



# Territory Resources Limited

23 Ventnor Avenue,  
West Perth WA 6005  
Telephone: +61 8 9483 5100  
Facsimile : +61 8 9483 5111

9 September 2010

Manager Announcements  
Company Announcements Office  
ASX Limited  
Level 4  
20 Bridge Street  
SYDNEY NSW 2000

Dear Sir/Madam

## **Notice of General Meeting**

Attached is a copy of the Notice of General Meeting to be held on 13 October 2010 and a copy of the Annual Report election letter that will be dispatched to shareholders today.

Yours sincerely

**Patrick McCole**  
Company Secretary



**An Australian Resources Group**

Post Office Box 158, West Perth, Western Australia 6872  
admin@territoryresources.com.au www.territoryresources.com.au  
A.B.N. 53 100 552 118

**FOR ALL ENQUIRIES CALL:**  
(within Australia) 1300 850 505  
(outside Australia) +61 3 9415 4000

**ALL CORRESPONDENCE TO:**  
Computershare Investor Services Pty Limited  
GPO Box 2975 Melbourne  
Victoria 3001 Australia  
Facsimile +61 3 9473 2500

000001 000 TTY  
MR SAM SAMPLE  
FLAT 123  
123 SAMPLE STREET  
THE SAMPLE HILL  
SAMPLE ESTATE  
SAMPLEVILLE VIC 3030

## IMPORTANT NOTICE

The default option for receiving your annual report has changed from a printed copy to be via our website. You have the choice of receiving notification about accessing your annual report online or continuing to receive a printed annual report.

**MAKE YOUR SELECTION ON THE BACK OF THIS FORM**

**YOUR  
ANNUAL  
REPORT**




**YOUR  
CHOICE**

Dear valued securityholder

### LEGISLATION CHANGE - WHAT THIS MEANS FOR YOU

The Australian Government introduced legislation allowing the default option for receiving annual reports to be via a company's website. You will now receive timely, cost effective and greener online annual reports unless you request a printed copy. You can choose to be notified by email when the annual report becomes available on our website at [www.territoryresources.com.au](http://www.territoryresources.com.au) - otherwise this information will be provided in your AGM mail pack. All other securityholder communications will continue to be sent to you by post.

### WHAT ARE YOUR OPTIONS?

- OPTION 1**  Elect to receive email notification when your annual report and other securityholder communications become available online.
- OPTION 2**  Elect to continue receiving, free of charge, a printed copy of the annual report.
-  If you take no action, information on accessing your online annual report will be provided in your AGM mail pack.

If you have any questions about this form please contact an investor services representative on 1300 850 505.

Yours sincerely

**Patrick McCole**  
Company Secretary



# TERRITORY RESOURCES LTD

ABN 53 100 552 118

## NOTICE OF GENERAL MEETING AND EXPLANATORY MEMORANDUM TO SHAREHOLDERS

**Date of Meeting**

Wednesday 13 October 2010

**Time of Meeting**

3.00pm WST

**Place of Meeting**

The Celtic Club

48 Ord Street

West Perth WA 6005

**A Proxy Form is enclosed**

Please read this Notice and Explanatory Memorandum carefully.

If you are unable to attend the Meeting please complete and return the enclosed Proxy Form in accordance with the specified directions.

# TERRITORY RESOURCES LTD

ABN 53 100 552 118

## NOTICE OF MEETING

Notice is hereby given that a General Meeting of shareholders of Territory Resources Ltd ABN 53 100 552 118 ("Company") will be held at The Celtic Club, 48 Ord Street, West Perth, Western Australia on Wednesday 13 October 2010 at 3.00pm WST for the purpose of transacting the following business referred to in this Notice of Meeting.

## AGENDA

### ITEMS OF BUSINESS

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**1. Resolution 1 – Adoption of Constitution**

To consider and, if thought fit, to pass the following resolution as a **special resolution**:

*"That, pursuant to section 136 of the Corporations Act, the Constitution contained in the document submitted to this meeting and signed by the Chairman for identification purposes be approved and adopted as the Constitution of the Company in substitution for the existing Constitution of the Company with effect from the end of the meeting."*

**2. Resolution 2 – Approval of Issue of Securities under Performance Rights Plan**

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

*"That for the purposes of Listing Rule 7.2 Exception 9(b) of the Listing Rules and for all other purposes, the Company approves the future grant of Performance Rights and the issue of Shares under the Performance Rights Plan to Eligible Persons, the rules of which are set out in Annexure B to the Explanatory Memorandum accompanying this Notice."*

The Company will disregard any votes cast on Resolution 2 by a Director and any associate of a Director. However, the Company need not disregard a vote if: (a) it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; and (b) it is not cast on behalf of a Director or an associate of a Director.
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**3. Resolution 3 – Grant of Performance Rights to Andrew Haslam**

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*"That, subject to the passing of Resolution 2, pursuant to and in accordance Listing Rule 10.14 and for all other purposes, the Directors be and are hereby authorised to grant up to 1,850,000 Performance Rights under the Performance Rights Plan for no consideration, to Andrew Haslam or his nominee, on the terms and conditions set out in the Explanatory Memorandum."*

The Company will disregard any votes cast on Resolution 3 by a Director and any associate of a Director. However, the Company need not disregard a vote if: (a) it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; and (b) it is not cast on behalf of a Director or an associate of a Director.
--

**4. Resolution 4 – Grant of Performance Rights in Lieu of Cash Fees to Andrew Simpson**

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*"That, subject to the passing of Resolution 2, for the purposes of Listing Rule 10.14 and for all other purposes, the Directors be and are hereby authorised to grant Performance Rights in lieu of cash fees to a maximum value of \$50,000 per year for the next 3 years under the Performance Rights Plan for no consideration, to Andrew Simpson or his nominee, on the terms and conditions set out in the Explanatory Memorandum."*

The Company will disregard any votes cast on Resolution 4 by a Director and any associate of a Director. However, the Company need not disregard a vote if:  
(a) it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; and  
(b) it is not cast on behalf of a Director or an associate of a Director.

**5. Resolution 5 – Grant of Performance Rights in Lieu of Cash Fees to Giuseppe Ariti**

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*"That, subject to the passing of Resolution 2, for the purposes of Listing Rule 10.14 and for all other purposes, the Directors be and are hereby authorised to grant Performance Rights in lieu of cash fees to a maximum value of \$25,000 per year for the next 3 years under the Performance Rights Plan for no consideration, to Giuseppe Ariti or his nominee, on the terms and conditions set out in the Explanatory Memorandum."*

The Company will disregard any votes cast on Resolution 5 by a Director and any associate of a Director. However, the Company need not disregard a vote if:  
(a) it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; and  
(b) it is not cast on behalf of a Director or an associate of a Director.

**6. Resolution 6 – Grant of Performance Rights in Lieu of Cash Fees to Michael Donaldson**

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*"That, subject to the passing of Resolution 2, for the purposes of Listing Rule 10.14 and for all other purposes, the Directors be and are hereby authorised to grant Performance Rights in lieu of cash fees to a maximum value of \$25,000 per year for the next 3 years under the Performance Rights Plan for no consideration, to Michael Donaldson or his nominee, on the terms and conditions set out in the Explanatory Memorandum."*

The Company will disregard any votes cast on Resolution 6 by a Director and any associate of a Director. However, the Company need not disregard a vote if:  
(a) it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; and  
(b) it is not cast on behalf of a Director or an associate of a Director.

**7. Resolution 7 – Grant of Performance Rights in Lieu of Cash Fees to Fiona Harris**

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*"That, subject to the passing of Resolution 2, for the purposes of Listing Rule 10.14 and for all other purposes, the Directors be and are hereby authorised to grant Performance Rights in lieu of cash fees to a maximum value of \$25,000 per year for the next 3 years under the Performance Rights Plan for no consideration, to Fiona Harris or her nominee, on the terms and conditions set out in the Explanatory Memorandum."*

The Company will disregard any votes cast on Resolution 7 by a Director and any associate of a Director. However, the Company need not disregard a vote if:  
(a) it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; and  
(b) it is not cast on behalf of a Director or an associate of a Director.

## 8. Resolution 8 – Grant of Performance Rights in Lieu of Cash Fees to Ian McCubbing

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*"That, subject to the passing of Resolution 2, for the purposes of Listing Rule 10.14 and for all other purposes, the Directors be and are hereby authorised to grant Performance Rights in lieu of cash fees to a maximum value of \$25,000 per year for the next 3 years under the Performance Rights Plan for no consideration, to Ian McCubbing or his nominee, on the terms and conditions set out in the Explanatory Memorandum."*

The Company will disregard any votes cast on Resolution 8 by a Director and any associate of a Director. However, the Company need not disregard a vote if:

- (a) it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on the proposed resolution; and
- (b) it is not cast on behalf of a Director or an associate of a Director.

## **OTHER BUSINESS**

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To deal with any other business which may be brought forward in accordance with the Constitution and the Corporations Act.

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For the purposes of this Notice, the Explanatory Memorandum and Resolutions 1 to 8, the following definitions apply:

"**ASX**" means ASX Limited ABN 98 008 624 691 and, where the context permits, the Australian Securities Exchange operated by ASX Limited;

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

"**Company**" means Territory Resources Limited ABN 53 100 552 118;

"**Constitution**" means the Company's constitution, as amended from time to time;

"**Corporations Act**" means *Corporations Act 2001* (Cth);

"**Directors**" means the Directors of the Company;

"**Eligible Person**" means a Director or a full-time or permanent part-time employee of the Company or a subsidiary of the Company whom the Board determines in its absolute discretion is to participate in the PRP;

"**Explanatory Memorandum**" means the explanatory memorandum accompanying this Notice;

"**Listing Rules**" means the Listing Rules of the ASX;

"**Meeting**" means the general meeting the subject of the Notice.

"**Notice**" means this Notice of Meeting;

"**Option**" means an option to acquire a Share;

"**Performance Conditions**" means conditions relating to the performance of the Company and subsidiaries of the Company for the purpose of determining the number of Performance Rights that will become vested (resulting in the issue of Shares);

**"Performance Period"** means the period set out in the offer for the purpose of determining the extent (if any) to which the Performance Conditions have been met;

**"Performance Right"** means a right granted under the PRP to acquire Shares on terms, and subject to conditions, set out in the PRP;

**"PRP"** or **"Performance Rights Plan"** means the performance rights plan titled "Territory Resources Limited Performance Rights Plan" the subject of Resolution 2, a copy of which is attached at Annexure B;

**"Resolution"** means a resolution contained in this Notice;

**"Shares"** means fully paid ordinary shares in the capital of the Company;

**"Trading Day"** has the meaning in the Listing Rules; and

**"VWAP"** means volume weighted average price.

**By order of the Board**

**Patrick McCole**  
Company Secretary  
Dated: 30 August 2010

## **How to vote**

Shareholders can vote by either:

- attending the meeting and voting in person or by attorney or, in the case of corporate shareholders, by appointing a corporate representative to attend and vote; or
- appointing a proxy to attend and vote on their behalf using the proxy form accompanying this Notice of Meeting and by submitting their proxy appointment and voting instructions in person, by post or by facsimile.

## **Voting in person (or by attorney)**

Shareholders, or their attorneys, who plan to attend the meeting are asked to arrive at the venue 15 minutes prior to the time designated for the meeting, if possible, so that their holding may be checked against the Company's share register and attendance recorded. Attorneys should bring with them an original or certified copy of the power of attorney under which they have been authorised to attend and vote at the meeting.

## **Voting by a Corporation**

A shareholder that is a corporation may appoint an individual to act as its representative and vote in person at the meeting. The appointment must comply with the requirements of section 250D of the Corporations Act. The representative should bring to the meeting evidence of his or her appointment, including any authority under which it is signed.

## **Voting by proxy**

- A shareholder entitled to attend and vote is entitled to appoint not more than two proxies. Each proxy will have the right to vote on a poll and also to speak at the meeting.
- The appointment of the proxy may specify the proportion or the number of votes that the proxy may exercise. Where more than one proxy is appointed and the appointment does not specify the proportion or number of the shareholder's votes each proxy may exercise, the votes will be divided equally among the proxies (i.e. where there are two proxies, each proxy may exercise half of the votes).
- A proxy need not be a shareholder.
- The proxy can be either an individual or a body corporate.
- If a proxy is not directed how to vote on an item of business, the proxy may vote, or abstain from voting, as they think fit.
- Should any resolution, other than those specified in this Notice, be proposed at the meeting, a proxy may vote on that resolution as they think fit.
- If a proxy is instructed to abstain from voting on an item of business, they are directed not to vote on the shareholder's behalf on the poll and the shares that are the subject of the proxy appointment will not be counted in calculating the required majority.
- Shareholders who return their proxy forms with a direction how to vote but do not nominate the identity of their proxy will be taken to have appointed the Chairman of the meeting as their proxy to vote on their behalf. If a proxy form is returned but the nominated proxy does not attend the meeting, the Chairman of the meeting will act in place of the nominated proxy and vote in accordance with any instructions. Proxy appointments in favour of the Chairman of the meeting, the secretary or any Director that do not contain a direction how to vote will be used where possible to support each of the resolutions proposed in this Notice.
- To be effective, proxies must be lodged by 3.00pm (Perth time) on Monday 11 October 2010. Proxies lodged after this time will be invalid.
- Proxies may be lodged using any of the following methods:
  - by returning a completed proxy form in person or by post to:  
Territory Resources Ltd  
Ground Floor  
23 Ventnor Avenue  
West Perth, Western Australia 6005
  - or
  - by faxing a completed proxy form to +61 8 9483 5111.

