

Heritage and People's Choice Limited (ABN 11 087 651 125)

Constitution

Table of Contents

Part 1	Preliminary	5
1.1	Definitions	5
1.2	Interpretation	5
1.3	Time	6
1.4	Replaceable Rules do not Apply	6
1.5	Intention to be an MCI mutual entity	6
1.6	Notices	6
Part 2	Objects & Limit on Powers	7
2.1	Objects	7
2.2	Members and Customers	7
Part 3	Membership	7
3.1	Admission to Membership	7
3.2	Joint Members	7
Part 4	Termination of Membership	8
4.1	Removal of the Member's Name from the Register of Members	8
4.2	Member's Request for Termination	8
4.3	Termination by the Company	8
4.4	Termination Where Accounts Dormant or Membership Inactive	9
Part 5	Issue of Shares	10
5.1	Classes of Shares	10
5.2	Board Power to Issue Shares	10
5.3	Restrictions on Issue of Member Shares	10
Part 6	Member Shares and MCIs	11
6.1	Subscription Price	11
6.2	Rights, Obligations and Restrictions Attaching to Member Shares	11
6.3	Voting Rights	11
6.4	Distribution on Winding-Up	11
6.5	Transfer of Member Shares	11
6.6	No Dividends	11
6.7	Non-Transferability of Shares	11
6.8	Share Capital from MCIs	11
6.9	Issue	11
6.10	Rights of MCI Holders	11
6.11	Registration as holder of MCIs	12
Part 7	Transmission of Shares	12
7.1	Transmission of Shares on Death	12
7.2	Transmission of Shares on Bankruptcy	12
7.3	Transmission of Shares on Mental Incapacity	12

Part 8	Holding General Meetings	13
8.1	Calling a General Meeting	13
8.2	Adjourning a General Meeting	13
8.3	Proceedings at a General Meeting	13
8.4	Voting in Different Capacities	13
Part 9	Voting at General Meetings	14
9.1	Voting	14
9.2	Voting on a Show of Hands	14
9.3	Voting on a Poll	14
9.4	Body Corporate Representatives	14
9.5	Proxies	14
9.6	Board may determine Direct Voting to apply	15
9.7	Direct Votes count on a poll	15
9.8	Withdrawal of Direct Vote	15
9.9	Direct Vote not affected by death, etc. of member or voting MCI holder	15
9.10	Objections	15
Part 10	Directors - Appointment & Vacation of Office	16
10.1	Number and Residence of Directors	16
10.2	Eligibility to be a Director	16
10.3	Appointment by Members — Election by Ballot	16
10.4	Nominations	16
10.5	Nominations Committee	17
10.6	Appointment of Returning Officers	17
10.7	Declaration	17
10.8	Distribution of Information	18
10.9	Rejection of Nomination	19
10.10	Subsequent Adverse Information About a Candidate	19
10.11	Proceeding with Election	19
10.12	Ballot Papers	20
10.13	Voting	20
10.14	Closure of the Ballot	21
10.15	Appointment of Scrutineer	21
10.16	Procedures After Close of the Ballot	21
10.17	Changes to Voting Procedures	21
10.18	Voting System	22
10.19	Withdrawal or Death of a Candidate	22
10.20	Appointment by the Board – Additional Directors	22
10.21	Appointment by the Board – Executive Director	22
10.22	Appointment by the Board — Casual Vacancies	22
10.23	Term of Office	23
10.24	Automatic Vacation of Office	23
10.25	Resignation	23
Part 11	Directors' Powers	23
11.1	Powers and Duties of the Board	23
11.2	Negotiable Instruments	23
11.3	Delegation	23
11.4	Board Policies	23
11.5	Stakeholders	24

Part 12	Directors' Meetings	24
12.1	Calling and Conduct of Board Meetings	24
12.2	Quorum of the Board	24
12.3	Chair of the Board	24
12.4	Passing of Directors' Resolutions	24
12.5	Circulating Resolutions	24
12.6	Committees of Directors	25
12.7	Audit Committee	25
12.8	Location	25
Part 13	Conflicts of Interest	26
13.1	Director Not in Breach if that Director Acts in Matters Relating to Director's Interests	26
13.2	Director Not in Breach if that Director Does Not Act in Matters Relating to Director's Interests	26
13.3	Execution of Instruments	26
Part 14	Remuneration, Indemnity and Insurance	27
14.1	Remuneration of Directors	27
14.2	Travelling Expenses and Insurance	27
14.3	Indemnities for Officers and Former Officers	27
Part 15	Administration	27
15.1	Secretary	27
15.2	Resignation of Secretary	27
15.3	Head office	27
15.4	Employees	27
Part 16	People's Choice & Heritage Bank merger transition arrangements	28
16.1	Board transition arrangements	28
16.2	Tenure of directors	30
16.3	CEO transition arrangements	30
16.4	Definitions and inconsistencies	31
16.5	Application of Part 16	31
Schedule		40

Part 1

Preliminary

1.1 Definitions

In this Constitution, unless the context requires otherwise:

ADI means an Authorised Deposit-Taking Institution **APRA** has authorised to conduct banking business in Australia under the **Banking Act**

AGM means an annual general meeting of the **company**

APRA means the Australian Prudential Regulation Authority

Banking Act means the Banking Act 1959 (Cth)

board means the board of directors

board appointed director means a **director** for the time being of the **company** that the **board** appoints in accordance with Clause 10.20

candidate means a nominated **person** whom the **board** determines to be a **candidate** pursuant to Clause 10.5(8)

company means Heritage and People's Choice Limited

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

deposit means the placement of money in an account that the **company** conducts in the ordinary course of its banking business

direct vote means a vote on a resolution made by a **member or voting MCI holder** by the delivery of a valid notice of their voting intention, following a determination by the **board** under Clauses 9.6 to 9.9 inclusive, such vote to be made in accordance with these clauses (including under any regulations made by the **board** under Clause 9.6(2))

director means a director for the time being of the **company**

dormancy declaration has the meaning given in Clause 4.4(4)

executive director means a **director** for the time being of the **company** that the **board** appoints in accordance with Clause 10.21

financial accommodation means:

- (a) an advance;
- (b) money paid for, on behalf of or at the request of a person (other than by drawing on the person's deposit account with the **company**);
- (c) a forbearance to require payment of money owing on any account; and
- (d) a transaction that, in substance, effects a loan or is regarded by the parties to the transaction as a loan that the **company** provides or enters in the ordinary course of its banking business

general account means a general account maintained by the **company** for the purposes of holding dormant account monies and/or redemption proceeds for affected **members**

general meeting means a general meeting of the **members** and any voting **MCI holders** held pursuant to Part 8

inactive declaration has the meaning given in Clause 4.4(4)

MCI means a share as described in Division 2 of Part 6

MCI holder means a person who is the holder of an **MCI** and whose name the **company** has entered for the time being in the **Register of Members** it keeps under the **Corporations Act**

material personal interest has the same meaning as in Part 2D.1 of the **Corporations Act**

member means a person who is the holder of a **member share** and whose name the **company** has entered for the time being in the **Register of Members** it keeps under the **Corporations Act**

member elected director means:

- (a) a **director** for the time being of the **company** elected (or declared elected) by **members** under Clause 10.3; and
- (b) a **director** appointed by the **board** under Clause 10.22(1) to fill a vacancy of a **director** elected by **members** under Clause 10.3.

member share means a share as described in Division 1 of Part 6

nominated person means a person nominated in accordance with Clause 10.4 to stand for election as a **member elected director**

non-executive director means a director who is not an executive director

prudential standard means:

- (a) any prudential standard that **APRA** determines under the **Banking Act**;
- (b) any prudential regulation under the **Banking Act**; and
- (c) any APRA transitional prudential standard applying to the **company** under the Financial Sector Reform (Amendments and Transitional Provisions) Regulations 1999 (Cth)

Register of Members means the register of **members** (including any members and **MCI holders**) the **company** keeps under the **Corporations Act**

secretary means a secretary for the time being of the **company**

share means a **member share** or an **MCI**, as context requires

subscription price means the amount payable by a person on subscription for a **share** or, if the **share** was created on conversion of a capital instrument in accordance with the **prudential standards**, the nominal dollar value of that capital instrument prior to conversion into the **share**

voting MCI holder means an **MCI holder** who has one vote at a **general meeting** of the **company** either because such **MCI holder** is also the holder of a **member share** or because the **MCI holder** has been granted one vote under the terms of issue of the **MCIs** held

1.2 Interpretation

- (1) In this Constitution, unless the context requires otherwise:
 - (a) the singular includes the plural and vice versa;
 - (b) where an expression is defined in this Constitution, any other grammatical form of the expression has a corresponding meaning;

- (c) words and expressions defined in the **Corporations Act** have the same meaning in this Constitution;
 - (d) headings are for purposes of convenience only and do not affect the interpretation of this Constitution;
 - (e) a reference to a statute or regulation includes all amendments, consolidations or replacements of the statute or regulation;
 - (f) a reference to this Constitution or another instrument includes all amendments or replacements of the Constitution or the other instrument; and
 - (g) a reference to a statutory or other body that ceases to exist or the powers and functions of which are transferred to another body includes a reference to the body:
 - (i) that replaces it; or
 - (ii) to which substantially all the powers and functions relevant to this Constitution are transferred.

(2) The notes to this Constitution are for purposes of convenience only and do not affect the interpretation

(2) The notes to this Constitution are for purposes of convenience only and do not affect the interpretation of this Constitution. The notes do not form part of this Constitution and may be removed or modified without the **company** complying with the **Corporations Act** requirements that apply to removal or modification of constitutional provisions.

1.3 Time

Unless expressly provided otherwise, when this Constitution, or any notice given under this Constitution, states a time or a period of time, the time stated is, or the period of time is calculated by reference to, Standard Time or Summer Time, as the case may be, at the **company's** registered office.

1.4 Replaceable Rules do not Apply

The replaceable rules in the **Corporations Act** do not apply.

1.5 Intention to be an MCI mutual entity

The **company** is intended to be an MCI mutual entity for the purposes of the **Corporations Act**.

1.6 Notices

- (1) This Clause applies to all notices and documents that the **Corporations Act** or, subject to any other notice provision specified, this Constitution requires a party to this Constitution to send to another party to this Constitution.
 - (2) In this Clause, **business day** means a day that is not:
 - (a) a Saturday or Sunday; or
 - (b) a public holiday or bank holiday in the place where the notice is received.
 - (3) A person giving a notice to the **company** must do so in writing and must address it to the **company** at its registered office or such other address that may be

electronic or otherwise as the **company** specifies to **members** and **MCI holders** from time-to-time.

- (4) The **company** may give a notice or other document:

 - (a) by sending it by pre-paid post to the **member's** or **MCI holder's** address appearing on the **Register of Members**;
 - (b) by sending it to such other address that may be electronic or otherwise as the **member** or **MCI holder** specifies to the **company** from time-to-time;
 - (c) by making the notice available by electronic means and notifying the **member** or **MCI holder** in accordance with Clause 1.6(4)(a) or 1.6(4)(b) that the notice is available and how the **member** or **MCI holder** may access the notice.

Note: Clause 3.2(3) deals with sending notices to joint members.

- (5) A notice given in any of the ways set out in column 2 of the table is taken to be received by the person at the time set out in column 3 of the table:

Delivery Method	Time Person Receives Notice
1 Sending the notice by pre-paid post	The other person receives the notice on the business day after posting unless it is actually delivered earlier.
2 Sending the notice by electronic means	<p>The other person receives the notice:</p> <ul style="list-style-type: none"> (i) if sent before 5:00pm on a business day — on that business day (ii) if sent after 5:00pm on a business day — on the next business day (iii) if sent on a day other than a business day — on the next business day
3 Making the notice available in accordance with Clause 1.6(4)(c)	The other person receives the notice on the business day after the day on which the person is notified that the notice is available.

- (6) If a person sends a **member** or **MCI holder** a notice in accordance with this Clause, any person to whom that **member's** or **MCI holder's** share has been transmitted is taken to have received the notice when the **member** or **MCI holder** would, but for the **member's** or **MCI holder's** death, have received the notice. This Clause does not apply if the person to whom the share has been transmitted has advised the **company** of an alternative address in which case the notice must be sent to that address.

Part 2 Objects & Limit on Powers

2.1 Objects

The **company** has the following objects:

- (a) to raise funds by subscription, deposit or otherwise, as authorised by the Corporations Act and Banking Act;
- (b) to apply the funds in providing financial accommodation, subject to the Corporations Act and Banking Act;
- (c) to encourage savings and wealth management amongst members;
- (d) to provide products and services to members to assist them to meet their financial, economic and social needs;
- (e) to further the interests of members and the communities within which they work and live through co-operation and alliances with:
 - (i) other mutual entities and co-operatives;
 - (ii) associations of mutual entities and co-operatives; and
 - (iii) other businesses that will broaden the **company's** scope in achieving these objects, locally, nationally and internationally;
- (f) to apply its funds and conduct such other business as authorised by the Corporations Act, the Banking Act or any other applicable legislation;
- (g) to benefit members whilst also having an overall positive impact on society and the environment; and
- (h) to do anything reasonably incidental to the above objects.

2.2 Members and Customers

- (a) Subject to the exceptions in Clause 2.2(b) the **company** may only accept **deposits** from, or provide financial accommodation to, its members.
- (b) The restrictions in Clause 2.2(a) do not apply to the following persons who are not **members**:
 - (i) bodies that do not have the power to acquire, or that the law prohibits from acquiring, the **company's** shares;
 - (ii) **ADIs**; or
 - (iii) any person or class of persons as determined by the **board** in its absolute discretion.

Part 3 Membership

3.1 Admission to Membership

- (1) Subject to any other Clause allowing admission of **members**, the **company** may admit a person as a **member** only if:
 - (a) the person makes a written application in a form the **company** requires;
 - (b) the person applies for a **member share**;
 - (c) the full **subscription price** for the **member share** is paid in cash or, at the discretion of the **board**, partly or wholly in the form of an obligation to pay cash:
 - (i) by the person; or
 - (ii) by another person on behalf of the person (which other person may, subject to the **Corporations Act** include the **company**).

Note: The **company** may also admit a person as a **member** by the transmission of a **member share** to the person under Clause 7.1, Clause 7.2 or Clause 7.3.

- (2) The **company** may admit a minor who is eligible to membership of the **company** as a **member**.
- (3) The **board** has an absolute discretion in exercising the **company's** power to admit **members** without any obligation to give a reason for not admitting a person as a **member**.
- (4) When the company admits a person as a member, the company must:
 - (a) issue the **member share** to the person; and
 - (b) enter the person's particulars in the **Register of Members** as required by the **Corporations Act**.
- (5) Unless expressly stated otherwise in this Constitution:
 - (a) an **MCI holder** is not a **member** merely by virtue of holding an **MCI**;
 - (b) an **MCI holder** may be (or become) a **member** if they are otherwise admitted to membership in accordance with this Constitution; and
 - (c) an **MCI holder**, who is also a **member**, is not deemed to be a **member** (and the provisions of this Constitution relating to membership do not apply) in respect of any **MCIs** held by that person.

3.2 Joint Members

- (1) The **company** may admit 2 or more persons eligible for admission under Clause 3.1(1) as a joint **member** of the **company**.
- (2) The persons constituting the joint **member** may determine the order in which their names appear in the **Register of Members**. If the persons constituting the joint **member** do not do so, the **company** may determine the order in which their names appear in the **Register of Members**.

