual is attending both as a Member and as a proxy, attorney or Representative, that individual is to be counted only once.

A member placing a direct vote under article 9.24 is not taken into account in determining whether or not there is a quorum at a general meeting.

#### **9.4 Requirement for a quorum**

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

#### **9.5 If quorum not present**

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

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

#### **9.6 Adjourned meeting**

At a meeting adjourned under article 9.5(b), two persons each being a Member, proxy, attorney or Representative present at the meeting are a quorum and, if a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

#### **9.7 Appointment of chairman of general meeting**

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

#### **9.8 Absence of chairman at general meeting**

If a general meeting is held and:

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

the following may preside as chairman of the meeting (in order of precedence):

- (c) the deputy chairman (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present; or

- (f) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

## **9.9 Conduct of general meetings**

The chairman of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this article is final.

## **9.10 Adjournment of general meeting**

The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place, but:

- (a) in exercising the discretion to do so, the chairman may, but need not, seek the approval of the Members present in person or by proxy, attorney or Representative; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chairman, a vote may not be taken or demanded by the Members present in person or by proxy, attorney or Representative in respect of any adjournment.

## **9.11 Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

## **9.12 Questions decided by majority**

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

### 9.13 No casting vote for chairman

If there is an equality of votes, either on a show of hands or on a poll, the chairman of the meeting is not entitled to a casting vote, in addition to any votes to which the chairman is entitled as a Member or proxy or attorney or Representative.

### 9.14 Voting on show of hands

Subject to any rules prescribed by the Directors pursuant to article 9.23 At-at any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn. A declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chairman nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

### 9.15 Poll

If a poll is effectively demanded:

- (a) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a chairman or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

### 9.16 Entitlement to vote

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

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



~~(b)~~(c) each Member who has duly lodged a valid direct vote in respect of the relevant resolution under article 9.23 has one vote for each fully paid share held by the Member.

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

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

Subject to article 9.20 and the terms on which shares are issued, if a Member holds partly paid shares, the number of votes the Member has in respect of those shares on a poll is determined as follows:

$$\frac{A \times B}{C} = D$$

where:

A is the number of those shares held by the Member;

B is the amount paid on each of those shares excluding any amount:

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

C is the issue price of each of those shares; and

D is the number of votes attached to those shares.

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

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

#### **9.19 Joint shareholders' vote**

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

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

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

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

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or

Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated;
- (c) the Member revokes the appointment or authority;
- (d) the Member revokes the authority under which the appointment was made by a third party; or
- (e) the Member transfers the share in respect of which the appointment or authority was given.

## **9.22 Objection to voting qualification**

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

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairman of the meeting, whose decision is final.

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

## **9.23 Direct voting**

The Directors may determine that at any general meeting or class meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A “direct vote” includes a vote delivered to the Company by post, fax or other electronic means approved by Directors. The Directors may prescribe rules to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

## **9.24 Treatment of direct votes**

A direct vote on a resolution at a meeting in respect of a share cast in accordance with article 9.23 is of no effect and will be disregarded:

- (a) if, at the time of the resolution, the person who cast the direct vote:
  - (i) is not entitled to vote on the resolution in respect of the share;  
or
  - (ii) would not be entitled to vote on the resolution in respect of the share if the person were present at the meeting at which the resolution is considered;
- (b) if, had the vote been cast in person at the meeting at which the resolution is considered:

- (i) the vote would not be valid; or
- (ii) the Company would be obliged to disregard the vote;
- (c) subject to any rules prescribed by the Directors, if the person who cast the direct vote is present in person at the meeting at the time the resolution is considered; and
- (d) if the direct vote was cast otherwise than in accordance with any regulations, rules and procedures prescribed by the Directors under article 9.23.

### **9.25 Multiple votes**

Subject to any rules prescribed by the Directors, if the Company receives a valid direct vote on a resolution in accordance with articles 9.23 and 9.24 and, prior to, after or at the same time as receipt of the direct vote, the Company receives an instrument appointing a proxy, attorney or Representative to vote on behalf of the same Member on that resolution, the Company may regard the direct vote as effective in respect of that resolution and disregard any vote cast by the proxy, attorney or Representative on the resolution at the meeting.

