

## AMENDMENTS TO CONSTITUTION

ABx Group Limited (ASX: ABX) (“ABx” or “the Company”) advises, pursuant to ASX Listing Rule 15.4, that a revised Constitution has been adopted by Shareholders at the 2024 Annual General Meeting held on 29 May 2024.

The revised Constitution is enclosed with this announcement and is also available on the Company’s website at <https://www.abxgroup.com.au/site/about/corporate-governance>.

This announcement is approved for release by the Company Secretary.

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### About ABx Group Limited

ABx Group (ABx) is a uniquely positioned, high-tech Australian company delivering materials for a cleaner future.

The two current areas of focus are:

- Creation of an ionic adsorption clay rare earth project in northern Tasmania
- Establishment of a plant to produce hydrogen fluoride and aluminium fluoride from recycled industrial waste, to replace imports (ALCORE)

There is also a legacy business:

- Mining and enhancing bauxite resources for cement, aluminium and fertiliser production

ABx endorses best practices on agricultural land, strives to leave land and environment better than we find it. We only operate where welcome.

**ABx Group Limited**  
ACN 139 494 885

**Constitution**

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# **ABx Group Limited**

ACN 139 494 885

## **Constitution**

### **Part 1 - Preliminary**

#### **1. Name**

The Company is ABx Group Limited.

#### **2. Nature of Company**

The Company is a public company limited by shares.

#### **3. Replaceable rules**

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

#### **4. Listing Rules**

If the Company is admitted to the official list of ASX:

- 4.1 notwithstanding anything contained in this constitution, if the Listing Rules prohibit an act being done, the act must not be done;
- 4.2 nothing contained in this constitution prevents an act being done that the Listing Rules require to be done;
- 4.3 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);
- 4.4 if the Listing Rules require this constitution to contain a provision and it does not contain such a provision, this constitution is deemed to contain that provision;
- 4.5 if the Listing Rules require this constitution not to contain a provision and it contains such a provision, this constitution is deemed not to contain that provision;
- 4.6 if any provision of this constitution is or becomes inconsistent with the Listing Rules, this constitution is deemed not to contain that provision to the extent of the inconsistency.

### **Part 2 – Shares**

#### **5. Issue of shares**

Without limiting the Company's powers under the Corporations Act, the Company (under the control of the Directors) may:

- 5.1 issue shares in the Company; and
- 5.2 grant options or rights over unissued shares in the Company;

on any terms, with any rights or restrictions attached to the shares, at any time, and for any consideration the Directors decide.

## **6. Preference shares**

- 6.1 The Company may issue preference shares on terms approved by special resolution of the Company as to:
- 6.1.1 repayment of capital;
  - 6.1.2 participation in surplus assets and profits;
  - 6.1.3 cumulative and non-cumulative dividends;
  - 6.1.4 voting;
  - 6.1.5 priority of payment of capital and dividends in relation to other shares or classes of preference shares.
- 6.2 The Company may issue new preference shares that rank equally with existing preference shares. A new issue is taken not to vary the rights attached to the existing preference shares.
- 6.3 The Company may only redeem redeemable preference shares according to their terms of issue.

## **7. Variation of classes and class rights**

- 7.1 Subject to the Corporations Act, the Company may:
- 7.1.1 vary or cancel rights attached to shares in a class of shares;
  - 7.1.2 convert shares from one class to another;
- by special resolution of the Company and
- 7.1.3 by special resolution passed at a meeting of the holders of shares in that class; or
  - 7.1.4 by the written consent of shareholders with at least 75% of the votes in that class.
- 7.2 Part 5 (with the necessary changes) applies to meetings of holders of a class of shares.
- 7.3 The Company may issue new shares that rank equally with existing shares. The new issue is taken not to vary the rights attached to the existing shares.

## **8. Alteration of share capital**

The Company in general meeting may convert its shares into a larger or smaller number of shares.

## **9. Reduction of capital and buy-backs**

Subject to the Corporations Act and the Listing Rules, the Company may:

- 9.1 reduce its share capital;
- 9.2 buy-back shares in itself.

## **10. Brokerage**

The Company may pay brokerage or commission if a person takes up shares in the Company.

## **11. Joint holders**

- 11.1 2 or more persons may hold a share only as joint tenants.

- 11.2 Subject to the Corporations Act and the Listing Rules, the Company need not register more than four persons as joint holders of a share.

## 12. Trust not recognised

Except as required by law or this constitution, the Company need not recognise:

- 12.1 that a person holds a share on trust; or
- 12.2 any interest in a share except the registered holder's absolute ownership of the whole share.

## 13. Non-Marketable Parcels

- 13.1 If one or more Members hold less than a Marketable Parcel of shares, the Directors may invoke the procedure for the sale of shares under this clause 13 ('**Procedure**').

- 13.2 To invoke the Procedure, the Directors must give each Member who holds less than a Marketable Parcel of shares ('**Eligible Member**') written notice ('**Notice of Divestiture**') that complies with this clause 13.

- 13.3 A Notice of Divestiture given to a Member must:

- 13.3.1 state that the shares referred to in the Notice of Divestiture are liable to be sold in accordance with the Procedure if the Member does not advise the Company before a specified date ('**Relevant Date**') that the Member wishes to keep those shares; and

- 13.3.2 if the Member holds shares in a CHESS Holding, contain a statement to the effect that if those shares remain in a CHESS Holding after the Relevant Date, the Company may, without further notice, move those shares from the CHESS Holding to an Issuer Sponsored Holding or a Certificated Holding for the purposes of divestment by the Company in accordance with the Procedure.

- 13.4 The Relevant Date must be six weeks or more after the date that the Notice of Divestiture is sent.

- 13.5 For so long as the Company is admitted to the official list of ASX, a copy of a Notice of Divestiture must be given to any other person required by the ASX Settlement Operating Rules.

- 13.6 If an Eligible Member on whom a Notice of Divestiture has been served, wants to keep the shares referred to in the Notice of Divestiture, the Eligible Member must give the Company written notice before the Relevant Date, advising the Company that the Member wants to keep those shares or the member must increase their holding of shares before the Relevant Date to a Marketable Parcel in each of which events the Company will not sell the shares.

- 13.7 Any shares which may be sold under this clause 13 may be sold on the terms, in the manner (whether on-market, by private treaty, through a share sale facility established by, on behalf of, or at the request of the

Company, or otherwise) and at the time or times determined by the Directors and, for the purposes of a sale under this clause 13, each Eligible Member:

- 13.7.1 appoints the Company as the Eligible Member's agent for sale and to receive any disclosure document, including a financial services guide;
  - 13.7.2 authorises the Company to effect on the Eligible Member's behalf a transfer of the shares sold and to deal with the proceeds of the sale of the shares in accordance with clause 13.9;
  - 13.7.3 appoints the Company, its Directors and Secretaries jointly and severally as the Eligible Member's attorneys to execute any instrument or take other steps, in the Eligible Member's name and on the Eligible Member's behalf, as they or any of them may consider appropriate to transfer the shares sold; and
  - 13.7.4 authorises each of the attorneys appointed under clause 13.7.3 to appoint an agent to do a thing referred to in clause 13.7.3.
- 13.8 The title of the transferee to shares acquired under this clause 13 is not affected by an irregularity or invalidity in connection with the sale of shares to the transferee.
- 13.9 The proceeds of any sale of shares under this clause 13 less any unpaid calls and interest (**'Sale Consideration'**) will be paid to the relevant Member or as that Member may direct.
- 13.10 The Company will hold the Sale Consideration in trust for the Member whose shares are sold under this clause and will forthwith notify the Member in writing that the Sale Consideration in respect of the Member's shares has been received by the Company and is being held by the Company pending instructions from the Member as to how it is to be dealt with. If the Member has been issued with a share certificate or certificates, the Member's instructions, to be effective, must be accompanied by the share certificate or certificates to which the Sale Consideration relates or, if the certificate or certificates has or have been lost or destroyed, by a statement and undertaking under subsection 1070D(5) of the Corporations Act.
- 13.11 Subject to the Corporations Act, the Company or the purchaser will bear all costs, including brokerage and stamp duty, associated with the sale of any shares under this clause.
- 13.12 A Notice of Divestiture under clause 13.2 may only be given once in any 12 month period and may not be given during the offer period of a takeover bid for the Company.
- 13.13 If the Procedure has been invoked and there is an announcement of a takeover bid for shares, no more sales of shares may be made under this clause 13 until after the close of the offers made under the takeover. The Procedure may then be invoked again.

13.14 The Directors may, before a sale is effected under this clause 13, revoke a Notice of Divestiture or suspend or terminate the Procedure, either generally or in specific cases.