Part 4

Termination of Membership

- (3) The person named first in the **Register of Members** is the primary joint **member**. The **company** may duly send any notice, certificate or other document to the joint **member** by sending it to the primary joint **member**. Only the primary joint **member** is entitled to vote on behalf of the joint **member**.
- (4) At any time, the joint **member** may give the **company** a notice requiring the **company** to change the primary joint **member** or otherwise change the order in which their names appear in the **Register of Members**. Each person constituting the joint **member** must sign the notice. The **company** must change the **Register of Members** as soon as practicable after receiving the notice.
- (5) Any person constituting a joint **member** may give an effective receipt for any distribution on winding-up or return of capital in relation to the joint **member's** shares.
- (6) The **company** may accept deposits from, or provide financial accommodation to, the joint member or to any person constituting the joint **member**.
- (7) The persons constituting a joint **member** are jointly and severally liable for any liability that the joint **member** may have in relation to the joint **member's** shares.

- 4.1 Removal of the Member's Name from the Register of Members**
 - (1) The **company** can remove the **member's** name from the Register of Members if:
 - (a) the **company** redeems the **member's** **member share** under Clause 4.2, Clause 4.3 or Clause 4.4;
 - (b) if the **member** is an individual — the **member**:
 - (i) dies;
 - (ii) becomes a bankrupt and the **company** registers the **member's** trustee in bankruptcy as the holder of the **member's** **member share** under Clause 7.2; or
 - (iii) becomes mentally incapable and the **company** registers the **member's** trustee or guardian as the holder of the **member's** **member share** under Clause 7.3;
 - (c) if the **member** is a body corporate — the **member** is deregistered or dissolved; or
 - (d) if the **member** is a trustee for an unincorporated association — the **company** registers the transfer of the **member's** **member share** to another person who is to act as trustee for the unincorporated association.

Note: Clause 2.2 restricts the **company** from accepting further **deposits** from, or providing further **financial accommodation** to, persons who cease to be **members**.

- 4.2 Member's Request for Termination**
 - (1) A **member** may request termination of membership but only upon withdrawing all **deposits** and repaying all financial accommodation.
 - (2) If a **member** makes a request under Clause 4.2(1), the **company** must redeem the **member's** **member share** as soon as practicable after receiving the request.
- 4.3 Termination by the Company**
 - (1) The **company** may redeem a member's member share:
 - (a) if the **member** fails to discharge the **member's** obligations to the **company** (other than as specified in Clause 4.3(4));
 - (b) if the **member** engages in conduct detrimental to the **company**;
 - (c) if the **member** obtains membership by misrepresentation or mistake; or
 - (d) in the circumstances specified in Clause 4.3(4).
 - (2) The **company** must give notice (in accordance with Clause 1.6) of the proposed redemption under Clause 4.3(1)(a), (b) or (c) to the **member** at least 14 days before considering the proposed redemption. The application of this Clause 4.3(2) to a proposed redemption under Clause 4.3(1)(b) is subject to the **company's** right to redeem without notice under Clause 4.3(4)(c).

- (3) At the time the **company** considers a proposed redemption under Clause 4.3(1)(a), (b) or (c), the **member** is entitled:
- (a) to be present with or without the **member's** legal representative; and
 - (b) to be heard, either in person or through the **member's** legal representative.
- (4) The **company** may redeem a member's member share without notice to the member, where:
- (a) the **member** is in default of any payment obligation to the **company** for a continuous period exceeding **90** days; or
 - (b) the **company** has written off or accepted a compromise in respect of monies owing by the **member** and there have been no transactions on any account of the **member** (other than to reflect the write off or compromise) for a period of **90** days after the write off or compromise; or
 - (c) notwithstanding Clause 4.3(1)(b), the **member** engages in conduct which:
 - (i) endangers, harasses, intimidates, threatens, or bullies other **members** or employees or officers of the **company**;
 - (ii) represents an immediate risk to any assets, other **members** or employees or officers of the **company**; or
 - (iii) is otherwise contrary to the interests of the **company** or any of its other **members** or employees or officers.
- (5) Subject to Clause 4.3(6), on redeeming the **member share**, the **company** may pay the amount payable on redemption of the **member share** (if any) to the **member** by either:
- (a) sending a cheque to the **member's** address as set out in the **Register of Members**; or
 - (b) crediting any of the **member's** accounts with the **company**, at the time the **member share** is redeemed.
- (6) The **company** may from time to time and without notice to **members** affected, impose an administration fee in respect of redemption under Clause 4.3(1) such fee not to exceed the amount payable on redemption of the **member share**. The **company** may set off against the amount payable on redemption, any such administration fee payable to it.
- 4.4 Termination Where Accounts Dormant or Membership Inactive**
- (1) This Clause does not apply to a retirement savings account to the extent that the Retirement Savings Account Act 1997 (Cth) provides otherwise.
- (2) The **company** may classify a **member's deposit** account as a dormant account if:
- (a) there have been no **transactions** in the account for at least 1 year; and
 - (b) the **company** has given the **member** 28 days written notice stating that, unless the **member** gives to the **company** a written notice within 1 month stating that the **member** wishes the account to remain open, the **company** intends to declare the account dormant, close the account, redeem the **member's member share** and transfer the amount payable on redemption of the share (if any) and the amount (if any) standing to the credit of the **member's deposit** account into a general account maintained by the **company** for the purposes of holding dormant account monies and/or redemption proceeds for affected **members** ("general account"); and
 - (c) the **company** does not receive a written notice from the person required under Clause 4.4(2)(b).
- (3) The **company** may classify a **member** as inactive if, for a continuous period of 12 months:
- (a) the **member** has not had any **deposit** or other account open with the **company**;
 - (b) the **member** is not the holder of any security (other than the **member share**) issued by the **company**;
 - (c) the **company** has not received payments or remuneration (including commissions) which are directly attributable to the **member** using services supplied by, or made available through, the **company**; and
 - (d) the **company** has given the **member** not less than 28 days' written notice stating that, unless the **member** gives to the **company** a written notice within 1 month stating that the **member** wishes to remain a **member** of the **company**, the **company** intends to redeem the **member's share** and transfer the amount payable on redemption of the share (if any) into the **general account**.
- (4) The **company** may redeem the **member's member share** on classifying a **member's deposit** account as dormant (a "dormancy declaration") or upon classification of the **member** as inactive (an "inactive declaration").

Part 5

Issue of Shares

- (5) If the **company** redeems a person's **member share** as a result of a **dormancy declaration** under this Clause, the person may require the **company** to reinstate the person's **deposit** account at any time before the **company** pays the money in the **deposit** account in accordance with the relevant unclaimed money legislation. If the person requires the **company** to reinstate the person's **deposit** account:
- the **company** must reinstate the person's **deposit** accounts as soon as practicable; and
 - if the company has redeemed the member's member share — the company must issue a member share to the person and may debit the **member's deposit** account for the subscription amount.
- (6) In this Clause, "transaction" in a **member's deposit** account with the **company** means a debit or credit to the account, other than for:
- the payment of interest by the **company**; or
 - the charging of a fee by the **company**.
- (7) Subject to Clause 4.4(8), upon redemption of a **member share** as a result of a **dormancy declaration** or an **inactive declaration**, the **company** must pay the amount payable on redemption of the **member share** (if any) by crediting the amount to a sub-account in the name of the **member** in the **general account**.
- (8) The **company** may from time to time and without notice to **members** affected, impose an administration fee in respect of redemption under Clause 4.4(4) such fee not to exceed the amount payable on redemption of the **member share**. The **company** may set off against the amount payable on redemption, any such administration fee payable to it.

5.1 Classes of Shares

- The **company** may only issue **member shares** and **MCIs**.
- The **company** may only issue **member shares** to a person on the basis that the person complies with Clauses 3.1(1)(a) to 3.1(1)(c) (inclusive).

5.2 Board Power to Issue Shares

The **board** may exercise the **company's** power to issue shares to the exclusion of the **general meeting**.

5.3 Restrictions on Issue of Member Shares

- The **company** must not issue:
 - options to subscribe for **member shares**;
 - securities that may be converted to **member shares**; or
 - securities with pre-emptive rights to **member shares**.
- The **company** may only issue 1 **member share** to any person.

Note: The **company** can issue a **member share** to a person who already constitutes a joint membership.

Part 6

Member Shares and MCIs

Division 1 - Member Shares

6.1 Subscription Price

- (1) The **subscription price** for a **member share** is \$2.00.

6.2 Rights, Obligations and Restrictions Attaching to Member Shares

- (1) The following rights attach to each **member share**:
- (a) the right to vote on the terms set out in this Division and the Constitution generally;
 - (b) the right to participate in the distribution of profits or assets on a winding-up on the terms set out in Clause 6.4; and
 - (c) the right to redeem the **member share** on the terms set out in this Constitution.

- (2) The restriction on transfer of **member shares** in Clause 6.7 attaches to each **member share**.

6.3 Voting Rights

- (1) Holders of **member shares** may vote:

- (a) at a **general meeting**;
 - (b) in a ballot to appoint **directors** by election or a ballot conducted pursuant to Section 4 of the Appendix (Demutualisation Approval Procedure Rules).
- (2) At a **general meeting**:
- (a) on a show of hands — each holder of **member shares** other than a minor has 1 vote; and
 - (b) on a poll — each holder of **member shares** other than a minor has 1 vote for each **member share** that they hold.

However:

- (c) a **member** who holds more than 1 **member share** has 1 vote regardless of the number of **member shares** held; and
- (d) a **member** who is a minor has no vote.

6.4 Distribution on Winding-Up

- (1) Subject to Section 5 of the Appendix, on a winding-up of the **company** the holder of a **member share** is entitled:

- (a) to payment of the **subscription price** for the **member share** when the member subscribed for the **member share**; and
 - (b) if any assets remain after the payments in paragraph (a) — subject to Clause 6.10(2), to any surplus assets of the **company** on an equal basis with other holders of **member shares**.
- (2) The **company** may offset against the amount payable under this Clause:
- (a) any amount unpaid on the **member share**; and
 - (b) any other amount payable by the **member** to the **company**.

6.5 Transfer of Member Shares

- (1) Subject to Clause 6.5(2), a **member** may not transfer their **member share**.
- (2) A trustee for an unincorporated association may transfer the **member share** that they hold as trustee for the unincorporated association to another person who is to act as trustee for the unincorporated association.

6.6 No Dividends

No dividend is payable on a **member share**.

6.7 Non-Transferability of Shares

A **member** may not transfer, sell or assign their **member share** but may only require the **member share** to be redeemed in accordance with this Constitution.

Division 2 - MCIs

6.8 Share Capital from MCIs

- (1) Subject to compliance with the **Corporations Act** and satisfying the requirements of **APRA** in **prudential standards** (where applicable), the **company** may raise capital by issuing **MCIs** or capital instruments convertible into **MCIs**.
- (2) The **company** may create or issue more **MCIs** at any time. The creation or issue of more **MCIs** does not vary the rights attached to **MCIs** or any other **shares** that the **company** has already issued (or may issue in future).

6.9 Issue

- (1) The **subscription price** for an **MCI**, or a capital instrument convertible to an **MCI**, will be determined by the **board**.
- (2) Each **MCI** must be issued as a fully paid up share.
- (3) Any dividends in respect of an **MCI** are non-cumulative.

6.10 Rights of MCI Holders

- (1) The terms of issue of an **MCI** (including any terms, conditions or rights attaching to the **MCI**) will be determined by the **board** in its sole discretion, subject to the requirements of this Constitution, the requirements for **MCIs** in the **Corporations Act** and any applicable **prudential standards**.

Part 7

Transmission of Shares

- (2) Subject to the terms of issue of an **MCI**, an **MCI holder** is entitled to a claim on the surplus assets and profits of the **company** in a winding-up of the **company** after all senior claims, including the aggregate **subscription price** paid for any **member shares**, have been satisfied and:
- (a) the **MCI holder's** claim ranks equally and proportionately with the claims of all other **MCI holders** in the same class of **MCIs**; and
 - (b) the amount of the **MCI holder's** claim cannot exceed the **subscription price** of the **MCI**.
- (3) Notwithstanding anything to the contrary in this Constitution, but subject to the requirements for **MCIs** in the **Corporations Act**, the **board** may determine that the terms of issue of any **MCIs** contain such terms and conditions or attach such rights as the **board** considers necessary or desirable for those **MCIs** to be eligible for inclusion as regulatory capital under any applicable **prudential standards**.
- (4) The rights attached to **MCIs** (or a class of **MCIs**) may only be varied or cancelled by special resolution of the **company** and:
- (a) by a special resolution passed at a meeting of **MCI holders** holding **MCIs** in the relevant class; or
 - (b) with the written consent of **MCI holders** of at least 75% of the issued **MCIs** of that class.
- (5) Any variation of the rights attached to **MCIs** which constitute Common Equity Tier 1 Capital (as defined by **APRA** from time to time) of the **company** is subject to the prior written approval of **APRA**, if the variation may affect the eligibility of such **MCIs** for inclusion as Common Equity Tier 1 Capital of the **company**.

6.11 Registration as holder of MCIs

Except as provided by the rules of a licensed CS facility (as defined in the **Corporations Act**) which apply in relation to an **MCI**, a person becomes registered as an **MCI holder** upon entry by the **company** in its **Register of Members** of the person's particulars in relation to the **MCI** as required by the **Corporations Act**.

7.1 Transmission of Shares on Death

- (1) On the death of a **member** or **MCI holder**, the **company** may recognise either the personal representative of the deceased **member**, **MCI holder** or another person who appears to the **company** to be entitled to the deceased **member's** or **MCI holder's** estate as being entitled to the deceased **member's** or **MCI holder's** interest in the **shares**.
- (2) If the personal representative gives the **company** the information it reasonably requires to establish an entitlement to be registered as holder of the **member's** or **MCI holder's share**, the personal representative may elect to:
- (a) be registered as the holder of the **member's** or **MCI holder's share**; or
 - (b) apply to terminate the membership.

7.2 Transmission of Shares on Bankruptcy

If the trustee of a bankrupt **member's** or **MCI holder's** estate gives the **company** the information it reasonably requires to establish the trustee's entitlement to be registered as holder of the **member's** or **MCI holder's share**, the trustee may require the **company** to register the trustee as holder of the **member's** or **MCI holder's share**.

7.3 Transmission of Shares on Mental Incapacity

If a person entitled to a **member's** or **MCI holder's share** because of a **member's** or **MCI holder's** mental incapacity gives the **company** the information it reasonably requires to establish the person's entitlement to be registered as a holder of the **member's** or **MCI holder's share**:

- (a) the person may require the **company** to register the person as holder of the **member's** or **MCI holder's share**; and
- (b) whether or not registered as the holder of the **member's** or **MCI holder's share**, the person has the same rights, obligations and restrictions as the **member** or **MCI holder**.

Part 8

Holding General Meetings

8.1 Calling a General Meeting

The **board** may call a **general meeting**.

8.2 Adjourning a General Meeting

(1) The chair of a **general meeting** at which a quorum is present:

- (a) may adjourn the meeting with the consent of the meeting by ordinary resolution; and
- (b) must adjourn the meeting if directed by ordinary resolution.

(2) The **company** must give notice of an adjourned **general meeting** if the adjournment is for 1 month or more.

