

CORPORATIONS ACT

CONSTITUTION

of

WARWICK CREDIT UNION LTD.

ACN 087 651 116

WARWICK
CREDIT UNION

This Constitution was adopted by a special resolution of the Company at its Annual General Meeting on the 6th day of October 2000.

Amended:

- 1. at a Special General Meeting on 15 February 2006*
- 2. at an Annual General Meeting on 22 September 2006*
- 3. at an Annual General Meeting on 8 October 2014*
- 4. at a Special General Meeting on 3 August 2017*

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PREAMBLE

The Company is a public company limited by shares organised on the basis of the following Principles of Mutuality:

Principles of Mutuality

Customers Must be Members

1. Subject to the exceptions in Principles 2 and 3, a credit union may not accept a deposit from, or grant financial accommodation to, a person who is not a member.
2. A credit union 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 credit union's shares.
3. A credit union may accept deposits from, or grant financial accommodation to, another ADI.

Membership and Member 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 credit union may issue a person

5. Subject to the exception in Principle 6, a credit union 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 credit union may issue member shares as wholly paid or partly paid.
8. A credit union may only issue a member share to a person in return for 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 credit union's members.

Dividends and Surplus

11. A member share may confer a right to participate in the credit union's profits through payment of dividends.
12. A member share must confer a right to participate in surplus when the credit union 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:
 - (a) compliance with prudential standards or prudential regulations; and
 - (b) any period of notice set out in the credit union's constitution.
15. Subject to the exceptions 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 credit union other than member shares 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 credit union's profits through payment of dividends.

21. An additional share may confer a right to participate in surplus when the credit union 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.

Accumulation of Securities

24. Accumulation of securities issued by a credit union must be restricted so that no person, or group of associated persons, may exercise a significant degree of influence over the affairs of the credit union.

Directors

25. Only a member of a credit union may be a director of the credit union.

In these Principles of Mutuality a 'member share' means a Member Share (as defined herein).

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

CORPORATIONS ACT 2001 (CTH)

COMPANY LIMITED BY SHARES

CONSTITUTION

OF

WARWICK CREDIT UNION LTD ACN 087 651 116

1. Preliminary

1.1 In this Constitution, unless the contrary intention appears:

'**APRA**' means the Australian Prudential Regulation Authority;

'**ASIC**' means the Australian Securities and Investments Commission;

'**Auditor**' means the Company's auditor;

'**Board**' means the board of Directors;

'**business day**' has the same meaning as in the *Corporations Act*;

'**Candidate**' means a person whom the Director Nominations Committee determines to be a candidate under **Schedule 2 clause 6(2)**;

'**Company**' means Warwick Credit Union ACN 087 651 116;

'**Constitution**' means the constitution of the Company as amended from time to time;

'**Demutualisation Event**' means an event that triggers the application of the provisions of clause 29(1) of Part 5 of Schedule 4 to the Corporations Act 2001 (Cth) (except to the extent ASIC has exempted the Company from the operation of that Part in relation to that event] or is a demutualisation for the purposes of section 63 of the Banking Act 1959 (Cth);

'**Director**' includes any person occupying the position of director of the Company;

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

'**Director Nominations Committee**' means the committee appointed by the Board in accordance with **Schedule 3**;

'Elected Director' means a Director:

- (a) appointed by Members under **Schedule 2**; or
- (b) appointed by the Board under **clause 40**;

'MEI' means a share in the capital of the Company which meets the Mutual Equity Requirements;

'Member' means a person whose name is entered for the time being on the Register as the holder of one or more Member Shares;

'Member Share' means a Statutory Redeemable Preference Share, a Transitional Redeemable Preference Shares, a New Redeemable Preference Shares or a redeemable preference share issued under **clause 7**;

'Membership Share' means the membership shares referred to in **clause 2.2(c)**;

'Mutual Equity Requirements' means the requirements of APRA's prudential standards for a mutual equity interest and the requirements of ASIC for the issue of the MEI not to be a Demutualisation Event;

'New Redeemable Preference Shares' means Member Shares issued in accordance with **clause 7** after 6 October 2000;

'Office' means the Company's registered office;

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

'registered address' means the last known address of a Member as noted in the Register;

'Representative' means a person appointed by a Member to act as its representative under **clause 39** or under section 250D of the *Corporations Act*;

'Seal' means the Company's common seal (if any);

'Secretary' means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries;

'Statutory Redeemable Preference Shares' mean the redeemable preference shares referred to in **clause 2.2(b)**;

'Tier 1 Share' means a share which is eligible for inclusion as Tier 1 Capital (as defined by APRA from time to time) of a mutual authorised deposit-taking institution as described in **clauses 74 to 78**. An MEI is a Tier 1 Share. A Member Share is not a Tier 1 Share;

'Transaction' in **clause 13** in relation to a Member's deposit account with the Company means a debit or credit to the account, other than for:

- (a) the payment of interest by the Company; or
- (b) the charging of a fee by the Company for keeping the account.

'Transitional Redeemable Preference Shares' means the shares referred to in clause 2.3;

1.2 In this Constitution, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
- (b) words importing natural persons include corporations;
- (c) words and expressions defined in the *Corporations Act* have the same meaning in this Constitution;
- (d) headings are for ease of reference only and do not affect the construction of this Constitution;
- (e) a reference to the *Corporations Act* is a reference to the *Corporations Act* and the *Corporations Regulations* as modified or amended from time to time; and
- (f) a reference to writing is a reference to any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile and email transmission and documents in electronic form.

1.3 An expression in a provision of this Constitution has the same meaning as in a provision of the *Corporations Act* that deals with the same matter as the provision, unless the contrary intention appears in this Constitution.

1.4 To the extent permitted by law, the replaceable rules in the *Corporations Act* do not apply to the Company.

1.5 The adoption or any amendment of this Constitution is not intended to have any of the effects contemplated in clause 29(1) of schedule 4 of the *Corporations Act*. The occurrence of any of those events is referred to as a 'demutualisation'. If the adoption of any provision of this

Constitution results in a demutualisation, then that provision is severed from this Constitution and, to the extent permitted by law, is replaced by such of provisions of the repealed constitution which was in force immediately before the adoption of this Constitution as is necessary or required so that the adoption of this Constitution does not cause or result in any demutualisation.

- 1.6 In this Constitution, references to “member share” and “Member Share” mean withdrawable member shares in the Company and are the “member shares” described in the Principles of Mutuality (being shares subscribed by Members under clause 7). Clause 2 of this Constitution describes the history of the issuance of member shares in the Company and is not intended to create different types of member shares in the Company.

ISSUED SHARES

2. Statutory Membership Shares and Statutory Redeemable Preference Shares

- 2.1 Prior to 1 July 1999, the Company was a credit union regulated under the *Financial Institutions Code* with withdrawable shares on issue.
- 2.2 On 1 July 1999, the Company was taken to have become registered as a public company limited by shares under the *Corporations Act* and:
- (a) each person who was a member of the Company immediately before 1 July 1999, became a Member of the Company;
 - (b) all withdrawable shares of the Company on issue immediately before 1 July 1999 became redeemable preference shares of the Company; and
 - (c) any person who was a member of the Company immediately before 1 July 1999 and who did not hold any shares in the Company, was taken to have been issued with a Membership Share on 1 July 1999. There are no longer any Membership Shares on issue.
- 2.3 After 1 July 1999 but before 6 October 2000, the Company issued to persons becoming Members of the Company, shares in the Company pursuant to regulation 12.8.12 of the *Corporations Regulations*. These shares are called 'Transitional Redeemable Preference Shares'.
- 2.4 Accordingly, the issued shares of the Company as at 6 October 2000 comprised:
- (a) Membership Shares;
 - (b) Statutory Redeemable Preference Shares; and

(c) Transitional Redeemable Preference Shares.