#### **14. Share and option certificates and CHESSE statements**

14.1 When the Company registers securities of any class to a shareholder or option holder, the Company must issue to the shareholder or option holder, without charge, in the discretion of the Directors:

14.1.1 one or more certificates for those securities;

14.1.2 a statement of holdings required by the ASX Settlement Operating Rules; or

14.1.3 any other document that confirms ownership of the securities as the Directors decide.

14.2 If the Corporations Act so permits, the Company:

14.2.1 need not issue a certificate for the securities;

14.2.2 may cancel a certificate and not issue a replacement.

14.3 The Company must comply with the Corporations Act and the Listing Rules in issuing those certificates, statements of holdings or other documents.

14.4 If required to issue a certificate, the Company need issue only one certificate for securities registered in more than one name. The Company must deliver that certificate to any one of the registered holders.

14.5 Subject to the Corporations Act and the Listing Rules, the Company must issue a replacement certificate for a defaced, worn out, lost or destroyed certificate.

#### **15. Restricted securities**

15.1 Notwithstanding any other provision in this constitution:

15.1.1 restricted securities cannot be disposed of during the escrow period except as permitted by the Listing Rules or ASX;

15.1.2 the Company must refuse to acknowledge a disposal (including registering a transfer) of restricted securities during the escrow period except as permitted by the Listing Rules or ASX;

15.1.3 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.

15.2 In this clause:

15.2.1 **dispose** has the same meaning as in the Listing Rules;

15.2.2 **restricted securities** has the same meaning as in the Listing Rules.



## Part 3 - Calls, liens and forfeiture

### 16. Calls

- 16.1 Subject to the Listing Rules and the terms of issue, the Directors may make calls on the holder of a share for any unpaid portion of the issue price of that share at any time.
- 16.2 The Directors may make a call payable by instalments.
- 16.3 While the Company is admitted to the official list of ASX, the Directors must give to the shareholder:
- 16.3.1 the period of notice of the call required by the Listing Rules; and
  - 16.3.2 a call notice containing the information required by the Listing Rules.
- While the Company is not admitted to the official list of ASX, the Company must give to the shareholder at least 14 days' notice of a call, specifying the amount payable, and the time and place of payment.
- 16.4 A call is made when the Directors resolve to make the call.
- 16.5 The Directors may revoke or postpone a call or extend the time for payment.
- 16.6 A call is still valid if either or both:
- 16.6.1 a shareholder does not receive notice of the call;
  - 16.6.2 the Company accidentally does not give notice of the call to a shareholder.
- 16.7 A shareholder must pay to the Company:
- 16.7.1 the amount called, by the time and at the place specified;
  - 16.7.2 if the amount called is not paid by that time, interest at the rate fixed in this Part on an unpaid call (or instalment) from the date the call (or instalment) becomes presently payable until and including the date of payment; and
  - 16.7.3 costs incurred by the Company in respect of the non-payment or late payment of the call.
- 16.8 Joint holders of a share and their respective personal representatives are all jointly and severally liable to pay all calls on the share.
- 16.9 If, by the terms of issue of a share, an amount is payable on issue or at a fixed date, the Company is taken to have properly called that amount and given proper notice of it.
- 16.10 The Directors may waive all or any part of an amount payable under this clause or the terms of issue of a share.
- 16.11 The Directors may recover an amount presently payable under this clause from a shareholder in all or any of the following ways:
- 16.11.1 by suing the shareholder for debt;
  - 16.11.2 by enforcing the lien on the share;
  - 16.11.3 by declaring forfeit the share.

- 16.12 A debt is sufficiently proved by evidence that:
- 16.12.1 the shareholder is registered as a holder or a joint holder of the share; and
  - 16.12.2 the resolution for the call is recorded in the minute book.
- 16.13 The Directors may authorise the Company:
- 16.13.1 to accept from a shareholder an amount paid before call;
  - 16.13.2 to pay interest on the amount paid before call, at any rate the Directors decide, from the date of payment until and including the date the call becomes presently payable;
  - 16.13.3 to repay the amount to the shareholder.
- 16.14 An amount paid before call is ignored in determining a Dividend or surplus in a winding up.

## **17. Indemnity from taxation**

- 17.1 If the Company is required by law to pay an amount (including a tax) in respect of a shareholder or a share held by that shareholder or a Dividend in respect of a share held by that shareholder:
- 17.1.1 the shareholder or the shareholder's personal representative must:
    - (a) indemnify the Company against that liability;
    - (b) on demand, reimburse the Company for any payment by the Company, and pay to the Company interest on it at the rate fixed under this Part from the date of payment by the Company until and including the date the shareholder reimburses the Company and pays any costs incurred by the Company because of the payment;
  - 17.1.2 subject to clause 26, the Company may refuse to register a transfer of any shares by or to the shareholder or the shareholder's personal representative until payment of all amounts presently payable under this clause.
- 17.2 The Directors may waive any of the Company's rights under this clause.
- 17.3 The Directors may recover an amount presently payable under this clause from a shareholder in both or either of the following ways:
- 17.3.1 by suing the shareholder for debt;
  - 17.3.2 by enforcing the lien on the share.

## **18. Forfeiture**

- 18.1 The Directors may resolve that a shareholder's share is forfeited if:
- 18.1.1 the shareholder does not pay a call or instalment on the share when presently payable; and
  - 18.1.2 the Company gives the shareholder notice:
    - (a) requiring payment of that call or instalment, any interest on it and any costs incurred by the Company because of the non-payment;

- (b) stating that the share will be forfeited if the shareholder does not pay to the Company, at the place named, the total amount within 14 days (or any longer period stated) after the notice is given; and
- 18.1.3 the shareholder does not pay the total amount within that period.
- 18.2 When a share is forfeited, the Company must:
  - 18.2.1 notify the former holder that the share is forfeited; and
  - 18.2.2 record the forfeiture and date of forfeiture in the register of shareholders.A failure to do this does not invalidate the forfeiture.
- 18.3 The former holder of a forfeited share must pay to the Company:
  - 18.3.1 all calls, instalments, interest and costs in respect of the share at the date of forfeiture; and
  - 18.3.2 interest at the rate fixed in this Part on those amounts from the date of forfeiture until and including the date of payment.
- 18.4 The forfeiture of a share extinguishes:
  - 18.4.1 the former shareholder's interest in the share; and
  - 18.4.2 all claims against the Company in respect of the share, including all Dividends presently payable by the Company on the share.
- 18.5 Subject to the Listing Rules, the Company may sell or otherwise dispose of a forfeited share on any terms and in any way the Directors decide
- 18.6 A certificate by a director or secretary of the Company that the share was forfeited on a specified date is sufficient evidence of the matter, unless it is proved to be incorrect.
- 18.7 The Directors may:
  - 18.7.1 waive any of the Company's rights under this clause;
  - 18.7.2 before sale or re-issue of a forfeited share, annul the forfeiture on any terms the Directors decide.

## **19. Lien**

- 19.1 The Company has a first ranking lien on:
  - 19.1.1 each share registered to a shareholder;
  - 19.1.2 Dividends on the share;
  - 19.1.3 proceeds of sale of the share;for:
  - 19.1.4 an unpaid call or instalment that is due but unpaid on the share;
  - 19.1.5 if the share was acquired under an employee incentive scheme, an amount owing to the Company for acquiring the share;

- 19.1.6 any amounts the Company is required by law to pay (and has paid) in respect of the shares of that shareholder or deceased former shareholder;
- 19.1.7 any interest and costs presently payable to the Company under this Part.
- 19.2 The Company may sell a share to enforce the lien if:
  - 19.2.1 an amount secured by the lien is presently payable;
  - 19.2.2 the Company gives the shareholder notice:
    - (a) requiring payment of that amount, any interest on it and any costs incurred by the Company because of the non-payment;
    - (b) stating that the share will be sold if the shareholder does not pay to the Company, at the place named, the total amount within 14 days (or any longer period stated) after service of the notice; and
  - 19.2.3 the shareholder does not pay the total amount within that period.
- 19.3 The Directors may waive any of the Company's rights under this clause.
- 19.4 Registration by the Company of a transfer of a share releases any lien on that share, insofar as the lien relates to money owing by the transferor or previous transferor, unless the Company gives the transferee notice of its claim.

## **20. Sale**

- 20.1 The Directors may authorise a person to sign a transfer of a forfeited share or a share sold to enforce a lien.
- 20.2 The Company must apply the sale price from:
  - 20.2.1 the sale of a forfeited share;
  - 20.2.2 the sale of a share sold to enforce a lien;in the following order:
  - 20.2.3 to the costs of the sale;
  - 20.2.4 to the amount presently payable by the former holder to the Company;
  - 20.2.5 to the former holder or the former holder's personal representative, on receipt of the certificate for the share.
- 20.3 The Company must register the purchaser of the share as the holder of the share.
- 20.4 The purchaser need not enquire whether the Company:
  - 20.4.1 properly exercised its powers in respect of the share;
  - 20.4.2 properly applied the sale price for the share.These matters do not affect the title of the purchaser.