(3) The only business that an adjourned **general meeting** may deal with is business unfinished at the **general meeting** that was adjourned.

8.3 Proceedings at a General Meeting

(1) A **general meeting** may be held at any one or more places and/or may be held using any one or more technologies as determined by the **board**. The provisions of this constitution relating to proceedings at **general meetings** apply so far as they are capable of application and mutatis mutandis to any meeting held in accordance with this Clause 8.3(1).

(2) The quorum for a **general meeting** is 30 **members** present by any means permitted by law (whether in person or by proxy).

(3) If a quorum is not present within 30 minutes after the time for the **general meeting** set out in the notice of meeting, the meeting is adjourned to the date, time and place the **board** specifies. If the **board** does not specify 1 or more of those things, the meeting is adjourned to:

- (a) if the date is not specified — the same day in the next week;
- (b) if the time is not specified — the same time; and
- (c) if the place is not specified — the same place.

If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

(4) The chair of a **general meeting** is:

- (a) the chair of meetings of the **board**; or
- (b) if the chair of meetings of the **board** is not present or declines to act for the meeting (or part of it) — another person appointed by the **board**.

If the chair of meetings of the **board**, or another person appointed by the **board** is not available within 30 minutes of the appointed start of the meeting, or declines to act, the **members** and **voting MCI holders** must elect an individual present to chair the meeting.

8.4 Voting in Different Capacities

(1) A **member** may only exercise 1 vote at a **general meeting** of the **company** or on an election of **directors** regardless of the fact he or she may hold more than one membership or hold more than one account.

(2) If a **member** is also an **MCI holder**, that **member** has no more than one vote at a **general meeting** of the **company**, regardless of the applicable terms of issue of the **MCI**.

Part 9

Voting at General Meetings

9.1 Voting

- (1) A resolution put to the vote at a **general meeting** must be decided on a show of hands unless a poll is demanded.
- (2) On a poll being demanded at a **general meeting** the chair must inform the meeting prior to the poll being taken as to:
 - (a) how many valid proxy documents the **company** has received;
 - (b) how many of these proxy documents direct the proxies how to vote on the resolution; and
 - (c) if the **board** has determined that **members** and **voting MCI holders** may cast votes by **direct vote** in accordance with Clause 9.6, the number of valid **direct votes** received.
- (3) After a poll has been held, the chair must inform the meeting how the proxies were directed to vote on the resolution and if the **board** has determined that **members** and **voting MCI holders** may cast votes by **direct vote** in accordance with Clause 9.6, how the members casting such votes, voted.
- (4) The **general meeting** passes an ordinary resolution only if more than half the total number of votes cast on the resolution are in favour of it.
- (5) The chair does not have a casting vote in addition to his or her deliberative vote.

9.2 Voting on a Show of Hands

On a show of hands, the chair's declaration is conclusive evidence of the result, so long as the declaration reflects the show of hands. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against the resolution. The minutes only need to record that the resolution was passed or not passed.

9.3 Voting on a Poll

- (1) A poll cannot be demanded on any resolution concerning the election of a person to chair the **general meeting**.
- (2) A poll on the question of an adjournment must be taken immediately. The chair may direct when and the manner in which any other poll must be taken.

9.4 Body Corporate Representatives

- (1) A **member** or **voting MCI holder** that appoints a body corporate representative must give the **company**:
 - (a) if the **member** or **voting MCI holder** appointed the representative by **board** resolution — a certified copy of the **board** resolution appointing the representative; and

(b) otherwise — a copy of the instrument appointing the representative, as soon as practicable after appointing the representative, and in any event before any **general meeting** at which the representative may exercise the **member's** or **voting MCI holder's** rights.

- (2) In addition to the rights and powers a **member's** or **voting MCI holder's** representative may exercise under the **Corporations Act**, the representative may exercise the **member's** or **voting MCI holder's** right to vote (if any) in a ballot to appoint **directors** by election.

9.5 Proxies

- (1) The **board** may determine the form of proxy document from time to time.
- (2) An appointment of a proxy for a **general meeting** is invalid unless the **company** receives the following documents at least 48 hours before the meeting, or at such later time as the **board** determines before the meeting:
 - (a) the proxy's appointment; and
 - (b) if the **member's** or **voting MCI holder's** attorney signs the proxy's appointment — the authority under which the attorney signed the proxy's appointment or a certified copy of the authority.
- (3) An appointment of a proxy is not invalid merely because it does not contain all the information required for a valid proxy appointment, so long as it contains:
 - (a) the member's or voting MCI holder's name; and
 - (b) the proxy's name or the name of the office that the proxy holds.
- (4) A proxy does not have a right to vote on a show of hands.
- (5) Unless the **company** receives written notice of the matter before the meeting at which a proxy vote starts or resumes, the proxy's vote at that meeting will be valid if, before the proxy votes:
 - (a) the appointing **member** or **voting MCI holder** dies; or
 - (b) the **member** or **voting MCI holder** is mentally incapacitated;
 - (c) the **member** or **voting MCI holder** revokes the proxy's appointment;
 - (d) the **member** or **voting MCI holder** revokes the authority under which the proxy was appointed by a third party; or

- (e) the **member or voting MCI holder** transfers the share in respect of which the **member or voting MCI holder** or a third party appointed the proxy.
- 9.6 Board may determine Direct Voting to apply**
- (1) The **board** may determine that **members or voting MCI holders** may cast votes to which they are entitled on any or all of the resolutions (including any special resolution) proposed to be considered at, and specified in the notice convening, a **general meeting**, by **direct vote**.
- (2) If the **board** determines that votes may be cast by **direct vote**, the **board** may make such regulations as it considers appropriate for the casting of **direct votes**, including regulations for:
- (a) the form, method and manner of voting by **direct vote**; and
 - (b) the time by which the votes of **members or voting MCI holders** to be cast by **direct vote** must be received by the **company** in order to be effective (which must be no later than the time appointed for the commencement of the meeting or, in the case of an adjournment, the resumption of the meeting).
- 9.7 Direct Votes count on a poll**
- (1) **Direct votes** are not counted if a resolution is decided on a show of hands.
- (2) Subject to Clauses 9.8 and 9.9, if a poll is held on a resolution, votes cast by **direct vote** by a **member or voting MCI holder** are taken to have been cast on the poll as if the **member or voting MCI holder** had cast the votes in the poll at the meeting, and the votes of the **member or voting MCI holder** are to be counted accordingly.
- (3) A **direct vote** received by the **company** on a resolution is taken to be a **direct vote** on that resolution as amended, if the chairman of the meeting determines this is appropriate.
- (4) Receipt of a **direct vote** from a **member or voting MCI holder** has the effect of revoking (or, in the case of a standing appointment, suspending) the appointment of a proxy, attorney or representative made by the **member or voting MCI holder** under an instrument received by the **company** before the **direct vote** was received.
- 9.8 Withdrawal of Direct Vote**
- (1) A **direct vote** received by the **company**:
- (a) may be withdrawn by the **member or voting MCI holder** by notice in writing received by the **company** before the time appointed for the commencement of the meeting (or in the case of any adjournment, the resumption of the meeting); and
 - (b) is automatically withdrawn if:
 - (i) the **member or voting MCI holder** attends the meeting in person (including, in the case of a body corporate, by representative);
 - (ii) the **company** receives from the **member or voting MCI holder** a further **direct vote** or **direct votes** (in which case the most recent **direct vote** is, subject to Clauses 9.6 to 9.9 inclusive, counted in lieu of the prior **direct vote**); or
 - (iii) the **company** receives, after the **member's or voting MCI holder's direct vote** is received, an instrument under which a proxy, attorney or representative is appointed to act for the **member or voting MCI holder** at the meeting in accordance with this constitution.
 - (c) A **direct vote** withdrawn under this clause is not counted.
- 9.9 Direct Vote not affected by death, etc. of member or voting MCI holder**
- Unless the **company** receives written notice of the matter before the meeting at which a **direct vote** starts or resumes, the **direct vote** at that meeting will be valid if, before the **direct vote**:
- (a) the **member or voting holder** dies;
 - (b) the **member or voting holder** is mentally incapacitated;
 - (c) the **member or voting holder** revokes the **direct vote**; or
 - (d) the **member or voting holder** transfers the share in respect of which the **member or voting holder** has cast a **direct vote**.
- 9.10 Objections**
- An objection to the qualification of a voter:
- (a) may only be made at the **general meeting** or adjourned **general meeting** at which the vote objected to is cast; and
 - (b) must be ruled upon by the chair whose decision is final.

Part 10

Directors - Appointment & Vacation of Office

10.1 Number and Residence of Directors

- (1) The **board** shall comprise:
- (a) 4 (or such greater number as the **board** may resolve) **member elected directors**;
 - (b) the **board appointed directors** (if any);
 - (c) the **executive director** (if any),
- provided that the number of **member elected directors** shall at all times exceed the number of **board appointed directors**.
- (2) The **board** shall include:
- (a) at least two **directors** having a strong affinity with South East Queensland through currently residing in, or having previously resided in, South East Queensland; and
 - (b) at least two **directors** having a strong affinity with South Australia through currently residing in, or having previously resided in, South Australia.

10.2 Eligibility to be a Director

- An individual is eligible to be a director if the person:
- (a) is a **member**;
 - (b) in the case of a **member elected director**:
 - (i) has been a **member** since at least the closing of nominations for the election for which they are nominated, or are otherwise entitled to be elected without nomination, as a **member elected director** pursuant to Clause 10.4; and
 - (ii) is not a current employee of the **company** and has not been an employee of the **company**, and/or an entity with which the **company** has merged and/or to which it is the successor in law, prior to the closing of nominations for an election for which they are nominated, or are otherwise entitled to be elected without nomination, as a **member elected director** pursuant to Clause 10.4;
 - (c) in the case of an **executive director** – is employed as the chief executive of the **company**;
 - (d) has not had a personal representative or trustee appointed to administer the person's estate or property because of their mental incapacity; and
 - (e) in the case of a **member elected director**, the **board** has determined that the person is of appropriate fitness and propriety to be and act as a **director** for the purposes of the **company's** obligations under applicable legislation and the **company's** fit and proper policy.

10.3 Appointment by Members — Election by Ballot

Subject to this Part 10, the **members** may appoint a person to be a **director** by election held in accordance with Clauses 10.4 to 10.18.

10.4 Nominations

- (1) The **board** must give **members** a notice calling for nominations not less than 56 days before the **AGM**. The **board** may give this notice by advertisement (or other communication) and in any media it considers reasonable to maximise, to the extent reasonably practicable, the likelihood that **members** will become aware of the notice including, without limitation, by any combination of the following media or means of communication:
- (a) notice at the **company's** offices;
 - (b) notice on the **company's** website (if available) and any other website considered suitable by the **board**;
 - (c) notice (or notification) in the national or local print, television or radio media; or
 - (d) electronic communication of the notice (or of the existence of the notice) in any media including, where appropriate and practicable, by direct electronic communication to **members**.
- (2) Nominations close at least 36 days before the **AGM**.
- (3) 5 **members** who are each eligible to nominate a **member** to stand for election as a **member elected director** in accordance with Clause 10.4(4) together have the right to nominate a **member** to stand for election as a **member elected director**. To nominate a **member**, the 5 **members** must give the **company** a notice of nomination that contains the information required by Clause 10.4(5) and includes information, and is otherwise in a form, required by the **board**, before nominations close.
- (4) A **member** is eligible to nominate a **member** to stand for election as a **member elected director** if the nominating **member**:
- (a) has attained the age of 18 years; and
 - (b) knows the **member** it proposes to nominate; and
 - (c) has been a **member** for a continuous period of 1 year immediately prior to the closing date of nominations for an election.
- (5) The notice of nomination must:
- (a) declare that the **member** being nominated is eligible to be a **director** under Clause 10.2(a) to (d);
 - (b) state the age of the **member** being nominated; and
 - (c) be signed by the nominating **members** and the **member** being nominated.
- (6) A retiring **member elected director** may stand for re-election without nomination but must be otherwise eligible for election.
- (7) A retiring **member elected director** standing for re-election must comply with Clauses 10.5 and 10.8.
- (8) A **board appointed director** may stand for election and must comply with Clauses 10.2 to 10.8.

- (9) Notwithstanding Clauses 10.4(6) to 10.4(8), a retiring **member elected director** may not stand for re-election, and a **board appointed director** may not stand for election, if the **director** would have been a **director** of the **company**, and/or an entity with which the **company** has merged and/or to which the **company** is the successor in law, for 12 years and three months or more in aggregate (whether served continuously or in one or more separate appointments) either at the time of their re-election or election (as the case may be) or at any time during their term of office in accordance with Clause 10.23(2) following their re-election or election (as the case may be).
- (10) Notwithstanding Clauses 10.4(3) to 10.4(4), a **member** who is eligible to nominate a member to stand for election as a **member elected director** does not have the right to nominate a **member** to stand for election as a **member elected director** if the **member** would have been, if elected as a **member elected director**, a **director** with the **company**, and/or an entity with which the **company** has merged and/or to which the **company** is the successor in law, for 12 years and three months or more in aggregate (whether served continuously or in two or more separate appointments) at the time of their election or at any time during their term of office in accordance with Clause 10.23(2) following their election.
- 10.5 Nominations Committee**
- (1) The **board** shall establish a Nominations Committee to manage the process for nomination for election of **member elected directors**.
 - (2) The Nominations Committee is to comprise:
 - (a) the chair of the **board** except when standing for re-election; and
 - (b) two or such other number of **directors** as determined by the **board** with an overall suitable mix of character, skills, knowledge and experience, or who meet other criteria determined by the **board**.
 - (3) The **board** shall develop, and provide to the Nominations Committee a model set of criteria for **member elected directors** against which **nominated persons** will be assessed.
 - (4) Each **nominated person** is required to attend an interview with the **Nominations Committee** at a time and place selected by the **Nominations Committee**. A **nominated person** who does not attend the interview will cease to be eligible for election as a **member elected director**.
 - (5) After interviewing each **nominated person**, and after considering the information provided by a **nominated person** under Clause 10.7, the Nominations Committee shall prepare:
 - (a) a statement on the **nominated person** advising whether the **nominated person** has the appropriate skills, knowledge and experience
- (including as assessed against the **company's** model set of criteria), to be a **director**; and
- (b) a recommendation to the **board** on each **nominated person** as to whether that person:
 - (i) is of appropriate fitness and propriety to be and act as a **director** for the purposes of the **company's** obligations under applicable legislation and the **company's** fit and proper policy; and
 - (ii) has the appropriate skills, knowledge and experience to be a **director**, by reference to the **company's** model set of criteria.
 - (6) The Nominations Committee must provide a copy of the statement to the **nominated person** requesting the **nominated person's** comments within such timeframe as determined by the **Nominations Committee**. The Nominations Committee will consider such comments and make such changes, if any, to the statement as the Nominations Committee thinks fit. The Nominations Committee's decision on the need for, or the content of such changes, is final.
 - (7) The **board** must consider (but not be bound by) the recommendation from the Nominations Committee referred to in Clause 10.5(5)(b), and any other information it considers appropriate (which may include information prepared by a committee of the **board**), and determine whether the **nominated person**:
 - (a) is of appropriate fitness and propriety to be and act as a **director** for the purposes of the **company's** obligations under applicable legislation and the **company's** fit and proper policy; and
 - (b) has the appropriate skills, knowledge and experience to be a **director**, by reference to the **company's** model set of criteria.
 - (8) If the **board** determines that a **nominated person** is of appropriate fitness and propriety to be and act as a **director** and that the **nominated person** has the appropriate skills, knowledge and experience to be a **director** by reference to the **company's** model set of criteria, and the **board** has not otherwise determined that the **nominated person** not become a **candidate** in accordance with Clause 10.8(1), the person becomes a **candidate**.
- 10.6 Appointment of Returning Officers**
- (1) The **board** must appoint a returning officer, who may appoint assistant returning officers, none of whom can be a **director** of the **company** or a **nominated person**.
 - (2) The **secretary** must prepare and give the returning officer a roll of **members**.
- 10.7 Declaration**
- (1) A **nominated person** must provide the **company** with a declaration in such form as the **board** may require (and by the time determined by the **board**):