The Redeemable Preference Shares issued under **clause 7** after 6 October 2000 were called 'New Redeemable Preference Shares'.

2.5 A Membership Share conferred on the holder the following rights and obligations:

- (a) it was taken to have been issued under the Corporations Act;
- (b) it carried the rights and obligations that were conferred or imposed on the shareholder in a capacity other than that of shareholder by:
 - (i) the Company's rules (as in force immediately before 1 July 1999); and
 - (ii) the previous Financial Institutions Code;
- (c) no amount was paid or unpaid in respect of the share;
- (d) the share was not:
 - (i) transferable or transmissible; or
 - (ii) capable of devolution by will or by operation of law; and
- (e) could be cancelled at the option of the shareholder or the Company in the circumstances in which the member who held the share could have had their membership of the Company cancelled immediately before 1 July 1999.

2.6 The Members and the Company acknowledge that Membership Shares are no longer on issue and that all Members hold Member Shares.

2.7 Statutory Redeemable Preference Shares, Transitional Redeemable Preference Shares and New Redeemable Preference Shares comprise a single class of shares being Member Shares but have been separately identified in this Constitution to reflect the statutory history and origin of the shares.

2.8 A Member Share confers on the holder those rights and obligations conferred or imposed by the *Corporations Act* from time to time except that:

- (a) each share is redeemable on the same terms that a withdrawable share was withdrawable under the *Financial Institutions Code* and the Company's rules prior to 1 July 1999; and

- (b) a holder of a Member Share has the same rights and obligations that they had or would have had by holding a withdrawable share.

2.8 For so long as it is permitted by law, no share certificates will be issued in respect of Member Shares.

NEW SHARE ISSUES - MEMBERSHIP REQUIREMENTS

3. Eligibility

Any natural person including a minor and any other legal entity is eligible for membership.

4. Admission to membership

The Directors have the power to admit a person to membership provided:

- (a) the person makes written application in a form as required by the Directors. An application for membership may be made by completing an electronic application form, signing it (whether electronically or otherwise) and returning it to the Company;
- (b) the Directors in their absolute discretion believe that the person is a fit and proper person to be admitted to membership;
- (c) except in the case of a minor, the person subscribes for one Member Share at an issue price of ten dollars per share;
- (d) in the case of a minor, the person subscribes for one Member Share at an issue price of ten dollars, partly paid to two dollars; and
- (e) pays any admission fee.

5. Admission to membership - delegation of power

- (a) The Directors may, by resolution, delegate its power to admit Members to offices of the Company.
- (b) The delegation must be evidenced by a resolution of the Directors and a copy of that resolution must be given to each delegate.

6. Admission to membership - absolute discretion

The Directors have an absolute discretion in exercising the power to admit Members without an obligation to assign a reason for not admitting a person as a Member.

7. Issue of Member Shares

Upon the Directors admitting a person as a Member, the Directors must:

- (a) issue and allot the Member Share (which shall carry the same rights and obligations as the Statutory Redeemable Preference Shares and Transitional Redeemable Preference Shares);
- (b) enter particulars in the Register; and
- (c) give the person written notification that their application for Membership has been accepted.

8. Trusts not recognised

- 8.1 Except as required by law or as otherwise provided by this Constitution, the Company will not recognise any person as holding a Member Share on trust and the Company will not recognise any equitable, contingent, future or partial interest or any other right in respect of a Member Share except the registered holder's absolute right of ownership.
- 8.2 Subject to the other clauses, this **clause 8** applies even if the Company has notice of the relevant trust, interest or right.

9. Joint holders

- 9.1 If two or more persons are registered as the holders of a Member Share, they are taken to hold the Member Share as joint tenants with benefits of survivorship and the person whose name appears first on the Register is the only joint holder entitled to receive notices from the Company.
- 9.2 Any one of the joint holders of a Member Share may give effectual receipts for any return of capital payable to the joint holders.

MEMBERSHIP CEASING

10. Cessation of membership

A person ceases to be a Member when:

- (a) that person is expelled under **clause 12**;
- (b) that person's Membership is cancelled under **clause 13**;
- (c) that person redeems his or her Member Shares from the Company in accordance with **clause 17**;
- (d) the capital paid in relation to that person's Member Shares has been appropriated by the Company under **clause 19**;

- (e) the Directors approve an application for cancellation of Membership on being satisfied that all financial accommodation and other obligations have been discharged;
- (f) that person becomes a bankrupt or, being a body corporate is wound up; or
- (g) that person dies.

11. Cancellation of shares

The Member Shares of a person who ceases to be a Member are cancelled immediately on that person ceasing to be a Member.

12. Expulsion

- (a) The Directors may expel a Member on the grounds that the Member:
 - (i) has failed to discharge his or her obligations to the Company;
 - (ii) has been guilty of conduct detrimental to the Company; or
 - (iii) has obtained Membership by misrepresentation or mistake.
- (b) Before proceedings to consider a resolution to expel a Member, the Directors must give the Member 14 days' notice of the proposed resolution.
- (c) At the time the Directors consider the proposed resolution, the Member is entitled:
 - (i) to be present with or without his or her legal representative; and
 - (ii) to be heard, either in person or through his or her legal representative.
- (d) The Company must pay the expelled Member the amount paid up on that member's Member Shares after satisfaction of all liabilities and obligations.
- (e) The expelled Member has the right of appeal in accordance with any procedures determined under **clause 69.2**.

13. Dormancy

- (a) The Company may classify a Member's deposit account as a dormant account

if:

- (i) there have been no Transactions in the account for at least 1 year;
 - (ii) the Company has given the Member a 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 close the account; and
 - (iii) the Company does not receive a written notice from the Member under paragraph (b).
- (b) The Company may cancel Member Shares if the holder's only account with the Company is a dormant account.
- (c) The Company may transfer the amount held in a dormant account to a suspense account.
- (d) The Company may charge a Member a fee for keeping an account for the Member in the suspense account but the fee must not be more than the lesser of:
- (i) the amount held for the person in the suspense account; or
 - (ii) \$2.00 per month or such other amount determined by the Board from time to time.
- (e) This clause is subject to any law of unclaimed money.

14. Death of a Member

The estate of a deceased Member:

- (a) remains liable to the Company for the amount of any unpaid financial accommodation provided by the Company to the deceased Member; and
- (b) retains any entitlements due from the Company.

15. Bankruptcy or winding-up of a Member

The rights and liabilities of Members made bankrupt or wound-up are as provided in the laws relating to bankruptcy and insolvency.

SHARES

16. Ranking of shares and calls on partly paid shares

- 16.1 Each Member Share ranks equally with all other Member Shares.
- 16.2 When a Member who is a minor attains the age of majority the Member must pay the Company any amount which remains unpaid on any partly paid Member Share and for this purpose, the Company will be deemed to have made a call for payment immediately on the Member attaining the age of majority. If the Member fails to pay the unpaid amount on the Member's Member Shares in accordance with this **clause**, the Member authorises, directs and requests the Company to deduct from the credit balance of any deposit account of the Member any such monies owing by the Member.

17. Repayment of share capital

The Company must repay the amount paid up in respect of a Member's Member Shares if:

- (a) the Member requests it; and
- (b) the Member has repaid all outstanding financial accommodation and discharged all other obligations to the Company.