20.5 Unless expressly agreed, the purchaser is not liable for calls and other amounts presently payable in respect of the share before the sale.

## **21. Interest**

21.1 A shareholder must pay interest under this Part to the Company:

21.1.1 at a rate the Directors decide;

21.1.2 if the Directors do not decide a rate, at 10% per annum.

21.2 Interest payable to the Company accrues daily.

21.3 The Company may capitalise interest monthly or at any other intervals the Directors decide.

## **Part 4 - Transfer of shares**

## **22. Instruments of transfer**

Subject to this constitution, a shareholder may transfer a share:

22.1 in the case of CHESS Holdings, in accordance with the ASX Settlement Operating Rules;

22.2 by an instrument of transfer in any common form or other form approved by the Directors;

22.3 by any other method of transferring securities recognised by the Corporations Act and ASX and approved by the Directors.

## **23. Registration**

23.1 If a CHESS Holding is transferred, the Company must comply with the ASX Settlement Operating Rules.

23.2 If an instrument of transfer is used, it must be:

23.2.1 executed by or for both the transferor and the transferee (unless it is a sufficient transfer of marketable securities);

23.2.2 stamped (if applicable);

23.2.3 delivered to the Company's share registry, together with any evidence the Directors require to prove:

(a) the title of the transferor;

(b) the transferor's right to transfer the shares; and

(c) the proper execution of the instrument of transfer.

## **24. Effect of transfer**

Subject to the ASX Settlement Operating Rules, a transferor of shares remains the holder of the shares until the transfer is registered and the name of the transferee is entered in the register of shareholders as the owner of the shares.

## **25. No charge**

The Company must not charge a fee to register a transfer.

## **26. Refusal to register transfer**

- 26.1 If the Company is not admitted to the official list of ASX, the Directors may refuse to register a transfer of shares only if:
- 26.1.1 clause 22 or clause 23 is not complied with;
  - 26.1.2 the shares are not fully paid; or
  - 26.1.3 the Company has a lien on the shares.
- 26.2 If the Company is admitted to the official list of ASX, the Company must not prevent, delay or interfere with the registration of a transfer document. This does not apply to a paper-based transfer document which is not a proper instrument of transfer. However, the Company may ask ASX Settlement to apply a holding lock to prevent a transfer, or refuse to register a paper-based transfer document, where permitted by the Corporations Act or the Listing Rules. The Company must do so if the Corporations Act or the Listing Rules so require.
- 26.3 The Directors must give notice of any refusal to the security holder and any broker lodging the transfer. The notice must set out the reason for the refusal. Failure to do so does not invalidate the decision of the Directors.

## **27. Suspension of registration**

Subject to the Corporations Act and the Listing Rules, the Directors may suspend registration of transfers of shares in the Company at the times and for the periods they decide. The periods of suspension must not exceed 30 days in any calendar year.

## **28. Company retains paper-based transfer document**

- 28.1 The Company may keep a paper-based transfer document after registration.
- 28.2 If demand is made within 12 months after the Company gives notice of a refusal to register and there is no allegation of fraud, the Company must return the paper-based transfer document to the depositor.

## **29. Death of shareholder**

- 29.1 If a shareholder (other than a joint shareholder) dies, the Company must recognise only the personal representative of the deceased shareholder as being entitled to the deceased shareholder's shares.
- 29.2 If a shareholder who owns shares jointly dies, the Company must recognise only the survivor as being entitled to the deceased shareholder's interest in the shares.
- 29.3 Whether the deceased shareholder owned the shares solely or jointly, the estate of the deceased shareholder is not released from any liability in respect of the shares.

## **30. Transmission**

- 30.1 If a person is entitled to shares because of a Transmission Event and gives the Directors the information they reasonably require to establish the person's entitlement:
- 30.1.1 the person may:

- (a) by giving notice to the Company, elect to be registered as the holder of the shares; or
  - (b) by giving a completed instrument of transfer to the Company, transfer the shares to another person; and
- 30.1.2 the person is entitled, whether or not registered as the holder of the shares, to the same rights as the shareholder or deceased shareholder.
- 30.2 On receiving a notice under clause 30.1.1(a), the Company must register the person as the holder of the shares.
- 30.3 A transfer under clause 30.1.1(b) is subject to the same rules (for example, about entitlement to transfer and registration of transfers) as apply to transfers generally.

## **Part 5 - Proceedings of shareholders**

### **31. One shareholder**

While the Company has only one shareholder:

- 31.1 it may pass a resolution by the shareholder recording it and signing the record;
- 31.2 the rest of this Part does not apply.

### **32. General meetings**

- 32.1 The Company must hold an annual general meeting:
  - 32.1.1 within 18 months after its registration; and
  - 32.1.2 at least once in each calendar year and within 5 months after the end of its financial year.
- 32.2 A general meeting of Members (including of a class of Members) may be held:
  - 32.2.1 at one or more physical venues;
  - 32.2.2 at one or more physical venues and using virtual meeting technology;
  - 32.2.3 using virtual meeting technology only; or
  - 32.2.4 in any other manner permitted by the Corporations Act.
- 32.3 A Director may call a meeting of shareholders, when and where the Director decides.
- 32.4 The Directors must call a meeting of shareholders when requested by the shareholders in accordance with the procedures and requirements set out in the Corporations Act.
- 32.5 Members may also request or call and arrange to hold general meetings in accordance with the procedures and requirements set out in the Corporations Act.
- 32.6 The place at which a general meeting is held is taken to be:

- 32.6.1 if the general meeting is held at only one physical venue (whether or not it is also held using virtual meeting technology), that physical venue;
  - 32.6.2 if the general meeting is held at more than one physical venue (whether or not it is also held using virtual meeting technology), the main physical venue of the meeting as set out in the notice of the meeting; or
  - 32.6.3 if the meeting is held using virtual meeting technology only, the registered office of the Company.
- 32.7 The time at which a general meeting is held is taken to be the time at the place at which the general meeting is taken to be held in accordance with clause 32.6
- 32.8 If the Company holds a general meeting, it must give the Members entitled to attend the meeting as a whole, a reasonable opportunity to participate in the general meeting.

### **33. How to call meetings of shareholders**

- 33.1 Except as permitted by the Corporations Act, general meetings must be called on at least the minimum number of days' notice required by the Corporations Act (which at the date this constitution is adopted by the Company is 28 days for listed entities) and otherwise in accordance with the procedures set out in the Corporations Act. However, unless prohibited by the Corporations Act, the Company may call on shorter notice:
- 33.1.1 an annual general meeting, if all the shareholders entitled to attend and vote at the annual general meeting agree beforehand; and
  - 33.1.2 any other general meeting, if shareholders with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 33.2 Notice of a meeting must be given to shareholders, directors, the auditor and, for such time as the Company is admitted to the official list of ASX, ASX.
- 33.3 A notice of a general meeting must:
- 33.3.1 set out:
    - (a) if there is only one location at which the Members who are entitled to physically attend the meeting may do so, the date, time and place for the meeting;
    - (b) if there are 2 or more locations at which the Members who are entitled to physically attend the meeting may do so, the date and time for the meeting at each location, and the main location for the meeting; and
    - (c) if virtual meeting technology is to be used in holding the meeting, sufficient information to allow the Members to participate in the meeting by means of the technology;



- 33.3.2 state the general nature of the meeting's business;
  - 33.3.3 if a special resolution is to be proposed at the meeting - set out an intention to propose the special resolution and state the resolution; and
  - 33.3.4 contain a statement setting out the following information:
    - (a) that the shareholder has the right to appoint a proxy;
    - (b) that the proxy need not be a shareholder of the Company;
    - (c) that a shareholder who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise;
  - 33.3.5 if the Company is admitted to the official list of ASX, specify a place and may specify an electronic address, for the purposes of receipt of proxy appointments;
  - 33.3.6 if the Company is admitted to the official list of ASX, contain a proxy form in accordance with the Listing Rules;
  - 33.3.7 contain anything else required by the Corporations Act or, if the Company is admitted to the official list of ASX, the Listing Rules.
- 33.4 The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:
- 33.4.1 the consideration of the annual financial report, Directors' report and auditor's report;
  - 33.4.2 the election of directors;
  - 33.4.3 the appointment of the auditor;
  - 33.4.4 the fixing of the auditor's remuneration.
- 33.5 Non-receipt of notice of a meeting, or failure to give proper notice of a meeting to a person entitled to receive it, does not invalidate anything done at the meeting if:
- 33.5.1 the failure was accidental;
  - 33.5.2 the person gives notice to the Company that the person waives proper notice or agrees to the thing done at the meeting; or
  - 33.5.3 the person attends the meeting and:
    - (a) does not object at the start of the meeting to the holding of the meeting; or
    - (b) if the notice omitted an item of business, does not object to the consideration of the business when it is presented to the meeting.