The proxy form must be signed by the shareholder or the shareholder's attorney. Proxies given by corporations must be executed in accordance with the Corporations Act. Where the appointment of a proxy is signed by the appointer's attorney, a certified copy of the power of attorney, or the power itself, must be received by the Company at the above address, or by facsimile, and by 3.00pm (Perth time) on Monday 11 October 2010. If facsimile transmission is used, the power of attorney must be certified.

**Shareholders who are entitled to vote**

In accordance with Regulations 7.11.37 and 7.11.38 of the Corporations Regulations 2001, the Board has determined that a person's entitlement to vote at the Meeting will be the entitlement of that person set out in the Register of Shareholders as at 5.00pm (WST) on Monday 11 October 2010.

**PROXY FORM**  
**TERRITORY RESOURCES LTD**  
 ABN 53 100 552 118

**Appointment of Proxy**

If appointing a proxy to attend the Meeting on your behalf, please complete the form and submit it in accordance with the directions on the reverse of the page.

I/We \_\_\_\_\_  
 of address \_\_\_\_\_

being a Shareholder of Territory Resources Limited entitled to attend and vote at the General Meeting, hereby appoint

The Chairman of the Meeting (mark with an "X") **OR** \_\_\_\_\_  
 Write here the name of the person you are appointing if this person is someone other than the Chairman of the Meeting.

\_\_\_\_\_   
 Write here the name of the person you are appointing as a second proxy (if any).

or failing him/her, (if no proxy is specified above), the Chairman of the meeting, as my/our proxy to vote for me/us and on my/our behalf at the General Meeting to be held at The Celtic Club, 48 Ord Street, West Perth, Western Australia and at any adjournment of that meeting.

This proxy is to be used in respect of \_\_\_\_\_% of the ordinary shares I/we hold.

If the Chair of the meeting is appointed as your proxy, or may be appointed by default and you do not wish to direct your proxy how to vote as your proxy in respect of a resolution, please place a mark in the box. By marking this box, you acknowledge that the Chair of the meeting may exercise your proxy even if he has an interest in the outcome of Resolution 4 and votes cast by the Chair of the meeting for those resolutions other than as proxy holder will be disregarded because of that interest. If you do not mark this box, and you have not directed your proxy how to vote, then if the Chair has an interest in the resolution other than as member, the Chair will not cast your votes on the resolution and your votes will not be counted in calculating the required majority if a poll is called on the resolution. The Chair intends to vote 100% of all open proxies in favour of each resolution.

**Voting directions to your proxy – please mark  to indicate your directions**

<b>RESOLUTION</b>	<b>For</b>	<b>Against</b>	<b>Abstain *</b>
1. Adoption of Constitution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Approval of Issue of Securities under Performance Rights Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Grant of Performance Rights to Andrew Haslam	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Grant of Performance Rights in Lieu of Cash Fees to Andrew Simpson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Grant of Performance Rights in Lieu of Cash Fees to Giuseppe Ariti	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Grant of Performance Rights in Lieu of Cash Fees to Michael Donaldson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Grant of Performance Rights in Lieu of Cash Fees to Fiona Harris	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Grant of Performance Rights in Lieu of Cash Fees to Ian McCubbing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

**PLEASE SIGN HERE**

This section *must* be signed in accordance with the instructions overleaf to enable your directions to be implemented. Executed in accordance with section 127 of the Corporations Act:

<b>Individual or Shareholder 1</b>	<b>Joint Shareholder 2</b>	<b>Joint Shareholder 3</b>
<b>Sole Director &amp; Sole Company Secretary</b>	<b>Director</b>	<b>Director/ Company Secretary</b>

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2010

\_\_\_\_\_  
 Contact Name Contact Business Telephone / Mobile

## INSTRUCTIONS FOR COMPLETING PROXY FORM

1. Completion of a proxy form will not prevent individual shareholders from attending the Meeting in person if they wish. Where a shareholder completes and lodges a valid proxy form and attends the Meeting in person, then the proxy's authority to speak and vote for that shareholder is suspended while the shareholder is present at the Meeting.
2. A shareholder of the Company entitled to attend and vote is entitled to appoint not more than two proxies. Where more than one proxy is appointed, each proxy must be appointed to represent a specified proportion of the shareholder's voting rights. If the shareholder appoints two proxies and the appointment does not specify this proportion, each proxy may exercise half of the votes.
3. A proxy need not be a shareholder of the Company.
4. If you mark the abstain box for a particular item, you are directing your proxy not to vote on that item on a show of hands or on a poll and that your shares are not to be counted in computing the required majority on a poll.
5. Should any resolution, other than those specified in this Notice, be proposed at the meeting, a proxy may vote on that resolution as they think fit.
6. If a representative of a company shareholder is to attend the Meeting, a properly executed original (or certified copy) of evidence of appointment. The appointment must comply with section 250D of the Corporations Act. The representative should bring to the meeting evidence of his or her appointment to including any authority under which it is signed.
7. If a representative as power of attorney of a shareholder is to attend the meeting, a properly executed original (or certified copy) of the appropriate power of attorney under which they have been authorised should be produced for admission to the Meeting.

### 8. **Signing Instructions**

You must sign this form as follows in the spaces provided:

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

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

**Power of Attorney:** If you are signing under a Power of Attorney, you must lodge an original or certified photocopy of the appropriate Power of Attorney with your completed Proxy Form.

**Companies:** Where the company has a Sole Director who is also the Sole Company Secretary this form must be signed by that person.

If the company (pursuant to section 204A of the Corporations Act 2001) does not have a Company Secretary, a Sole Director can also sign alone.

Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please indicate the office held by signing in the appropriate place.

### 9. **Lodgement of a Proxy**

This Proxy Form (and any power of attorney under which it is signed) must be received at the address below not later than 3.00pm WST on Monday 11 October 2010 48 hours before the commencement of the Meeting). Any Proxy Form received after that time will not be valid for the scheduled Meeting.

**Hand deliveries:** Territory Resources Ltd, Ground Floor, 23 Ventnor Avenue, West Perth, Western Australia 6005

**Postal address:** Territory Resources Ltd, Ground Floor, 23 Ventnor Avenue, West Perth, Western Australia 6005

**Fax number:** +61 8 9483 5111

# TERRITORY RESOURCES LTD

ABN 53 100 552 118

## EXPLANATORY MEMORANDUM

This Explanatory Memorandum is intended to provide shareholders with sufficient information to assess the merits of the Resolutions contained in the accompanying Notice of Meeting.

### RESOLUTION 1 - ADOPTION OF CONSTITUTION

Resolution 1 asks members to approve a special resolution adopting a new Constitution in substitution for the existing Constitution of the Company. The Company's present Constitution was first adopted on 11 November 2004. A special resolution requires the votes of 75% of members entitled to vote on the resolution in order to be passed.

#### Principal Amendment

On 28 June 2010, *The Corporations Amendment (Corporations Reporting Reform) Act* received Royal Assent which amends provisions within the Corporations Act dealing with the payment of dividends. The new section 254T of the Corporations Act introduces a new test which enhances the flexibility in paying a dividend as, under the provisions, dividends can now be paid other than out of profits. The section provides that a company may not pay a dividend unless:

- the company's assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the payment of the dividend;
- the payment of the dividend is fair and reasonable to the company's shareholders as a whole; and
- the payment of the dividend does not materially prejudice the company's ability to pay its creditors.

Therefore a company that has a profit but which has a deficiency in net assets will no longer be able to declare a dividend to its shareholders.

The proposed amendments to the Constitution remove rules which restrict payments of dividends only from profits and permit Directors to determine the time and amount of a dividend.

#### Other Minor Amendments

As the Company is proposing to amend its Constitution by Resolution 1 in order to accommodate the recent change in the law regarding the payment of dividends, the Directors believed it was an opportune time to tidy up some minor outdated aspects of the Constitution.

The minor amendments to the Constitution are proposed to deal with the following matters:

- the change of the Company's name from "Territory Iron Limited" to "Territory Resources Limited";
- the change from "Australian Stock Exchange" to "Australian Securities Exchange";
- the change from the "SCH Business Rules", and associated references, to the "ASTC Settlement Rules"; and
- minor typographical errors.

## **General**

The new Constitution complies with the Listing Rules and the Corporations Act and is consistent with constitutions for publicly listed companies in Australia.

Copies of the current and proposed Constitution are available for perusal by shareholders at the Company's registered office or via the internet at <http://www.territoryresources.com.au>.

A copy of the changes to the current Constitution is attached as Annexure A.

The Directors unanimously recommend that shareholders vote to approve Resolution 1 and adopt the proposed new Constitution for the Company.

## **RESOLUTION 2 - APPROVAL OF SECURITIES UNDER PERFORMANCE RIGHTS PLAN**

### **Introduction**

The PRP was designed and drafted during 2009 and was adopted by the Board on 28 April 2010. The PRP is an incentive plan which is designed to increase the motivation of staff and create a stronger link between increasing shareholder value and employee reward.

The Company wishes to exempt issues of securities under the PRP from contributing towards the rolling annual limit of 15% of issued ordinary shares prescribed by Listing Rule 7.1. This limit otherwise applies to all new issues of equity securities made without shareholder approval. Shareholder approval of the PRP is sought under Listing Rule 7.2 Exception 9(b) whereby shareholders may approve in advance the issue of securities made under an employee incentive scheme as an exception to the limit under Listing Rule 7.1.

1,485,142 Performance Rights (not including the proposed grant of Performance Rights to Mr Haslam set out in Resolution 3) have been issued under the PRP pursuant to the Company's 15% placement capacity in Listing Rule 7.1. The PRP has not previously been approved by shareholders. A copy of the rules of the PRP is attached as Annexure B.

### **Reasons for the PRP**

To achieve its corporate objectives, the Company needs to attract and retain its key staff.

Your Board believes that grants made to Eligible Persons under the PRP will provide a powerful tool to underpin the Company's employment strategy, and that the implementation of the PRP will:

- (a) enable the Company to recruit and retain the talented people needed to achieve the Company's business objectives;
- (b) link the reward of key staff with the achievements of strategic goals and the long term performance of the Company;
- (c) align the financial interest of participants of the PRP with those of shareholders of the Company; and
- (d) provide incentives to participants of the PRP to focus on superior performance that creates shareholder value.

## **Outline of the PRP**

### ***Participation***

The Board may from time to time in its absolute discretion issue invitations to Eligible Persons to participate in the PRP. However, it is the current intention of the Board that the PRP will only be offered to senior employees of the Company who are able to influence the achievement of the strategic objectives.

### ***Offers to participate***

An offer ("**Offer**") to Eligible Persons to participate in the PRP must set out:

- (a) the date of the Offer;
- (b) the name of the Eligible Person to whom the Offer is made;
- (c) the number of Performance Rights which are capable of vesting (resulting in the issue of Shares) if specific Performance Conditions are met;
- (d) the Performance Conditions and Performance Period in relation to the Performance Rights;
- (e) the approximate date or dates on which the Performance Conditions are to be measured (in respect of the Performance Rights) in order to determine whether the Eligible Person will be issued with Shares;
- (f) the expiry date; and
- (g) the time period in which the Eligible Person may accept the Offer.

### ***Rules of the PRP***

Under the PRP, Performance Rights may be offered to Eligible Persons as determined by the Board. The vesting of Performance Rights will be subject to certain criteria. Upon vesting of the Performance Rights, Shares will automatically be issued to the participant, unless the Company is in a "Blackout Period" (as defined in the Company's Share Trading Policy) or the Company determines in good faith that the issue of Shares at that time may breach the insider trading provisions of the Corporations Act, in which case the Company will issue the Shares as soon as reasonably practical thereafter. A copy of the rules of the PRP is annexed as Annexure B to this Explanatory Memorandum.