- (a) identifying the **nominated person's** eligibility for election under the Constitution and the **Corporations Act**;
- (b) in which they consent to be a **director** in accordance with the **Corporations Act**;
- (c) identifying whether the **nominated person**:
- (i) has any interest in a contract or proposed contract with the **company**; or
 - (ii) holds an office or has an interest in property, whereby, whether directly or indirectly, duties or interests may be created that could conflict with a **director's** duties or interests as a **director** of the **company**;
- (d) attaching such other information as determined by the **board**; and
- (e) if the **nominated person** wishes to do so, containing a brief statement not exceeding 250 words for distribution to the **members**.
- (2) A **nominated person** must ensure that all information provided under Clause 10.7(1) is accurate and not misleading (including by the omission of material information) and in any event, must provide documentary evidence verifying the information to the satisfaction of the **board**.
- (3) A **candidate** must ensure that the **company** is advised of any material changes to the information provided under Clause 10.7(1) as soon as reasonably practicable after the change.
- ## 10.8 Distribution of Information
- (1) Prior to becoming a **candidate**, a **nominated person** must not directly or indirectly distribute information to, or otherwise communicate with, the **members** in connection with a **director** election (including by doing so before they become a **nominated person** except to the extent reasonably necessary to procure **members** to nominate the member to stand for election as a **member elected director**). If the **nominated person**, or any person reasonably considered by the **board** to be acting on behalf of the **nominated person**, does so, the **board** may determine that the **nominated person** will not become a **candidate**.
- (2) Subject to any constraints imposed in accordance with Clause 10.8(5), a **candidate** may contact **members** in connection with a **director** election, but must not:
- (a) in any way (directly or indirectly, including by permitting another to do so on their behalf) campaign on, impede or interfere with, any of the premises of the **company**, the property where the premises or facilities of the **company** are situated, or other property of the **company**;
 - (b) interfere with, or seek assistance from, any employee, officer, services provider or agent of the **company** or its related bodies corporate;
- (c) provide any **member** with information that, or in any manner that, in the reasonable opinion of the **board**, is likely to mislead or deceive a **member** in relation to the casting of their vote at a director election or the operations of the **company** generally, contains any defamatory material, is not relevant to a **director** election, disparages the **company** or brings the **company** into dispute, or contravenes a provision of the **Corporations Act** or any other law in force in the state in which the information is being distributed.
- (3) The statement prepared by the Nominations Committee under Clause 10.5(5)(a) (as amended under Clause 10.5(6), if applicable) and the information provided under Clause 10.7(1) for each **candidate** will be distributed to **members** together with the ballot material distributed at Clause 10.13(1).
- (4) Any statement or information submitted by a **candidate** for election must not contain any matter or thing that is likely to mislead or deceive a **member** in relation to the casting of their vote or that contains any defamatory material.
- (5) Without limiting the provisions of this Clause 10.8, but subject to Clause 10.8(6), the **board** may from time to time impose constraints, including restrictions or prohibitions ("**direct communication constraints**") on **candidates** directly or indirectly distributing information to, or otherwise communicating with, the **members** in connection with a **director** election. The **direct communication constraints** may, without limitation, cover:
- (a) the method (including frequency) of communication;
 - (b) the subject matter and contents (including the length and relevance) of the information;
 - (c) the persons or groups of persons to whom the information is distributed or the communication made;
 - (d) the approval process (if any) for the information or communication; and
 - (e) anything incidental to the above.
- (6) The **board** may only impose **direct communication constraints** under Clause 10.8(5) to the extent that it reasonably considers that the **direct communication constraints** are necessary or desirable to promote the integrity, fairness, efficiency and/or efficacy of the **director** election process and that the constraints are otherwise consistent with the following principles:
- (a) the **direct communication constraints** must apply equally to all **candidates**;
 - (b) all **nominated persons** are to be given notice of the **direct communication constraints** as soon as practicable after they are nominated;

- (c) **members** should not be harassed by **candidates** or unreasonably burdened by the distribution or communication having regard to the method of the distribution or communication, its contents or the frequency of the distribution or communication;
 - (d) **candidates** must not make comments which criticise or disparage other **candidates**;
 - (e) the primary method of distribution of information about **candidates** is intended to be pursuant to Clause 10.13(1); and
 - (f) **members** should have sufficient information to properly consider the merits of each **candidate**.
- (7) Without limiting the above, and whether or not the **board** imposes any **direct communication constraint** of this nature or at all, the information and, where relevant, the method of communication must not be misleading or deceptive or otherwise breach any law (including defamation laws).
- (8) If a **candidate** or any person reasonably considered by the **board** to be acting on behalf of the **candidate**, breaches in any material respect Clause 10.8(2), Clause 10.8(7) or any **direct communication constraint** and such breach is, in the **board's** opinion:
- (a) not capable of remediation; or
 - (b) capable of remediation, but is not rectified by the **candidate** to the reasonable satisfaction of the **board** within a reasonable period after the breach is brought to the attention of the **candidate**,
- the **board** may in its sole discretion determine that the person ceases to be a **candidate**, in which case the person will no longer be eligible for election as a **member elected director** as part of the then current director elections. The **board** may then take such action in relation to the **director** elections as it considers reasonable in the circumstances.
- 10.9 Rejection of Nomination**
- (1) The returning officer must scrutinise a nomination as soon as reasonably practicable after receipt and reject a nomination where the returning officer determines that the person nominated is not eligible to be a **member elected director** under this Constitution, has not otherwise complied with this Constitution or the nomination does not otherwise comply with this Constitution.
 - (2) Upon rejecting a nomination, the returning officer shall notify as soon as reasonably practicable the **nominated person** and the **board**.
 - (3) There is no obligation on the **Nominations Committee** or the **board** to release to a **nominated person** the results of any referee checks undertaken on the **nominated person**.

- 10.10 Subsequent Adverse Information About a Candidate**
- (1) Where the **board** becomes aware of any information about, or conduct of, a **candidate** that, in the **board's** opinion, could have been relevant to the **board's** determination in accordance with Clause 10.5(7), or could be relevant to the **board's** determination in accordance with Clause 10.5(7) if the **board** was required to again make that determination upon becoming aware of the information or conduct, then the **board** must again determine whether, in light of the information and/or conduct, the **candidate**:
- (a) is of appropriate fitness and propriety to be and act as a **director** for the purposes of the **company's** obligations under applicable legislation and the **company's** fit and proper policy; and
 - (b) has the appropriate skills, knowledge and experience to be a **director**, by reference to the **company's** model set of criteria, (“**revised assessment**”).
- (2) Upon a **revised assessment** being made that the **candidate** does not meet the criteria in Clause 10.10(1), the returning officer must by written notice to the **candidate**:
- (a) inform the **candidate** of the **revised assessment**;
 - (b) provide to the **candidate** a summary of the information and/or conduct upon which the **revised assessment** is based (but the returning officer is not required to reveal how or from whom it has derived that information or become aware of that conduct); and
 - (c) specify that the **candidate** will cease to be a **candidate** unless the **candidate** can demonstrate to the **board**, within 5 business days of the notice, that the information is not correct in any material particular or that the relevant conduct did not occur.
- (3) If the **candidate** does not demonstrate the matters specified in Clause 10.10(2)(c) to the reasonable satisfaction of the **board**, the **board** may determine that the **candidate** cease to be eligible for election as a **member elected director**. The **board** may then take such action in relation to the director elections as it considers reasonable in consequence of the withdrawal, including by modifying the requirements of this Clause 10 to the extent necessary to accommodate the withdrawal.
- 10.11 Proceeding with Election**
- (1) The number of positions to be filled in an election of **directors** is the maximum number of **member elected directors** under Clause 10.1 less the number of **member elected directors** who are not due to retire at the **AGM** in accordance with Clause 10.23.

- (2) If the number of **candidates** is equal to or less than the number of **member elected director** positions to be filled:
- (a) those **candidates** are declared elected by the **members** with effect from the end of the next **AGM** and for the purposes of Clause 10.23(2) their election is deemed to have been announced at that **AGM**;
 - (b) the election process otherwise set out in this Constitution is discontinued;
 - (c) the **board** must give **members** a notice that:
 - (i) states that the election process has been discontinued;
 - (ii) sets out the name of each **candidate** declared elected in accordance with Clause 10.11(2)(a);
 - (iii) sets out any other information as required by the **Corporations Act**.
- (3) The **board** may give the notice referred to in Clause 10.11(2)(c) by advertisement or other communication and in any media it considers reasonable to maximise, to the extent reasonably practical, the likelihood that **members** will become aware of the notice including, without limitation, by any combination of the following media or means of communication:
- (a) notice at the **company's** offices;
 - (b) notice on the **company's** website (if available), and any other website considered suitable by the **board**;
 - (c) notice (or notification) in the national and local print, television or radio media; or
 - (d) electronic communication of the notice (or the existence of the notice) in any media including, where appropriate and practical, by direct electronic communications to **members**.
- 10.12 Ballot Papers**
- (1) After nominations have closed, the returning officer must prepare ballot papers for the election.
- (2) The **board** is to determine the form of the ballot, including how determination of the order in which the **candidates** will appear on the ballot paper is to be undertaken.
- (3) In determining the order in which the **candidates** will appear on the ballot paper, the **board** may only choose one of the following options:
- (a) by lot; or
 - (b) by lot for the first ballot paper printed, and then **candidates** appearing on subsequent ballot papers printed as rotated through each position on the ballot paper.
- (4) The returning officer is to carry out the process of the determination of the order, as determined by the **board** in Clause 10.12(3), in which the **candidates** appear on the ballot paper.
- (5) The names of any existing **directors** seeking re-election or election may appear on the ballot paper with a distinguishing mark.
- (6) The **board** may request that the names of any **candidates** endorsed or not endorsed by the **board** appear on the ballot paper with a distinguishing mark. The **board** may also remain silent on their endorsement or otherwise of a candidate.
- 10.13 Voting**
- (1) At least 21 days before the **AGM**, the returning officer must send to each **member** who (at the date of sending) is eligible to vote in an election of **directors**:
- (a) if voting is being conducted by post:
 - (i) a ballot paper, comprising a removable slip for the **member** to include the **member's** membership number, the **member's** name, the **member's** address and **member's** signature;
 - (ii) an unsealed envelope marked "Ballot Paper"; and
 - (iii) a postal envelope addressed to the returning officer;
 - (b) if voting is being conducted electronically, instructions as to how the **member** may vote; and
 - (c) in respect of each candidate:
 - (i) a statement prepared by the **board**, which may include the statement prepared by the **Nominations Committee** under Clause 10.5(5)(a) and any other information about the **candidate** that the **board** reasonably considers is relevant to their candidacy for election as a **member elected director**; and
 - (ii) the statement (if any) provided by the **candidate** in accordance with Clause 10.7(1)(e).
- (2) If ballot papers are sent to **members** by post, they may be included with other **company** postal materials.
- (3) Any **member** exercising a right to vote must:
- (a) if voting by post:
 - (i) complete the ballot paper in accordance with this Constitution;
 - (ii) place the ballot papers in the envelope marked "Ballot Paper";

- (iii) complete the slip on the ballot paper envelope and return the envelope with the slip attached to the returning officer in the envelope supplied prior to 5.00pm on the day fixed for the closing of the ballot; or
 - (b) if voting electronically, by voting in accordance with the instructions provided by the **company** pursuant to Clause 10.13(1)(b).
 - (4) Any ballot paper or electronic vote not received by the returning officer prior to 5.00pm on the day fixed for the closing of the ballot is excluded from the ballot.
 - (5) Any ballot paper received by the returning officer is to be kept in secured ballot boxes until the closure of the ballot.
 - (6) If voting is being conducted by post, a **member** who does not receive a ballot paper or who misplaced or spoiled a ballot paper may send to the **returning officer** a declaration to that effect in such form that is satisfactory to the returning officer, upon which the **returning officer** must:
 - (a) send a ballot paper or duplicate ballot paper (as applicable) to that **member**;
 - (b) mark the envelope "Ballot Paper – Duplicate" (if applicable); and
 - (c) keep a record of all duplicate ballot papers issued.
- 10.14 Closure of the Ballot**
- The ballot closes at a date determined by the **board**, which must be at least 7 days before the **AGM**.
- 10.15 Appointment of Scrutineer**
- (1) A **candidate** may appoint a scrutineer.
 - (2) Any costs associated with the appointment of a scrutineer are the responsibility of the **candidate** appointing the scrutineer. No reimbursements will be made by the **company**.
 - (3) The duties and responsibilities of scrutineers are:
 - (a) to observe the sorting, counting and recording of ballot papers; and
 - (b) to raise any query with the returning officer regarding any of the ballot papers.
 - (4) In the event of a dispute in relation to any ballot papers (including in relation to the sorting, counting and recording of ballot papers) between a scrutineer and the returning officer, the determination of the returning officer will be final and binding.
- 10.16 Procedures After Close of the Ballot**
- (1) The **board** shall adopt, and may amend from time to time, a procedure for the counting of votes which must, in the reasonable opinion of the **board**:
 - (a) be reasonable and consistent with this Constitution; and
 - (b) as far as reasonably practical, ensure that votes be counted without disclosing or revealing to any person (including the **returning officer**) a specific **member's** vote, ensure that each **member** must only exercise 1 vote and that persons who are not **members** do not vote in a ballot, ensure that all **members** are given a reasonable opportunity to vote in a ballot and ensure that all **members** are treated equally in relation to voting.
 - (2) As soon as reasonably practicable after the close of the ballot, the returning officer must deal with votes in accordance with the procedure adopted by the **board** in accordance with Clause 10.16(1).
- 10.17 Changes to Voting Procedures**
- (1) The **board** may, from time to time, approve changes to the procedures for voting specified in, or adopted in accordance with any of, Clauses 10.13 to 10.16 where, in the view of the **board**, such changes are reasonable and are not inconsistent with the following principles:
 - (a) are capable of ensuring accurate receipt and treatment of votes and the integrity of the director election process;
 - (b) as far as reasonably practical, ensure that the procedures continue to require that votes be counted without disclosing or revealing to any person (including the returning officer) a specific member's vote;
 - (c) as far as reasonably practical, ensure that the procedures continue to require that each member must only exercise 1 vote and that persons who are not members do not vote in a ballot;
 - (d) ensure that the procedures continue to require that all members are given a reasonable opportunity to vote in a ballot; and
 - (e) ensure that the procedures continue to require that all members are treated equally in relation to voting.
 - (2) Without limiting the above power, the **board** may, from time to time, adopt procedures and make regulations to provide for electronic / online voting procedures (including for notification of elections, provision of ballot papers, distribution of election materials, voting, processing and counting of votes and all related matters) provided that the principles set out in paragraphs 10.17(1)(a) to 10.17(1)(e) above are observed (where necessary as reasonably modified to apply to electronic / online voting procedures) and the procedures are, as far as reasonably practical, capable of ensuring accurate receipt and treatment of votes and the integrity of the director election process.