#### **34. Membership at a specified time**

The convenor of a general meeting may determine that all shares are taken, for the purposes of the meeting, to be held by the persons who held them at a specified time (not more than 48 hours before the meeting). The

determination must be made before notice of the meeting is given. Particulars of the determination must be given in the notice of meeting.

### **35. Quorum**

- 35.1 No business may be transacted at a general meeting unless a quorum of Members is present at the commencement of business.
- 35.2 A quorum of Members is two Members unless there are less than two Members, in which event a quorum is those Members.
- 35.3 In determining whether a quorum is present, the chairperson must count shareholders, proxies, attorneys, body corporate representatives and any other persons entitled to vote. However, if a shareholder has more than one proxy, attorney or body corporate representative, the chairperson must count only one of them. If an individual is attending both as a shareholder and as a proxy, attorney or body corporate representative, or in any other capacity, the chairperson must count them only once.
- 35.4 If a quorum is not present within 30 minutes after the time appointed for the meeting:
  - 35.4.1 if the meeting was called on the request of shareholders or by shareholders, the meeting is dissolved;
  - 35.4.2 any other meeting is adjourned to any day, time and place the Directors decide and the Directors may, subject to and in accordance with clauses 32.2 and 32.8 determine the time, physical venue or physical venues (if any) and virtual meeting technology (if any) for the adjourned general meeting and, if the Directors do not make such a determination, the adjourned general meeting will be held:
    - (a) at the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
    - (b) at the same physical venue or physical venues (if any), and using the same virtual meeting technology (if any), as originally appointed for the general meeting.
- 35.5 If a quorum is not present within 30 minutes after the time appointed for an adjourned meeting, the meeting is dissolved.

### **36. Chairperson of general meetings**

- 36.1 The chairperson of Directors is entitled to chair all meetings of shareholders.
- 36.2 If there is no chairperson of Directors, or if the chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the deputy chairperson of Directors may chair the meeting. If there is no deputy chairperson, or if the deputy chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting. If they do not do so, the shareholders present must elect a person to chair the meeting.

## **37. Regulation of meetings**

The chairperson may regulate the meeting of shareholders in any way consistent with this constitution.

## **38. Postponement and adjournment**

38.1 The Directors may:

38.1.1 cancel or postpone to another time (on the same or another date) any general meeting (including any general meeting that has previously been postponed or adjourned) before it has started, other than a general meeting requested or called by Members under clause 32.5 which may only be cancelled or postponed with the prior written consent of the persons who requisitioned or called the general meeting; and

38.1.2 change the physical venue or physical venues (if any) and virtual meeting technology (if any) for any general meeting (including any general meeting that has previously been postponed or adjourned) before it has started.

38.2 The chairperson may adjourn a meeting of shareholders to any day, time and place.

38.3 The chairperson must adjourn a meeting of shareholders if the shareholders present with a majority of votes at the meeting agree or direct the chairperson to do so. The chairperson may adjourn the meeting to any day, time and place.

38.4 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for more than a month.

38.5 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

38.6 In relation to any general meeting that is adjourned by the chair of the general meeting under clause 38.2 or 38.3, the chair of the general meeting may, subject to and in accordance with clauses 32.2 and 32.3, determine the time, physical venue or physical venues (if any) and virtual meeting technology (if any) for the postponed or adjourned general meeting (as applicable) and, if the chair of the general meeting does not make such a determination, the postponed or adjourned general meeting (as applicable) will be held:

38.6.1 at the same time as, and on the day that is seven days after the day, originally appointed for the general meeting; and

38.6.2 at the same physical venue or physical venues (if any), and using the same virtual meeting technology (if any), as originally appointed for the general meeting.

## **39. How shareholders make decisions at meetings**

39.1 A meeting of shareholders makes a decision by passing a resolution. A resolution is passed if more than 50% of the votes cast by the shareholders entitled to vote are in favour of the resolution (unless the law requires a special resolution).

- 39.2 A special resolution is passed if:
- 39.2.1 the notice of the meeting sets out an intention to propose the special resolution and states the resolution;
  - 39.2.2 it is passed by at least 75% of the votes cast by shareholders entitled to vote on the resolution.

#### **40. How voting is carried out**

- 40.1 Unless a poll is properly requested or clause 40.4 applies, a resolution put to the vote at a meeting of shareholders must be decided on a show of hands.
- 40.2 If a poll is properly requested, the result of the poll is the resolution of the meeting.
- 40.3 A declaration by the chairperson that a resolution is passed, or passed by a particular majority, or lost, and an entry to that effect in the minutes, are sufficient evidence of that fact, unless proved incorrect.
- 40.4 For so long as the Company is admitted to the official list of ASX, a resolution put to the vote at a general meeting must be decided on a poll (and not a show of hands) if the notice of the general meeting set out an intention to propose the resolution and stated the resolution.

#### **41. Polls**

- 41.1 A poll may be requested on any resolution.
- 41.2 A poll may be requested by:
- 41.2.1 at least 5 shareholders entitled to vote on the resolution;
  - 41.2.2 shareholders with at least 5% of the votes that may be cast on the resolution on a poll; or
  - 41.2.3 the chairperson.
- 41.3 The poll may be requested:
- 41.3.1 before a vote is taken;
  - 41.3.2 before the voting results on a show of hands are declared; or
  - 41.3.3 immediately after the voting results on a show of hands are declared.
- 41.4 A request for a poll may be withdrawn.
- 41.5 A poll requested on a matter other than the election of a chairperson or the question of an adjournment must be taken when and how the chairperson directs.
- 41.6 A poll on the election of a chairperson or the question of an adjournment must be taken immediately.
- 41.7 A request for a poll does not prevent the meeting dealing with other business.

#### **42. How many votes a shareholder has**

- 42.1 Subject to the Listing Rules, this constitution and any special rights or restrictions attached to a share, at a meeting of shareholders:

- 42.1.1 on a show of hands, each shareholder present (in person, by proxy, attorney or representative) has one vote;
- 42.1.2 on a poll, each shareholder present (in person, by proxy, attorney or representative) has:
  - (a) one vote for each fully paid share they hold; and
  - (b) a fraction of a vote for each partly paid share they hold. The fraction must be equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited). Amounts paid in advance of a call are ignored.
- 42.2 The chairperson has a casting vote, if the chairperson has a personal deliberative vote.
- 42.3 If a share is held jointly and more than one shareholder votes the share, only the vote of the shareholder whose name appears first in the register of shareholders counts.
- 42.4 The parent or guardian of an infant shareholder may vote that infant's share, if the parent or guardian satisfies the Directors of the relationship or appointment before the meeting. If the infant's parent or guardian votes the share, the infant shareholder must not vote.
- 42.5 A person may vote a share if:
  - 42.5.1 the person is entitled to be registered as the holder of the share because of a Transmission Event; and
  - 42.5.2 the person satisfies the Directors of that entitlement before the meeting.The shareholder must not vote a share if another person does so under this sub-clause.
- 42.6 A shareholder must not vote a share if:
  - 42.6.1 a call or other amount is presently payable in respect of the share;
  - 42.6.2 the shareholder is in breach of a Restriction Agreement in respect of the share; or
  - 42.6.3 the Listing Rules require the Company to disregard the shareholder's vote in respect of the share.
- 42.7 The chairperson or other person may disregard any vote by a shareholder who is not entitled to vote.

### **43. Challenging a right to vote**

- 43.1 A challenge to a right to vote at a meeting of shareholders may only be made:
  - 43.1.1 before the meeting, to the Directors; or
  - 43.1.2 at the meeting, to the chairperson of the meeting.
- 43.2 The challenge must be decided by the Directors or the chairperson (as the case may be). The Directors' decision or the chairperson's decision is final.

#### **44. Proxies, attorneys and representatives**

44.1 A shareholder, who is entitled to vote at a meeting of shareholders, may vote:

44.1.1 on a show of hands:

- (a) personally;
- (b) by one proxy;
- (c) by one attorney; or
- (d) if a body corporate, by its representative, or by one proxy or by one attorney;

44.1.2 on a poll:

- (a) personally;
- (b) by not more than 2 proxies;
- (c) by not more than 2 attorneys; or
- (d) if a body corporate, by its representative, or by not more than 2 proxies or by not more than 2 attorneys.