The following is a summary of the key terms of the PRP:

- (a) **Participation:** The Board retains complete discretion to make offers of Performance Rights to any Eligible Person;
- (b) **No Assignment:** Except on the death of a Participant, Performance Rights may not be transferred, assigned or novated except with the approval of the Board. Offers of Performance Rights under the PRP to Eligible Persons are personal offers and are not capable of being assigned;
- (c) **Vesting:** Performance Rights may vest in the following ways:
  - i) if the applicable Performance Conditions in relation to a Performance Period are met as at the relevant test date as set out in the Offer, the Board will determine the number of Performance Rights which will become vested Performance Rights;
  - ii) if the Eligible Person ceases to be an Eligible Person because of retirement, total or permanent disability, redundancy or death, the Board may determine the extent to which Performance Rights become vested Performance Rights; and

- iii) in the event a takeover bid for the Company is declared unconditional, there is a change in control in the Company, or if a merger by way of scheme of arrangement has been approved by a court, than the Board will determine an alternate test date to determine whether the Performance Conditions as set out in the Offer have been met and the extent to which Performance Rights will vest;
- (d) **Automatic Issue of Shares:** As noted above, upon vesting of Performance Rights, Shares will automatically be issued to the participant, unless the Company is in a "Blackout Period" (as defined in the Company's Share Trading Policy) or the Company determines in good faith that the issue of Shares at that time may breach the insider trading provisions of the Corporations Act, in which case the Company will issue the Shares as soon as reasonably practical thereafter;
- (e) **Lapse:** Offers of Performance Rights under the PRP will be open for the period and as otherwise specified in the Offer. If an application for Performance Rights is not returned within the time specified or otherwise in accordance with the requirements set out in the Offer, the Board may nevertheless in its sole discretion treat any application received from an Eligible Person (or their nominee) as being validly returned;
- (f) **Issue Limitations:** The Board is not entitled to make an Offer to an Eligible Person if offers of Performance Rights (or other securities of the Company) under the PRP or under similar plans (excluding offers that do not require the use of a disclosure document) in the previous 5 years would exceed 5% of the issued capital of the Company;
- (g) **Nature of Performance Rights:** A Performance Right is a right to receive a Share on the terms set out in the PRP for the relevant Performance Period subject to satisfaction of the applicable Performance Conditions. The Performance Conditions applicable to any Performance Period relating to Performance Rights shall be as set out in the Offer, including the measurement date, and may be as determined by the Board in its absolute discretion from time to time; and;
- (h) **Amendment of PRP:** The Board retains the discretion to amend the rules of the PRP or to suspend or terminate it at any time.

### **RESOLUTION 3 - GRANT OF PERFORMANCE RIGHTS TO ANDREW HASLAM**

The Company proposes to issue up to a total of 1,850,000 Performance Rights to Andrew Haslam pursuant to the PRP as described above. Mr Haslam faces considerable ongoing responsibilities and challenges in his role within the Company as its Managing Director. The grant of these Performance Rights will provide a long term incentive for outstanding performance and will promote his opportunity for share ownership in the Company.

The initial issue of Performance Rights will occur as soon as practicable following the Meeting. In future years, the issue of Performance Rights will occur on or about 1 July of each year.

#### **Overview of Grant of Performance Rights**

It is proposed that Mr Haslam be granted Performance Rights equivalent in value to up to 25% of his total fixed annual remuneration ("TFR") as at 1 July 2009 ("**Year 1 Performance Rights**"), 1 July 2010 ("**Year 2 Performance Rights**") and 1 July 2011 ("**Year 3 Performance Rights**"). The number of Year 1 Performance Rights will be determined by dividing 25% of Mr Haslam's TFR as at 1 July 2009 (being \$493,193) by the average closing price of Shares, as quoted on ASX, over the last twenty Trading Days preceding 1 July 2009 (being \$0.22 on 1 July 2009). This results in the proposed grant of 560,447 Year 1 Performance Rights for the first year of the three year approval.

The number of Year 2 Performance Rights will be determined by dividing 25% of Mr Haslam's TFR as at 1 July 2010 (being \$493,193) by the average closing price of Shares, as quoted on ASX, over the twenty Trading Days preceding 1 July 2010 (being \$0.1905 on 1 July 2010). This results in the proposed grant of 647,234 Year 2 Performance Rights for the second year of the three year approval.

In Year 3, the number of Performance Rights will be calculated by dividing up to 25% (as determined by the Board) of Mr Haslam's TFR as at 1 July 2011 by the closing VWAP of Shares, as quoted on ASX, over the 20 Trading Days prior to that date.

Subject to satisfaction of the performance conditions, the earliest date upon which the Year 1 Performance Rights can vest is 30 June 2012 ("**Measurement Date**"), the earliest date upon which the Year 2 Performance Rights can vest is 30 June 2013 and the earliest date that the Year 3 Performance Rights can vest is 30 June 2014.

The Performance Rights will vest only if the applicable performance conditions outlined below are satisfied. Subject to achievement of the conditions, one Share will be issued for each Performance Right that has vested.

### **Performance Conditions**

The Year 1 and Year 2 Performance Rights will vest and convert into Shares on the relevant Measurement Date if the performance conditions are achieved. The Year 1 Performance Rights were granted with an effective date of 1 July 2009 as the period from which the performance criteria will be assessed, and the Year 2 Performance Rights were granted with an effective date of 1 July 2010.

In order for the Performance Rights to vest, Mr Haslam will need to still be the Managing Director at the relevant Measurement Date.

#### *First 50%*

50% of the Year 1 Performance Rights issued to Mr Haslam will vest on 30 June 2012 provided that:

- (a) the Board, in its absolute discretion, determines that the mine life of the Company's Frances Creek iron ore project has increased by a total of one year for each year of operation throughout the Performance Period. This can be achieved at any time over the Performance Period and the failure to achieve the targeted increase in any one year prior to the completion of the Performance Period will not result in any forfeiture of the Year 1 Performance Rights at that time; or
- (b) the Board, in its absolute discretion, determines that the Company's reserves have increased on an equivalent basis to that set out in (a) by way of merger of, or acquisition by, the Company of another company or project.

The long term incentives outlined in items (a) and (b) above were adopted by the Board in 2009 and detailed in the Company's 2009 Annual Report (on page 24).

#### *Second 50%*

50% of the Year 1 Performance Rights issued to Mr Haslam will vest on 30 June 2012 if the Company achieves a Total Shareholder Return greater than 15% per annum over the period from 1 July 2009 to 30 June 2012 (as set out on page 25 of the Company's 2009 Annual Report).

A summary of the performance conditions of the Year 1 Performance Rights the subject of Resolution 3 is set out below:

	Year 1 Performance Rights	Year 1 Performance Rights
<b>Percentage of Year 1 Performance Rights Vesting</b>	50%	50%
<b>Service Condition</b>	Longer of 3 years and when either of "Other Performance Conditions" (as referred to below) is met.	3 years
<b>Performance Period</b>	3 years	3 years
<b>Market Based Performance Condition</b>	None	Achievement of Total Shareholder Return (TSR) greater than 15% per annum over the period from 1 July 2009 to 30 June 2012.
<b>Other Performance Condition</b>	<ul style="list-style-type: none"> <li>a) The Board, in its absolute discretion, determines that the mine life of the Company's Frances Creek iron ore project has increased by a total of one year for each year of operation throughout the Performance Period; or</li> <li>b) the Board, in its absolute discretion, determines that the Company's Reserves have increased on an equivalent basis to that set out in (a) by way of merger of, or acquisition by, the Company of another company or project.</li> </ul>	None

The performance conditions for the Year 2 Performance Rights are identical except that the Measurement Date will be 30 June 2013. The performance conditions for Year 3 will be determined by the Board and are likely to be consistent with the performance conditions for Years 1 and 2, adjusted if necessary for any changes in strategic plans made by the Board at the time.

All Performance Rights lapse if the performance conditions are not satisfied or upon the termination of employment in accordance with Rule 6 of the Plan.

### Shareholder Approval

Resolution 3 seeks shareholder approval to issue up to a total of 1,850,000 Performance Rights to Mr Haslam over the next three years. The Board has considered the application of Chapter 2E of the Corporations Act and has resolved that the reasonable remuneration exception provided by section 211 of the Corporations Act is relevant in the circumstances and accordingly, the Company will not seek approval for the issue of Performance Rights to Mr Haslam pursuant to section 208 of the Corporations Act.

Shareholder approval is required under Listing Rule 10.14. Listing Rule 10.14 broadly requires shareholders' approval by ordinary resolution to any issue by a listed company of securities to a related party under an employee incentive scheme. Accordingly, Listing Rule 10.14 requires shareholders to approve the issue of Performance Rights under the Plan to Mr Haslam.

For the purposes of Listing Rule 10.15A, the following information is provided to shareholders with respect to Resolution 3:

- (a) the Performance Rights will be granted to Mr Haslam, or his nominee, as noted above;
- (b) the maximum number of Performance Rights to be granted is 1,850,000. The actual number of Performance Rights which vest is dependent on the achievement of the performance conditions as described above. The maximum number of Performance Rights to be issued is based on the following formula for calculating the number:

$$\text{Maximum Performance Rights} = \frac{30 \text{ June 2010 TFR} \times 3 \times 0.25}{0.22} \times 1.10$$

The maximum Performance Rights formula provides for a 10% contingency in addition to the remuneration and Share price based criteria outlined above;

- (c) the Performance Rights will be granted for no consideration. In addition, once vested, Shares will be automatically issued for no consideration;
- (d) no funds will be raised by the grant of the Performance Rights;
- (e) all Directors, or their permitted nominees, are entitled to participate in the Plan;
- (f) no Directors, or their permitted nominees, have received any Performance Rights under the Plan; and
- (g) the Year 1 and Year 2 Performance Rights will be issued as soon as practicable after the date shareholder approval is obtained for Resolution 3. In Year 3 the issue of Performance Rights will occur on or about 1 July 2011 and in any event within three years of the date shareholder approval is obtained for Resolution 3.

**RESOLUTIONS 4 to 8 - GRANT OF PERFORMANCE RIGHTS IN LIEU OF CASH FEES TO ANDREW SIMPSON, GIUSEPPE ARITI, MICHAEL DONALDSON, FIONA HARRIS and IAN MCCUBBING**

The Company proposes to issue Performance Rights in lieu of cash fees to Andrew Simpson ("Chairman") and to Giuseppe Ariti, Michael Donaldson, Fiona Harris and Ian McCubbing ("Participating Directors").

As part of a review of remuneration, the Company engaged an independent consultant to review the fees paid to non-executive Directors having regard to the workloads and responsibilities of the Board and remuneration paid by comparable companies.

The independent report found that an increase in the non-executive Director fees and the Chairman's fee was reasonable in the circumstances.

Currently, annual Director fees are as follows:

- The Chairman's fee is \$150,000 inclusive of statutory superannuation. The Chairman does not receive any fees for committee work; and
- The non-executive Director fees are \$55,000 plus \$10,000 for chairing a statutory committee and \$5,000 for committee membership (plus statutory superannuation).

As a result of the remuneration review, and consistent with the recommendations from the independent remuneration consultant, the Board has agreed to adjust the annual non-executive Director fees as follows:

- The Chairman's fee is to be set at \$200,000 inclusive of statutory superannuation. The Chairman is not to receive any fees for committee work; and
- The non-executive Director fees are to be set at \$80,000 plus \$10,000 for chairing a statutory committee and \$5,000 per committee membership (plus statutory superannuation).

The Board has proposed that, instead of taking any increase in remuneration in cash, the increase of \$25,000 per annum for each of the Participating Directors and increase of \$50,000 per annum for the Chairman be foregone in exchange for Performance Rights. This action will conserve the Company's cash in order to achieve its strategic objectives, will assist in the retention of corporate knowledge at Board level and will align the interests of Directors with shareholders.

In accordance with the Corporations Act and the Constitution, the aggregate amount payable to the Company's non-executive Directors must not exceed the maximum annual amount approved by the Company's shareholders, which is presently \$750,000 per annum approved at a general meeting of shareholders held on 2 May 2008. The amounts proposed to be paid to the Participating Directors and the Chairman are within the amount that has been previously approved by the shareholders.

Since July 2008, the Board has undertaken a considerable workload in very difficult circumstances to stabilise the fortunes of the Company and is now seeking to create a future for the Company beyond the Frances Creek operations.

The grant of Performance Rights encourages the Participating Directors and the Chairman to remain with the Company and demonstrates the willingness of the current Board to align their interests with that of the shareholders.

Under the Company's current circumstances the Directors consider that the incentives intended for the Participating Directors and the Chairman represented by the grant of these Performance Rights provide:

- a cost effective and efficient means for the Company to provide a reward and an incentive, as opposed to alternative forms of incentive, such as the payment of additional cash compensation; and
- a transparent mechanism to allow Directors to acquire Shares which is difficult to otherwise achieve due to perceptions of director on-market share activity.

### **Maximum Number of Performance Rights to be Issued**

The number of Performance Rights to be issued to each of the Participating Directors and the Chairman has been determined based upon a consideration of:

- the remuneration of the Directors;
- the Directors' wish to ensure that the remuneration offered is competitive with market remuneration. The Directors have been advised that the proposed number of Performance Rights to be granted will ensure that the Directors' overall remuneration is in line with market remuneration; and
- incentives to attract and ensure continuity of service of directors who have appropriate knowledge and expertise.

It is proposed that a maximum of 600,000 Performance Rights will be issued to the Chairman and a maximum of 300,000 Performances Rights to each of the Participating Directors.

The Performance Rights will vest over three years on 30 November 2010, 30 November 2011 and 30 November 2012 ("**Yearly Measurement Dates**") and only if the performance conditions have been met at each Yearly Measurement Date.

The number of Performance Rights to vest to the Chairman on each of the Yearly Measurement Dates will be the lesser of:

- (a) the maximum value of Performance Rights to be issued on each Yearly Measurement Date (being \$50,000) divided by the 5 day VWAP of the Shares as traded on ASX on the 5 Trading Days after, as the case may be,:
  - (i) dispatch of the 2010 notice of annual general meeting for those Performance Rights that can vest on 30 November 2010; or
  - (ii) lodgement of the 2011 audited financial statements with ASIC for those Performance Rights that can vest on 30 November 2011; or
  - (iii) lodgement of the 2012 audited financial statements with ASIC for those Performance Rights that can vest on 30 November 2012; or
- (b) 200,000.