18. Shares not transferable

A Member may not transfer, sell or assign Member Shares but may require such Member Shares to be repaid in accordance with **clause 17**.

19. Charge on Member Shares or Deposit Account

- 19.1 If the Company has informed a Member:
- (a) at the time when the Member took up his or her Member Shares or placed money on deposit under the former rules; and
 - (b) at least once a year after that time,
- the Company may charge that Member's Member Shares or the credit balance of that Member's deposit account for any debt owed by the Member to the Company.
- 19.2 If the Company has complied with **clause 19.1**, the Company has in relation to any debt owed by that Member of the Company, a charge on:
- (a) the Member's Member Shares;
 - (b) the credit balance of any deposit account of the Member; and

- (c) any interest, bonus or rebate payable to the Member.
- 19.3 The Company can exercise its charge by appropriating any capital paid in relation to the Member's Member Shares or any other money subject to the charge. If the Company appropriates the whole of the capital paid in relation to a Member's Member Shares or the credit balance of any deposit account of the Member, the Member Shares held by that person or monies in any such deposit account will be forfeited and any surplus funds must be refunded to the Member.

GENERAL MEETINGS

20. Convening general meeting

- 20.1 Any Director may, at any time, convene a general meeting.
- 20.2 (a) A Member may request the Directors to convene a general meeting only in accordance with section 249D of the *Corporations Act*.
- (b) A Member may not convene or join in convening a general meeting except in accordance with section 249E or 249F of the *Corporations Act*.

21. Notice of general meeting

- 21.1 Subject to the provisions of the *Corporations Act* allowing general meetings to be held with shorter notice and exempting the Company from the requirement to give notices of meetings of the Company to a particular member, at least 21 days' written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.
- 21.2 A notice convening a general meeting:
- (a) must specify the place, date and time of the meeting and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
 - (b) must state the general nature of the business to be transacted at the meeting; and
 - (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.
- 21.3 A notice of annual general meeting must state the business to be transacted at the meeting such as:
- (a) the consideration of the annual financial report, Directors' report and Auditor's report;

- (b) the election of directors;
 - (c) the appointment and fixing of the remuneration of the Directors.
- 21.4 (a) The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting convened as the result of a request under **clause 20.2**).
- (b) The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices from the Company.
- 21.5 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

PROCEEDINGS AT GENERAL MEETINGS

22. Member

In **clauses 23, 24, 26 and 27**, 'Member' includes a Member present in person or by proxy, attorney or Representative.

23. Quorum

- 23.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 23.2 A quorum of Members is constituted by 30 members personally present at the meeting.
- 23.3 If a quorum is not present within 30 minutes after the time appointed for a meeting:
- (a) if the meeting was convened on the requisition of Members, it is automatically dissolved; or
 - (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, it is automatically dissolved.

24. Chairperson

- 24.1 The chairperson, or in the chairperson's absence the deputy chairperson of Directors' meetings will be the chairperson at every meeting of Members.

- 24.2 If:
- (a) there is no chairperson or deputy chairperson; or
 - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the meeting; or
 - (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the meeting,
- the Directors present may elect a chairperson.
- 24.3 If no election is made under **clause 24.2**, then:
- (a) the Members may elect one of the Directors present as chairperson;
or
 - (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- 24.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

25. Adjournment

- 25.1 The chairperson of a meeting at which a quorum is present:
- (a) in his or her discretion may adjourn a meeting with the meeting's consent; and
 - (b) must adjourn a meeting if the meeting directs him or her to do so.
- 25.2 An adjourned meeting may take place at a different venue to the initial meeting.
- 25.3 The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.
- 25.4 If a general meeting has been adjourned for more than 21 days, at least 3 days written notice (exclusive of the day on which the notice is served or taken to be served and of the day for which notice is given) of the adjourned meeting must be given to Members.

26. Decision of questions

- 26.1 Subject to the *Corporations Act* in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 26.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the *Corporations Act*.

- 26.3 The chairperson does not have a casting vote in addition to the chairperson's votes as a Member, proxy, attorney or Representative.
- 26.4 Unless a poll is demanded:
- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
 - (b) an entry to that effect in the minutes of the meeting,
- are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
- 26.5 The demand for a poll may be withdrawn.
- 26.6 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

27. Taking a poll

- 27.1 A poll will be taken when and in the manner that the chairperson directs.
- 27.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 27.3 The chairperson may determine any dispute about the admission or rejection of a vote.
- 27.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 27.5 A poll demanded on the election of the chairperson or the adjournment of a meeting must be taken immediately.
- 27.6 After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.

VOTES OF MEMBERS

28. Entitlement to vote

A Member's entitlement to vote may not be exercised if that Member did not hold the number of Member Shares required to be held under the former rules of the Company or (where the Member Shares were issued under this Constitution) under **clause 7**, as paid up shares:

- (i) in relation to an annual general meeting, on the day before nominations for election of Directors close; and
- (ii) in relation to a special general meeting, at least seven days before notice of the special general meeting is given; and

29. Voting Rights

At general meetings:

- (a) each Member may vote by proxy;
- (b) subject to the provisions in this Constitution regarding voting by corporate representatives or proxy, on a show of hands or on a poll any Member present either personally or by proxy has one vote, regardless of the number of Member Shares held.

A Member who is a minor may not vote or hold office in the Company.

30. Joint holders

- 30.1 If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.
- 30.2 For the purposes of this **clause 30**, several executors or administrators of a deceased Member in whose sole name any Member Shares are registered will be taken to be joint holders of those Member Shares.

31. Objections

- 31.1 An objection to the qualification of a voter may be raised only at the meeting or adjourned meeting at which the voter tendered its vote.
- 31.2 An objection must be referred to the chairperson of the meeting, whose decision made in good faith is final.
- 31.3 A vote which the chairperson does not disallow pursuant to an objection is valid for all purposes.

32. Votes by operation of law

A person who has satisfied the Directors not less than 24 hours before a general meeting that the person is entitled to a Member Share by operation of law may exercise all rights attached to the Member Share in relation to a general meeting, as if the person were the registered holder of the Member Share.

33. Votes by proxy

- 33.1 If a Member appoints one proxy, that proxy may vote on a show of hands. A person may not act as proxy for more than ten Members.
- 33.2 A proxy may demand or join in demanding a poll.

34. Instrument appointing proxy

- 34.1 A Member who is entitled to vote at a meeting may appoint one proxy.
- 34.2 A Member who is a natural person may appoint a proxy by a written appointment signed by the appointor or the appointor's attorney duly authorised in writing.
- 34.3 A Member which is a corporation may appoint a proxy by a written appointment executed in accordance with section 127 of the *Corporations Act* or signed by the appointor's attorney duly authorised in writing.
- 34.4 A proxy need not be a Member.
- 34.5 (a) An appointment of a proxy must be in a form approved by the Directors.
- (b) **Schedule 1** sets out a form which will be taken to be approved by the Directors unless they resolve to use a different form.
- 34.6 A proxy may vote or abstain as he or she chooses except to the extent that an appointment of the proxy indicates the manner in which the proxy will vote on any resolution. The proxy must vote or abstain on a poll or show of hands in accordance with any instructions on the appointment.
- 34.7 A proxy's appointment is valid at an adjourned meeting.