44.2 A proxy, attorney or representative need not be a shareholder of the Company.

44.3 A shareholder may appoint a proxy, attorney or representative for all or for particular meetings of shareholders.

44.4 An appointment of an attorney or representative must be in a form approved by the Directors.

44.5 An appointment of a proxy is valid if it is signed by the shareholder making the appointment and it contains the following information:

44.5.1 the shareholder's name and address;

44.5.2 the Company's name;

44.5.3 the proxy's name or the name of the office held by the proxy;

44.5.4 the meetings at which the appointment may be used.

The Directors may decide to accept a proxy even if it contains only some of that information.

44.6 Unless otherwise specified in the appointment, the proxy, attorney or representative may:

44.6.1 agree to short notice for the meeting;

44.6.2 even if the appointment directs how to vote on a particular resolution:

- (a) vote on an amendment to the particular resolution, a motion not to put the particular resolution or any similar motion;
- (b) vote on a procedural motion, including a motion to elect the chairperson, to vacate the chair or adjourn the meeting;

44.6.3 speak at the meeting;

- 44.6.4 vote (but only to the extent allowed by the appointment);
- 44.6.5 request or join in a request for a poll.
- 44.7 If a person represents 2 or more shareholders, that person has only one vote on a show of hands.
- 44.8 If a shareholder appoints 2 proxies or 2 attorneys in one instrument and both are present, on a show of hands only the first named proxy or attorney may vote.
- 44.9 The appointment may specify the proportion or number of votes that the proxy or attorney may exercise. If the shareholder appoints 2 proxies or 2 attorneys and the appointment does not specify the proportion or number of the shareholder's votes each proxy or attorney may exercise, on a poll each proxy or attorney may exercise half of the votes.
- 44.10 A later appointment of a proxy or attorney revokes an earlier one if both appointments could not be validly exercised at the meeting.
- 44.11 An appointment may specify the way a proxy or attorney is to vote on a particular resolution. A proxy may vote only as directed.
- 44.12 An appointment of a proxy is effective only if the Company receives the appointment (and any authority under which the appointment was signed or certified copy of the authority) at least 48 hours before the meeting or resumed meeting, unless the Directors decide to reduce that time. The Company receives an appointment or authority when it is received at any of the following:
  - 44.12.1 the Company's registered office;
  - 44.12.2 a fax number at the Company's registered office;
  - 44.12.3 a place, fax number or electronic address specified for the purpose in the notice of meeting.These requirements also apply to an appointment of an attorney.
- 44.13 Unless the Company receives written notice of the matter before the start or resumption of a meeting, a vote by a proxy, attorney or representative is valid even if:
  - 44.13.1 there is a Transmission Event in respect of the shareholder;
  - 44.13.2 the appointment of the proxy, attorney or representative is revoked;
  - 44.13.3 the shareholder revokes the authority under which the proxy was appointed by a third party; or
  - 44.13.4 the shareholder becomes an externally-administered body corporate.
- 44.14 A vote by a proxy or attorney is valid even if the shareholder transfers the share for which the appointment was given, if the transfer is not registered at the time of the meeting (or at any earlier time fixed by the Directors so that shareholders at that time are taken to be shareholders at the time of the meeting).
- 44.15 A proxy or attorney may take part in a meeting of shareholders even if the appointor or representative is present. However, if the appointor or

representative votes on a resolution, the proxy or attorney must not vote.

#### 45. Proportional takeovers

- 45.1 If offers are made under a proportional takeover bid for securities of the Company:
- 45.1.1 the registration of a transfer giving effect to a takeover contract for the bid is prohibited unless and until a resolution (an **approving resolution**) to approve the bid is passed in accordance with this clause;
  - 45.1.2 a person (other than the bidder or an associate of the bidder) who, as at the end of the day on which the first offer under the bid was made, held bid class securities is entitled to vote on an approving resolution;
  - 45.1.3 the Directors may determine whether an approving resolution is voted on:
    - (a) at a meeting, convened and conducted by the Company, of the persons entitled to vote on the resolution; or
    - (b) by means of a postal ballot conducted by the Company in accordance with the procedure set out in this clause;
  - 45.1.4 an approving resolution that has been voted on is 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 50%, and otherwise is taken to have been rejected.
- 45.2 The provisions that apply to a general meeting of the Company apply, with such modifications as the Directors decide are necessary, to a meeting convened under this clause.
- 45.3 In a postal ballot:
- 45.3.1 the Company must send a notice of postal ballot and ballot paper, to all persons holding bid class securities, at least 14 days (or any shorter period the Directors decide) before the date specified for the close of the postal ballot (**ballot closing date**);
  - 45.3.2 non-receipt of a notice of postal ballot or ballot paper, or accidental failure to give a notice of postal ballot or ballot paper to a shareholder entitled to receive them, does not invalidate the postal ballot and any resolution passed under the postal ballot;
  - 45.3.3 the notice of postal ballot must contain the text of the proposed resolution and the ballot closing date, and may contain any other information the Directors consider appropriate;
  - 45.3.4 each ballot paper must specify the name of the shareholder entitled to vote;
  - 45.3.5 a postal ballot is only valid if the ballot paper is properly completed and:



- (a) if the shareholder is an individual, signed by the individual or a duly authorised attorney; or
  - (b) if the shareholder is a corporation, executed by the corporation in any way permitted by its constitution or the Corporations Act or by a duly authorised officer or duly authorised attorney;
- 45.3.6 a postal ballot is only valid if the Company receives the ballot paper (and any authority under which the ballot paper is signed or a certified copy of the authority) before the close of business on the ballot closing date at the registered office or share registry of the Company or any other place specified for that purpose in the notice of postal ballot;
- 45.3.7 a person may revoke a postal ballot vote by notice received by the Company before the close of business on the ballot closing date.

## **Part 6 – Directors**

### **46. Number of directors**

- 46.1 There must be at least 3 directors and at most 10 directors.
- 46.2 Subject to clause 46.1, the Company in general meeting may increase or reduce the number of Directors.

### **47. Appointment of directors**

- 47.1 The first directors of the Company are the persons specified in the application for registration of the Company as directors.
- 47.2 The Directors may appoint a director. Unless the Director is the Managing Director and the Listing Rules do not require that Director to be subject to retirement, a Director appointed under this clause will hold office until the end of the next annual general meeting of the Company, at which the Director may be re-elected.
- 47.3 The Company in general meeting may appoint a director.
- 47.4 A person is eligible for election as a director at a general meeting only if:
- 47.4.1 the person is a director retiring under the next clause and notifies the Company that he or she is available for re-election; or
  - 47.4.2 the person has signed a consent to nomination and lodged it at the Company's registered office.

The Company must accept these notices and nominations up to 35 Business Days (or in the case of a meeting that shareholders requested the Directors to call, 30 Business Days) before the general meeting. The Directors may decide to accept these notices and nominations closer to the date of the general meeting.

### **48. Compulsory retirement**

- 48.1 No Director, who is not the Managing Director, may hold office for a continuous period in excess of three years or until the third annual

general meeting following the Director's appointment or election, whichever is the longer, without submitting for re-election. If no such director would be required to submit for re-election but the Listing Rules require an election of Directors to be held, the Director to retire will be the Director who has been longest in office since their last election, but, as between persons who became Directors on the same day, the one to retire will (unless they otherwise agree among themselves) be determined by lot.

- 48.2 A retiring Director remains in office until the end of the meeting at which the Director retires or vacates office, and will be eligible for re-election at the meeting.

#### **49. Vacation of office**

A director ceases to be a director if:

- 49.1 the Corporations Act so provides;
- 49.2 the director resigns by notice to the Company;
- 49.3 the Company in general meeting removes the person as a director;
- 49.4 the director is absent, without the consent of the Directors, from all Directors' meetings over any 6 month period;
- 49.5 the director becomes mentally incapable and the director's estate or property has had a personal representative or trustee appointed to administer it; or
- 49.6 the director automatically retires under the previous clause.

#### **50. Alternate directors**

- 50.1 A director may appoint an alternate for a specified period with the consent of the Directors.
- 50.2 The appointor may terminate the alternate's appointment at any time.
- 50.3 An appointment or termination is effective only if:
  - 50.3.1 it is in writing;
  - 50.3.2 the appointor signs it; and
  - 50.3.3 the Company is given notice of it.
- 50.4 The alternate need not be a shareholder or director of the Company.
- 50.5 The alternate is entitled to notice of Directors' meetings.
- 50.6 If the appointor is not present, the alternate may:
  - 50.6.1 attend the Directors' meeting, count in the quorum, speak, and vote in the place of the appointor;
  - 50.6.2 exercise any other powers (except the power to appoint an alternate) that the appointor may exercise.
- 50.7 A person may act as an alternate for more than one director.
- 50.8 If the appointor ceases to be a director, the alternate cannot exercise the appointor's powers.
- 50.9 Where:

50.9.1 an appointor ceases to be a director; and

50.9.2 that appointor's alternate purports to do an act as a director;

that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actually knowing that the appointor has ceased to be a director, as if the appointor had not ceased to be a director.