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## **10 The Directors**

### **10.1 Number of Directors**

Unless otherwise determined by the Company in general meeting, the number of Directors is to be not less than three and not more than ten.

The Directors in office at the time of adoption of this Constitution continue in office subject to this Constitution.

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

The Company in general meeting may by resolution increase or reduce the number of Directors, and may also determine the rotation in which the increased or reduced number is to retire from office.

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

At each annual general meeting of the Company there must be an election of Directors. The Directors who must retire from office (but are eligible to stand for re-election) at the annual general meeting are as follows:

- (a) each Director who has held office without re-election:
  - (i) beyond the third annual general meeting following the director's appointment or last election; or
  - (ii) for at least three years,which ever is the longer period;

- (b) each Director who was appointed by the Directors under article 10.7; and
- (c) if none of (a) or (b) is applicable, the Director who has served office longest without re-election. If there are two or more such Directors who have been in office an equal length of time, then in default of agreement, the director to retire will be determined by lot.

This article does not apply to a Managing Director who is exempt from retirement by rotation in accordance with article 11.10.

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

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

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

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

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

Except for:

- (a) a person who is eligible for election or re-election under article 10.3, 10.7; or
- (b) a person recommended for election by the Directors,

a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the person has been lodged at the Registered Office at least 45 business days before the general meeting.

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

The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number determined in accordance with article 10.1.

A Director appointed under this article holds office until the conclusion of the next annual general meeting of the Company but is eligible for election at that meeting. This provision does not apply to one Managing Director nominated by the Directors under article 11.10.

#### **10.8 Remuneration of Directors**

The Directors are to be remunerated for their services as Directors as follows:

- (a) the amount of the remuneration of the Directors is a yearly sum not exceeding the sum from time to time determined by the Company in

general meeting. The notice convening the meeting must include the proposal to increase the Directors' remuneration and specify both the amount of the increase and the new yearly sum proposed for determination;

- (b) the amount of the remuneration of the Directors is to be divided among them in the proportion and manner they agree or, in default of agreement, among them equally;
- (c) the remuneration is to be provided wholly in cash unless the Directors, with the agreement of the Director concerned, determine that part is to be satisfied in the form of non-cash benefits, including the issue or purchase of shares in the Company or the grant of options to subscribe for such shares. The sum determined by the Company in general meeting under article 10.8(a) does not include remuneration in the form of share, option or other equity plans approved separately by the Company in general meeting;
- (d) in making a determination under paragraph (c), the Directors may fix the value of any non-cash benefit; and
- (e) the Directors' remuneration accrues from day to day, except for any non-cash benefit which is taken to accrue at the time the benefit is provided, subject to the terms on which the benefit is provided.

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

#### **10.9 Superannuation contributions**

If required by law, the Company may make contributions to a fund for the purpose of making provision for or obtaining superannuation benefits for a Director. A contribution made by the Company under this article is not remuneration to which article 10.8 applies if the contribution is excluded from the amount to be approved by shareholders under the Listing Rules.

#### **10.10 Additional or special duties**

If a Director at the request of the Directors performs additional or special duties for the Company, the Company may remunerate that Director as determined by the Directors and that remuneration may be either in addition to or in substitution for that Director's remuneration under article 10.8.

#### **10.11 Retirement benefit**

Subject to the Listing Rules and Corporations Act, the Company may pay a former Director, or the personal representatives of a Director who dies in office, a retirement benefit in recognition of past services of an amount determined by the Directors. The Company may also enter into a contract with a Director providing for payment of a retiring benefit. A retirement benefit paid under this article is not remuneration to which article 10.8 applies.

## 10.12 Expenses

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

## 10.13 Director's interests

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

- (a) hold any office or place of profit in the Company, except that of auditor;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into any contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees of the Company or Directors or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a member of a firm, which acts in a professional capacity) for the Company, except as auditor;
- (f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors;
- (g) sign or participate in the execution of a document by or on behalf of the Company; and
- (h) do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement.