The number of Performance Rights to vest to each Participating Director on each of the Yearly Measurement Dates will be the lesser of:

- (a) the maximum value of Performance Rights to be issued on each Yearly Measurement Date (being \$25,000) divided by the 5 day VWAP of the Shares as traded on ASX on the 5 Trading Days after, as the case may be,:
  - (i) dispatch of the 2010 notice of annual general meeting for those Performance Rights that can vest on 30 November 2010; or
  - (ii) lodgement of the 2011 audited financial statements with ASIC for those Performance Rights that can vest on 30 November 2011; or
  - (iii) lodgement of the 2012 audited financial statements with ASIC for those Performance Rights that can vest 30 November 2012; or
- (b) 100,000.

No more than 200,000 Performance Rights will be granted to the Chairman and no more than 100,000 Performance Rights will be granted to each of the Participating Directors at each of the Yearly Measurement Dates.

In the event that the Share price falls, and the maximum number of Performance Rights are issued, the value of the Performance Rights issued to each Participating Director will be less than the maximum value of:

- (a) \$50,000 for each of 30 November 2010, 30 November 2011 and 30 November 2012, totalling \$150,000 for the Chairman; and
- (b) \$25,000 for each of 30 November 2010, 30 November 2011 and 30 November 2012, totalling \$75,000 for each of the Participating Directors.

Any Performance Rights that may have vested on each Yearly Measurement Date but were not vested upon applying the vesting criteria will be forfeited and lapse.

## **Performance Conditions**

The Performance Rights will be granted under the PRP. For the Performance Rights to vest, a Participating Director and the Chairman must be a Director at the time the respective Yearly Measurement Dates. All Performance Rights issued to the Participating Directors and the Chairman will lapse if they not a Director on each of the Yearly Measurement Dates. As the issue of Performance Rights to the Directors is in lieu of an increase in cash compensation, there are no other vesting conditions attached to the Performance Rights to be issued to the Participating Directors and the Chairman.

Therefore, in accordance with the terms of the PRP, the Performance Rights will be issued, subject to a service condition, that the Director is a Director on the relevant Yearly Measurement Date.

Once the relevant Yearly Measurement Date occurs, and the service condition is met, the Performance Rights will vest, and Shares will automatically be issued to the Participating Directors and the Chairman, unless the Company is in a "Blackout Period" (as defined in the Company Share Trading Policy) or the Company determines in good faith that the issue of Shares at that time may breach the insider trading provisions of the Corporations Act, in which case the Company will issue the Shares as soon as reasonably practicable thereafter.

## **Shareholder Approval**

Resolution 4 seeks shareholder approval to issue up to 600,000 Performance Rights to the Chairman.

Resolutions 5 to 8 seek shareholder approval to issue up to 300,000 Performance Rights to each of the Participating Directors.

In aggregate, the maximum number of Performance Rights that may be issued to the Chairman and Participating Directors is 1,800,000. The Board has considered the application of Chapter 2E of the Corporations Act and has resolved that the reasonable remuneration exception provided by section 211 of the Corporations Act is relevant in the circumstances and accordingly, the Company will not seek approval for the issue of Performance Rights to the Chairman and Participating Directors pursuant to section 208 of the Corporations Act. The issue of Performance Rights to the Chairman and Participating Directors under Resolutions 4 to 8 form part of the annual fees payable to non-executive Directors.

## ***Listing Rule 10.14***

Listing Rule 10.14 broadly requires shareholders' approval by ordinary resolution to any issue by a listed company of securities to a related party under an employee incentive scheme. Accordingly, Listing Rule 10.14 requires shareholders to approve the issue of Performance Rights under the Plan to the Participating Directors and the Chairman.

For the purposes of Listing Rule 10.15A, the following information is provided to shareholders with respect to Resolutions 4 to 8:

- (a) the Performance Rights will be granted to the Chairman and Participating Directors, or their nominees, as noted above;
- (b) the maximum number of Performance Rights to be granted is 1,800,000;
- (c) the Performance Rights will be granted for no consideration. In addition, once vested, the Shares will be automatically issued for no consideration;
- (d) no funds will be raised by the grant of the Performance Rights;
- (e) all Directors, or their permitted nominees, are entitled to participate in the PRP;
- (f) no Directors, or their permitted nominees, have received any Performance Rights under the PRP;

- (g) details of the Performance Rights issued under the PRP will be published in each annual report of the Company relating to a period in which the Performance Rights have been issued, and that approval for the issue of Performance Rights was obtained under Listing Rule 10.14;
- (h) any persons who become entitled to participate in the PRP after this Resolution is approved and who is not named in this Notice will not participate until approval is obtained under Listing Rule 10.14; and
- (i) the first grant of Performance Rights will be issued as soon as practicable after the Meeting, and future grants will be issued no later than 3 years after the Meeting.

ANNEXURE A

TERRITORY ~~IRON~~ RESOURCES LIMITED  
(ACN 100 552 118)

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CONSTITUTION

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# INDEX

1.	<u>PRELIMINARY</u> .....	1
1.1	<u>Nature of Company</u> .....	1
1.2	<u>Status of Constitution</u> .....	1
1.3	<u>Definitions</u> .....	1
1.4	<u>Interpretation</u> .....	3
1.5	<u>Exercise of Powers</u> .....	3
1.6	<u>Severability</u> .....	4
1.7	<u>Transitional</u> .....	4
2.	<u>SHARE CAPITAL</u> .....	4
2.1	<u>Issue of Shares and Options</u> .....	4
2.2	<u>Variation of Rights</u> .....	4
2.3	<u>Conversion of Shares</u> .....	5
2.4	<u>Reductions of Capital and Buy-backs</u> .....	5
2.5	<u>Recognition of Ownership</u> .....	5
2.6	<u>Joint Holders</u> .....	5
2.7	<u>Certificates</u> .....	5
2.8	<u>Non-issue or Cancellation of Certificates</u> .....	6
2.9	<u>Restricted Securities</u> .....	6
2.10	<u>Unmarketable Parcels</u> .....	6
2.11	<u>No Prohibition on Foreign Ownership</u> .....	6
3.	<u>CALLS, COMPANY PAYMENTS, FORFEITURE AND LIENS</u> .....	6
4.	<u>TRANSFER OF SHARES</u> .....	6
4.1	<u>Participation in CHESSE</u> .....	6
4.2	<u>Form of Transfer</u> .....	6
4.3	<u>CHESSE Transfers</u> .....	7
4.4	<u>Registration Procedure</u> .....	7
4.5	<u>Refusal to Register Transfers</u> .....	7
4.6	<u>Non-interference with Registration</u> .....	7
4.7	<u>Closure of Register</u> .....	7
4.8	<u>Retention of Transfers</u> .....	8
4.9	<u>Powers of Attorney</u> .....	8
4.10	<u>Other Securities</u> .....	8
4.11	<u>Compliance with Rules</u> .....	8
4.12	<u>Transferor Remains Holder Until Registration</u> .....	8
4.13	<u>Proportional Takeover Bids</u> .....	8
5.	<u>TRANSMISSION OF SHARES</u> .....	8
6.	<u>PROCEEDINGS OF MEMBERS</u> .....	8
6.1	<u>Written Resolutions of Members</u> .....	8
6.2	<u>Convening of Members' Meetings</u> .....	9
6.3	<u>Annual General Meeting</u> .....	9
6.4	<u>Notice of Members' Meetings</u> .....	9
6.5	<u>Notice to Home Branch</u> .....	10
6.6	<u>Right to Attend Meetings</u> .....	10
6.7	<u>Meetings in 2 or More Places</u> .....	11

6.8	<u>Quorum</u> .....	11
6.9	<u>Chairperson</u> .....	12
6.10	<u>General Conduct of Meetings</u> .....	12
6.11	<u>Resolutions of Members</u> .....	13
6.12	<u>Polls</u> .....	13
6.13	<u>Adjourned, Cancelled and Postponed Meetings</u> .....	14
6.14	<u>Voting Rights</u> .....	14
6.15	<u>Objections to Voting</u> .....	15
6.16	<u>Proxies, Attorneys and Representatives</u> .....	15
7.	<u>DIRECTORS</u> .....	17
7.1	<u>Number of Directors</u> .....	17
7.2	<u>Appointment of Directors</u> .....	17
7.3	<u>Vacation of Office</u> .....	18
7.4	<u>Alternate Directors</u> .....	19
7.5	<u>Remuneration of Directors</u> .....	19
7.6	<u>Interests of Directors</u> .....	20
7.7	<u>No Share Qualification</u> .....	21
8.	<u>OFFICERS</u> .....	21
8.1	<u>Managing Director</u> .....	21
8.2	<u>Secretary</u> .....	21
8.3	<u>Indemnity and Insurance</u> .....	21
9.	<u>POWERS OF THE COMPANY AND DIRECTORS</u> .....	22
9.1	<u>General Powers</u> .....	22
9.2	<u>Execution of Documents</u> .....	22
9.3	<u>Borrowings</u> .....	23
9.4	<u>Committees and Delegates</u> .....	23
9.5	<u>Attorney or Agent</u> .....	23
10.	<u>PROCEEDINGS OF DIRECTORS</u> .....	24
10.1	<u>Written Resolutions of Directors</u> .....	24
10.2	<u>Convening of Directors' Meetings</u> .....	24
10.3	<u>Notice of Directors' Meetings</u> .....	24
10.4	<u>Quorum</u> .....	25
10.5	<u>Chairperson</u> .....	25
10.6	<u>Resolutions of Directors</u> .....	26
10.7	<u>Effectiveness of Acts by Directors</u> .....	26
11.	<u>DIVIDENDS AND PROFITS DISTRIBUTIONS</u> .....	27
11.1	<u>Payment of Dividends</u> .....	27
11.2	<u>Dividends for Different Classes</u> .....	27
11.3	<u>Dividends Proportional to Paid Up Capital</u> .....	27
11.4	<u>Effect of a Transfer on Dividends</u> .....	27
11.5	<u>No Interest on Dividends</u> .....	28
11.6	<u>Unpaid Amounts</u> .....	28
11.7	<u>Capitalisation of Profits</u> .....	28
11.8	<u>Distributions of Assets</u> .....	28
11.9	<u>Dividend Plans</u> .....	28
12.	<u>WINDING UP</u> .....	29

12.1	<u>Distributions Proportional to Paid Up Capital</u> .....	29
12.2	<u>Distributions of Assets</u> .....	29
12.3	<u>Remuneration of Liquidator</u> .....	29
13.	<u>RECORDS</u> .....	29
13.1	<u>Minutes</u> .....	29
13.2	<u>Register</u> .....	30
13.3	<u>Financial Records</u> .....	30
13.4	<u>Inspection</u> .....	30
14.	<u>NOTICES AND PAYMENTS</u> .....	30
14.1	<u>Notice to Members</u> .....	30
14.2	<u>Notice to Directors</u> .....	31
14.3	<u>Notice to the Company</u> .....	31
14.4	<u>Time of Service</u> .....	31
14.5	<u>Signatures</u> .....	31
14.6	<u>Payments</u> .....	32
14.7	<u>ASX LISTING RULES</u> .....	32
	<u>SCHEDULE 1</u> .....	33
	<u>UNMARKETABLE PRICES PARCELS</u> .....	33
	<u>SCHEDULE 2</u> .....	36
	<u>CALLS, COMPANY PAYMENTS, FORFEITURE AND LIENS</u> .....	36
	<u>SCHEDULE 3</u> .....	42
	<u>PROPORTIONAL TAKEOVER BID</u> .....	42
	<u>SCHEDULE 4</u> .....	44
	<u>TRANSMISSION</u> .....	44

## 1. PRELIMINARY

### 1.1 Nature of Company

The Company is a public company limited by shares.