35. Lodgement of proxy

- 35.1 The written appointment of a proxy or attorney must be received by the Company, not less than 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.
- 35.2 If the appointment purports to be executed under a power of attorney or other authority, then the original document, or an office copy or a notarially certified copy of it, must be forwarded with the appointment.
- 35.3 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:
- (a) the Office;
- (b) a facsimile number at the Office; or

- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

36. Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became of unsound mind;
- (c) revoked the proxy or power; or
- (d) transferred the Shares in respect of which the vote was cast,

unless any written notification of the death, unsoundness of mind, revocation or transfer was received by the Company before the relevant meeting or adjourned meeting.

37. Representatives of corporations

- 37.1 Any Member which is a corporation may appoint an individual as its representative as provided by the *Corporations Act*.
- 37.2 The chairperson of a general meeting may permit a person claiming to be a Representative to exercise his or her powers even if he or she has not produced a certificate evidencing his or her appointment, or may allow the Representative to vote on the condition that he or she subsequently establishes to the satisfaction of the chairperson of the general meeting his or her status as a Representative within a period prescribed by the chairperson of the general meeting.
- 37.3 The appointment of a Representative may set out restrictions on the Representative's powers.

APPOINTMENT AND REMOVAL OF DIRECTORS

38. Number of Directors

- 38.1 The number of Elected Directors is determined by the Board, subject to a minimum of 5 and a maximum of 7. Subject to the *Corporations Act*, the Company may by resolution passed at a general meeting increase or reduce the minimum or maximum number of Elected Directors.
- 38.2 The Board may appoint up to 3 Directors in addition to Elected Directors. The Board may only appoint as Director:
 - (a) the Chief Executive Officer of the Company – in which case the term of office ends when the person ceases to be Chief Executive

Officer, or such earlier date as determined by the Board prior to the person's appointment as Director;

- (b) a person who is not an employee of the Company – in which case the term of office ends 3 years after appointment, or such earlier date as determined by the Board prior to the person's appointment as Director.

38.3 The majority of Directors must be Elected Directors.

39. Qualification

39.1 A person is not eligible to be a Director if the person:

- (a) is not either:
 - (i) a Member of the Company; or
 - (ii) the representative of a body corporate member of the Company;
- (b) is an employee of the Company (except where **clause 38.2(a)** applies);
- (c) is disqualified by law from being or acting as a Director;
- (d) has had a personal representative or trustee appointed to administer the person's estate or property because of their mental incapacity; or
- (e) is a Member whose voting rights have been suspended under **clause 28**.

39.2 A person is not eligible to be appointed Elected Director under **Schedule 2** if the Director Nominations Committee has determined that the person does not have the appropriate fitness and propriety to be and act as a Director, by reference to the Board's Fit and Proper Policy

40. Election of Directors and the appointment and removal of Directors

40.1 The rules in **Schedule 2** apply to the election of Elected Directors.

40.2 The Company may by resolution passed in general meeting:

- (a) remove any Director; and
- (b) appoint another person in the Director's place.

41. Additional and casual Directors

41.1 Subject to **clause 39.1**, the Board may appoint any person as an Elected Director:

- (a) if an Elected Director's office becomes vacant other than because the Elected Director's term of office has ended; or
- (b) if, for any other reason, the number of Elected Directors is less than the number determined under **clause 38.1**.

41.2 For the purpose of **clause 42**, an Elected Director appointed:

- (a) under **clause 41.1(a)** – is taken to have been appointed on the date the Elected Director the person replaced was last elected or appointed;
- (b) under **clause 41.1(b)** – is taken to have been appointed on the day the person's appointment under **clause 41.1** took effect.

42. Retirement by rotation

42.1 At each annual general meeting one-third of the Elected Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Elected Directors must retire from office.

- 42.2
- (a) The Elected Directors to retire by rotation at an annual general meeting are those Elected Directors who have been longest in office since their last election or appointment.
 - (b) Elected Directors elected or appointed on the same day may agree among themselves or determine by lot which of them must retire.

42.3 An Elected Director must retire from office at the conclusion of the third annual general meeting after the Elected Director was last elected, even if his or her retirement results in more than one-third of all Elected Directors retiring from office.

43. Period of office

Subject to this Constitution, an Elected Director is elected for a term of three years, commencing at the end of the annual general meeting at which his or her election is announced and ending at the end of the third annual general meeting happening after his or her election.

44. Vacation of office

The office of a Director immediately becomes vacant if the Director:

- (a) dies;
- (b) ceases to be eligible to be a Director under **clause 39.1**;

- (c) as a representative of a body corporate member of the Company whose eligibility for election to the office was based on being that representative, ceases to be so eligible;
- (d) is absent from three consecutive ordinary meetings of the Board without its leave;
- (e) resigns by written notice given to the Board; or
- (f) is three months in arrears in relation to money due to the Company and has failed to make arrangement for payment satisfactory to the Company.

REMUNERATION OF DIRECTORS

45. Remuneration of Directors

- 45.1 The Elected Directors may be paid as remuneration for their services the aggregate maximum sum from time to time determined by the Company in general meeting.
- 45.2 Unless otherwise resolved by the Company in general meeting, the remuneration will be divided between the Elected Directors in such proportion and manner as the Board determines and, in default of agreement, equally and the Board may determine how and when it is to be paid. The remuneration accrues from day to day.
- 45.3 If an Elected Director is required to perform services for the Company which in the opinion of the Board are outside the scope of the ordinary duties of a Director, then the Company may pay the Elected Director a fixed sum determined by the Board in addition to or instead of the Director's remuneration under **clause 45.1**.
- 45.4 The Board determines the Directors' remuneration for Directors appointed under **clause 38.2**.
- 45.5 In addition to remuneration, the Directors may be paid all reasonable expenses incurred by them in connection with the business of the Company.
- 45.6 The Company may also pay a premium in respect of a contract insuring a person who is or has been a Director against a liability incurred by the person as a Director, except in circumstances prohibited by the *Corporations Act*.

DIRECTOR NOMINATIONS COMMITTEE

46. Director Nominations Committee

46.1 The **Board** must establish a Director Nominations Committee in accordance with **Schedule 3**.

POWERS AND DUTIES OF DIRECTORS

47. Directors to manage Company

47.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the *Corporations Act* do not require to be exercised by the Company in general meeting.

47.2 Without limiting the generality of **clause 47.1**, subject to any applicable prudential standards (including standards issued by the Australian Prudential Regulation Authority) the Directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any property or business of the Company or all or any of its uncalled capital;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

47.3 Every Director and other agent or officer of the Company must:

- (a) keep secret all aspects of all transactions of the Company, except:
 - (i) to the extent necessary to enable the person to perform his or her duties to the Company;
 - (ii) as required by law; and
 - (iii) when requested to disclose information by the Directors, to the auditors of the Company or a general meeting of the Company; and
- (b) if requested by the Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Company.

PROCEEDINGS OF DIRECTORS

48. Directors' meetings

- 48.1 A Director may at any time, and the Secretary must on the request of a Director, convene a Directors' meeting.
- 48.2 It is not necessary to give notice of a meeting of the Directors to a Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia.
- 48.3 (a) Subject to the *Corporations Act*, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (b) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (c) A Director who participates in a meeting held in accordance with this **clause 48.3** is taken to be present and entitled to vote at the meeting.
- (d) A Director can only withdraw his or her consent to the means of communication between Directors proposed for a Director's Meeting if the Director does so at least 48 hours before the meeting.
- 48.4 **Clause 48.3** applies to meetings of Directors' committees as if all committee members were Directors.
- 48.5 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 48.6 At a meeting of Directors, a quorum is four or a number not less than half the total number of Directors, whichever is the greater. If within 30 minutes of the time appointed for a meeting of the Board, a quorum is not present the meeting will stand adjourned to the same day in the next week at the same time and place.
- 48.7 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

49. Decision of questions

- 49.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to this **clause 49**, each Director has one vote.