A reference to the Company in this article 10.13 is also a reference to each related body corporate of the Company.

## 10.14 Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

- (b) resigns from the office by notice in writing to the Company;
- (c) is not present personally or by proxy or Alternate Director at meetings of the Directors for a continuous period of four months without leave of absence from the Directors; or
- (d) is removed from office by resolution under section 203D of the Corporations Act, but without depriving the Director of compensation or damages payable to the Director in respect of the termination of the Director's appointment as a Director or of an appointment terminating with that appointment.

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

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

The business of the Company is to be managed by the Directors, who may exercise all such powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

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

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

### **11.3 Appointment of attorney**

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.

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

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

### **11.5 Signing of cheques**

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

## **11.6 Committees**

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

## **11.7 Powers delegated to Committees**

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

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

The Directors may appoint an employee of the Company or one of its subsidiaries to the office of managing director or executive director of the Company, to hold office as Director for the period determined at the time of appointment, but not to exceed the term of employment of the employee.

The Directors may, subject to the terms of any employment contract between the relevant Director and the Company or subsidiary, at any time remove or dismiss any Managing Director or Executive Director from employment with that company, in which event the appointment as a Director will automatically cease.

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

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

## **11.10 One Managing Director exempt**

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

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

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

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

The Directors may:

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



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

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

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

### **11.14 Interests of holding company**

If the Company is a wholly-owned subsidiary, the Directors are authorised to act in the best interests of any company of which the Company is a wholly-owned subsidiary in the circumstances contemplated by section 187 of the Corporations Act.

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## **12 Proceedings of Directors**

### **12.1 Directors' meetings**

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

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

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

### **12.3 Questions decided by majority**

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

### **12.4 Alternate Director or proxy and voting**

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy and, if that person is also a Director, has one vote as a Director in that capacity.

### **12.5 Chairman of Directors**

The Directors may elect one of their number as chairman of their meetings and may also determine the period for which the person elected as chairman is to hold office.

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

If a Directors' meeting is held and:

- (a) a chairman has not been elected under article 12.5; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairman of the meeting.

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

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

## **12.8 Appointment of Alternate Director**

Subject to the Corporations Act, a Director may appoint a person approved by a majority of the other Directors to be an Alternate Director in the Director's place during such period as the Director thinks fit.

## **12.9 Alternate Director and meetings**

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

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

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

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

Whilst acting as a Director, an Alternate Director:

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

## **12.12 Alternate Director and remuneration**

An Alternate Director is not entitled to receive from the Company any remuneration or benefit under article 10.9 or 10.11.

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

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

#### **12.14 Appointment or termination in writing**

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

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

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

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

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

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointor.

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

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

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

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

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

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

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

- (a) a chairman has not been elected; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

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

## **12.20 Meetings of Committee**

A Committee may meet and adjourn as it thinks proper.

## **12.21 Determination of questions**

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

If there are an equal number of votes, the chairman of the meeting has a casting vote, unless only two members of the Committee are present and entitled to vote at the meeting on the question.

## **12.22 Circulating resolutions**

The Directors may pass a resolution without a Directors' meeting being held if all of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate 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. The resolution is passed when the last Director signs.

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

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

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

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

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# **13 Secretary**

## **13.1 Appointment of Secretary**

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

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

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

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

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

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## **14 Seals**

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

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

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

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

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

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## **15 Inspection of records**

### **15.1 Inspection by Members**

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

### **15.2 Right of a Member to inspect**

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

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## **16 Dividends and reserves**

### **16.1 Payment of dividend**

Subject to the Corporations Act, this Constitution and the rights of persons (if any) entitled to shares with special rights to dividend, the Directors may determine that a dividend is payable, fix the amount and the time for payment and authorise the payment or crediting by the Company to, or at the direction of, each Member entitled to that dividend.

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

Interest is not payable by the Company on a dividend.