### 1.2 Status of Constitution

- (a) This Constitution is adopted by the Company in substitution for any former memorandum and articles of association or constitution of the Company.
- (b) To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

### 1.3 Definitions

In this Constitution, unless the context otherwise requires:-

"**Alternate Director**" means a person holding office as an alternate director of the Company pursuant to Rule 7.4;

"**Applicable Law**" means the Corporations Act, the Listing Rules and the ~~SCH~~ [ASTC Settlement Business Rules](#);

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

"**ASTC**" means [ASX Settlement and Transfer Corporation Pty Ltd \(ABN 49 008 504 532\)](#);

"**ASTC Settlement Rules**" means the settlement rules of the ASTC as amended from time to time;

"**ASX**" means the Australian ~~Stock~~ [Securities Exchange Limited operated by ASX Limited ABN 98 008 624 691](#);

"**Auditor**" means any person appointed to perform the duties of auditor of the Company from time to time;

"**Business Day**" has the meaning which it bears in the Listing Rules;

"**Certificated Subregister**" means that part of the Register for a class of the Company's securities that is administered by the Company and records certificated holdings of securities in that class;

"**CHES**" means the Clearing House Electronic Subregister System operated by ~~ASX Settlement and Transfer Corporation Pty Ltd~~ [ASTC](#) or such other securities clearing house as is approved pursuant to the Corporations Act from time to time and to which the Listing Rules apply;

"**CHES Approved Securities**" means securities of the Company which have been approved by ~~SCH~~ [ASTC](#) in accordance with the ~~SCH Business~~ [ASTC Settlement Rules](#);

"**CHES Subregister**" means that part of the Register for a class of ~~Chess~~ [CHES](#) Approved Securities that is administered by ~~SCH~~ [ASTC](#) and records uncertificated holdings of securities in that class;

"**Company**" means Territory ~~Iron~~ [Resources](#) Limited (ACN ~~(\*100 552 118)~~);

"**Constitution**" means this Constitution;

"**Corporations Act**" means the Corporations Act 2001 of the Commonwealth of Australia;

"**Corporations Regulations**" means the [Corporations Regulations 2001 \(Cth\)](#);

"**Directors**" means the directors of the Company from time to time and "**Director**" means anyone of them;

"**Dividend**" includes an interim dividend and a final dividend;

"**Executive Director**" means a Director who is an employee (whether full-time or part-time) of the Company or of any Related Corporation;

"**Home Branch**" means the state branch of ASX designated as such by ASX in relation to the Company;

"**Issuer Sponsored Subregister**" means that part of the Register for a class of ~~Chess~~ **CHESSE** Approved Securities that is administered by the Company (and not **SCHASTC**) and records uncertificated holdings of securities in that class;

"**Legal Costs**" means, in relation to a person, legal costs incurred by that person in defending an action in respect of a Liability of that person;

"**Liability**" means, in relation to a person, any liability incurred by that person as an officer of the Company or a Subsidiary;

"**Listed Securities**" means any Shares, options, stock, debentures or other securities issued by the Company from time to time and quoted on the Official List;

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

"**Member**" means a person whose name is entered in the Register as the holder of a Share from time to time;

"**Non-executive Director**" means any Director other than an Executive Director;

"**Officer**" means a Director, an Alternate Director or a Secretary;

"**Official List**" means the official list of entities that ASX has admitted and not removed;

"**Official Quotation**" means the official quotation of the Company's securities on ASX;

"**Personal Representative**" means the legal personal representative, executor or administrator of the estate of a deceased person;

"**Proper ~~SCHASTC~~ Transfer**" ~~has the same meaning as that term has in the Corporations Regulations means an SCH regulated transfer of a quoted security or quoted right effected in accordance with the SCH Business Rules;~~

"**Register**" means the register of Members and, where applicable, includes the Certificated Subregister, the CHESSE Subregister and the Issuer Sponsored Subregister;

"**Related Corporation**" means a corporation that is related to the Company by virtue of the definition of "related body corporate" in sections 9 and 50 of the Corporations Act;

"**Relevant Officer**" means a person who is, or has been, a Director or Secretary;

"**Representative**" means any person authorised to act as a representative of a body corporate pursuant to section 250D of the Corporations Act;

"**Restricted Securities**" has the meaning which it bears in the Listing Rules;

"**Rules**" means rules under this Constitution;

~~"SCH" has the meaning which it bears in the Listing Rules;~~

~~"SCH Business Rules" means the Securities Clearing House Business Rules as amended from time to time;~~

"**Seal**" means the common seal of the Company (if any) and, where the context so requires, includes any Share seal, certificate seal or official seal of the Company;

"**Secretary**" means any person appointed to perform the duties of secretary of the Company from time to time;

"**Securities**" has the meaning which it bears in section 92(3) of the Corporations Act;

"**Share**" means a share in the capital of the Company;

"**Subsidiary**" means a body corporate that is a subsidiary of the Company by virtue of sections 9 and 46 of the Corporations Act; and

"**Transmission Event**" means:-

- (a) if a Member is an individual:
  - (i) the death or bankruptcy of that Member; or
  - (ii) that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law relating to mental health;
- (b) if a Member is a body corporate, the deregistration of that Member; or
- (c) in any case, the vesting in, or transfer to, a person of the Shares of a Member without that person becoming a Member.

## **1.4 Interpretation**

In this Constitution:-

- (a) headings are for convenience only and do not affect interpretation; and unless the context indicates a contrary intention:
- (b) a reference to a partly paid Share is a reference to a Share in respect of which there is an amount unpaid;
- (c) a reference to a call or an amount called in respect of a Share includes an amount that, by the terms of issue of a Share or otherwise, is payable at one or more fixed times;
- (d) a reference to a meeting of Members includes a meeting of any class of Members;
- (e) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy, attorney or Representative;
- (f) a reference to a notice or document in writing includes a notice or document given by facsimile, electronic address or any other form of written communication;
- (g) a reference to this Constitution is a reference to this Constitution (and where applicable any of its provisions) as modified, substituted or repealed from time to time;
- (h) references to rules or schedules are references to rules or schedules of this Constitution;
- (i) a reference in a schedule to a paragraph is a reference to a paragraph of that schedule;
- (j) words importing the singular include the plural (and vice versa), words denoting a given sex include the other sex, and words denoting individuals include corporations (and vice versa);
- (k) references to any legislation, or to any section or provision of any legislation, includes any statutory modification or re-enactment or any statutory provision substituted for it, and any ordinances, bylaws, regulations, and other statutory instruments issued under any legislation;
- (l) if any day appointed or specified by this Constitution for the doing of any thing falls on a day which is not a Business Day, the day so appointed or specified shall be deemed to be the next Business Day; and
- (m) words and expressions defined in the Applicable Law shall, unless otherwise defined in this Constitution or unless the context otherwise requires, have the same meanings when used in this Constitution.

## **1.5 Exercise of Powers**

Where this Constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.

## **1.6 Severability**

If, at any time, any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, it shall not affect or impair:-

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that provision or any other provision of this Constitution.

## **1.7 Transitional**

- (a) Subject to Rule 1.7(b), the provisions of this Constitution which relate to Official Quotation including, but not limited to, Rules which refer to ASX, the Listing Rules, the [SCHASTC Settlement Rules](#)—~~Business Rules~~, the Home Branch, CHESS Approved Securities, Restricted Securities or Listed Securities shall not come into effect until such time as the Company is admitted to the Official List.
- (b) To the extent that any of the provisions referred to in Rule 1.7(a) can continue to have effect following severance of the matters relating to Official Quotation, then such provisions shall be valid and effectual, notwithstanding Rule 1.7(a), as from the date of adoption of this Constitution by special resolution of the Members.

## **2. SHARE CAPITAL**

### **2.1 Issue of Shares and Options**

- (a) Subject to the Applicable Law and any rights attached to a class of Shares, the Company (under the control of the Directors) may:
  - (i) allot and issue unissued Shares; and
  - (ii) grant options over unissued Shares, on any terms, at any time and for any consideration, as the Directors resolve.
- (b) The Company may issue preference Shares, including redeemable preference Shares.
- (c) Subject to the Applicable Law, the Company may pay brokerage or commission to a person in respect of that person or another person agreeing to subscribe for unissued Shares or other securities of the Company.
- (d) The payment of brokerage or commission pursuant to Rule 2.1 (c) may include any or all of the payment of cash, the issue of Shares or other securities, the grant of options and the transfer of assets.

### **2.2 Variation of Rights**

- (a) Subject to the Applicable Law and the terms of issue of Shares in a particular class, the Company may:-
  - (i) vary or cancel rights attached to Shares in that class; or
  - (ii) convert Shares from one class to another, by special resolution of the Company and:
  - (iii) by special resolution passed at a meeting of Members holding Shares in that class; or
  - (iv) with the written consent of Members with at least 75% of the votes in that class.
- (b) The provisions of this Constitution relating to meetings of Members apply (so far as they are capable of application and with the necessary changes) to every meeting held pursuant to Rule 2.2(a)(iii) except that:

- (i) a quorum for each meeting is 2 Members who together hold, or represent by proxy, one-third of the issued Shares of the relevant class; and
- (ii) if a person holds all of the issued Shares of the relevant class, a quorum is constituted by that person.

### **2.3 Conversion of Shares**

Subject to the Listing Rules, the Company may, by ordinary resolution passed at a general meeting of Members, convert all or any of its Shares into a larger or smaller number of Shares.

### **2.4 Reductions of Capital and Buy-backs**

- (a) Subject to the Applicable Law, the Company may:
  - (i) reduce its share capital; and
  - (ii) buy-back Shares in itself, on any terms and at any time.
- (b) The distribution of any reduction or buy-back in respect of the share capital of the Company may include any or all of the payment of cash, the issue of Shares or other securities, the grant of options and the transfer of assets.
- (c) If the distribution of any reduction or buy-back in respect of the share capital of the Company includes an issue or transfer of shares in a body corporate, each Member:-
  - (i) agrees to become a member of that body corporate; and
  - (ii) in the case of a transfer, appoints the Company and each Director as its agent to execute an instrument of transfer or other document required to transfer the relevant shares to that Member.

### **2.5 Recognition of Ownership**

Except as required by law or this Constitution, the Company is not required to recognise any interest in, or right in respect of, a Share except an absolute right of legal ownership of the Member registered as the holder of that Share.

### **2.6 Joint Holders**

- (a) If a Share is held jointly by 2 or more persons, those persons hold that Share as joint tenants.
- (b) The Company is not required to register more than 3 persons as joint holders of a Share.

### **2.7 Certificates**

Subject to the Applicable Law and this Constitution, each person whose name is entered as a Member in the Register is entitled, free of charge, to receive a Share certificate under the Seal in accordance with the Corporations Act in respect of each class of Shares registered in the Member's name. In addition:-

- (a) the Company shall despatch all Share certificates, required by this Constitution to be issued, within 5 Business Days of the issue of the relevant Shares;
- (b) if any Shares are jointly held:-
  - (i) the Company is not required to issue more than one Share certificate; and
  - (ii) delivery of a Share certificate to anyone of the joint holders is deemed to be delivery to all of them;
- (c) each Share certificate issued in accordance with this Rule 2.7 must include all information required by the Listing Rules or the [SCHASTC Settlement Business](#) Rules to be provided to the holder of the Shares; and

- (d) subject to the Corporations Act, the Company must issue a replacement Share certificate if:-
  - (i) the Company receives and cancels the existing Share certificate; or
  - (ii) the Company is satisfied that the existing Share certificate has been lost or destroyed and the Member pays such fee as the Directors resolve from time to time.

## **2.8 Non-issue or Cancellation of Certificates**

- (a) Notwithstanding any other provision of this Constitution, the Company:-
  - (i) need not issue a Share certificate; and
  - (ii) may cancel any Share certificate without issuing a substitute Share certificate, in respect of any Shares in any circumstances where the non-issue or cancellation of that Share certificate is permitted by the Applicable Law.
- (b) Where the Directors have determined not to issue Share certificates or to cancel existing Share certificates, a Member is entitled to receive such statements of the holdings of the Member as are required to be distributed to the Member under the Applicable Law.

## **2.9 Restricted Securities**

- (a) The Company must comply with the Listing Rules in respect of Restricted Securities.
- (b) Notwithstanding the generality of Rule 2.9(a):
  - (i) Restricted Securities cannot be disposed of during the escrow period except as permitted by the Listing Rules or ASX;
  - (ii) the Company must refuse to acknowledge an assignment or disposal (including registering a transfer) of Restricted Securities during the escrow period except as permitted by the Listing Rules or ASX; and
  - (iii) during a breach of the Listing Rules relating to Restricted Securities or a breach of any escrow agreement, the holder of the Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.

## **2.10 Unmarketable Parcels**

Schedule 1 applies and forms part of this Constitution.

## **2.11 No Prohibition on Foreign Ownership**

Nothing in this Constitution shall have the effect of limiting or restricting the ownership of any securities of the Company by foreign persons except where such limits or restrictions are prescribed by Australian law.

## **3. CALLS, COMPANY PAYMENTS, FORFEITURE AND LIENS**

Schedule 2 applies and forms part of this Constitution.

## **4. TRANSFER OF SHARES**

### **4.1 Participation in CHESS**

Subject to the Applicable Law, the Directors may do anything they consider necessary or desirable to facilitate participation by the Company in CHESS or any other computerised or electronic share transfer registration or stock market settlement system introduced by, or acceptable to, ASX in respect of transfers of, or dealings in, marketable securities.

### **4.2 Form of Transfer**

Subject to this Constitution, Members may transfer any Shares held by them by:-

- (a) a Proper [SCHASTIC](#) Transfer or any other method of transferring or dealing in Shares introduced by ASX or operated in accordance with the [SCHASTIC - Business Settlement](#) Rules or the Listing Rules and, in such case, recognised under the Corporations Act; or
- (b) an instrument in writing in any usual or common form or in any other form that the Directors, in their absolute discretion, approve from time to time.

#### **4.3 CHESSE Transfers**

- (a) The Company must comply with all obligations imposed on it under the Applicable Law in respect of a Proper [SCHASTIC](#) Transfer or any other transfer of Shares.
- (b) Notwithstanding any other provision of this Constitution, the Company must not prevent, delay or interfere with the registration of a Proper [SCHASTIC](#) Transfer or any other transfer of Shares.

#### **4.4 Registration Procedure**

Where an instrument of transfer referred to in Rule 4.2(b) is used by a Member to transfer Shares, the following provisions apply:

- (a) the instrument of transfer must be executed by, or on behalf of, both the transferor and the transferee unless it is a sufficient transfer of marketable securities within the meaning of the Corporations Act;
- (b) the instrument of transfer must be left at the registered office of the Company for registration accompanied by the relevant Share certificate (if any) and such other evidence as the Directors may require to prove:-
  - (i) the title of the transferor; and
  - (ii) the transferor's right to transfer the Shares;
  - (iii) a fee must not be charged on the registration of the transfer; and
  - (iv) on registration of the transfer, the Company must cancel the old Share certificate (if any).