49.2 The chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote if there is an equality of votes.

50. Directors' interests

50.1 A Director and any firm, body or entity in which a Director has a direct or indirect interest may in any capacity:

- (a) enter into any contract or arrangement with the Company;
- (b) be appointed to and hold any office or place of profit under the Company, other than the office of auditor; and
- (c) act in a professional capacity, other than as auditor, for the Company,

and may receive and retain for his or her own benefit any remuneration, profits or benefits as if he or she were not a Director.

50.2 Each Director must disclose his or her interests to the Company in accordance with the *Corporations Act* and the Secretary must record all declarations in the minutes of the relevant Directors' meeting.

50.3 A Director's failure to make disclosure under this clause does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.

50.4 A Director must not vote in respect of a contract or arrangement or proposed contract or arrangement in which the Director has a direct or indirect material interest.

50.5 (a) If the Director does purport to vote, the Director's vote will not be counted.

(b) The requirement in this **clause 50.5** is in addition to any requirements of the *Corporations Act* in relation to voting by an interested director of a public company.

50.6 A Director may join in executing in accordance with section 127 of the *Corporations Act* any document relating to a contract or arrangement or proposed contract or arrangement in which the Director has an interest.

51. Remaining Directors

51.1 The Directors may act even if there are vacancies on the board.

51.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:

- (a) appoint a Director; or
- (b) convene a general meeting.

52. Chairperson

- 52.1 The Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office.
- 52.2 If no chairperson is elected or if the chairperson is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of that meeting only.
- 52.3 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

53. Directors' committees

- 53.1
 - (a) The Directors may delegate any of their powers to a committee or committees.
 - (b) A committee must include at least one Director.
 - (c) The Directors may at any time revoke any delegation of power to a committee.
- 53.2 A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 53.3 A committee may be authorised to sub-delegate all or any of the powers for the time being vested in it.
- 53.4 Meetings of any committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors.

54. Written resolutions

- 54.1 The Directors may pass a resolution without a directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- 54.2 For the purposes of **clause 54.1**, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

- 54.3 Any document referred to in this clause may be in the form of a facsimile transmission or electronic notification.
- 54.4 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

55. Validity of acts of Directors

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a Directors' committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

56. Minutes and registers

56.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by the Directors in accordance with **clause 55**;
- (d) all orders made by the Directors and Directors' committees; and
- (e) all disclosures of interests made pursuant to **clause 50**.

56.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body, and if so signed will as between the members be conclusive evidence of the matters stated in such minutes.

57. Appointment of attorneys and agents

57.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the *Corporations Act* appoint any person to be the agent or attorney of the Company:

- (a) for the purposes;

- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
 - (c) for the period; and
 - (d) subject to the conditions, determined by the Directors.
- 57.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) any company;
 - (b) the members, directors, nominees or managers of any company or firm; or
 - (c) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 57.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 57.4 The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.
- 57.5 An attorney or agent appointed under this **clause 57** may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

SECRETARY

58. Secretary

- 58.1 There must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.
- 58.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 58.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

SEALS

59. Common Seal

If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;

- (b) the Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal; and
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

60. Duplicate Seal

- 60.1 If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:
- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
 - (b) must only be used with the authority of the Directors or a Directors' Committee.

INSPECTION OF RECORDS

61. Times for inspection

- 61.1 Except as otherwise required by the *Corporations Act*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- 61.2 A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

RESERVES

62. Calculation and Distribution of reserves

The Company's profit or loss in any one financial year arising from its operations must be determined and dealt with in accordance with any applicable prudential standards. The Directors must also resolve in each financial year the amount of profit which must be carried to a reserve. Reserves can be used in the business of the Company, paid in dividends, or can be distributed on a winding up in accordance with this Constitution.

NOTICES

63. Service of notices

- 63.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution by:
- (a) serving it on the person;
 - (b) sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person; or
 - (c) if the notice is to a Member and the Member has no registered address, posting it on a notice board at the Office.
- 63.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting a letter containing the notice; and
 - (b) on the day after the day on which it was posted.
- 63.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day after its despatch.
- 63.4 A notice posted on a notice board is taken to be served 24 hours after it is posted on the board.
- 63.5 A notice may be given by the Company to joint holders by giving the notice to the joint holder whose name appears first in the Register.
- 63.6 Every person who is entitled to a Share by operation of law and who is not registered as the holder of the Share is taken to receive any notice served in accordance with this clause on the person from whom it derives its title.
- 63.7 A Member whose registered address is not in Australia may specify in writing an address in Australia as the Member's registered address within the meaning of this clause.
- 63.8 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.

63.9 Subject to the *Corporations Act* the signature to a written notice given by the Company may be written or printed.

63.10 All notices sent by post outside Australia must be sent by prepaid airmail post.

64. Persons entitled to notice

64.1 Notice of every general meeting must be given to:

- (a) every member;
- (b) every Director; and
- (c) any Auditor.

64.2 No other person is entitled to receive notice of a general meeting.

AUDITS AND ACCOUNTS

65. Company to keep accounts

65.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the *Corporations Act*.

65.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the *Corporations Act*.

WINDING UP

66. Liability on Winding Up

- (a) Subject to this **clause 66**, on the winding up of the Company a Member's liability is limited to the amount unpaid in relation to the Member's contractual obligations with the Company; and
- (b) the liability of a holder of Member Shares extends to the amount unpaid in relation to those shares.

66.2 Subject to **clause 78**, any deposit paid by the holder of a Member Share for the purposes of becoming a Member of the Company held by the Company at the date of commencement of any winding up will be subordinated to the claims of other creditors.

67. Surplus

Subject to **clause 78**, on a winding up, Members are entitled to participate in any surplus equally and without regard to the number of Member Shares

held by any Member. In the case of a voluntary winding-up, the Members at the time they resolve to wind up the Company may resolve that any surplus be transferred to any Company which has a mutual structure in accordance with any current policy of the Australian Securities and Investments Commission or the Australian Prudential Regulation Authority.

PAYMENTS BY THE COMPANY

68. Indemnity and Insurance

- 68.1 To the extent permitted by law and that the officer or auditor is not indemnified by directors' and officers' liability insurance maintained by the Company, the Company indemnifies every person who is or has been an officer or auditor of the Company against any liability:
- (a) incurred by that person as such an officer or auditor to another person other than the Company or a related body corporate of the Company unless the liability arises out of conduct involving a lack of good faith; and
 - (b) for costs and expenses incurred by the person as such an officer or auditor:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Law.
- 68.2 The Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer or auditor of the Company against a liability:
- (a) incurred by the person as such an officer or auditor unless the liability arises out of conduct involving:
 - (i) a wilful breach of duty in relation to the Company; or
 - (ii) without limiting **subparagraph (i)**, a contravention of sections 182 or 183 of the *Corporations Act* ; or
 - (b) for costs and expenses incurred by the person as such an officer or auditor in defending proceedings, whether civil or criminal and whatever their outcome.