10.18 Voting System

- (1) The **candidates** with the highest number of votes in accordance with the number of vacancies are appointed as **member elected directors** with effect from the time specified in Clause 10.23.
- (2) If 2 or more **candidates** have the same number of votes, the **candidate** appointed as a **member elected director** is determined by lot in such manner as is determined by the **board**.
- (3) The result of the ballot must be announced at the next **AGM** by the **secretary**, by the chairman of the **board** or by such other person as the **board** determines.

10.19 Withdrawal or Death of a Candidate

- (1) No election will be invalid where a **candidate** subsequently becomes mentally incapable or dies provided:
 - (a) the **company** provides written notice to all **members** of the subsequent mental incapacity or death of the **candidate** prior to the ballot opening; or
 - (b) the deceased **candidate** or the **candidate** lacking mental capacity fails to obtain sufficient votes to have been elected.

10.20 Appointment by the Board – Additional Directors

- (1) The **board** may from time to time appoint not more than 3 **directors** (“**board appointed directors**”) additional to **member elected directors**, the **executive director** and those appointed to fill casual vacancies.
- (2) The **board** may appoint a **board appointed director** where it considers that the person has appropriate skills, experience or expertise.
- (3) The **board** may only initially appoint a **board appointed director** for a period:
 - (a) that is 12 months; or
 - (b) that expires on the date on which the person would have been a director of the **company**, an entity with which the **company** has merged and/or to which the **company** is the successor in law, for 12 years and three months in aggregate (whether served continuously or in two or more separate appointments),whichever is the shorter.
- (4) The **board** may re-appoint a **board appointed director** for additional periods of up to 36 months, provided that no such re-appointment period (if served in full) would result in the **board appointed director** having been a **director** of the **company**, an entity with which the **company** has merged and/or to which the **company** is the successor in law, for 12 years and three months or more in aggregate (whether served continuously or in two or more separate appointments).

- (5) Notwithstanding Clauses 10.20(1) to 10.20(4), the **board** may not appoint a person as a **board appointed director** if, at the time of appointment, the person has been a **director** of the **company**, and/or an entity with which the **company** has merged and/or to which it is the successor in law, for 12 years and three months or more in aggregate (whether served continuously or in one or more separate appointments).

10.21 Appointment by the Board – Executive Director

- (1) From time to time the **board** may appoint a person to be an **executive director**. The **board** may only appoint a person under this Clause who is eligible to be an **executive director** under Clause 10.2(c).
- (2) The **board** may appoint an **executive director** for the period of the **executive director's** employment with the **company** or such lesser period as determined by the **board**.
- (3) Notwithstanding Clause 10.21(2), if the **executive director** ceases employment with the **company**, the term of office for the **executive director** immediately ceases.

10.22 Appointment by the Board — Casual Vacancies

- (1) The **board** may appoint a person to be a **director**:
 - (a) if a **director's** office becomes vacant other than because the **director's** term of office has ended; or
 - (b) if, for any other reason, the number of **member elected directors** is less than 5 **directors**.
- (2) The **board** may only appoint a person who is eligible to be a **director** under Clause 10.2 (excluding Clause 10.2(b)).
- (3) The term of office for a **director** appointed to fill a vacancy in Clause 10.22(1)(a) ends:
 - (a) at the end of the term of office of the **director** whose office has become vacant; or
 - (b) on the date which the person has been a **director** of the **company**, an entity with which the **company** has merged and/or to which the **company** is the successor in law, for 12 years and three months in aggregate (whether served continuously or in two or more separate appointments),whichever occurs first.
- (4) The term of office for a **director** appointed to fill a vacancy in Clause 10.22(1)(b) ends:
 - (a) at the end of the next **AGM** after the **director's** appointment; or
 - (b) on the date on which the person has been a **director** of the **company**, an entity with which the **company** has merged and/or to which the **company** is the successor in law, for 12 years and three months in aggregate (whether served continuously or in two or more separate appointments).

Part 11

Directors' Powers

10.23 Term of Office

- (1) This Clause only applies to **member elected directors**.
- (2) Subject to the **Corporations Act**, a **member elected director's** term of office starts at the end of the **AGM** at which the **member elected director's** election is announced and ends at the end of the third **AGM** after the **AGM** at which the **member elected director's** election is announced.
- (3) At the end of this term, a **member elected director** must retire from office, but may offer themselves for re-election provided that they meet the eligibility criteria contained in this Constitution and the **Corporations Act**.

10.24 Automatic Vacation of Office

The office of a **director** automatically becomes vacant if the **director**:

- (a) dies;
- (b) ceases to be eligible to be a **director** under Clause 10.2;
- (c) is absent from 3 consecutive ordinary meetings of the **board** without leave; or
- (d) is 3 months in arrears in relation to money due to the **company** and has failed to make arrangements for payment satisfactory to the **company**.

Neither the **board** nor the **general meeting** may waive the operation of this Clause.

10.25 Resignation

- (1) A **director** may resign by giving the **company** notice of the **director's** resignation.
- (2) The **director's** office becomes vacant:
 - (a) on the date of resignation if the notice of resignation specifies a date of resignation; or
 - (b) on the date the **company** receives the notice of resignation.

11.1 Powers and Duties of the Board

The **board**:

- (a) manages the **company's** business; and
- (b) may exercise all the powers of the **company** except any powers that the **Corporations Act** or this Constitution expressly allocates to the **general meeting**.

11.2 Negotiable Instruments

The **board** may authorise a person or persons to sign, draw, accept, endorse or otherwise execute negotiable instruments for the **company**. The **board** may authorise the application of signatures to negotiable instruments by machine or other electronic method.

11.3 Delegation

- (1) The **board** may delegate any of its powers to any committee of the **board** or any other person or persons. The **board** may permit the delegate to sub-delegate any powers so delegated.
- (2) The **board** must establish policies for the guidance of delegates in the exercise of any powers so delegated.
- (3) Without limiting its powers, the **board** may appoint a person to be the **company's** attorney for purposes the **board** determines, with powers (being the **board's** powers), for the period and on terms the **board** determines. In particular, the power of attorney may:
 - (a) include terms protecting persons dealing with the attorney, as the **board** determines; and
 - (b) authorise the attorney to delegate any or all of the attorney's powers.

11.4 Board Policies

The **board** may from time to time specify policies applicable to the conduct of the **board** or of its **directors** and, to the extent that such policies are not inconsistent with this Constitution or the **Corporations Act**, such policies will bind the **board** and the **directors**. Specification in such policy of any matter which is not dealt with in, or is in addition to the requirements imposed by, the Constitution or the **Corporations Act** is not, of itself, to be treated for the purposes of this Clause 11.4 as being inconsistent with the Constitution or the **Corporations Act**.

Part 12

Directors' Meetings

11.5 Stakeholders

In discharging their duties under this Constitution, the **Corporations Act** and the general law, the **directors** and other officers of the **company**:

- (a) shall give consideration to the following factors:
 - (i) the likely consequences of any decision or act of the **company** in the long term;
 - (ii) the interests of the **company's** employees;
 - (iii) the need to foster the **company's** business relationships with suppliers, **members** and others;
 - (iv) the impact of the **company's** operations on the community and the environment;
 - (v) the desirability of the **company** maintaining a reputation for high standards of business conduct;
 - (vi) the interests of **members**; and
 - (vii) the ability of the **company** to create an overall positive impact on society and the environment; and
- (b) need not give priority to a particular factor referred to in Clause 11.5(a) over any other factor (whether referred to in Clause 11.5(a) or otherwise).

12.1 Calling and Conduct of Board Meetings

- (1) Any 2 **directors** or the **secretary** (upon the authority of any 2 **directors**) may call a **board** meeting.
- (2) At least 48 hours' notice of a **board** meeting must be given except where:
 - (a) the chair of meetings of the **board** determines there are exceptional circumstances for shorter notice; or
 - (b) a majority of the **directors** authorise the **secretary** to convene a meeting on shorter notice.
- (3) The **board** may meet, adjourn and otherwise regulate its meetings as it thinks fit.

12.2 Quorum of the Board

The quorum for a **board** meeting is more than 50% of the total number of **directors**.

12.3 Chair of the Board

- (1) The **board** may appoint a **director** to chair its meetings and appoint a deputy chair. The **board** may determine the period for which the **director** is to be the chair or deputy chair. The **board** may remove the chair or deputy chair from their respective positions at any time.
- (2) The **board** must elect a **director** present to chair a meeting (or part of it) if:
 - (a) a **director** has not already been appointed to chair the meeting; or
 - (b) a previously appointed chair is not available, or declines to act, for the meeting (or part of it).

12.4 Passing of Directors' Resolutions

- (1) A resolution of the **board** must be passed by a majority of the votes cast by **directors** entitled to vote on the resolution.
- (2) The chair has no casting vote in addition to his or her deliberative vote.

12.5 Circulating Resolutions

- (1) The **board** may pass a resolution without a **board** meeting 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 and the resolution is passed when all of the **directors** have signed the document.
- (2) Subject to Clause 12.5(4):
 - (a) separate copies of a document may be used for signing by different **directors** if the wording of the resolution and the statement is identical in each copy; and
 - (b) the resolution is passed when the last **director** signs.

- (3) For the purposes of this Clause 12.5 a reference to "all of the **directors**":
- (a) does not include:
 - (i) a **director** who, at a meeting of directors, would not be entitled to vote on the resolution;
 - (ii) a **director** who disqualifies himself or herself from considering the resolution in question; or
 - (iii) any **director** on leave of absence approved by the **board**; and
 - (b) means the number of **directors** not being less than the number required for a quorum at a meeting of the **board**.
- (4) The **board** may determine a policy about the use of electronic communication (including telephone) for the purpose of passing a resolution contemplated by this Clause 12.5 and a **director** will be taken to have signed the document containing the statement referred to in Clause 12.5(1) and the last **director** will be taken to have signed the document in the manner and at the time determined in accordance with any policy established from time to time by the **board** for that purpose.
- (5) A resolution passed in accordance with this Clause 12.5 shall be tabled at the next following meeting of the **board** and be noted in the minutes of that meeting.
- #### **12.6 Committees of Directors**
- (1) The **board** may establish one or more committees consisting of such number of **directors** as the **board** thinks fit.
- (2) The **members** of a committee may appoint one of their number as chair of their meetings.
- (3) Subject to any restrictions that the **board** imposes, a committee may meet, adjourn and otherwise regulate its meetings as it thinks fit.
- (4) Questions arising at a meeting of a committee are to be determined by a majority of votes of those present and voting.
- (5) The chair of a committee does not have a casting vote in addition to his or her deliberative vote.
- #### **12.7 Audit Committee**
- (1) The **board of directors** must establish an Audit Committee.
- (2) The Audit Committee may comprise such **directors** and officers of the **company** as the **board** determines but the **non-executive directors** must be in the majority.
- (3) The object of the Audit Committee is to monitor the credibility and objectivity of the financial reporting to assist the **board** to discharge its responsibilities.
- (4) The **board** must determine a policy for the role, terms of reference, responsibilities and method of operation of the Audit Committee.

12.8 Location

At least three **board** meetings each calendar year shall have a physical location at the Toowoomba or Brisbane office of the **company** (or such other place in Queensland as determined by the **board**) and at least three **board** meetings each calendar year shall have a physical location at the Adelaide office of the **company** (or such other place in greater Adelaide as determined by the **board**).

Part 13

Conflicts of Interest

13.1 Director Not in Breach if that Director Acts in Matters Relating to Director's Interests

- (1) This Clause applies if:
 - (a) a **director** has an interest or duty in relation to a matter that is not a **material personal interest**; or
 - (b) if a **director** with a **material personal interest** in relation to the **company's** affairs:
 - (i) complies with the requirements of the **Corporations Act** in relation to disclosure of the nature and extent of the interest and its relation to the **company's** affairs before acting in a matter that relates to the interest; and
 - (ii) may be present and vote on the matter under the **Corporations Act**.
- (2) The **director** is not in breach of his or her duties to the **company** merely because he or she acts in matters that relate to the **director's** interest.
- (3) The **director** may vote on matters that relate to the **director's** interest.
- (4) In relation to any transactions that relate to the **director's** interest:
 - (a) the transactions may proceed;
 - (b) the **company** cannot avoid the transactions merely because of the **director's** interest; and
 - (c) the **director** may retain benefits under the transactions despite the **director's** interest.

13.2 Director Not in Breach if that Director Does Not Act in Matters Relating to Director's Interests

- (1) This Clause applies if a **director** with a **material personal interest** in relation to a matter:
 - (a) complies with the requirements of the **Corporations Act** in relation to disclosure of the nature and extent of the interest and its relation to the **company's** affairs; but
 - (b) must not be present and vote on the matter under the **Corporations Act**.
- (2) The **director** is not in breach of duty to the **company** merely because he or she does not act in relation to the matter.
- (3) The **board** may vote on matters that relate to the **director's** interest in the **director's** absence.
- (4) In relation to any transactions that relate to the **director's** interest:
 - (a) the transactions may proceed;
 - (b) the **company** cannot avoid the transactions merely because of the **director's** interest; and
 - (c) the **director** may retain benefits under the transactions despite the **director's** interest.

13.3 Execution of Instruments

A **director** may participate in the execution of an instrument for the **company**, regardless of any interest or duty that the **director** may have:

- (a) whether or not the **director** has complied with the requirements of the **Corporations Act** in relation to disclosure of the nature and extent of the interest and its relation to the **company's** affairs; and
- (b) whether or not the **director** may be present and vote in relation to the execution of the instrument under the **Corporations Act**.

Part 14 Remuneration, Indemnity and Insurance

14.1 Remuneration of Directors

- (1) Subject to Clause 14.1(2), in any period, the remuneration of **directors** may not exceed the aggregate amount for that period that the **general meeting** determines by resolution.
- (2) If the **general meeting** does not approve a resolution for an aggregate amount of **directors** remuneration in respect of the period until the next **general meeting**, then the aggregate remuneration of **directors** will be the same as applied in respect of the period immediately before that **general meeting**.
- (3) The **board** may determine the allocation of the aggregate amount of remuneration among the **directors**. If the **board** does not determine the allocation, the aggregate amount of remuneration must be allocated equally among the **directors**.
- (4) The **directors'** remuneration accrues daily (other than if the **board** has determined alternative policies where a **director** is on leave of absence) from the day that the **general meeting** approves the remuneration to the day that the **general meeting** next determines the **directors'** remuneration.

14.2 Travelling Expenses and Insurance

In addition to any remuneration to which a **director** may be entitled, the **company** may also pay:

- (a) the **director's** travelling and other expenses properly incurred:
 - (i) in attending **board** meetings or any meetings of committees of **directors**;
 - (ii) in attending any **general meetings**; and
 - (iii) otherwise in connection with the **company's** business; and
- (b) subject to the **Corporations Act**, insurance premiums for a contract that insures the **director** against liabilities that the **director** incurs as an officer of the **company**.