### **16.3 Reserves and profits carried forward**

The Directors may:

- (a) before paying any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve, to be applied,

at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied; and

- (b) carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

Pending application, any sum set aside as a reserve may, at the discretion of the Directors, be used in the business of the Company or be invested as the Directors think fit.

#### **16.4 Calculation and apportionment of dividends**

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

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

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

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

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

#### **16.5 Deductions from dividends**

The Directors may deduct from any dividend payable to, or at the direction of, a Member all sums of money (if any) presently payable by that Member to the Company on account of calls or otherwise in relation to shares in the Company.

#### **16.6 Distribution of specific assets**

When resolving to pay a dividend, the Directors may:

- (a) resolve that the dividend be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend, including fully paid shares in or debentures of the

Company or fully paid shares in or debentures of any other body corporate; and

- (b) direct that the dividend payable in respect of any particular shares be satisfied wholly or partly by such a distribution and that the dividend payable in respect of other shares be paid in cash.

#### **16.7 Resolution of distribution difficulties**

If a difficulty arises in regard to a distribution under article 16.6, the Directors may:

- (a) settle the matter as they consider expedient;
- (b) fix the value for distribution of the specific assets or any part of those assets;
- (c) determine that cash payments will be made to, or at the direction of, any Members on the basis of the value so fixed in order to adjust the rights of all parties; and
- (d) vest any such specific assets in trustees as the Directors consider expedient.

If a distribution of specific assets to, or at the direction of, a particular Member or Members is illegal or, in the Directors' opinion, impracticable the Directors may make a cash payment to the Member or Members on the basis of the cash amount of the dividend instead of the distribution of specific assets.

#### **16.8 Payments in respect of shares**

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

- (a) by cheque sent through the post directed to the address in the Register of the holder or, in the case of joint holders, to the address of the joint holder first named in the Register;
- (b) by cheque sent through the post directed to such other address as the holder or joint holder in writing directs; or
- (c) by some other method of direct credit determined by the Directors to the holder or holders shown on the Register or to such person or place directed by them.

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

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

## 16.10 Election to reinvest dividend

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

## 16.11 Election to accept shares instead of dividends

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

- (a) to forego the right to share in the proposed dividend or part of such proposed dividend; and
- (b) to receive instead an issue of shares credited as fully paid on such terms as the Directors think fit.

## 16.12 Unclaimed dividends

~~(a)~~ —.

(a) Unclaimed dividends may be invested by the Directors as they think fit for the benefit of the Company until claimed, dealt with under article 16.12(b) or until required to be dealt with in accordance with any law relating to unclaimed moneys.

(b) The Directors may revoke the payment of an unclaimed dividend to a Member and instead make payment of that amount to any other person (including the Company itself) as the Directors think fit for a purpose that the Directors believe is in the interests of the Company (including a charitable purpose) if the dividends are unclaimed for 5 years from the date of the payment of the dividend at which point the amount of the revoked dividend payment is no longer payable to the Member and can no longer be claimed by the relevant Member. The Company must notify the affected Members in accordance with article 18 at least 6 months prior to the date on which the Directors intend to revoke the payment of the unclaimed dividends.

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# 17 Capitalisation of profits

## 17.1 Capitalisation of reserves and profits

The Directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or any other amount otherwise available for distribution to Members; and
- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in article 17.2, for the benefit of Members in the



proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

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

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

- (a) in paying the amount to Members as a return of capital;
- (b) in paying up any amounts unpaid on shares held by Members;
- (c) in paying up in full unissued shares or debentures to be issued to Members as fully paid; or
- (d) partly as mentioned in paragraphs (a), (b) and (c).

## **17.3 Implementing the resolution**

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

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

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# **18 Service of documents**

## **18.1 Document includes notice**

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

## 18.2 Methods of service

The Company may give a document to a Member:

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

## 18.3 Post

A document sent by post:

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

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

## 18.4 Fax or electronic transmission

If a document is sent by fax or electronic transmission, delivery of the document is taken:

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have been delivered on the day following its transmission.