69. General

- 69.1 The Company must not provide financial accommodation to or accept deposits of money from a person who is not a Member. This clause however does not limit the powers of the Company to invest funds, subject to any particular laws and prudential standards, otherwise than by way of financial accommodation to its Members. Nothing in this clause prohibits or prevents the Company from accepting a deposit of money from a non-Member in accordance with any applicable laws and prudential standards.
- 69.2 (a) The Board must appoint a person to settle disputes between the Company and a member
- (b) Nothing in this **clause** shall apply to any dispute as to the construction or effect of the financial institutions legislation or of any mortgage or of any contract contained in any document other than this Constitution.
- (c) For the purpose of this clause:
- "Company" includes the Board and any officer of the Company:
- "Member" includes:
- (i) any person aggrieved who has not for more than three months ceased to be a member; and
- (ii) any person claiming by or through a member or by or through a person referred to in paragraph (i).
- 69.3 Unless expressly provided by any other clause, no Member is liable to any fine or forfeiture other than as may be imposed by law.
- 69.4 The Company may charge an admission fee. Subject to any law, the Board may from time to time determine that the Company may charge its Members or account holders, or recoup from them, in full or in part, fees, charges, taxes, levies and duties.

DIVIDENDS

70. No Payment of Dividends on Member Share

No dividend is payable in respect of any Member Share.

71. Payment of Dividends

The Board may determine that the Company pay a dividend on shares to which a right to participate in dividends attaches and may determine:

- (a) the amount of the dividend;

- (b) the time for payment of the dividend; and
- (c) the method of payment of the dividend.

The method of payment may include the payment of cash, the issue of securities and the transfer of assets. Where the Company pays the dividend other than in cash, the Board may fix the value of any securities issued or assets transferred.

72. Differential Dividends

Subject to the terms on which shares in a class are issued, the Board may determine dividends to different members in a class that differ:

- (a) in amount; and
- (b) in the method of payment (whether cash, securities, assets or any combination of them).

73. Interest on Dividends

Interest is not payable on a dividend.

TIER 1 SHARES (including MEIs)

74. Terms of Issue

The Company may issue Tier 1 Shares on terms the Board approves but subject to the rights and restrictions contained in **clauses 75 to 78** and, in the case of MEIs, also subject to the Mutual Equity Requirements.

75. Rights, Obligations and Restrictions Attaching to Tier 1 Shares

The following rights attach to each Tier 1 Share:

- (a) the right to vote on the terms set out in **clause 76**;
- (b) the right to participate in dividends on the terms set out in **clause 77**; and
- (c) the right to participate in the distribution of profits or assets on a winding-up on the terms set out in **clause 78**.

76. Voting Rights

Except as required by law, Tier 1 Shares carry no voting rights.

77. Dividend Entitlements

- 77.1 Each Tier 1 Share carries a right to participate in dividends as specified in its terms of issue. No approval by Members is required with respect to dividend entitlements on Tier 1 Shares, including the amount, timing and method of calculating dividend payments.
- 77.2 Dividends on the Tier 1 Shares are non-cumulative.
- 77.3 Each Tier 1 Share (other than an MEI) confers a right to receive dividends in priority to dividends (if any) which may become payable on MEIs.
- 77.4 Each MEI confers a right to receive a dividend payable if and when determined by the directors in their discretion but limited to the amount permitted by the Mutual Equity Requirements, ranking for payment as provided in the terms of issue of the MEI.
- 77.5 Each Tier 1 Share (other than an MEI) may be entitled to payment of dividends equally with or behind any other share, the terms of whose issue specify a ranking equally with, or in priority to, the Tier 1 Share.

78. Distribution on Winding-Up

- 78.1 On a winding-up of the Company each holder of a Tier 1 Share:
- (a) (other than an MEI) is entitled to payment of the amount of capital paid up on the Tier 1 Share equally with every other Tier 1 Share and is not otherwise entitled to share in any surplus assets of the Company; and
 - (b) in the case of an MEI, is entitled to be paid an amount out of the surplus assets of the Company which remain after the payment of all creditors and the preferred entitlements to payment on the winding-up that holders of any other class of shares may have, including the repayment of capital on any Member Share and any Tier 1 Share which is not an MEI, such amount being a share of such surplus assets determined in accordance with the terms of issue of the MEI and the Mutual Equity Requirements but which amount shall not exceed the amount payable in accordance with the Mutual Equity Requirements and the MEI shall confer no further rights to participate in the winding-up.
- 78.2 Tier 1 Shares rank behind Member Shares for repayment of capital on a winding-up.
- 78.3 MEIs are the most subordinated claim for return of capital in a winding-up of the Company. Tier 1 Shares (other than MEIs) may rank equally with or behind any other shares the terms of whose issue specify a ranking equally with, or in priority to, the Tier 1 Shares (other than MEIs).

SCHEDULE 1
FORM OF PROXY

WARWICK CREDIT UNION LTD [ACN 087 651 116]
Annual General Meeting

If you cannot attend the Annual General Meeting to be held on <...date...> at <...time...> at <...venue...> and you are entitled to vote at the Annual General Meeting, you may appoint a proxy to vote on your behalf. This proxy only applies to the Annual General Meeting, and any adjournment of that meeting.

YOUR VOTE IS IMPORTANT

Please read the instructions carefully before completing this Appointment of Proxy form. You are encouraged to use Section D (on the reverse side of this form) to direct your proxy how to vote on each resolution.

A YOUR DETAILS

Account in the Name(s) of:

Account Number

For Body Corporate Members – please provide your ACN

Accountholder's Address

B WHO DO YOU WANT TO APPOINT AS YOUR PROXY?

I appoint as my proxy (tick one box only):

Chair of the Annual General Meeting

OR

the following person:

Name

Address

If you do not provide a name, you will be taken to have appointed the Chair as your proxy.

If the person you appoint as your proxy does not attend the meeting or is absent when a vote is taken, your proxy vote **will not be counted**. Therefore, if you appoint someone other than the Chair, you should make sure that they are going to attend the Annual General Meeting.

The Chair will be required to cast any directed proxy votes if the original proxy holder does not attend the meeting or chooses not to cast the proxy vote. A poll will be called on the resolution.

C YOUR SIGNATURE

Individual Member or Joint Member

If you have appointed someone else as your attorney, your attorney can sign this Appointment of Proxy on your behalf. If you are a member jointly with someone else, each joint member needs to sign.

Signature of Individual or Joint Member (or Attorney)

Signature of Joint Member

Members that are Body Corporates

A body corporate member must sign this Appointment of Proxy form in accordance with its Constitution.

Signature of Director*/Sole Director & Secretary*/Authorised Person*

Signature of Director*/Secretary*/Authorised Person*

* Delete whichever is not applicable

HOW DO YOU WANT YOUR PROXY TO VOTE?

You can direct your proxy how to vote at the Annual General Meeting. Your proxy can decide how to vote himself or herself on any business at the Annual General Meeting in relation to which you do not provide any direction how to vote.

Tick the appropriate box if you want to direct your proxy how to vote:

Item 2(a):	FOR	AGAINST	ABSTAIN
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Item 2(b):	FOR <input type="checkbox"/>	AGAINST <input type="checkbox"/>	ABSTAIN <input type="checkbox"/>
Item 3:	FOR <input type="checkbox"/>	AGAINST <input type="checkbox"/>	ABSTAIN <input type="checkbox"/>

If you mark the ABSTAIN box, you are directing your proxy not to vote at the Annual General Meeting and your vote will not be counted when calculating whether the required majority of members has passed the resolution.

E WHAT DO I DO NEXT?