#### **4.5 Refusal to Register Transfers**

- (a) The Directors may refuse to register any transfer of Shares (other than a Proper [SCHASTIC](#) Transfer) where:-
  - (i) the Applicable Law permits the Company to do so;
  - (ii) the Applicable Law or any law relating to stamp duty requires the Company to do so; or
  - (iii) the transfer is a transfer of Restricted Securities which is, or might be, in breach of the Listing Rules or any escrow agreement entered into by the Company in respect of the Restricted Securities.
- (b) Where the Directors refuse to register a transfer pursuant to Rule 4.5(a), they must give notice in writing of such refusal (including the reasons for such refusal) to the transferee and the lodging broker (if any) in accordance with the Applicable Law.

#### **4.6 Non-interference with Registration**

Notwithstanding any other provision of this Constitution, the Company must not prevent or interfere with the registration of a transfer of Shares in a manner which is contrary to the Listing Rules or the [SCHASTIC Business Settlement](#) Rules.

#### **4.7 Closure of Register**

Subject to the Listing Rules and the [SCHASTIC Business Settlement](#) Rules, the Register may be closed during such times as the Directors may determine, not exceeding:

- (a) 30 days in each calendar year; or
- (b) anyone period of more than 5 consecutive Business Days.

#### **4.8 Retention of Transfers**

- (a) Subject to the [SCHASTC BusinessSettlement](#) Rules, all registered instruments of transfer must be retained by the Company.
- (b) Any instrument of transfer which the Directors decline or refuse to register must be returned to the transferee on demand (except in the case of fraud).

#### **4.9 Powers of Attorney**

Any power of attorney granted by a Member which empowers the grantee to transfer Shares and is lodged, produced or exhibited to the Company or any Officer:-

- (a) shall be taken and deemed to continue and remain in full force and effect, as between the Company and the grantor of the power;
- (b) may be acted upon until express notice in writing of:-
  - (i) its revocation; or
  - (ii) the death of the grantor of the power, is lodged at the registered office of the Company or at the place where the Register is kept.

#### **4.10 Other Securities**

The provisions of this Rule 4 shall apply, with the necessary alterations, to any other Listed Securities issued by the Company from time to time.

#### **4.11 Compliance with Rules**

The Company must comply with the Listing Rules and the [SCHASTC BusinessSettlement](#) Rules in relation to all matters covered by such rules.

#### **4.12 Transferor Remains Holder Until Registration**

A transferor of Shares remains the registered holder of the Shares until:

- (a) a Proper [SCHASTC](#) Transfer has taken effect in accordance with the [SCHASTC BusinessSettlement](#) Rules;
- (b) the transfer is registered in the name of the transferee and is entered in the Register, whichever is the earlier.

#### **4.13 Proportional Takeover Bids**

Schedule 3 applies and forms part of this Constitution.

### **5. TRANSMISSION OF SHARES**

Schedule 4 applies and forms part of this Constitution.

### **6. PROCEEDINGS OF MEMBERS**

#### **6.1 Written Resolutions of Members**

- (a) The Company may pass a resolution without a meeting of Members being held if all the Members 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.
- (b) For the purposes of Rule 6.1 (a), each Member of a joint membership must sign the document.

- (c) While the Company has only one Member, the Company may pass a resolution by the Member recording it and signing the record.

## **6.2 Convening of Members' Meetings**

- (a) Subject to the Corporations Act, the Directors may call a meeting of Members at any time and place as the Directors resolve.
- (b) The Directors must call and arrange to hold a meeting of Members on the request of Members in accordance with the Corporations Act.
- (c) The Members may call and arrange to hold a meeting of Members as provided by the Corporations Act.

## **6.3 Annual General Meeting**

- (a) The Company must hold an annual general meeting of Members (AGM) in accordance with the Corporations Act.
- (b) The business of an AGM may include any or all of the following, even if not referred to in the notice of meeting:
  - (i) the consideration of the annual financial report, Director's report and Auditor's report;
  - (ii) the election of Directors;
  - (iii) the appointment of the Auditor; and
  - (iv) the fixing of the Auditor's remuneration.
- (c) The chairperson of an AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about, or make comments on, the management of the Company.
- (d) If the Auditor or their representative is at the meeting, the chairperson of an AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report.

## **6.4 Notice of Members' Meetings**

- (a) The Company must give not less than the required notice under the Corporations Act for a meeting of Members.
- (b) Notice of a meeting of Members must be given to:-
  - (i) each Member;
  - (ii) each Director;
  - (iii) each Alternate Director;
  - (iv) the Auditor; and
  - (v) if the Company has issued and there are currently any Listed Securities, the Home Branch.
- (c) Subject to Rule 6.13(h), a notice of a meeting of Members must:-
  - (i) set out the place, date and time of the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
  - (ii) state the general nature of the business to be transacted at the meeting;
  - (iii) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;

- (iv) if a Member is entitled to appoint a proxy, contain a statement setting out the following information:
    - (A) that the Member has a right to appoint a proxy;
    - (B) whether or not the proxy needs to be a Member; and
    - (C) that a Member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise; and
  - (v) if the Company is included in the Official List:-
    - (A) specify a place and fax number for the purposes of receipt of proxy appointments (and may specify an electronic address for such purposes); and
    - (B) comply with the Listing Rules.
  - (d) A person may waive notice of any meeting of Members by notice in writing to the Company to that effect.
  - (e) Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid if either or both:
    - (i) a person does not receive notice of the meeting; or
    - (ii) the Company accidentally does not give notice of the meeting to a person.
  - (f) Subject to the Corporations Act, the attendance of a person at a meeting of Members waives any objection that person may have:-
    - (i) to a failure to give notice of the meeting to that person in accordance with this Constitution; and
    - (ii) to the consideration of a particular matter at the meeting which is not:-
      - (A) business referred to in the notice of meeting; or
      - (B) business referred to in Rule 6.3(b),
- unless the person objects to the consideration of that matter when it arises.

## **6.5 Notice to Home Branch**

Notwithstanding the generality of Rule 6.4(b)(v), if the Company is included in the Official List, the Company must notify the Home Branch:

- (a) of any meeting at which Directors are to be elected, at least 5 Business Days before the closing day for receipt of nominations for Directors;
- (b) and in any other case, on the Business Day that the notice of meeting is dispatched to Members; and
- (c) as soon as is practicable after any general meeting of Members:
  - (i) in the case of special business, whether or not the resolutions were carried; and
  - (ii) in the case of ordinary business, which resolutions were not carried or were amended or withdrawn.

## **6.6 Right to Attend Meetings**

- (a) Subject to Rule 6.6(b), the following persons are entitled to attend a meeting of Members:-
  - (i) each Member, in person or by proxy, attorney or Representative;
  - (ii) each Director;

- (iii) each Alternate Director (if any);
  - (iv) the Auditor; and
  - (v) any other person or persons as the chairperson may approve from time to time.
- (b) The chairperson of a meeting of Members may refuse any person admission to, or require a person to leave and remain out of, the meeting if that person:
- (i) in the opinion of the chairperson, is not complying with the reasonable directions of the chairperson;
  - (ii) has any audio or visual recording device;
  - (iii) has a placard or banner;
  - (iv) has an article the chairperson considers to be dangerous, offensive or liable to cause disruption;
  - (v) refuses to produce, or to permit examination of, any article, or the contents of any article, in the person's possession;
  - (vi) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
  - (vii) is not:-
    - (A) a Member;
    - (B) a proxy, attorney or Representative of a Member; or
    - (C) the Auditor.

## 6.7 Meetings in 2 or More Places

- (a) A meeting of Members may be held in 2 or more places linked together by any technology that:-
- (i) gives the Members as a whole in those places a reasonable opportunity to participate in the proceedings;
  - (ii) enables the chairperson to be aware of the proceedings in each place; and
  - (iii) enables the Members in each place to vote on a show of hands and on a poll.
- (b) If a meeting of Members is held in 2 or more places pursuant to Rule 6.7(a):-
- (i) a Member present at one of the places is taken to be present at the meeting; and
  - (ii) the chairperson of the meeting may determine at which place the meeting is taken to be held.

## 6.8 Quorum

- (a) A quorum for a meeting of Members is:-
- (i) 2 Members entitled to vote at that meeting; or
  - (ii) where the Company has only one Member, that Member.
- (b) In determining whether a quorum for a meeting of Members is present:-
- (i) where more than one proxy, attorney or Representative of a Member is present, only one of those persons is counted;
  - (ii) where a person is present as a Member and as a proxy, attorney or Representative of another Member, that person is counted separately for each appointment provided that there is at least one other Member present; and

- (iii) where a person is present as a proxy, attorney or Representative for more than one Member, that person is counted separately for each appointment provided that there is at least one other Member present.
- (c) A quorum for a meeting of Members must be present at the commencement of the meeting, in which case it is taken to be present at all times during the meeting unless the chairperson otherwise determines.
- (d) If a quorum for a meeting of Members is not present within 15 minutes after the time appointed for a meeting of Members:-
  - (i) where the meeting was called pursuant to Rules 6.2(b) or 6.2(c), the meeting is dissolved; and
  - (ii) in any other case, the meeting is adjourned to either:-
    - (A) the same day in the next week at the same time and place; or
    - (B) such other date, time and place as the Directors specify.
- (e) If a quorum for a meeting of Members is not present within 15 minutes after the time appointed for an adjourned meeting of Members, the meeting is dissolved.

## 6.9 Chairperson

- (a) The chairperson of Directors elected pursuant to Rule 10.5(a) must (if present within 15 minutes after the time appointed for the meeting and willing to act) chair each meeting of Members.
- (b) If, at a meeting of Members:-
  - (i) there is no chairperson of Directors;
  - (ii) the chairperson of Directors is not present within 15 minutes after the time appointed for the meeting; or
  - (iii) the chairperson of Directors is present within that time but is not willing to chair all or part of the meeting, the Directors may, by majority vote, elect a person present to chair all or part of the meeting.
- (c) Subject to Rule 6.9(a), if, at a meeting of Members:-
  - (i) a chairperson of the meeting has not been elected by the Directors pursuant to Rule 6.9(b); or
  - (ii) the chairperson elected by the Directors is not willing to chair all or part of the meeting,
  - (iii) the Members present must elect another person present and willing to act to chair all or part of the meeting.

## 6.10 General Conduct of Meetings

- (a) Subject to the Corporations Act, the chairperson of a meeting of Members:-
  - (i) is responsible for the general conduct of, and the procedures to be adopted at, the meeting;
  - (ii) may make rulings or adjourn the meeting without putting a question (or any question) to the vote if that action is required to ensure the orderly conduct of the meeting;
  - (iii) may determine the procedures to be adopted for the casting or recording of votes;
  - (iv) may determine any dispute concerning the admission, validity or rejection of a vote at the meeting;

- (v) may terminate debate or discussion on any matter being considered at the meeting and require that matter to be put to a vote;
  - (vi) may refuse to allow debate or discussion on any matter which is not business referred to in the notice of meeting or is not business referred to in Rule 6.3(b);
  - (vii) may refuse to allow any amendment to be moved to a resolution set out in the notice of meeting; and
  - (viii) may delegate to any person any power conferred by this Rule 6.10(a).
- (b) The powers conferred on the chairperson of a meeting of Members pursuant to Rule 6.10(a) shall not limit the powers otherwise conferred by law.
- (c) Unless the approval of the chairperson of the meeting of Members is obtained, no person may move at any meeting of Members:-
- (i) any resolution (other than a resolution in the same terms as specified in the notice of meeting); or
  - (ii) any amendment of a resolution, in respect of any business other than:-
    - (A) the consideration of the annual financial report, Director's report and Auditor's report;
    - (B) the election of Directors;
    - (C) the appointment of the Auditor; and
    - (D) the fixing of the Auditor's remuneration.

#### 6.11 Resolutions of Members

- (a) Subject to the Corporations Act, a resolution is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than against the resolution.
- (b) Unless a poll is demanded pursuant to Rule 6.12, a resolution put to the vote at a meeting of Members must be decided on a show of hands.
- (c) On a show of hands, a declaration by the chairperson of a meeting of Members is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received.

#### 6.12 Polls

- (a) A poll may be demanded on any resolution at a meeting of Members except on a resolution concerning:-
  - (i) the election of a chairperson of that meeting; or
  - (ii) the adjournment of that meeting.
- (b) A poll on a resolution at a meeting of Members may be demanded by:-
  - (i) at least 5 Members present and entitled to vote on the resolution;
  - (ii) Members with at least 5% of the votes that may be cast on the resolution on a poll; or
  - (iii) the chairperson of that meeting.
- (c) A poll on a resolution at a meeting of Members may be demanded:
  - (i) before a vote is taken; or
  - (ii) before or immediately after the voting results on a show of hands are declared.
- (d) A demand for a poll on a resolution at a meeting of Members may be withdrawn at any time.