50.10 The Company may pay an alternate any remuneration the Directors decide, in reduction of the appointor's remuneration.

50.11 While acting as a director, an alternate is an officer of the Company and not the agent of the appointor.

## **51. Remuneration**

51.1 The Company may remunerate each director as the Directors decide, but the total amount of the remuneration of non-executive directors may not exceed the amount fixed by the Company in general meeting for that purpose.

51.2 A director's remuneration may be any combination of:

51.2.1 a stated salary;

51.2.2 a fixed sum for each attendance at a Directors' meeting;

51.2.3 if a non-executive director, a share of the amount fixed under sub-clause 1 of this clause, divided among them as the Directors decide and in default equally.

51.3 A director's remuneration must not include a commission on, or percentage of, operating revenue.

51.4 A stated salary or a share of a fixed amount accrues from day to day.

51.5 The Company must also pay travelling and other expenses that a director properly incurs on the Company's business.

51.6 If a director performs extra or special services for the Company, the Company may pay to the director any special remuneration the Directors decide, in addition to the director's normal remuneration.

51.7 The Company may pay a former director, or the estate of a director who dies in office, a benefit for past services as the Directors decide. This must not exceed the amount permitted by the Corporations Act and the Listing Rules.

51.8 The Company may establish or support superannuation or similar funds for the directors, as the Directors decide.

## **52. Share qualification**

52.1 A director need not be a shareholder of the Company.

52.2 A director, who is not a shareholder, may still attend and speak at meetings of shareholders.

## **53. Director's interests**

53.1 Where required by the Corporations Act, a Director must give the Directors notice of any material personal interest in a matter that relates to the affairs of the Company.

- 53.2 Subject to the Corporations Act and the Listing Rules, a director may:
  - 53.2.1 hold an office or place of profit (except as auditor) in the Company, on any terms the Directors decide;
  - 53.2.2 hold an office or otherwise be interested in any related body corporate or other body corporate in which the Company is interested; and
  - 53.2.3 retain benefits for doing so.
- 53.3 Subject to the Corporations Act and the Listing Rules:
  - 53.3.1 a director (or a Spouse, parent or child of a director, or any entity in which a director or a Spouse, parent or child of a director has an interest) may contract or make an arrangement with the Company (or a related body corporate or a body corporate in which the Company is interested) in any matter in any capacity;
  - 53.3.2 a director may sign for the Company, or attest the affixing of the common seal to, any document in respect of that contract or arrangement;
  - 53.3.3 a director may retain benefits under that contract or arrangement; and
  - 53.3.4 the Company cannot avoid that contract or arrangement because of the director's interest.
- 53.4 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
  - 53.4.1 be present while the matter is being considered at the meeting; or
  - 53.4.2 vote on the matter,unless permitted to do so by the Corporations Act, in which case the Director may:
  - 53.4.3 be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - 53.4.4 sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - 53.4.5 vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- 53.5 A Director must give to the Company such information about the shares or other securities in the Company in which the Director has a relevant interest and at the times that the Secretary requires, to enable the Company to comply with any disclosure obligations it has under the Corporations Act or the Listing Rules.

## **Part 7 - Proceedings of Directors**

### **54. Circulating resolutions**

- 54.1 The Directors may pass a resolution without a Directors' meeting being held, if all 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. An alternate appointed by a director may sign the document instead of that director.
- 54.2 Separate copies of a document may be used for signing by directors, if the wording of the resolution and statement is identical in each copy.
- 54.3 The resolution is passed when the last director signs.
- 54.4 Passage of the resolution must be recorded in the Company's minute book.

### **55A Use of Technology for Holding Directors' Meetings**

- 55A.1 Nothing contained in this Constitution shall be taken to prevent the use of virtual meeting technology to be used in holding of a meeting of Directors (including a meeting of a committee of Directors) where the same is permitted by law.
- 55A.2 The provisions of this Constitution in relation to the holding of meetings of Directors (including a meeting of a committee of Directors) and the giving of notices of meetings of Directors (including a meeting of a committee of Directors) and any other relevant documents to Directors shall be modified to the extent necessary to permit the use of virtual meeting technology in accordance with the provisions of law that apply to such meetings.

### **55. Meetings**

- 55.1 The Directors may meet, adjourn and otherwise regulate their meetings as they decide.
- 55.2 A Directors' meeting may be held using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw consent within a reasonable period before the meeting.
- 55.3 If a Directors' meeting is held by telephone link-up or other contemporaneous audio or audio visual communication, a director is taken to be present unless the director states to the chairperson that the director is disconnecting his or her telephone or communication device.

### **56. Calling meetings**

- 56.1 Any director may call a Directors' meeting.
- 56.2 On the request of any director, the company secretary must call a Directors' meeting.

## **57. Notice**

- 57.1 Notice of a Directors' meeting must be given to each director and each alternate.
- 57.2 The notice must:
  - 57.2.1 specify the day, time and place of the meeting;
  - 57.2.2 state the business to be transacted;
  - 57.2.3 be given at least 48 hours before the meeting, unless all directors otherwise agree.
- 57.3 Non-receipt of notice of a meeting, or failure to give notice of a meeting to a director or an alternate, does not invalidate anything done at the meeting if:
  - 57.3.1 the failure was accidental;
  - 57.3.2 the director or alternate gives notice to the Company that he or she waives the notice or agrees to the thing done at the meeting; or
  - 57.3.3 the director or alternate attends the meeting.

## **58. Quorum**

- 58.1 The quorum for a Directors' meeting is 3 directors, unless the Directors otherwise decide.
- 58.2 In determining whether a quorum is present, the chairperson must count alternates. If a director is also an alternate, the chairperson must count the director as a director and separately as an alternate. If a person is an alternate for more than one director, the chairperson must count the person separately for each appointment.
- 58.3 The quorum must be present at all times during the meeting.
- 58.4 If there are not enough directors in office to form a quorum, the remaining directors may act only:
  - 58.4.1 to increase the number of directors to a quorum;
  - 58.4.2 to call a general meeting of the Company; or
  - 58.4.3 in an emergency.

## **59. Chairperson and deputy chairperson**

- 59.1 The Directors may elect a director as chairperson for any period they decide.
- 59.2 The Directors may elect a director as deputy chairperson for any period they decide.
- 59.3 The Directors may remove the chairperson or deputy chairperson .
- 59.4 The Directors may decide that either office is an extra or special service for the Company, for the purpose of deciding special remuneration.
- 59.5 The chairperson is entitled to chair each Directors' meeting.
- 59.6 If there is no chairperson , or if the chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or

unwilling to act, the deputy chairperson may chair the Directors' meeting. If there is no deputy chairperson, or if the deputy chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting.

- 59.7 If the chairperson is unable or unwilling to chair a part of the meeting, the deputy chairperson may chair that part. If there is no deputy chairperson, or the deputy chairperson is unable or unwilling to act, the directors present must elect one of themselves to chair that part.

## **60. Decisions of Directors**

- 60.1 Subject to the Corporations Act, each director has one vote.
- 60.2 If a director is also an alternate, the director has one vote as a director and one vote as an alternate. If a person is an alternate for more than one director, the person has one vote for each appointment.
- 60.3 A resolution of the Directors is passed by a majority of votes cast.
- 60.4 Subject to the Listing Rules, the chairperson has a casting vote, if the chairperson has a personal deliberative vote.

## **Part 8 - Directors' powers**

### **61. General powers**

- 61.1 The business of the Company is managed by or under the direction of the Directors.
- 61.2 The Directors may exercise all the powers of the Company except any powers that the Corporations Act or this constitution requires the Company to exercise in general meeting.

### **62. Execution of documents**

- 62.1 The Company may execute a document without a common seal if the document is signed by:
- 62.1.1 2 directors of the Company; or
  - 62.1.2 a director and a company secretary of the Company.
- 62.2 If the Company has a common seal, it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:
- 62.2.1 2 directors of the Company; or
  - 62.2.2 a director and a company secretary of the Company.
- 62.3 The Company may execute a document only if authorised by the Directors or by a committee of directors authorised by the Directors to do so.
- 62.4 The Directors may decide, generally or in a particular case, that a director or company secretary may sign certificates for securities of the Company by mechanical or other means.
- 62.5 This clause does not limit the ways in which the Company may execute a document (including a deed).

### **63. Negotiable instruments**

The Directors may decide how negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed.

### **64. Committee and delegate**

64.1 The Directors may delegate any of their powers (including this power to delegate) to a committee of directors or to one director.

64.2 The Directors may revoke or vary that delegation.

64.3 A committee or delegate must exercise the powers delegated subject to any directions of the Directors. The effect of the committee or delegate exercising a power in this way is the same as if the Directors exercised it.