Once you have completed this Appointment of Proxy you may give it to Warwick Credit Union Ltd by:

- hand-delivering it to our registered office at 101 Palmerin Street WARWICK QLD
- posting it to Warwick Credit Union Ltd at 101 Palmerin Street WARWICK QLD 4370

OR

- faxing it to Warwick Credit Union Ltd on fax number 07 4660 5052. If you will be faxing this Appointment of Proxy form back to us, please fax both pages and complete the following details (to assist us if the pages of your fax become separated):

Account in the Name(s) of:

Account Number

If your attorney signed this Appointment of Proxy, you must also send us the original or a certified copy of the Power of Attorney. If an authorised person signed this Appointment of Proxy for a body corporate member, the original or a certified copy of the authorisation must also be sent to us.

IMPORTANT

For your appointment to be valid this Appointment of Proxy must reach Warwick Credit Union Ltd by no later than <...time...> on <...date...>.

SCHEDULE 2

ELECTION OF DIRECTORS

1. Holding of Election

An election of Directors of the Credit Union is to be held by ballot except where the number of Candidates equal or are less than the number of positions to be filled. If a ballot is not held Directors shall be elected by separate resolution for each Candidate, in which case **clauses 7 to 12 of this Schedule 2** do not apply.

2. Appointment of Returning Officers

The Board must appoint a Returning Officer who may appoint assistant Returning Officers, none of whom can be a Director, or a person who intends to accept a nomination for the office of Director.

3. Electoral Roll

The Secretary must prepare and give the Returning Officer a list of members eligible to vote on the election of Directors, made up to the day before nominations for the election close under **clause 4 of this schedule 2**.

4. Nominations

(1) The Board must call for nominations at least 56 days prior to the annual general meeting. The Board may give this notice, in addition to any of the methods allowed in **clause 64**, by advertisement:

(a) at the Company's offices; or

(b) in newspapers.

(2) The date nominations close:

(a) is determined by the Board;

(b) must be no earlier than 21 days after notice is given under paragraph (1); and

(c) must be specified in the notice given under paragraph (1).

(3) In order to be nominated, a person must:

(a) be eligible for election under **clause 39.1**;

(b) be nominated by two members; and

- (c) consent to the nomination.
- (4) A retiring Director may stand for re-election without nomination but must be eligible for election under **clause 39**.

5. Declaration by Nominee

A person nominated under **clause 4(3) of this schedule 2** must furnish to the Credit Union a declaration in such form as the Board may require:

- (a) as to his or her eligibility for election under **clause 39.1**; and
- (b) as to whether he or she:
 - (i) has any interest in a contract or a 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 interest as a Director of the Company.

6. Assessment of Fitness and Propriety

- (1) The nominated person or Director seeking re-election must:
 - (a) provide the Company with all information, documentation, and consents the Company reasonably requests to determine if the person is disqualified by law from acting as a Director;
 - (b) provide the Director Nominations Committee with all information, documentation, and consents that the Director Nominations Committee reasonably requests to determine if the person is of appropriate fitness and propriety to be and act as a Director by reference to the Board's Fit and Proper Policy.
- (2) A nominated person or Director seeking re-election becomes a Candidate if and when the Director Nominations Committee:
 - (a) has assessed the person's fitness and propriety to be and act as a Director by reference to the Board's Fit and Proper Policy; and
 - (b) has determined that there is no material reason to find that the person does not have the appropriate fitness and propriety to be and act as a Director by reference to the Board's Fit and Proper Policy.

7. Appointment of Scrutineer

- (1) A Candidate may appoint a scrutineer and the Board may appoint a maximum of three scrutineers, none of whom is a Candidate.
- (2) The duties and responsibilities of scrutineers are to:
 - (a) observe the sorting, counting and recording of ballot papers;
 - (b) ensure that the votes of unrejected ballot papers are correctly credited to the appropriate candidates; and
 - (c) raise any query with the Returning Officer regarding any of the ballot papers.

8. Ballot Papers

- (1) After nominations have closed under **clause 4 of this schedule 2**, the Returning Officer is to prepare ballot papers for the election.
- (2) The order in which the Candidates appear on the ballot paper is to be determined by the Returning Officer by lot.
- (3) The Returning Officer must cause some authenticating mark to appear on each ballot paper prior to their distribution to members.
- (4) On the issue of each ballot paper, the Returning Officer must mark the member's name off the roll of members.

9. Conduct of the Ballot

- (1) The ballot is to be conducted at the annual general meeting.
- (2) The Returning Officer is to provide secured ballot boxes which are to remain secured until the closure of the ballot.

10. Closure of the Ballot

The ballot closes at a time specified by the Returning Officer.

11. Procedures After Close of the Ballot

- (1) Immediately after the close of the ballot, the Returning Officer must deal with the ballots as follows:
 - (a) cause the ballot papers to be scrutinised under his supervision and reject such ballot papers as he finds to be informal;
 - (b) count the votes in accordance with **clause 12 of this schedule 2**;
 - (c) prepare and sign a declaration of the ballot as to:
 - (1) the number of ballot papers lodged;

- (2) the number of formal votes;
 - (3) the number of informal votes
 - (4) the number of votes cast for each candidate; and
 - (5) the names of those persons elected.
- (d) deliver the statement to the Chairperson of the meeting.
- (2) A ballot paper is informal if:
- (a) is not authenticated by the authenticating mark of the Returning Officer; or
 - (b) it has no vote indicated on it or it does not indicate the member's preference for a Candidate.
- (3) The Returning Officer must preserve the ballot papers for a period of at least three months after the declaration of the ballot.
- (4) No election shall be voided on account of any error or omission of the Returning Officer which did not affect the results of the election.

12. Voting System

- (1) On any ballot, the persons receiving the highest number of votes in accordance with the numbers of vacancies to be filled are elected Directors.
- (2) In the case of an equality of votes, the person to be elected must be decided by lot.

SCHEDULE 3

DIRECTOR NOMINATIONS COMMITTEE

S3-1 Appointment of Director Nominations Committee

When the Company calls for nominations for election of Directors, the Board must appoint all Directors, other than Directors standing for election, to form the Director Nominations Committee.

S3-2 Role of Committee

The Director Nominations Committee must assess all persons, including existing Directors, prior to appointment or election as director under **clause 40**, as to their fitness and propriety to be and act as a Director, by reference to the Board's Fit and Proper Policy.

S3-3 Duty of Confidentiality

Each Director must keep confidential any assessment of any other Director, or person seeking appointment as Director; during and after their term of office, except to the extent where disclosure is required by law, for example, to the Australian Prudential Regulation Authority.

SCHEDULE 4

DEMUTUALISATION APPROVAL PROCEDURE RULE

Division 1 — Introduction

S4–1 When the Demutualisation Approval Procedure Rules Apply

(1) This Appendix applies in the following situations:

(1)	Modification or Repeal of Constitution	<p>the Company proposes to modify or repeal this Constitution where the effect of the modification or repeal is:</p> <ul style="list-style-type: none"> (a) to vary any of: <ul style="list-style-type: none"> (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 <i>Principles of Mutuality</i>; (b) to enable the Company to issue shares where: <ul style="list-style-type: none"> (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 <i>Principles of Mutuality</i> (whether or not any shares are so issued); (c) to vary any of the rights, obligations or restrictions attaching to Membership so that they are inconsistent with those set out in the <i>Principles of Mutuality</i>; (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 <i>Principles of Mutuality</i> (whether or not any Members are so admitted) (e) that the Company’s Constitution is otherwise inconsistent with the <i>Principles of Mutuality</i>.
(2)	Issue of Shares or Admission of Members	<p>the Company (whether acting through its Board, its Members or otherwise) proposes:</p> <ul style="list-style-type: none"> (a) to issue shares where: <ul style="list-style-type: none"> (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 <i>Principles of Mutuality</i>; (b) to issue <i>securities</i> which confer the right or obligation to subscribe for shares (whether on conversion of the <i>securities</i> or exercise of any option) where: <ul style="list-style-type: none"> (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 <i>Principles of Mutuality</i>; or (c) to admit Members with rights, obligations or restrictions attaching to Membership inconsistent with those set out in the <i>Principles of Mutuality</i>.