- (e) A poll demanded on a resolution at a meeting of Members (other than for the election of the chairperson of that meeting or the adjournment of that meeting) must be taken when, and in the manner, the chairperson directs.
- (f) A demand for a poll on a resolution at a meeting of Members shall not prevent:-
  - (i) the continuation of the meeting; or
  - (ii) the transaction of any other business of the meeting.

### **6.13 Adjourned, Cancelled and Postponed Meetings**

- (a) Subject to the Corporations Act, the chairperson:-
  - (i) may adjourn a meeting of Members to any date, time and place as the chairperson determines; and
  - (ii) must adjourn a meeting of Members (to a date, time and place to be determined by the chairperson) if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so.
- (b) No person other than the chairperson of a meeting of Members may adjourn that meeting.
- (c) A resolution passed at a meeting of Members resumed after an adjournment is passed on the day it was passed.
- (d) Only unfinished business may be transacted at a meeting of Members resumed after an adjournment.
- (e) Subject to the Corporations Act and this Rule 6.13, the Directors may, at any time, postpone or cancel a meeting of Members by giving notice, not less than 5 Business Days before the time at which the meeting was to be held, to:-
  - (i) each Member;
  - (ii) each Director;
  - (iii) each Alternate Director (if any); and
  - (iv) the Auditor, as at the date of the notice.
- (f) A meeting of Members called pursuant to Rule 6.2(b) must not be cancelled by the Directors without the consent of the Members who requested the meeting.
- (g) A meeting of Members called pursuant to Rule 6.2(c) must not be cancelled or postponed by the Directors without the consent of the Members who called the meeting.
- (h) A notice of a meeting of Members resumed from an adjourned meeting and a notice postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in 2 or more places, the technology that will be used to facilitate this).

### **6.14 Voting Rights**

- (a) Subject to this Constitution and any rights or restrictions attached to a class of Shares, on a show of hands at a meeting of Members, every Member present has one vote.
- (b) Subject to this Constitution and any rights or restrictions attached to a class of Shares, on a poll at a meeting of Members, every Member present has:-
  - (i) one vote for each fully paid up Share (whether the issue price of the Share was paid up or credited or both) that the Member holds; and
  - (ii) for each partly paid up Share that the Member holds, a fraction of one vote equal to the proportion which the amount paid or credited on that Share (excluding any amounts paid up in advance of the relevant due date for payment) bears to the total amounts paid and payable (including amounts credited) on that Share.

- (c) If the total number of votes to which a Member is entitled on a poll does not constitute a whole number, the Company shall disregard the fractional part of that total.
- (d) In the case of an equality of votes, on a resolution at a meeting of Members (whether on a show of hands or on a poll), the chairperson of the meeting has a casting vote in addition to any vote the chairperson of the meeting has in respect of that resolution.
- (e) If a Share is held jointly and more than one Member votes in respect of that Share, only the vote of the Member whose name appears first in the Register counts.
- (f) A person may vote in respect of a Share at a meeting of Members if:-
  - (i) the person is entitled to be registered as the holder of that Share because of a Transmission Event; and
  - (ii) the person satisfies the Directors of that entitlement not less than 48 hours before the meeting.
- (g) A Member present at a meeting of Members is not entitled to vote on any resolution in respect of any Shares on which any calls (or any other amounts due and payable in respect of those Shares) have not been paid.
- (h) A Member present at a meeting of Members is not entitled to vote on a resolution at that meeting where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction.
- (i) The Company must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Members where that person is not entitled to vote on that resolution.
- (j) The authority of a proxy, attorney or Representative for a Member to speak or vote at a meeting of Members in respect of the Shares to which the authority relates is suspended while the Member is present in person at that meeting.
- (k) If more than one proxy, attorney or Representative for a Member is present at a meeting of Members:-
  - (i) none of them are entitled to vote on a show of hands; and
  - (ii) on a poll, the vote of each one is of no effect where the aggregate number or proportion of the Member's votes for which they have been appointed exceeds the total number or proportion of votes that could be cast by that Member.

### 6.15 Objections to Voting

- (a) An objection to the qualification of any person to vote at a meeting of Members may only be made:-
  - (i) before the meeting, to the Directors; or
  - (ii) at the meeting (or any resumed meeting if the meeting is adjourned), to the chairperson of that meeting.
- (b) Any objection pursuant to Rule 6.15(a), must be decided in good faith by the Directors or the chairperson of the meeting of Members (as the case may be), whose decision shall be final and conclusive.

### 6.16 Proxies, Attorneys and Representatives

- (a) A Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:-
  - (i) in person or, if the Member is a body corporate, by its Representative;
  - (ii) by proxy or, if the Member is entitled to cast 2 or more votes at the meeting, by not more than 2 proxies; or

- (iii) by attorney or, if the Member is entitled to cast 2 or more votes at the meeting, by not more than 2 attorneys.
- (b) A proxy, attorney or Representative of a Member need not be a Member.
- (c) A Member may appoint a proxy, attorney or Representative for:-
  - (i) all or any number of meetings of Members; or
  - (ii) a particular meeting of Members.
- (d) An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains:-
  - (i) the name and address of that Member;
  - (ii) the name of the Company;
  - (iii) the name of the proxy or the name of the office held by the proxy; and
  - (iv) the meeting of Members at which the proxy may be used.
- (e) An appointment of a proxy may be a standing one.
- (f) The chairperson of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in Rule 6.16(d).
- (g) An instrument appointing an attorney or Representative must be in a form that the Directors prescribe or accept from time to time.
- (h) Subject to the Corporations Act, the decision of the chairperson of a meeting of Members as to the validity of an instrument appointing a proxy, attorney or Representative is final and conclusive.
- (i) Unless otherwise provided in the Corporations Act or in the appointment, a proxy or attorney may:-
  - (i) agree to a meeting of Members being called by shorter notice than is required by the Corporations Act or this Constitution;
  - (ii) agree to a resolution being either proposed or passed (or both) at a meeting of Members which is called by shorter notice than is required by the Corporations Act or this Constitution;
  - (iii) speak on any resolution at a meeting of Members on which the proxy or attorney may vote;
  - (iv) vote at a meeting of Members (but only to the extent allowed by the appointment);
  - (v) demand, or join in demanding, a poll on any resolution at a meeting of Members on which the proxy or attorney may vote; and
  - (vi) attend and vote at any meeting of Members which is rescheduled or adjourned.
- (j) Unless otherwise provided in the Corporations Act or in the appointment, a proxy or attorney may vote on:-
  - (i) any amendment to a resolution on which the proxy or attorney may vote;
  - (ii) any motion not to put that resolution or any similar motion; and
  - (iii) any procedural motion relating to that resolution, even if the appointment directs the proxy or attorney how to vote on that resolution.
- (k) If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member shall be:-
  - (i) the person specified by the Company in the form of proxy in the case the Member does not choose; or

- (ii) if no person is so specified, the chairperson of that meeting.
- (l) A Member may specify the manner in which a proxy or attorney votes on a particular resolution at a meeting of Members.
- (m) The appointment of a proxy or attorney by a Member may specify the proportion or number of the Member's votes that the proxy or attorney may exercise.
- (n) If a Member appoints 2 persons as proxy or attorney and the appointment does not specify the proportion or number of the Member's votes those persons may exercise, then those persons may exercise half of the votes of the Member.
- (o) If the total number of votes to which a proxy or attorney is entitled to exercise does not constitute a whole number, the Company must disregard the fractional part of that total.
- (p) An appointment of proxy or attorney for a meeting of Members is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time scheduled for commencement of that meeting (or any adjournment of that meeting).
- (q) Unless the Company has received notice in writing of the matter not less than 48 hours before the time scheduled for the commencement of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy, attorney or Representative shall, subject to this Constitution, be valid even if, before the person votes:-
  - (i) there is a Transmission Event in respect of that Member;
  - (ii) that Member revokes the appointment of that person;
  - (iii) that Member revokes the authority under which the person was appointed by a third party; or
  - (iv) that Member transfers the Shares in respect of which the appointment is made.

## **7. DIRECTORS**

### **7.1 Number of Directors**

- (a) The Company must have at least 3, and not more than 10, Directors.
- (b) The Company in general meeting may, by ordinary resolution, alter the minimum or maximum number of Directors provided that the minimum is not less than 3.
- (c) Subject to this Rule 7.1, the Directors must determine the number of Directors provided that the Directors cannot reduce the number of Directors below the number in office at the time that determination takes effect.
- (d) If the number of Directors is below the minimum fixed by this Constitution, the Directors must not act except:-
  - (i) in emergencies;
  - (ii) to appoint one or more Directors in order to make up a quorum for a meeting of Directors; or
  - (iii) to call and arrange to hold a meeting of Members.

### **7.2 Appointment of Directors**

- (a) The first Directors are the persons specified as Directors in the application for registration of the Company required under the Corporations Act.
- (b) Subject to Rule 7.1, the Directors may appoint any person as a Director.
- (c) The Company in general meeting may, by ordinary resolution, appoint any person as a Director.

- (d) A Director need not be a Member.
- (e) The Company must hold an election of Directors each year.
- (f) The Company must accept nominations for the election of a Director at any time from the Business Day prior to the date of the relevant notice of meeting up to:-
  - (i) in the case of a meeting called pursuant to Rule 6.2(b) or 6.2(c), 30 Business Days; and
  - (ii) in all other cases, 35 Business Days, prior to the date of the meeting of Members at which the Director may be elected.
- (g) A nomination of a person for Director (other than a Director retiring in accordance with this Constitution) must be a notice in writing signed by a Member entitled to attend and vote at the meeting of Members at which the election is proposed, and be accompanied by a notice in writing signed by the nominee consenting to the nomination.

### **7.3 Vacation of Office**

- (a) If the Company has 3 or more Directors, one third of the Directors (rounded down to the nearest whole number) must retire at each AGM.
- (b) If the Company has less than 3 Directors, one Director must retire at each AGM.
- (c) The Directors to retire under Rules 7.3(a) and 7.3(b) shall be:
  - (i) those who have held their office as Director the longest period of time since their last appointment at that office; and
  - (ii) if 2 or more Directors have held office for the same period of time, those Directors determined by the drawing of lots, unless those Directors agree otherwise.
- (d) A Director who retires under Rule 7.3(a) or 7.3(b) is eligible for re-election.
- (e) Rules 7.3(a) and 7.3(b) do not apply to the managing director of the Company, or if more than one, the managing director of the Company determined by the Directors.
- (f) A Director appointed under Rule 7.2(b) may retire at the next meeting of Members and is eligible for re-election at that meeting.
- (g) Unless a Director appointed under Rule 7.2(b) has retired under Rule 7.3(f), that Director must retire at the next AGM, and is eligible for re-election at that meeting.
- (h) Rules 7.3(f) and 7.3(g) do not apply to the managing director of the Company, or if more than one, the managing director of the Company determined by the Directors.
- (i) A Director may resign from office by giving a written notice of resignation to the Company at its registered office.
- (j) Subject to the Corporations Act, the Company in general meeting may, by ordinary resolution, remove any Director and, if thought fit, appoint another person in place of that Director.
- (k) A Director ceases to be a Director if:
  - (i) the Director becomes of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health;
  - (ii) the Director is absent (without the consent of the Directors) from all meetings of the Directors held during a period of 6 months and the other Directors resolve that his or her office be vacated;
  - (iii) the Director resigns or is removed in accordance with this Constitution;
  - (iv) the Director is an Executive Director and ceases to be an employee of the Company or of a Related Corporation;

- (v) the Director becomes an insolvent under administration; or
- (vi) the Corporations Act so provides.

#### **7.4 Alternate Directors**

- (a) With the approval of a majority of the other Directors, a Director may appoint a person as an Alternate Director of that Director for any period.
- (b) An Alternate Director need not be a Member.
- (c) The appointing Director may terminate the appointment of his or her Alternate Director at any time.
- (d) A notice of appointment (or termination of appointment) of an Alternate Director is effective only if:-
  - (i) the notice is in writing;
  - (ii) the notice is signed by the Director who appointed that Alternate Director; and
  - (iii) the Company is given a copy of the notice.
- (e) If the Director who appointed an Alternate Director is not present at a meeting of Directors, that Alternate Director may, subject to this Constitution and the Corporations Act:-
  - (i) attend, count in the quorum of, speak at, and vote at that meeting in place of that appointing Director; and
  - (ii) exercise any other powers (except the power under Rule 7.4(a)) that the appointing Director may exercise.
- (f) An Alternate Director cannot exercise any powers of his or her appointing Director if that appointing Director ceases to be a Director.
- (g) A person does not cease to be a Director under Rule 7.4(f) if that person retires as a Director at a meeting of Members and is re-elected as a Director at that meeting.
- (h) Subject to the Rule 7.5(g), the Company is not required to pay any remuneration to an Alternate Director.