14.3 Indemnities for Officers and Former Officers

- (1) In this Clause “**indemnified person**” means an officer or agent, or former officer or agent, of the **company**.
- (2) To the extent that the **Corporations Act** permits:
 - (a) the **company** must indemnify an **indemnified person** against any liability that the **indemnified person** incurs in conducting the **company's** business or exercising the **company's** powers as an officer or agent of the **company**; and
 - (b) the **company** may indemnify, agree to indemnify or enter into (and pay premiums on) a contract of insurance in relation to an **indemnified person** or any other person.
- (3) The indemnity in Clause 14.3(2)(a) applies in relation to an **indemnified person** for all incidents occurring during the period that person is an officer or agent of the **company**, even though a claim is made against the **indemnified person** after they have ceased to be an officer or agent of the **company**.

Part 15 Administration

15.1 Secretary

Subject to Clause 15.2, the **board** may determine a **secretary's** terms of appointment, powers, duties and remuneration. At any time, the **board** may vary or revoke a determination, or an appointment, whatever the terms of the appointment.

15.2 Resignation of Secretary

- (1) A **secretary** may resign by giving the **company** notice of the **secretary's** resignation.
- (2) The **secretary's** office becomes vacant:
 - (a) on the date of resignation if the notice of resignation specifies a date of resignation; or
 - (b) on the date the **company** receives the notice of resignation.

15.3 Head office

The **company** shall maintain a ‘head office’ in each of Toowoomba and Adelaide.

15.4 Employees

The **company** shall target a reasonable distribution of employees (including executives but excluding branch employees) based in each of Queensland and South Australia.

Part 16

People's Choice & Heritage Bank merger transition arrangements

16.1 Board transition arrangements

- (1) As at the **merger implementation date**, the board shall comprise:
- six of the existing **directors** of the **company** nominated by the **company** prior to the merger implementation date (**People's Choice Nominees**);
 - six of the existing directors of Heritage Bank nominated by Heritage Bank prior to the **merger implementation date (Heritage Bank Nominees)**.
- (2) As from the second anniversary of the **merger implementation date** (or such later date up to the AGM following the second anniversary of the **merger implementation date** as is agreed between the **People's Choice Chair** and the **Heritage Bank Chair**), the board shall have 10 directors, with the reduction from the number of directors as at the **merger implementation date** effected on or before the second anniversary of the **merger implementation date** by the retirement of:
- one of the **Heritage Bank Nominees**, which director shall be as determined by agreement between the **Heritage Bank Nominees** or, failing such agreement, as determined by the **Heritage Bank Chair** (except where one or more of the **Heritage Bank Nominees** has ceased to be a **director** before the second anniversary of the **merger implementation date** but provided that that director has not or those directors have not been replaced in accordance with Clause 16.1(4)(b), in which case none of the **Heritage Bank Nominees** needs to retire under this clause); and
 - one of the **People's Choice Nominees**, which director shall be as determined by agreement between the **People's Choice Nominees** or, failing such agreement, as determined by the **People's Choice Chair** (except where one or more of the **People's Choice Nominees** has ceased to be a **director** before the second anniversary of the **merger implementation date** but provided that that director has not or those directors have not been replaced in accordance with Clause 16.1(4)(a), in which case none of the **People's Choice Nominees** needs to retire under this clause).
- (3) As from the third anniversary of the **merger implementation date** (or such later date up to the AGM following the third anniversary of the **merger implementation date** as is agreed between the **People's Choice Chair** and the **Heritage Bank Chair**), the board shall have 8 directors, with the reduction from the number of directors as at the **merger implementation date** effected on or before the third anniversary of the **merger implementation date** by the retirement of:
- (a) one of the **Heritage Bank Nominees**, which director shall be as determined by agreement between the **Heritage Bank Nominees** or, failing such agreement, as determined by the **Heritage Bank Chair** (except where one or more of the **Heritage Bank Nominees** has ceased to be a **director** (other than in accordance with Clause 16.1(2)(a)) after the second anniversary of the **merger implementation date** and before the third anniversary of the **merger implementation date** but provided that all such directors have not been replaced in accordance with Clause 16.1(4)(b), in which case none of the **Heritage Bank Nominees** needs to retire under this clause); and
- (b) one of the **People's Choice Nominees**, which director shall be as determined by agreement between the **People's Choice Nominees** or, failing such agreement, as determined by the **People's Chair** (except where one or more of the **People's Choice Nominees** has ceased to be a **director** (other than in accordance with Clause 16.1(2)) after the second anniversary of the **merger implementation date** and before the third anniversary of the **merger implementation date** but provided that all such directors have not been replaced in accordance with Clause 16.1(4)(a), in which case none of the **People's Choice Nominees** needs to retire under this clause).
- (4) Prior to the AGM of the **company** in 2026, where a **People's Choice Nominee** or a **Heritage Bank Nominee** ceases to be a **director** for any reason other than because they have ceased to be a **director** in accordance with Clause 16.1(2) or Clause 16.1(3), then:
- if the person is a **People's Choice Nominee**, the majority of the **People's Choice Nominees** may by notice in writing to the **company** appoint a person to be a **director** (subject to the **company's** obligations under applicable **prudential standards** and the **company's** fit and proper policy) and that **director** will be taken to be a **People's Choice Nominee** and taken to have been appointed at the time of the appointment of the **director** whose cessation resulted in their appointment; and
 - if the person is a **Heritage Bank Nominee**, the majority of the **Heritage Bank Nominees** may by notice in writing to the **company** appoint a person to be a **director** (subject to the **company's** obligations under applicable **prudential standards** and the **company's** fit and proper policy) and that **director** will be taken to be a **Heritage Bank Nominee** and taken to have been appointed at the time of the appointment of the **director** whose cessation resulted in their appointment.

- (5) Prior to the AGM of the **company** in 2026, where a **People's Choice Nominee** or a **Heritage Bank Nominee** is unable to attend a **board** meeting for any reason other than because they have ceased to be a director in accordance with Clause 16.1(2) or Clause 16.1(3), including because they have resigned as a **director** or died, then:
- (a) if the person is a **People's Choice Nominee** (**People's Choice absent director**), the **People's Choice Chair** or, if the **People's Choice Chair** is the **People's Choice absent director**, the **People's Choice Nominee** who has the longest tenure as a **director** (and for this purpose the tenure of the relevant director of People's Choice prior to the **merger implementation date** is included), may cast all of the votes that could have been cast by the **People's Choice absent director** if they were at the **board** meeting or could have been cast by the **People's Choice absent director** if they had not vacated office; and
 - (b) if the person is a **Heritage Bank Nominee** (**Heritage Bank Nominee absent director**), the **Heritage Bank Chair** or, if the **Heritage Bank Chair** is the **Heritage Bank absent director**, the **Heritage Bank Nominee** who has the longest tenure as a **director** (and for this purpose the tenure of the relevant director of Heritage Bank prior to the **merger implementation date** is included), may cast all of the votes that could have been cast by the **Heritage Bank absent director** if they were at the **board** meeting or could have been cast by the **Heritage Bank absent director** if they had not vacated office.
- (6) For a period of at least three years commencing on the **merger implementation date**:
- (a) subject to clause 16.1(8), the **People's Choice Chair** shall be the chair of the **company**;
 - (b) if the **People's Choice Chair** is unable to attend a meeting of the **company** for any reason (including vacation of office), the remaining **People's Choice Nominees** shall be entitled to choose one of the remaining **People's Choice Nominees** to act in the capacity of the **People's Choice Chair** at the relevant meeting (but noting that the deputy chair will chair the meeting in accordance with clause 16.1(6)(c));
 - (c) subject to clause 16.1(9), the **Heritage Bank Chair** shall be the deputy chair of the **company** and if the **People's Choice Chair** is unable to attend a meeting of the **board** for any reason other than vacation of office, the deputy chair of the **board** will chair that meeting;
 - (d) if the **Heritage Bank Chair** is unable to attend a meeting of the **company** for any reason (including vacation of office), the remaining **Heritage Bank Nominees** shall be entitled to choose one of the remaining **Heritage Bank Nominees** to act in the capacity of the **Heritage Bank Chair** at the relevant meeting.
- (7) On and from the third anniversary of the merger implementation date:
- (a) if the **People's Choice Chair** is the chair of the **company**, they shall continue to be the chair of the **company** unless the **board** resolves to appoint another **director** to be the chair of the **company**; and
 - (b) if the **Heritage Bank Chair** is the deputy chair of the **company**, they shall continue to be the deputy chair of the **company** unless the **board** resolves to appoint another **director** to be the deputy chair of the **company**.
- (8) In the event that the **People's Choice Chair** ceases to be a **director**, then:
- (a) if that cessation occurs within 18 months after the **merger implementation date**, the **board** with the approval of the majority of the **People's Choice Nominees**:
 - (i) shall appoint one of the **People's Choice Nominees** to be the chair of the **company**; and
 - (ii) shall appoint another of the **People's Choice Nominees** to be the chair of the **company** if a person appointed chair of the **company** under this clause 16.1(8)(a) ceases to be the chair of the **company**; and - (b) if that cessation occurs after 18 months after the **merger implementation date**, the **board** may appoint a **director** to be the chair of the **company**.
- (9) In the event that the **Heritage Bank Chair** ceases to be a **director**, then:
- (a) if that cessation occurs within 18 months after the **merger implementation date**, the **board** with the approval of the majority of the **Heritage Bank Nominees**:
 - (i) shall appoint one of the **Heritage Bank Nominees** to be the deputy chair of the **company**; and
 - (ii) shall appoint another of the **Heritage Bank Nominees** to be the deputy chair of the **company** if a person appointed deputy chair of the **company** under this clause 16.1(9)(a) ceases to be the deputy chair of the **company**; and - (b) if that cessation occurs after 18 months after the **merger implementation date**, the **board** may appoint a person to be the deputy chair of the **company**.

- (10) During the period commencing on the **merger implementation date** and ending at the end of the AGM in 2026;
- (a) no person shall be appointed as a director other than in accordance with Clause 16.1(1) or in accordance with Clause 16.1(4);
 - (b) no director election shall be conducted in accordance with Part 10 ;
 - (c) the **board** shall not be entitled to appoint a **chair or deputy chair** in accordance with Clause 12.3(1); and
 - (d) the **board** may determine the allocation of the remuneration of **directors** on the basis that each of the **directors** shall be allocated the same amount of the remuneration other than:
 - (i) the **directors** who are the **People's Choice Chair** and the **Heritage Bank Chair**, each of whom shall be allocated the same amount of the remuneration as the other and which amount must be greater than the amount allocated to the other **directors**; and
 - (ii) **directors** who chair a committee, each of which may be allocated additional remuneration on account of that role or those roles,
- provided that if the **board** does not determine the allocation, the aggregate amount of the remuneration must be allocated equally among all of the **directors**.
- 16.2 Tenure of directors**
- (1) The term of office of a **director** referred to in Clause 16.1(1) ends:
- (a) when the **director** retires under Clause 16.1(2) or 16.1(3); or
 - (b) in relation to those of the **directors** referred to in Clause 16.1(3) who remain directors from the third anniversary of the **merger implementation date**:
 - (i) at the end of the **AGM** in 2027, in relation to the 2 of those **directors** (other than the **People's Choice Chair** and the **Heritage Bank Chair**) who at that time have served as a **director** of the **company** and/or of **Heritage Bank** for the longest period of time (in aggregate and whether continuously or not);
 - (ii) at the end of the **AGM** in 2028, in relation to the 3 of the remaining of those **directors** (other than the **People's Choice Chair**) who at that time have served as a **director** of the **company** and/or of **Heritage Bank** for the longest period of time (in aggregate and whether continuously or not); and
 - (iii) at the end of the **AGM** in 2029, in relation to the remaining 3 of those **directors**.
- (2) A **director** who is a **People's Choice Nominee** or a **Heritage Bank Nominee** is not eligible to be:
- (a) re-elected or elected (as the case may be) as a **member elected director** if at the time of their re-election or election or at any time during their term of office in accordance with Clause 10.23(2) following their re-election or election they would have served as a **director** of the **company** for 12 years and 3 months or more in aggregate (whether served continuously or in two or more separate appointments) since the **merger implementation date**;
 - (b) re-appointed or appointed (as the case may be) as a **board appointed director** if at the time of their re-appointment or appointment or at any time during their term of office following their re-appointment or appointment they would have served as a **director** of the **company** for 12 years and 3 months or more in aggregate (whether served continuously or in two or more separate appointments) since the **merger implementation date**.
- (3) If a **director** is eligible to be re-elected or elected under Clause 16.2(2), they are eligible to stand for re-election or election, and to be nominated for re-election or election, notwithstanding Clauses 10.4(9) and 10.4(10).
- (4) Each of the **directors** who will be in office immediately after the end of the AGM of the **company** shall be deemed to be a **member elected director**.
- 16.3 CEO transition arrangements**
- (1) No employee of the **company**, including without limitation the chief executive officer and the deputy chief executive officer, is eligible to be a **director**.
- (2) During the period commencing on the **merger implementation date** and ending at the end of the AGM in 2026, the **board** shall not be entitled to appoint an **executive director** in accordance with clause 10.21.
- (3) The **board** shall ensure that, subject to the **company's** obligations under applicable **prudential standards** and the **company's** fit and proper policy:
- (a) for a period commencing on the **merger implementation date** and ending at the end of the day that is 18 months after the **merger implementation date**:
 - (i) the **Heritage Bank CEO** shall be employed as the chief executive officer of the **company**, employed on the same terms (except for remuneration arrangements, which will be determined by the **company**, but which will be no less favourable than their remuneration the day before the **merger implementation date**);

- (ii) the **People's Choice CEO** shall be employed as the deputy chief executive officer of the **company**, employed on the same terms (except for remuneration arrangements, which will be determined by the **company**, but which will be no less favourable than their remuneration the day before the **merger implementation date**); and
 - (iii) the executive positions of the **company** shall only be filled by agreement between the chief executive officer of the **company** and the deputy chief executive officer of the **company** and with the approval of the **People's Choice Chair** and the **Heritage Bank Chair**;
- (b) at the end of the day that is 18 months after the **merger implementation date** (or such earlier date upon which the **Heritage Bank CEO** ceases to be the chief executive officer of the **company**), the **Heritage Bank CEO** shall cease to be the chief executive officer of the **company**; and
- (c) on the day after the day that is 18 months after the **merger implementation date** (or such earlier date upon which the **Heritage Bank CEO** ceases to be the chief executive officer of the **company**) the **People's Choice CEO** shall be the chief executive officer of the **company**.

16.4 Definitions and inconsistencies

- (1) In this Part 16 of the Constitution, unless the context requires otherwise:

Heritage Bank means Heritage Bank Limited (ACN 087 652 024);

Heritage Bank absent director has the meaning given in Clause 16.1(5)(a);

Heritage Bank CEO means the chief executive officer of **Heritage Bank** on the day before the **merger implementation date**;

Heritage Bank Chair means the chair of **Heritage Bank** on the day before the **merger implementation date** or, if that person ceases to be a **director** of the **company**, such other **Heritage Bank Nominee** as is determined by the **Heritage Bank Nominees** who remain **directors** at that time;

Heritage Bank Nominees has the meaning given in Clause 16.1(1);

merger implementation date means the date upon which the transfer of the business of **Heritage Bank** to the **company** took effect under the Financial Sector (Transfer and Restructure) Act 1999 (Cth);

People's Choice absent director has the meaning given in Clause 16.1(5)(a);

People's Choice CEO means the chief executive officer of the **company** on the day before the **merger implementation date**;

People's Choice Chair means the chair of **People's Choice** on the day before the **merger implementation date** or, if that person ceases to be a **director** of the **company**, such other **People's Choice Nominee** as is determined by the **People's Choice Nominees** who remain **directors** at that time; and

People's Choice Nominees has the meaning given in Clause 16.1(1).