64.4 Part 7 applies with the necessary changes to meetings of a committee.

64.5 The Directors may decide that membership of a committee or acting as a delegate is an extra or special service for the Company, for the purpose of deciding special remuneration.

### **65. Attorney and agent**

65.1 The Directors may appoint any person to be the attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Directors decide.

65.2 The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.

65.3 The Directors may revoke or vary:

65.3.1 the appointment; or

65.3.2 any power delegated to the attorney or agent.

## **Part 9 - Executive officers**

### **66. Managing director**

66.1 The Directors may appoint one of themselves as managing director, for any period and on any terms (including as to remuneration) the Directors decide.

66.2 Subject to any agreement between the Company and the managing director, the Directors may remove or dismiss the managing director at any time, with or without cause.

66.3 The Directors may delegate any of their powers (including the power to delegate) to a managing director.

66.4 The Directors may revoke or vary:

66.4.1 the appointment; or

66.4.2 any power delegated to the managing director.

66.5 A managing director must exercise the powers delegated subject to any directions of the Directors. The effect of the managing director exercising a power in this way is the same as if the Directors exercised it.



66.6 A person automatically ceases to be managing director if the person ceases to be a director or an executive of the Company.

**67. Executive director**

A person automatically ceases to be an executive director if the person ceases to be a director or an executive of the Company.

**68. Company secretary**

68.1 The first company secretary of the Company is the person specified in the application for registration of the Company as company secretary.

68.2 The Directors may appoint one or more company secretaries, for any period and on any terms (including as to remuneration) the Directors decide.

68.3 Subject to any agreement between the Company and the company secretary, the Directors may remove or dismiss the company secretary at any time, with or without cause.

68.4 Unless the Directors otherwise decide, the company secretary is the public officer of the Company.

**69. Indemnity**

69.1 To the extent permitted by the Corporations Act, the Company:

69.1.1 must indemnify each person who is or has been an Officer against any liability incurred as an Officer;

69.1.2 may pay a premium for a contract insuring an Officer against that liability.

69.2 Subject to the Corporations Act, the Company may enter into an agreement or deed with an Officer under which the Company must do all or any of the following:

69.2.1 keep a set of the Company's books (including minute books) and allow the Officer and the Officer's advisers access to the books for any period agreed;

69.2.2 indemnify the Officer against any liability incurred by the Officer as an Officer;

69.2.3 keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.

69.3 In this clause, **Officer** means an officer of the Company or of a subsidiary of the Company or both.

**Part 10 – Dividends**

**70. Who may determine Dividends**

70.1 Subject to any special rights or restrictions attached to a share, the Directors may pay Dividends as they decide subject to the requirements of the Corporations Act.

70.2 The Directors may determine that a Dividend will be payable on a share and fix:

70.2.1 the amount;

70.2.2 the time for payment; and

70.2.3 the method of payment.

The methods of payment may include the payment of cash, the issue of shares or other securities, the grant of options and the transfer of assets.

## **71. Dividends for different classes**

Dividends may be paid:

71.1 on shares of one class but not another;

71.2 at different rates for different classes.

## **72. Dividends proportional to paid up capital**

72.1 Subject to any special rights or restrictions attached to a share:

72.1.1 the holder of a fully paid share is entitled to the full Dividend on the share (whether the issue price was paid or credited or both);

72.1.2 the holder of a partly paid share is not entitled to a greater proportion of a Dividend than the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited) on the share.

72.2 Amounts paid or credited as paid in advance of a call are ignored.

## **73. Transfers before payment of Dividend**

Subject to the Listing Rules, the Directors may fix a record date to identify shareholders entitled to a Dividend. A transferee of shares is entitled to a Dividend on the shares only if:

73.1 the Directors fix a record date and the transfer is registered or left with the Company for registration on or before the record date; or

73.2 the Directors do not fix a record date and the transfer is registered or left with the Company for registration on or before the date the Directors pass the resolution that a Dividend will be payable.

## **74. No interest**

Interest is not payable on a Dividend.

## **75. Calls**

The Directors may deduct from a Dividend payable to or for a shareholder any money presently payable by the shareholder to the Company for calls or otherwise in respect of any shares held by the shareholder.

## **76. Capitalising profits**

76.1 The Directors may capitalise any profits and distribute that capital to the shareholders, in the same proportions as the shareholder are entitled in a distribution by Dividend.

76.2 The Directors may decide to apply that capital in either or both of the following ways:

76.2.1 in paying up amounts unpaid on shares already issued;

76.2.2 in paying up in full any unissued shares or other securities in the Company.

76.3 The shareholders must accept that application of capital in full satisfaction of their interests in the capital.

## **77. Transfer of assets**

The Directors may settle any problem about a distribution under this Part in any way. This may include:

77.1 rounding down amounts to the nearest whole number;

77.2 ignoring fractions;

77.3 valuing assets for distribution;

77.4 paying cash to any shareholder on the footing of the valuation of the assets;

77.5 vesting assets in trustees on trust for the shareholders entitled.

## **78. Notice of Dividend**

The Company must give to the shareholders notice of any Dividend.

## **79. Payments**

79.1 The Company may pay Dividends and other amounts in respect of a share:

79.1.1 by crediting a financial institution account authorised by the shareholder; or

79.1.2 by cheque or warrant posted to:

(a) the address of the holder of the share shown in the register of shareholders;

(b) if joint holders, to the address (shown in the register of shareholders) of the holder named first in the register of shareholders; or

(c) to any other address which the holder or joint holders direct in writing.

79.2 A cheque may be made payable to bearer or to the order of the shareholder or any other person the shareholder directs.

79.3 Any joint holder of a share may give an effective receipt for the Dividend or other amounts paid in respect of the share.

## **80. Dividend reinvestment plan**

The Directors may:

80.1 implement a dividend reinvestment plan on any terms, under which the Dividends of participants are applied in subscribing for securities of the Company or a related body corporate;

80.2 amend, suspend or end the plan.

## **81. Dividend selection plan**

The Directors may:

- 81.1 implement a dividend selection plan on any terms, under which participants may choose:
  - 81.1.1 to receive a Dividend from the Company out of profits derived from a particular source;
  - 81.1.2 to forego a Dividend from the Company in place of another distribution from the Company or another body corporate or a trust;
- 81.2 amend, suspend or end the plan.

## **82. Unclaimed Dividends**

The Directors may invest unclaimed Dividends for the benefit of the Company, until they are claimed or dealt with under a law about unclaimed money.

## **83. Restricted securities**

A shareholder is not entitled to a Dividend on restricted securities (within the meaning of the Listing Rules) under a current Restriction Agreement, while in breach of the agreement.

# **Part 11 - Winding up**

## **84. Distribution of assets**

Subject to any special rights or restrictions attached to shares:

- 84.1 if on a winding up there are enough assets to repay all capital to shareholders, all capital must be repaid to the shareholders and any surplus must be distributed among the shareholders in proportion to the number of fully paid shares held by them and for this purpose a partly paid share is treated as a fraction of a share equal to the proportion which the amount paid bears to the total issue price of the share before the winding up began;
- 84.2 if on a winding up there are not enough assets to repay all capital to shareholders, the available assets must be distributed among the shareholders in proportion to the number of fully paid shares held by them and for this purpose a partly paid share is treated as a fraction of a share equal to the proportion which the amount paid bears to the total issue price of the share before the winding up began (without the necessity of a call up).

## **85. Distribution of property in kind**

- 85.1 Subject to any special rights or restrictions attached to shares, on a winding up, the liquidator may, with the sanction of a special resolution of shareholders:
  - 85.1.1 distribute among the shareholders the whole or any part of the property (in its actual state) of the Company;
  - 85.1.2 decide how to distribute the property as between the shareholders or different classes of shareholders.
- 85.2 The liquidator may, with the sanction of a special resolution of shareholders, distribute the property contrary to the legal rights of the shareholders, or give or remove special rights in respect of any class of

shareholders. However, a dissenting shareholder has the same rights as if section 507 of the Corporations Act applied.

85.3 The liquidator may settle any problem about a distribution under this clause in any way. This may include:

85.3.1 rounding down amounts to the nearest whole number;

85.3.2 ignoring fractions;

85.3.3 valuing assets for distribution;

85.3.4 paying cash to any shareholder on the footing of the valuation of the assets;

85.3.5 vesting assets in a trustee on trust for the shareholders entitled;

85.3.6 capitalising profits and distributing capital as if the liquidator were the Directors.

85.4 A shareholder need not accept a security carrying a liability.

## **86. Restricted shares**

Restricted shares, under a Restriction Agreement current at the start of the winding up, must rank behind all other shares in the repayment of capital on a winding up.