## 18.5 Deemed notice to uncontactable Members

If a Member does not have an address in the Register, or has not nominated an alternative address in accordance with article 18.2, or if the Company reasonably believes that a Member is not known at the Member's address in the Register or any alternative address provided, a document is taken to be given to the Member if the document is exhibited in the registered office of the Company for 48 hours. The document is taken to be served at the start of that period. It need not be addressed to the Member.

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#### **~~18.5~~18.6 Evidence of service**

A certificate in writing signed by a Director or a Secretary stating that a document was sent to a Member by post or by fax or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

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#### **~~18.6~~18.7 Joint holders**

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

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#### **~~18.7~~18.8 Persons entitled to shares**

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

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## **19 Winding up**

### **19.1 Distribution of assets**

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

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

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

### **19.3 Shares issued on special terms**

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

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## **20 Indemnity and insurance**

### **20.1 Indemnity**

To the maximum extent permitted by law, the Company may indemnify any current or former Director or Secretary or officer or senior manager of the Company or a subsidiary of the Company out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or a subsidiary, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

- (d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
- (e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

## **20.2 Insurance**

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or officer or senior manager of the Company or of a subsidiary of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by law.

## **20.3 Contract**

The Company may enter into an agreement with a person referred to in articles 20.1 and 20.2 with respect to the matters covered by those articles. An agreement entered into pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

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# **21 Restricted Securities**

## **21.1 Disposal during Escrow Period**

Restricted Securities cannot be disposed of during the Escrow Period except as permitted by the Listing Rules or ASX.

The Company must not acknowledge a disposal (including by registering a transfer) of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.

## **21.2 Breach of Restriction Agreement or Listing Rules**

During a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the holder of the Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.

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## **22 Small Holdings**

### **22.1 Divestment Notice**

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

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

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

### **22.2 Relevant Period**

For a Divestment Notice given to a Small Holder, the Relevant Period must be at least six weeks from the date the Divestment Notice was given. For a Divestment Notice given to a New Small Holder, the Relevant Period must be at least seven days from the date the Divestment Notice was given.

### **22.3 Company can sell Relevant Shares**

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

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

### **22.4 No obligation to sell**

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

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

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

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

### **22.6 Conclusive evidence**

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

### **22.7 Registering the purchaser**

The Company must register the purchaser of Relevant Shares as the holder of the Relevant Shares transferred to the purchaser under this article. The purchaser is not bound to see to the application of any money paid as consideration. The title of the purchaser to the Relevant Shares transferred to

the purchaser is not affected by any irregularity or invalidity in connection with the actions of the Company under this Part.

## **22.8 Payment of proceeds**

Subject to article 22.9, where:

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

the Company must, within 60 days of the completion of the sale, send the proceeds of sale to the Member entitled to those proceeds by sending a cheque payable to the Member through the post to the address of the Member shown in the Register, or in the case of joint holders, to the address shown in the Register as the address of the Member whose name first appears in the Register. Payment of any money under this article is at the risk of the Member to whom it is sent.

## **22.9 Costs**

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

## **22.10 Remedy limited to damages**

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

## **22.11 Dividends and voting suspended**

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

- (a) the date the Relevant Shares of that Member are transferred; and

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

#### **22.12 Twelve month limit**

If it is a requirement of the Listing Rules, the Company must not give a Small Holder more than one Divestment Notice in any 12 month period (except as contemplated by article 22.13).

#### **22.13 Effect of takeover bid**

From the date of the announcement of a takeover bid for the Shares until the close of the offers made under the takeover bid, the Company's powers under this Part to sell Relevant Shares of a Member cease. After the close of the offers under the takeover bid, the Company may give a Divestment Notice to a Member who is a Small Holder or a New Small Holder, despite article 22.12 and the fact that it may be less than 12 months since the Company gave a Divestment Notice to that Member.

#### **22.14 Definitions**

In this Part 22:

**Divestment Notice** means a notice given under article 22.1 to a Small Holder or a New Small Holder;

**Market Value** in relation to a Share means the closing price on SEATS of the Share;

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

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

**Relevant Period** means the period specified in a Divestment Notice under article 22.2;

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

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

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

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