- (2) Where there is any inconsistency between a provision of this Part 16 and another provision of this Constitution, the provision of this Part 16 shall prevail to the extent of the inconsistency.

16.5 Application of Part 16

- (1) Clauses 10.1, 10.2, 10.3, 10.4, 10.5, 10.20, 10.21, 10.22, 10.23 and 12.3 shall be suspended and be of no effect until immediately after the end of the AGM of the **company** in 2026.
- (2) Part 16 of this Constitution, shall cease to apply, and shall be deleted from this Constitution, immediately after the last of the **People's Choice Nominees** and the **Heritage Bank Nominees** ceases to be a **director**.

Appendix

Demutualisation Approval Procedure Rules

Section 1

Application, Interpretation and Effect

1.1 When the Demutualisation Approval Procedure Rules Apply

- (1) This Appendix applies in the following situations:

1	Modification or Repeal of Constitution	the company proposes to modify or repeal this Constitution where the effect of the modification or repeal is: (a) to vary any of: (i) the terms on which it issues shares; or (ii) the rights and restrictions attaching to its shares; so that they are inconsistent with those set out in the Principles of Mutuality ; (b) to enable the company to issue shares where: (i) the terms on which it issues the shares; or (ii) the rights and restrictions attaching to the shares, are inconsistent with those set out in the Principles of Mutuality ; (c) to vary any of the rights, obligations or restrictions attaching to membership so that they are inconsistent with those set out in the Principles of Mutuality ; (d) to enable the company to admit members where the rights, obligations or restrictions attaching to membership are inconsistent with those set out in the Principles of Mutuality (whether or not any members are admitted); (e) that the company's Constitution is otherwise inconsistent with the Principles of Mutuality .
2	Issue of Shares or Admission of Members	the company (whether acting through its board , its members or otherwise) proposes: (a) to issue shares where: (i) the terms on which it issues the shares; or (ii) the rights and restrictions attaching to the shares, are inconsistent with those set out in the Principles of Mutuality ; (b) to issue securities which confer the right or obligation to subscribe for shares (whether on conversion of the securities or exercise of any option) where: (i) the terms on which it issues the shares; or (ii) the rights and restrictions attaching to the shares, are inconsistent with those set out in the Principles of Mutuality ; or (c) to admit members with rights, obligations or restrictions attaching to membership which are inconsistent with those set out in the Principles of Mutuality .
3	Restructure	the company (whether acting through its board , its members or otherwise) proposes to conduct a reduction of capital, scheme or arrangement, deed of arrangement, transfer of business, or any other form of corporate restructure, where after completion of the restructure: (a) the company no longer complies with the Principles of Mutuality ; (b) one person, other than a mutual entity, holds more than 90% of the shares in the company ; (c) a group of associates , other than a group all of the members of which are mutual entities, between them hold more than 90% of the shares in the company other than shares fitting the description of "additional shares" in the Principles of Mutuality ; (d) a person that is not a mutual entity has a legal or equitable interest in more than 20% of the company's gross assets, based on the latest report that the company has given the Australian Prudential Regulation Authority as at the time of the transfer;

3	Restructure (continued)	(e) a group of associates , other than a group all of the members of which are mutual entities, between them have a legal or equitable interest in more than 20% of the company's gross assets, based on the latest report that the company has given the Australian Prudential Regulation Authority as at the time of the transfer; or (f) the successor to the company's business is not a mutual entity.
4	Modification or Repeal of this Appendix	The company proposes to modify or repeal: (a) any of the Rules in this Appendix; (b) any of the Principles of Mutuality; or (c) this Constitution where the effect of the modification or repeal is to modify, exclude or restrict the operation of the Rules in this Appendix.

- (2) This Appendix does not apply in respect of the creation or issuance of, or the agreement to create or issue, or any amendment to this Constitution to facilitate the creation or issuance of, **MCIs** (including **MCIs** of different classes and with different rights) and the cancellation or variation of any rights attached to **MCIs** (or a class of **MCIs**).
- (3) This Appendix does not apply to proposed modifications or repeals set out in item (4) of the Table in Rule 1.1(1) that:
- (a) increase the range of **proposed transactions** (including any changes to this Appendix so that it applies to the increased range of **proposed transactions**);
 - (b) impose, modify or repeal additional restrictions on the conduct of **proposed transactions** other than those set out in this Appendix;
 - (c) impose, modify or repeal additional obligations that must be complied with in relation to **proposed transactions** other than those set out in this Appendix;
 - (d) require disclosure of additional types of information other than those set out in Rule 1.1(1); or
 - (e) modify or repeal any requirement specified in this Constitution, apart from this Appendix or the **Principles of Mutuality**, in relation to a **proposed transaction**.
- However, this Appendix does apply to:
- (f) a proposed modification or repeal that makes more than one change, and one or more of the changes is within the scope of item (4) of the Table in Rule 1.1(1) but not excluded by this Rule; or
 - (g) a proposed modification or repeal where some other clause in this Constitution applies this Appendix to the modification or repeal.
- (4) This Appendix, other than Rule 1.1(5), ceases to have effect immediately upon the Australian Securities and Investments Commission publishing a written notice to that effect and giving a copy of that notice to the **company**.
- (5) If this Appendix ceases to have effect by reason of Rule 1.1(4), it will again come into effect by **board** resolution upon the Australian Securities and Investments Commission permitting the **company** to recommence operation of this Appendix.
- 1.2 Definitions**
- (1) In this Appendix:
- associate** means, in relation to a primary person:
- (a) a spouse or de facto spouse of the primary person;
 - (b) a parent, son or daughter of the primary person, spouse or de facto spouse;
 - (c) a person who is a partner of the primary person;
 - (d) a person who is a director of a body of which the primary person is a director;
 - (e) a person who is a trustee of a trust in relation to which a person or **entity** of a kind referred to in paragraphs (a), (b), (c), (d), (f) or (g) benefits or is capable of benefiting;
 - (f) any **entity**, other than the **company**, over which:
 - (i) a person of a kind referred to in paragraphs (a), (b), (c), (d) or (e) has **control**; or
 - (ii) two or more persons of a kind referred to in paragraphs (a), (b), (c), (d) or (e) together have control;
 - (g) any **entity**, other than the **company**, in which:
 - (i) a person of a kind referred to in paragraphs (a), (b), (c), (d), (e) or (f) is beneficially entitled to more than 20% of any class of **security**; or
 - (ii) two or more persons of a kind referred to in paragraphs (a), (b), (c), (d) or (f) together are beneficially entitled to more than 20% of any class of **securities**.
- control** means the ability or power of an **entity**:
- (a) whether direct or indirect;
 - (b) whether or not enforceable; and

(c) whether presently exercisable by means of, in breach of, or by revocation of, any combination of the following:

- (i) trusts;
- (ii) relevant agreements; and
- (iii) practices,

to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of any other **entity** so as to enable that other **entity** to operate with it in pursuing those objectives of the controlling **entity**.

demutualisation benefit means any benefit received, whether in cash or in any other form which has value as a result of a restructure referred to in item (3) of Rule 1.1(1) of this Appendix, excluding any benefit received by an **MCI Holder** in respect of an **MCI**.

entity means any:

- (a) incorporated or unincorporated body;
- (b) trust or partnership; or
- (c) any legal, administrative or fiduciary arrangement, organisational structure or other party (including a person) having the capacity to deploy scarce resources in order to achieve objectives.

independent expert means an expert who is not an officer of the **company** or an associate of an officer of the **company**.

mutual entity has the same meaning as in the Corporations Act.

Principles of Mutuality refers to Principles 4 to 28 of the **Principles of Mutuality** in the Schedule to this Appendix to the extent that any of those Principles are not inconsistent with the definition of what constitutes as mutual entity for the purposes of the **Corporations Act**.

transaction means any of the modifications, repeals, issues, admissions, restructures or other transactions referred to in Rule 1.1(1).

qualifying member means:

- (a) a person who has been admitted to membership of the **company** on the date on which this Appendix takes effect pursuant to section 137(a)(i) of the **Corporations Act**; or
- (b) a person admitted to membership of the **company** after the date on which this Appendix takes effect and who has been a **member** for a continuous period of not less than two years after that date.

securities has the same meaning as in **Corporations Act** from time to time, but also includes options.

Unless the context requires otherwise, terms that are not expressly defined in this Constitution, but that are defined in the **Corporations Act** from time to time, have the same meaning as in the **Corporations Act**.

1.3 Demutualisation Approval Procedure

(1) If this Appendix applies, the **company** must comply with the procedure set out in Section 2, 3 and 4 before:

- (a) convening a meeting of **members** to vote on the proposed modification or repeal of the Constitution set out in items (1) and (4) of the Table in Rule 1.1(1);
- (b) issuing the **securities** or admitting the **members** as set out in item (2) of the Table in Rule 1.1(1); or
- (c) either convening, or, where relevant, applying for a court or other order to convene, one or more meetings (whichever is the earlier) to vote on the proposed restructuring or to appoint an administrator as set out in item (3) of the Table in Rule 1.1(1).

(2) If a meeting of **members** approves a proposed modification of the Constitution set out in items (1) and (4) of the Table in Rule 1.1(1):

- (a) the resolution is of no effect until the procedure set out in Section 2, 3 and 4 is complied with; and
- (b) the **company** must send each **member** a notice that the resolution has been passed in breach of this Appendix, together with the other documents required to be sent in Rule 2.1.

(3) The procedures in this Appendix apply in addition to any requirements specified in the **Corporations Act** or in this Constitution in relation to the **proposed transaction**.

(4) If the **proposed transaction** is proposed by:

- (a) the **board** – the **company** bears all costs associated with disclosure and conduct of the postal ballot;
- (b) a **member** or a group of **members** – the **member** or group of **members** must pay all costs associated with disclosure, including printing and postage.

The **board** is not required to assist any **member** or group of **members** proposing the **proposed transaction** unless they give the **company** an indemnity in a form satisfactory to the **board**.

(5) If Rule 1.3(4)(b) applies, **members** in **general meeting** may resolve that:

Section 2 Disclosure

- (a) the **company** pay all costs associated with disclosure and conduct of the postal ballot;
- (b) the **company** reimburse the **members** proposing the **proposed transaction** for the costs they incur associated with disclosure and conduct of the postal ballot.
- 1.4 Approval of Demutualisation**
- (1) If this Appendix applies, the **company** may only act upon the **proposed transaction** if:
- (a) it has complied with the procedure set out in Sections 2, 3 and 4; and
- (b) if the **company** has only one class of **members**:
- (i) not less than 25% of the **members** have voted at the postal ballot conducted under Section 4; and
- (ii) not less than 75% of the **members** who have voted approved of the proposed transaction;
- (c) if the **company** has more than one class of **members**:
- (i) not less than 25% of the **members** in each class have voted at the postal ballot conducted under Section 3; and
- (ii) not less than 75% of the **members** in each class approved of the proposed transaction.
- (2) For the purposes of this Rule members entitled to repayment of different amounts on redemption of their member shares are to be treated as in different classes.

2.1 Disclosure Documents Sent With Ballot Paper

The **company** must send the following documents with the ballot paper that it must send each **member** under Rule 4.6:

- (a) a disclosure statement as described in Rule 2.2;
- (b) a **director's** statement from each **director** as described in Rule 2.3; and
- (c) an **independent expert's** report, commissioned by the **company**, as described in Rule 2.4.

2.2 Disclosure Statement

- (1) The disclosure statement must adequately set out or explain the following (if relevant):
- (a) the procedural steps required in relation to the **proposed transaction**;
- (b) how **members'** rights will change as a result of the proposed transaction and the consequences of the **proposed transaction** for **members**, including any:
- (i) loss of rights;
- (ii) change as to voting rights and rights to participate in the reserves and profits of the **company**,
- (c) what benefits (if any) will be offered to **members** if the **proposed transaction** occurs, and why the benefits are considered appropriate, taking into account, among other things, the extent to which the benefits compensate the **members** for loss of rights;
- (d) the basis upon which **members'** entitlement to the benefits will be determined, including:
- (i) any minimum period of membership that a **member** must satisfy to receive benefits;
- (ii) whether **members** must pay any amount or provide other value to receive benefits;
- (e) any preferential allocation of benefits to **members**, or a class of **members**, and how that allocation is to be determined;
- (f) any benefits that officers of the **company** (including retiring officers) or any **associates** of any officers may receive (whether directly or indirectly) in connection with the **proposed transaction**, other than in their capacity as a **member** on the same terms as are available to other **members**, including without limitation:
- (i) any money or goods;
- (ii) any preferential allocation of **securities**;
- (iii) any retirement or superannuation benefits;
- (iv) any compensation for loss of office;
- (v) any concessional loans or other favourable or non-arm's length transactions;

- (g) the implications of the **proposed transaction** in relation to:
- (i) the continuation of the **company's** business;
 - (ii) any major changes to be made to the **company's** business;
 - (iii) changes to benefits, products and services; and
 - (iv) the future employment of the present employees of the **company**;
- (h) whether the **company's** financial position has changed materially since the last statement of financial position put before members at the **company's** last annual general meeting;
- (i) the availability and consequences of other alternatives; and
 - (j) any other information that the **members** and their professional advisers would reasonably require to make an informed assessment whether to approve the **proposed transaction**.
- (2) If the **proposed transaction** involves the allocation of **securities** (whether by the **company** or some other **entity**) the disclosure statement must adequately set out or explain the following (if relevant):
- (a) who will and will not be allocated **securities**;
 - (b) the rights and obligations attaching to the **securities** being allocated, including voting rights and rights to participate in the reserves and profits;
 - (c) the class and approximate number of **securities** being allocated;
 - (d) the allocation formula for the **securities** (including the implications of any undersubscription or oversubscription of **securities** offered), including, without limitation:
 - (i) the manner in which the allocation formula will apply as between **members**; and
 - (ii) the basis on which the allocation formula has been determined;
 - (e) if rights to securities are allocated – whether the rights are renounceable or non-renounceable;
 - (f) the consideration payable for the securities, including, if the securities are partly paid, any call dates and amounts payable on calls;
 - (g) if the allocation of **securities** is underwritten:
 - (i) the name of the underwriters;
 - (ii) the amount of the underwriting fee or commission payable;
 - (iii) details of clauses in the underwriting agreement that may affect the underwriter's rights and obligations under the underwriting agreement;
- (h) whether the **securities** will be listed on a **securities** exchange or exempt market; and
- (i) the implications of allocation of **securities** for the structure of the **company**.
- (3) If the **proposed transaction** involves the modification, or repeal, as set out in item (4) of the Table in Rule 1.1, and the person proposing the modification or repeal is aware of any proposal to conduct any of the transactions set out in items (1) to (3) of the Table in Rule 1.1, then the disclosure statement must disclose the matters set out in Rule 2.1 and Rule 2.2 in relation to:
- (a) the proposed modification or repeal; and
 - (b) each **proposed transaction** set out in items (1) to (3) of the Table in Rule 1.1 of which the person is aware (to the extent that the person is aware of the matters relating to those transactions).