## **87. Commissions**

87.1 The Company must not pay to a director, the Directors or a liquidator a commission or fee for sale of assets on a winding up, unless approved by the shareholders.

87.2 The Company must notify the shareholders of the amount of the proposed commission or fee at least 7 days before the shareholders' meeting.

## **Part 12 – Records**

### **88. Register**

The Company must keep a register of shareholders in accordance with the Corporations Act.

### **89. Branch registers**

89.1 The Company may keep a branch register of shareholders in any place.

89.2 The Directors may regulate the transfer of shares among the main register of shareholders and branch registers of shareholders.

### **90. Inspection**

The Company must allow inspection of any register of shareholders only as required by the Corporations Act.

### **91. Evidence of register**

Unless proved incorrect, the register of shareholders is sufficient evidence of the matters shown in the register.

## **92. Minute book**

- 92.1 The Company must keep minute books in which it records within one month:
- 92.1.1 proceedings and resolutions of meetings of the shareholders;
  - 92.1.2 proceedings and resolutions of Directors' meetings (including meetings of a committee of Directors);
  - 92.1.3 resolutions passed by shareholders without a meeting;
  - 92.1.4 resolutions passed by directors without a meeting.
- 92.2 The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
- 92.2.1 the chair of the meeting;
  - 92.2.2 the chair of the next meeting.
- 92.3 The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

## **93. Evidence of minutes**

A minute that is so recorded and signed is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

## **94. Financial records**

- 94.1 The Company must keep the financial records required by the Corporations Act.
- 94.2 The financial records must be audited as required by the Corporations Act.

## **95. Inspection**

Unless authorised by the Directors or the Company in general meeting or the Corporations Act, a shareholder is not entitled to inspect the Company's books.

## **Part 13 - Notices and interpretation**

### **96. In writing**

Notice must be in writing and in English, and may be given by an authorised representative of the sender.

### **97. Service of Notices**

- 97.1 A **Notice** includes a notice, demand, consent, approval or communication under this Constitution and a reference in this Constitution to a written notice includes a notice given by electronic means.
- 97.2 Subject to (and without limiting any other way in which a notice may be given, or is required to be given, under) this Constitution, the Corporations Act and the Listing Rules, a Notice may be given by the Company to any person who is entitled to notice under this Constitution by:

- 97.2.1 sending the Notice in physical form by post, by hand or by courier to the Member's address in the Register (or any other address the Member supplies to the Company for giving Notices); or
  - 97.2.2 sending the Member sufficient information in physical form by post, by hand or by courier to the Member's address in the Register (or any other address the Member supplies to the Company for giving Notices) as to allow the Member to access the Notice electronically; or
  - 97.2.3 sending the Notice in electronic form by means of an electronic communication to the electronic address the Member has supplied to the Company for giving Notices; or
  - 97.2.4 sending the Member sufficient information in electronic form, by means of an electronic communication to the electronic address the Member has supplied to the Company for giving Notices, as to allow the Member to access the Notice electronically; or
  - 97.2.5 if the Notice is a report mentioned in section 314 of the Corporations Act (annual financial reporting) or is in a class of documents specified in the *Corporations Regulations 2001* (Cth) for the purposes of section 110D(3)(b) of the Corporations Act, by making the Notice readily available in electronic form on a website.
- 97.3 A Notice given in accordance with clause 97.2 is taken to be served:
- 97.3.1 if the Notice is given in accordance with clause 97.2.1 or 97.2.2 and is sent by hand, on delivery;
  - 97.3.2 if the Notice is given in accordance with clause 97.2.1 or 97.2.2 and is sent by post or by courier, on the day after the day on which it was posted or given to the courier for delivery;
  - 97.3.3 if the Notice is given in accordance with clause 97.2.3 or 97.2.4 on the day on which the electronic communication is transmitted, except if transmitted after 5.00pm (in the place from which the electronic communication is transmitted) in which case, it is taken to be served on the next day; and
  - 97.3.4 if the Notice is one that is referred to in clause 97.2.5 and is given in accordance with clause 97.2.5, on the day on which the Notice first appears on the relevant website, except if the Notice first appears on the relevant website after 5.00pm (in the place from which the Notice is uploaded to the relevant website) in which case, it is taken to be served on the next day.
  - 97.3.5 A notice may be served by the Company on joint holders under clause 97.2.1 or 97.2.2 by giving the notice to the joint holder whose name appears first in the Register.

- 97.3.6 Every person who is entitled to a share by operation of law and who is not registered as the holder of the share is taken to receive any notice served in accordance with this clause by advertisement or on that person from whom the first person derives title.
- 97.3.7 A certificate in writing signed by a Director, Secretary or other officer of the Company, or by any person that the Company has engaged to maintain the Register, that a Notice was given to a Member in accordance with clause 97.2 on a particular day is conclusive evidence of that fact.
- 97.3.8 The signature to a written notice given by the Company may be written, printed or affixed (including by electronic means) in any other manner permitted by the Corporations Act.
- 97.3.9 A Notice that is given in accordance with clause 97.2 is deemed to have been served notwithstanding that the Member has died, whether or not the Company has notice of his or her death.
- 97.3.10 The provisions of this clause relating to notices apply, to the extent that they can and with any necessary changes, to sending any document that is not a Notice.

## **98. ASX Settlement Operating Rules**

While any securities in the Company are CHESSE Holdings, the Company must comply with the ASX Settlement Operating Rules.

## **99. Interpretation**

In this constitution, unless the context otherwise requires:

- 99.1 subject to the next clause, a word or phrase has the same meaning as it has in the Corporations Act;
- 99.2 singular includes plural and plural includes singular;
- 99.3 words of one gender include any other gender;
- 99.4 reference to legislation includes any amendment to it, any legislation substituted for it, and any statutory instruments issued under it and in force;
- 99.5 reference to a person includes a corporation, a firm and any other entity;
- 99.6 headings do not affect interpretation;
- 99.7 the Company must not exercise any power in contravention of the Corporations Act or the Listing Rules or the ASX Settlement Operating Rules;
- 99.8 A reference in this Constitution to a Member being present at a meeting of Members is a reference to:
- 99.8.1 a Member present at the physical venue (or a physical venue) (if any) for the meeting or present by using the virtual meeting technology (if any) used for the meeting; or



99.8.2 a Member present by proxy, attorney or representative (whether such proxy, attorney or representative is present at the physical venue (or a physical venue) (if any) for the meeting or present by using the virtual meeting technology (if any) used for the meeting); and

99.9 a reference to the Listing Rules and the ASX Settlement Operating Rules applies only while the Company is admitted to the official list of ASX.

## 100. Definitions

In this constitution:

**ASX** means ASX Limited ABN 98 008 624 691 or the financial market known as the 'Australian Securities Exchange' that it operates, as the context requires;

**ASX Settlement** means ASX Settlement Pty Limited ABN 49 008 504 532 or the clearing and settlement facility that it operates, as the context requires;

**ASX Settlement Operating Rules** means the operating rules of ASX Settlement as amended or replaced from time to time, except to the extent of any express written waiver by ASX Settlement;

**Business Day** means:

- (a) while the Company is admitted to the official list of ASX, Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that ASX declares is not a business day;
- (b) while the Company is not admitted to the official list of ASX, any day except a Saturday or Sunday or other public holiday in New South Wales;

**Certificated Holding** has the same meaning as in the ASX Settlement Operating Rules;

**CHES Holdings** has the same meaning as in the ASX Settlement Operating Rules;

**Company** means ABx Group Limited ACN 139 494 885;

**Corporations Act** means the *Corporations Act 2001* (Cth) as amended or replaced from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company;

**Directors** means the directors of the Company and may include an alternate director;

**Dividend** includes interim dividend and bonus;

**Issuer Sponsored Holding** has the same meaning as in the ASX Settlement Operating Rules;

**Listing Rules** means the listing rules of ASX and any other rules of ASX which are applicable 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 Director appointed as managing director under clause 66;

**Marketable Parcel** has the same meaning as in the ASX Settlement Operating Rules in force from time to time;

**Member** means a person who is a member of the Company under the Corporations Act;

**Register** means the register of Members of the Company;

**Restriction Agreement** means a restriction agreement within the meaning of the Listing Rules;

**Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if more than one person is appointed, any one or more of such persons;

**Spouse** of a person means:

- (a) that person's husband, wife, widow or widower (whether or not remarried);
- (b) anyone else who, although not legally married to that person, in the Directors' opinion, lives or lived with that person on a genuine domestic basis as the husband or wife of that person; and

**Transmission Event** means:

- (a) if the shareholder is an individual - death, bankruptcy, or becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health;
- (b) if the shareholder is a body corporate - the deregistration or winding up of the shareholder or the succession by another body corporate to the assets and liabilities of the shareholder.

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