(3)	Restructure	<p>the Company (whether acting through its Board, its Members or otherwise) proposes to conduct a reduction of capital, scheme of arrangement, deed of arrangement, transfer of business, or any other form of corporate restructure, where after completion of the restructure:</p> <p>(a) the Company no longer complies with the <i>Principles of Mutuality</i>;</p> <p>(b) one person, other than a person entitled to use either the words ‘credit union’, ‘credit society’ or ‘credit co-operative’</p> <p>in their name, holds more than 90% of the shares in the Company other than shares fitting the description of ‘additional shares’ in the <i>Principles of Mutuality</i>;</p> <p>(c) a group of <i>associates</i>, other than a group all of the members of which are entitled to use either the words ‘credit union’, ‘credit society’ or ‘credit co-operative’ in their name, between them hold more than 90% of the shares in the Company other than shares fitting the description of ‘additional shares’ in the <i>Principles of Mutuality</i>;</p> <p>(d) a person not entitled to use either the words ‘credit union’, ‘credit society’ or ‘credit co-operative’ in their name 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;</p> <p>(e) a group of <i>associates</i>, other than a group all of the members of which are entitled to use either the words ‘credit union’, ‘credit society’ or ‘credit co-operative’ in their name, 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</p> <p>(f) the successor to the Company’s business is not entitled to use either the words ‘credit union’, ‘credit society’ or ‘credit co-operative’ in its name.</p>
(4)	Modification or Repeal of this Appendix	<p>the Company proposes to modify or repeal:</p> <p>(a) any of the Clauses in this Appendix;</p> <p>(b) any of the <i>Principles of Mutuality</i>; or</p> <p>(c) this Constitution where the effect of the modification or repeal is to modify, exclude or restrict the operation of the Clauses in this Appendix.</p>

- (2) This Appendix does not apply to proposed modifications or repeals set out in item (4) of the Table in Subclause S4-1(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 Clause S4-5 to Clause S4-8; 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 1 change, and 1 or more of the changes is within the scope of item (4) of the Table in Subclause S4-1(1) but not excluded by this Clause; or
 - (g) a proposed modification or repeal where some other Rule in this Constitution applies this Appendix to the modification or repeal.
- (3) This Appendix, other than Subclause S4-1(4), ceases to have effect immediately upon the following conditions both being met:
- (a) the Australian Securities and Investments Commission publishes a written notice that this Appendix ceases to have effect in relation to the Company; and
 - (b) the Australian Securities and Investments Commission delivers a copy of the written notice to the Company.

This Subclause is subject to any terms and conditions in the written notice.

- (4) If this Appendix ceases to have effect by reason of Subclause S4-1(3), it will again come into effect by Board resolution upon the Australian Securities and Investments Commission doing any of the following:
- (a) withdrawing the written notice referred to in Subclause S4-1(3)(a);
 - (b) making an order or exemption that permits the Company to adopt or recommence the operation of this Appendix or provisions to the effect of this Appendix; or
 - (c) otherwise permitting the Company to recommence the operation of this Appendix.

S4-2 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;
 - (ii) 2 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 securities;
 - (ii) 2 or more persons of a kind referred to in paragraphs (a), (b), (c), (d), (e) 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*

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

Principles of Mutuality refers to Principles 4 to 23 and 25 of the Principles of Mutuality in the Preamble to this Constitution to the extent that any of those Principles are not inconsistent with ASIC Policy Statement 147: Mutuality – Financial Institutions

proposed transaction means any of the modifications, repeals, issues, admissions, restructures or other transactions referred to in Subclause S4-1(1)

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

- (2) 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*.

S4-3 Demutualisation Approval Procedure

- (1) If this Appendix applies, the Company must comply with the procedure set out in Divisions 2 and 3 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 Subclause S4-1(1);
 - (b) issuing the *securities* or admitting the Members as set out in item (2) of the Table in Subclause S4-1(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 Subclause S4-1(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 Subclause S4-1(1):
 - (a) the resolution is of no effect until the procedure set out in Divisions 2 and 3 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 Clause S4-5.

- (3) The procedures in this Appendix apply in addition to any requirements specified in the *Corporations Act* or 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 Subclause S4-3(4)(b) applies, Members in general meeting may resolve that:
 - (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 associated with disclosure and conduct of the postal ballot they incur.

S4-4 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 Divisions 2 and 3; and
 - (b) if the Company has only one class of Members:
 - (i) not less than 25% of the members who are entitled to vote have voted at the postal ballot conducted under Division 3; 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 who are entitled to vote have voted at the postal ballot conducted under Division 3; and
 - (ii) not less than 75% of the members who have voted in each class approved of the proposed transaction.

- (2) Members who are minors are not entitled to vote in the postal ballot conducted under Division 3.

Division 2 — Disclosure

S4-5 Disclosure Documents Sent With Ballot Paper

The Company must send the following documents with the ballot paper that it must send each Member under Clause S4-15:

- (a) a disclosure statement as described in Clause S4-6;
- (b) a Director's statement from each Director as described in Clause S4-7;
and
- (c) an *independent expert's* report, commissioned by the Company, as described in Clause S4-8.

S4-6 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 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-arms 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; and
 - (iii) changes to benefits, products and services;
 - (iv) the future employment of the present employees of the Company;
 - (h) whether the Company's financial position has changed materially since the last balance sheet put before Members at the last AGM;
 - (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 Subclause S4-1(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 Subclause S4-1(1), then the disclosure statement must disclose the matters set out in Subclause S4-6(1) and Subclause S4-6(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 Subclause S4-1(1) of which the person is aware (to the extent that the person is aware of the matters relating to those transactions).

S4-7 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 pay, 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*.

S4-8 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 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 1 *independent expert's* report, all of the reports must be sent to each Member.

Division 3 — Postal Ballot

S4-9 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 1 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 Division 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.

S4-10 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 who are entitled to vote and the number of shares each Member holds; and
- (b) if the shares are divided into different classes — the Members who are entitled to vote who hold shares in each class and the number of shares of each class each Member holds.

S4-11 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 jurisdictions 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.

S4-12 Postponement of Closing Date

- (1) The returning officer may postpone (for not more than 7 days on any 1 occasion) the date for the close of the ballot by notice published in a newspaper circulating generally throughout all jurisdictions in which the Company has Members.
- (2) The returning officer may exercise the power conferred by this Clause more than once in respect of a ballot.

S4-13 Printing of Ballot Papers

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

S4-14 Postal Voting Procedures

- (1) Postal voting will be conducted according to procedure 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, scrutinising and counting ballot papers are efficient; and
 - (f) the conduct and functions of scrutineers.
- (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

S4-15 Distribution of Ballot Papers

Not less than 28 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 that bears the initials of the returning officer or a deputy returning officer;
- (b) any other documents as required by the postal voting procedure.

S4-16 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.

S4-17 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 Clause; 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.

S4–18 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.

S4–19 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.

S4–20 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 entitled to vote 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:
 - (iii) the number and percentage of members in each class entitled to vote who voted in the postal ballot; and
 - (iv) the number and percentage of votes in each class in favour of the proposed transaction.