2.3 Director's Statement

The **director's** statement must contain:

- (a) a statement:
 - (i) recommending that the **proposed transaction** be approved or not approved and giving reasons for the recommendation; or
 - (ii) giving reasons why a recommendation is not made;
- (b) a statement whether the **director** proposes to approve or not approve the **proposed transaction**;
- (c) a statement confirming that neither the **director** nor any **associate** of the **director** will receive any payment, other valuable consideration or any other benefit in connection with the **proposed transaction** other than as disclosed in the disclosure statement; and
- (d) particulars of any agreement between the **director** and any other person in connection with, or conditional upon, the outcome of the **proposed transaction**.

2.4 Independent Expert's Report

- (1) The **independent expert's** report must adequately set out or explain the following (if relevant):
- (a) whether, in the **independent expert's** opinion, the **proposed transaction** is in the best interests of the **members**, and giving reasons for that opinion;
 - (b) whether, in the **independent expert's** opinion, the benefits being provided to the **members** are fair and reasonable, having regard to any:
 - (i) loss of rights; and
 - (ii) change as to voting rights and rights to participate in the reserves and profits of the **company**; and

Section 3

Exchange of Information and Debate

- giving reasons for that opinion; and
- (c) details of:
- (i) any relationship between the **independent expert** and the **company**, including any circumstances in which the **independent expert** gives it advice or acts on its behalf, in the proper performance of the functions attaching to the **independent expert's** professional capacity or business relationship with the **company**,
 - (ii) any financial or other interest of the **independent expert** that could reasonably be regarded as being capable of affecting the **independent expert's** ability to give an unbiased opinion; and
 - (iii) any benefit that the **independent expert** or any **associate** of the **independent expert** may receive (whether directly or indirectly) in connection with making the report or in connection with the **proposed transaction**.
- (2) If the **company** commissions more than one **independent expert's** report, all of the reports must be sent to each **member**.

3.1 Member Submissions

- (1) **Members** are entitled to make written submissions (**submissions**) to the **company** relating to the **proposed transaction** on the terms set out in this Rule 3.1.
- (2) The **company** must, at the time when the ballot paper is sent to **members** under Rule 4.6, notify **members** that they may make **submissions** relating to the **proposed transaction** to the **company** a summary of which will be distributed to the other **members**, and specify a date by which **submissions** must be received (the **submission date**). **Submissions** must be:
 - (a) made in legible writing or by email; and
 - (b) not more than 1,000 words in length.
- (3) The **company** must distribute a summary of the main points raised in the **submissions** to all **members** not later than 21 days after the **submission date** unless in the reasonable opinion of the **board** or its delegate:
 - (a) they contain material which is defamatory, misleading or deceptive; or
 - (b) it would be illegal to distribute the **submissions**.
- (4) When distributing a summary of **submissions**, the **company** may also distribute further information including recommendations by **directors**.

3.2 Website Publication

The **company** must, from the time when the ballot paper is sent to **members** under Rule 4.6 of this Appendix until the postal ballot closes, provide a facility on its website for **members** to provide written comment on the **proposed transaction**. Subject to this Rule 3.2, all comments must be included on this facility and displayed for at least 7 days. The **company** may refuse to include comments where they exceed 1,000 words in length or which in the reasonable opinion of the **board** or its delegate:

- (a) contain material which is defamatory, misleading or deceptive; or
- (b) are otherwise contrary to law;

3.3 Discussion Forums

- (1) The **board** must cause a discussion forum (**discussion forum**) to be held in each capital city of Australia in which the **company** has a physical presence for the purpose of providing an opportunity for members to discuss the **proposed transaction**. These **discussion forums** are not **members meetings** and no resolution in relation to the **proposed transaction** is to be proposed at any such **discussion forums**.
- (2) The **discussion forums** must be held not less than 14 days and not more than 28 days after the ballot paper is sent to **members** under Rule 4.6. The time and place of **discussion forums** and their purpose must be published in a newspaper circulating generally throughout all Australian States and

Section 4 Postal Ballot

Territories in which the **company** has **members** not less than 7 days before each **discussion forum**. The **board** may also provide such other notice of the **discussion forums** to **members** as it considers reasonable. At least 1 **director** must attend a **discussion forum** and the **board** shall designate one of the **directors** attending, chairperson of the **discussion forum**. No persons other than **members** or **directors** are permitted to attend a **discussion forum**. The **board** may determine appropriate procedures for the **discussion forums** which procedures must be published on the **company's** website or as otherwise determined by the **board** and are binding on all persons attending the **discussion forum**.

3.4 Funding of Advice for Members

- (1) Any group of 5 or more **members** may apply in writing to the **company**, signed by all **members** in the group, for payment of reasonable legal or other professional costs incurred or proposed to be incurred by the group in taking advice relating directly to the **proposed transaction** for any matter relevant to the decision of **members** whether to vote for or against the **proposed transaction** in the ballot. Requests must specify the nature of the advice being sought and from whom it is being sought.
- (2) Subject to the limits specified in Rule 3.4(3), the **board** must approve all reasonable requests unless (acting reasonably) it determines that the request was not made in good faith.
- (3) The maximum amount payable by the **company** in respect of such requests will be:
 - (a) \$15,000 for any one group; and
 - (b) \$50,000 for all groups;

in both cases adjusted annually on 1 July each year, commencing 1 July 2007, according to changes in the consumer price index (All groups, City of Adelaide) over the preceding 12 month period.

If more than one request is received, each request will be dealt with in the order of receipt and if requests are received at the same time in amounts which in aggregate equal or exceed the then unallocated balance, the unallocated balance will be allocated pro rata in proportion to the numbers of **members** in the groups.

3.5 Dispute Resolution

- (1) The **board** must develop and make available to **members** a procedure for resolution of disputes between **members** and the **company** relating to the **proposed transaction**. The procedure must provide for conduct of the dispute resolution by a person independent from the **company** with appropriate qualifications and experience in dispute resolution.
- (2) **Members** must be given reasonable notice of the dispute resolution procedure.

4.1 Appointment of Returning Officer

- (1) The **board** must appoint as returning officer for the ballot a person having the qualifications, experience or standing appropriate for appointment.
- (2) The returning officer may, if necessary, appoint one or more persons to act as assistant returning officers or clerical assistants.
- (3) A **member** is not eligible to be appointed as a returning officer or assistant returning officer.
- (4) The returning officer may delegate any of the returning officer's functions in this Section to an assistant returning officer having the qualifications, experience or standing to exercise those functions.
- (5) A person ceases to hold office as a returning officer or assistant returning officer if the person:
 - (a) dies; or
 - (b) resigns by notice of resignation delivered to the **company**; or
 - (c) is removed from office by the **members**.

4.2 Roll

As soon as practicable after the **board** appoints the returning officer for the postal ballot, the **secretary** must give the returning officer a roll showing, as at the time the roll is given:

- (a) the **members** and the number of shares each **member** holds; and
- (b) if the shares are divided into different classes – the **members** who hold shares in each class and the number of shares of each class each **member** holds.

4.3 Notice of Proposed Postal Ballot

- (1) As soon as practicable after being appointed as returning officer for a postal ballot, the returning officer must cause notice of the proposed ballot to be:
 - (a) sent to each **member** entitled to vote; or
 - (b) published in a newspaper circulating generally throughout all Australian States and Territories in which the **company** has members.
- (2) The notice must:
 - (a) state that a postal ballot is to be held;
 - (b) state the proposed transaction that is to be put to voters at the ballot; and
 - (c) state the closing date for the ballot.

4.4 Printing of Ballot Papers

The returning officer must ensure that a sufficient number of ballot papers is printed for the purposes of the ballot.

4.5 Postal Voting Procedures

- (1) Postal voting will be conducted according to procedures specified by the returning officer as approved by the board.

- (2) In approving postal voting procedures the **board** must have regard to these matters:
- (a) the extent to which the procedures are efficient in enabling the returning officer to detect any fraud or impropriety in the voting process;
 - (b) the extent to which the procedures protect the anonymity of the voter;
 - (c) instructions for voting are legible and clearly expressed so as to accurately inform **members** how to complete and lodge a ballot paper;
 - (d) provisions for issuing a duplicate ballot paper when the original has been lost or spoiled;
 - (e) the extent to which procedures for receiving, checking, scrutinizing and counting ballot papers are efficient; and
 - (f) the conduct and functions of scrutineers appointed by **candidates**.
- (3) The **board** must cause the postal voting procedures, as approved, to be displayed at the **company's** registered office and every branch office from the day before ballot papers are sent to **members** until the day after closure of the ballot.
- (4) A **member** is entitled to a copy of the postal voting procedures, on request.

4.6 Distribution of Ballot Papers

Not less than 42 days before the closing date for the ballot, the returning officer must cause to be sent to each **member** on the roll, at the address specified in respect of the **member** in the roll:

- (a) a ballot paper;
- (b) any other documents as required by the postal voting procedure.

4.7 Replacement of Ballot Papers

- (1) If any **member** to whom a ballot paper has been sent satisfies the returning officer that the ballot paper has been spoilt, lost or destroyed, the returning officer may issue the **member** with a replacement ballot paper.
- (2) The returning officer must keep a record of all replacement ballot papers so issued.

4.8 Voting

- (1) A **member** who wishes to vote in a postal ballot must:
- (a) Complete the ballot papers in accordance with the postal voting procedures; and
 - (b) Subsequently deal with the ballot paper in accordance with the postal voting procedures.

- (2) A **member's** vote in the postal ballot may be counted only if:
- (a) the **member** has voted in the way required by this Rule; and
 - (b) the returning officer receives the ballot paper in accordance with the postal voting procedures on or before the date for the close of the postal ballot.
- 4.9 Appointment of Scrutineers**
- (1) The **board** may appoint a scrutineer to monitor the scrutiny and the counting of postal votes.
- (2) Any other interested person, with the consent of the returning officer, may appoint a scrutineer to monitor the scrutiny and counting of the postal votes.
- (3) A scrutineer is entitled to be present at the scrutiny and counting of postal votes.
- 4.10 Scrutiny**
- (1) As soon as practicable after the ballot closes, the returning officer must check, scrutinise and deal with the ballots in accordance with the postal voting procedures.
- (2) A ballot paper is informal if:
- (a) it is not authenticated as required by the postal voting procedures;
 - (b) it has not been completed so as to show a vote.
- 4.11 Counting of Votes**
- (1) The returning officer must then proceed to count the votes.
- (2) The returning officer may make use of electronic data processing equipment in the counting of votes.
- (3) On completing the count, the returning officer must make out a return to the **company** certifying:
- (a) If the **company** has only one class of **members**:
 - (i) the number and percentage of **members** who voted in the postal ballot; and
 - (ii) the number and percentage of votes in favour of the **proposed transaction**; and
 - (b) If the **company** has more than one class of **members**:
 - (i) the number and percentage of **members** in each class who voted in the postal ballot; and
 - (ii) the number and percentage of votes in each class in favour of the proposed transaction.
- (4) For the purposes of this Rule, **members** entitled to repayment of different amounts on redemption of their **member shares** are to be treated as in different classes

Section 5

Entitlement to Demutualisation Benefits

5.1 Qualifying Members

Only a **qualifying member** is entitled to participate in the surplus and profits of the **company** or in any other **demutualisation benefit** if the **members**, in accordance with this Appendix, approve a restructure referred to in Item (3) of Rule 1.1(1) of this Appendix.

5.2 No Separate Class

The fact that some **members**, at any particular time, are not entitled to a **demutualisation benefit** by virtue of Section 5 of this Appendix, does not for any purpose under this Constitution, including without limitation, Rules 1.4(1)(c) and 4.11(3)(b), constitute them a class of **members** separate from those **members** who are so entitled at that time.

Schedule

Principles of Mutuality

Customers Must be Members

1. Subject to the exceptions in Principles 2 and 3 or as expressly provided for in the Constitution, a mutual entity (as defined in the Corporations Act) may not accept a deposit from, or grant financial accommodation to, a person who is not a member.
2. A *mutual entity* may accept deposits from, or grant financial accommodation to, a body that does not have the power to acquire, or that the law prohibits from acquiring, the *mutual entity's* shares.
3. A *mutual entity* may accept deposits from, or grant financial accommodation to, another ADI.

Membership and Members Shares

How to become a member

4. A person can only become a member by subscribing for a member share.

How many member shares a mutual entity may issue a person

5. Subject to the exception in Principle 6, a mutual entity may only issue one member share to any person.
6. A trustee for an unincorporated association may be issued 1 member share in the trustee's own right, and 1 member share as trustee for the unincorporated association.

Consideration paid for membership shares

7. A *mutual entity* may issue member shares as wholly paid or partly paid.
8. A *mutual entity* may only issue a member share to a person in return for a valuable consideration.
9. The person must provide consideration in cash or, in relation to partly paid member shares, partly or wholly in the form of an obligation to pay cash.

Voting

10. A member share must confer the right to 1 vote, and only 1 vote, at meetings of the mutual entity's members.

Dividends and Surplus

11. A member share may confer a right to participate in the *mutual entity's* profits through payment of dividends.
12. Subject to the Appendix, a member share must confer a right to participate in surplus when the *mutual entity* is wound up.
13. Any participation in profit or surplus must be on equitable terms.

Redemption and Transfer

14. A member share must confer on the member a right to redeem the member share on request, subject only to compliance with prudential standards or prudential regulations.
15. Subject to the exception in Principle 16, member shares may not be transferred.
16. A trustee for an unincorporated association may transfer the member share that the trustee holds on trust for the unincorporated association.

Additional Shares

Definition

17. All shares issued by a *mutual entity* other than member shares and MCIs are additional shares.

Voting

18. Subject to the exceptions in Principle 19, an additional share must not confer the right to vote.
19. Additional shares may confer the right to vote, at meetings of the holders of additional shares, on questions affecting the continuing existence of the credit union.

Dividends and Surplus

20. An additional share may confer the right to participate in the *mutual entity*'s profits through payment of dividends.
21. An additional share may confer a right to participate in surplus when the *mutual entity* is wound up but only to the extent of:
 - (a) repayment of capital paid on the additional shares; and
 - (b) payment of arrears of cumulative dividends.
22. The right to participate in profits and surplus conferred by additional shares may be preferred, equal or deferred to the rights conferred by the member shares.

Redemption and Transfer

23. An additional share may confer on the holder of the additional share a right to redeem or to transfer the additional share.

Mutual capital instruments (MCIs)

MCI mutual entity

24. The **company** is intended to be an MCI mutual entity (as defined in the Corporations Act).

Voting

25. Subject to the Constitution and the Corporations Act, MCIs may confer such rights to vote at general meetings as are provided for in their terms of issue.
26. If a member is also an MCI holder, the member has no more than one vote at general meetings of the *mutual entity*, regardless of the applicable terms of issue of the MCI.

Dividends and surplus

27. An MCI may confer:
 - (a) the right to participate in the *mutual entity*'s profits through payment of dividends; and
 - (b) a right to participate in surplus when the *mutual entity* is wound up,but only to the extent permitted by this Constitution, the Corporations Act, the prudential standards and the terms of issue of the MCIs.

Accumulation of Securities

28. Accumulation of securities issued by a *mutual entity* must be restricted so that no person, or group of associated persons, may exercise a significant degree of influence over the affairs of the *mutual entity*.

These Principles of Mutuality are not binding, except to the extent that the Constitution expressly provides otherwise.