#### **7.5 Remuneration of Directors**

- (a) Subject to the Corporations Act and the Listing Rules, the Company may pay to the Non-executive Directors a maximum total amount of director's fees (excluding salaries or other employee benefits), determined by the Company in general meeting, or until so determined, as the Directors resolve.
- (b) The remuneration of the Non-executive Directors must not be set as a commission on, or percentage of, profits or operating revenue.
- (c) The Directors may determine the manner in which all or part of the amount in Rule 7.5(a) is divided between the Non-executive Directors, and until so determined, the amount in Rule 7.5(a) must be divided between the Non-executive Directors equally.
- (d) The remuneration of the Non-executive Directors is taken to accrue from day to day.
- (e) The remuneration of the Executive Directors must:
  - (i) subject to the provisions of any contract between each of them and the Company, be fixed by the Directors; and
  - (ii) not be set as a commission on, or percentage of, operating revenue.
- (f) If a Director performs extra or special services, including being:-
  - (i) a member on a committee of Directors; or

- (ii) the chairperson of Directors or deputy chairperson of Directors, the Company may, subject to the Corporations Act and this Rule 7.5, pay such additional remuneration or provide such benefits to that Director as the Directors resolve.
- (g) The Company must pay all reasonable travelling, accommodation and other expenses properly incurred by a Director or Alternate Director:-
  - (i) in attending meetings of Directors or any meetings of committees of Directors;
  - (ii) in attending any meetings of Members; and
  - (iii) in connection with the business of the Company.
- (h) Subject to the Corporations Act and the Listing Rules, any Director may participate in any fund, trust or scheme for the benefit of:-
  - (i) past or present Directors or employees of the Company or a Related Corporation; or
  - (ii) the dependants of, or persons connected with, any person referred to in Rule 7.5(h)(i).
- (i) Subject to the Corporations Act and the Listing Rules, the Company may give, or agree to give, a person a benefit in connection with that person's, or someone else's, retirement from a board or managerial office in the Company or a Related Corporation.

## **7.6 Interests of Directors**

- (a) A Director may:-
  - (i) hold an office or place of profit (except as auditor) in the Company, on any terms as the Directors resolve;
  - (ii) hold an office, or otherwise be interested in, any Related Corporation or other body corporate in which the Company is interested or;
  - (iii) act, or the Director's firm may act, in any professional capacity for the Company (except as auditor) or any Related Corporation or other body corporate in which the Company is interested, and retain the benefits of doing so if the Director discloses (in accordance with the Corporations Act and the Listing Rules) the interest giving rise to those benefits.
- (b) If a Director discloses any interest giving rise to a benefit to the Director in accordance with Rule 7.6(a):-
  - (i) the Director may contract or make an arrangement with the Company, a Related Corporation or a body corporate in which the Company is interested, in any matter and in any capacity;
  - (ii) the Director may, subject to the Corporations Act, be counted in a quorum for a meeting of Directors considering that contract or arrangement;
  - (iii) the Director may, subject to the Corporations Act, vote on whether the Company enters into the contract or arrangement, and on any matter that relates to the contract, arrangement or interest;
  - (iv) the Director may sign on behalf of the Company, or witness the affixing of the Seal to, any document in respect of the contract or arrangement;
  - (v) the Director may retain the benefits under the contract or arrangement; and
  - (vi) the Company cannot avoid the contract or arrangement merely because of the existence of the Director's interest.
- (c) The failure of a Director to:-

- (i) disclose an interest;
- (ii) not be present while a matter in which the Director is interested is being considered at a meeting of Directors; or
- (iii) not vote on a matter, in accordance with the Corporations Act, does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.

### **7.7 No Share Qualification**

A Director is not required to hold any Shares.

## **8. OFFICERS**

### **8.1 Managing Director**

- (a) The Directors may appoint one or more of their number as a managing director, for any period and on any terms (including as to remuneration) as the Directors resolve.
- (b) Subject to any agreement between the Company and a managing director, the Directors may remove or dismiss a managing director at any time, with or without cause.
- (c) The Directors may delegate any of their powers (including the power to delegate) to a managing director.
- (d) The Directors may revoke or vary:-
  - (i) the appointment of a managing director; or
  - (ii) any power delegated to a managing director.
- (e) A managing director must exercise the powers delegated to him or her in accordance with any directions of the Directors.
- (f) The exercise of a power by a managing director is as effective as if the Directors exercised the power.
- (g) A person ceases to be a managing director if the person ceases to be a Director.

### **8.2 Secretary**

- (a) The first Secretary is the person specified as Secretary in the application for registration of the Company required under the Corporations Act.
- (b) The Directors may appoint one or more Secretaries for any period, and on any terms (including as to remuneration), as the Directors resolve.
- (c) Subject to any agreement between the Company and a Secretary, the Directors may remove or dismiss a Secretary at any time with or without cause.
- (d) The Directors may revoke or vary the appointment of a Secretary.
- (e) An act by a person as a Secretary is effective even if the appointment of that person, or the continuance of that appointment, is invalid because the Company or that person did not comply with this Constitution or any provision of the Corporations Act.
- (f) Rule 8.2(e) does not deal with the question whether an effective act by a person:-
  - (i) binds the Company in its dealings with other people; or
  - (ii) makes the Company liable to another person.

### **8.3 Indemnity and Insurance**

- (a) To the extent permitted by law, the Company must indemnify each Relevant Officer against:-
  - (i) a Liability of that person; and

- (ii) Legal Costs of that person.
- (b) To the extent permitted by law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (c) To the extent permitted by law, the Company may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:-
  - (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Company may enter into an agreement or deed with a Relevant Officer or a person who is, or has been, an officer of a Subsidiary, under which the Company must do all or any of the following:
  - (i) keep books of the Company and allow either (or both) that person and that person's advisers access to such books on the terms agreed;
  - (ii) indemnify that person against any Liability;
  - (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs; and
  - (iv) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of a Subsidiary, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).
- (e) Nothing in this Rule 8.3 precludes the Company from indemnifying employees (other than Officers) and consultants or sub-contractors where the Directors, in their absolute discretion, deem it to be necessary or appropriate.

## **9. POWERS OF THE COMPANY AND DIRECTORS**

### **9.1 General Powers**

- (a) The Company may exercise, in any manner permitted by the Corporations Act, any power which a public company limited by shares may exercise under the Corporations Act.
- (b) Subject to the Corporations Act, the Listing Rules and this Constitution, the business of the Company shall be managed by, or under the direction of, the Directors who may:
  - (i) pay all expenses incurred in forming and promoting the Company; and
  - (ii) exercise such powers of the Company as are not, by the Corporations Act, the Listing Rules or this Constitution, required to be exercised by the Company in general meeting.

### **9.2 Execution of Documents**

- (a) If the Company has a Seal, the Company may execute a document if the Seal is fixed to the document and the fixing of the Seal is witnessed by:-
  - (i) 2 Directors;
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Directors for that purpose.
- (b) The Company may execute a document without a common seal if the document is signed by:
  - (i) 2 Directors;
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Directors for that purpose.

- (c) The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with Rule 9.2(a) or 9.2(b).
- (d) The Directors may resolve, generally or in a particular case, that any signature on certificates for securities of the Company may be affixed by mechanical or other means.
- (e) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by, or on behalf of, the Company in such manner and by such persons as the Directors resolve.

### **9.3 Borrowings**

Without limiting the generality of Rule 9.1, the Directors may at any time:

- (a) exercise all powers of the Company to:-
  - (i) borrow money;
  - (ii) charge any property or business of the Company or all or any of its uncalled capital; and
  - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person;
- (b) sell or otherwise dispose of the whole or any part of the assets, undertakings and other properties of the Company, or any that may be acquired, on such terms and conditions as they deem appropriate, but:-
  - (i) the Company must comply with the Listing Rules;
  - (ii) any sale or disposition of the Company's main undertaking must be made subject to the ratification of the sale or disposal by the Company in general meeting; and
  - (iii) on the sale or disposition of the Company's main undertaking or on the liquidation of the Company, no commission or fee shall be paid to any Director or Directors or to any liquidator of the Company unless it is ratified by the Company in general meeting, with prior notification of the amount of the proposed payment or payments having been disclosed to all Members in the relevant notice of meeting at which any such payment is to be considered; and
- (c) take any action necessary or desirable to enable the Company to comply with the Listing Rules.

### **9.4 Committees and Delegates**

- (a) The Directors may delegate any of their powers (including the power to delegate) to a committee of Directors, a Director, an employee of the Company or any other person.
- (b) The Directors may revoke or vary any power delegated under Rule 9.4(a).
- (c) A committee or delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (d) The exercise of a power by the committee or delegate is as effective as if the Directors exercised the power.
- (e) Rule 10 applies with the necessary changes to meetings of a committee of Directors.

### **9.5 Attorney or Agent**

- (a) The Directors may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) as the Directors resolve.
- (b) The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.

- (c) The Directors may revoke or vary:-
  - (i) an appointment under Rule 9.5(a); or
  - (ii) any power delegated to an attorney or agent.

## **10. PROCEEDINGS OF DIRECTORS**

### **10.1 Written Resolutions of Directors**

- (a) The Directors may pass a resolution without a meeting of the Directors being held if all the Directors entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document referred to in Rule 10.1 (a) may be used for assenting to by the Directors if the wording of the resolution and the statement is identical in each copy.
- (c) A Director may signify assent to a document under this Rule 10.1 by signing the document or by notifying the Company of the assent of the Director:-
- (d) in a manner permitted by Rule 14.3; or
- (e) by any technology including telephone.
- (f) Where a Director signifies assent to a document pursuant to Rule 10.1 (c) other than by signing the document, the Director must, by way of confirmation, sign the document before or at the next meeting of Directors attended by that Director.
- (g) The resolution, the subject of a document under Rule 10.1 (b), is not invalid if a Director does not comply with Rule 10.1 (d).

### **10.2 Convening of Directors' Meetings**

- (a) A Director may call a meeting of Directors at any time.
- (b) On the request of any Director, a Secretary of the Company must call a meeting of the Directors.
- (c) The Directors may meet, adjourn and otherwise regulate their meetings as they think fit.
- (d) A meeting of Directors may be held using any technology consented to by a majority of the Directors.
- (e) The consent of a Director under Rule 10.2(d):
  - (i) may be for all meetings of Directors or for any number of meetings; and
  - (ii) may only be withdrawn by that Director within a reasonable period before a meeting of Directors.
- (f) If a meeting of Directors is held in 2 or more places pursuant to Rule 10.2(d):-
  - (i) a Director present at one of the places is taken to be present at the meeting unless, or until, the Director states to the chairperson of the meeting that the Director is discontinuing his or her participation in the meeting; and
  - (ii) the chairperson of the meeting may determine at which place the meeting is taken to be held.

### **10.3 Notice of Directors' Meetings**

- (a) Notice of a meeting of Directors must be given to each Director and Alternate Director.
- (b) A notice of meeting of Directors must:-
  - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); and
  - (ii) state the general nature of the business of the meeting.

- (c) Unless all Directors agree otherwise, the Company must give at least 48 hours notice of a meeting of Directors.
- (d) A Director or Alternate Director may waive notice of a meeting of Directors by notice in writing to the Company to that effect.
- (e) Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Directors is not invalid if either or both:
  - (i) a Director or Alternate Director does not receive notice of the meeting; or
  - (ii) the Company accidentally does not give notice of the meeting to a Director or Alternate Director, provided that, in the case of a failure to give notice to a Director or Alternate Director:-
    - (A) that person (or in the case of an Alternate Director, the Director appointing that person) gives notice in writing to the Company that he or she waives the right to receive notice of the meeting or agrees to the thing done at the meeting; and
    - (B) that person (or in the case of an Alternate Director, the Director appointing that person) attends the meeting.
- (f) Subject to the Corporations Act, the attendance of a person at a meeting of Directors waives any objection that person and:
  - (i) if the person is a Director, an Alternate Director appointed by that person; or
  - (ii) if the person is an Alternate Director, the Director who appointed that person as an Alternate Director, may have to a failure to give notice of the meeting to that person in accordance with this Constitution.

#### **10.4 Quorum**

- (a) Subject to the Corporations Act, a quorum for a meeting of Directors is:-
  - (i) if the Directors have fixed a number for the quorum, that number of Directors; and
  - (ii) in any other case, 2 Directors entitled to vote on a resolution that may be proposed at that meeting.
- (b) In determining whether a quorum for a meeting of Directors is present:-
  - (i) where a Director has appointed an Alternate Director, that Alternate Director is counted if the appointing Director is not present;
  - (ii) where a person is present as Director and an Alternate Director for another Director, that person is counted separately provided that there is at least one other Director or Alternate Director present; and
  - (iii) where a person is present as an Alternate Director for more than one Director, that person is counted separately for each appointment provided that there is at least one other Director or Alternate Director present.
- (c) A quorum for a meeting of Directors must be present at all times during the meeting.
- (d) If there are not enough persons to form a quorum for a meeting of Directors, one or more of the Directors (including those who have an interest in a matter being considered at that meeting) may call a meeting of Members and the meeting of Members may pass a resolution to deal with the matter.

#### **10.5 Chairperson**

- (a) The Directors may elect a Director as chairperson of Directors or deputy chairperson of Directors for any period they resolve, or if no period is specified, until that person ceases to be a Director.

- (b) The Directors may remove the chairperson of Directors or deputy chairperson of Directors at any time.
- (c) The chairperson of Directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) chair each meeting of Directors.
- (d) If:-
  - (i) there is no chairperson of Directors;
  - (ii) the chairperson of Directors is not present within 15 minutes after the time appointed for a meeting of Directors; or
  - (iii) the chairperson of Directors is present within that time but is not willing to chair all or part of that meeting, if the Directors have elected a deputy chairperson of Directors, the deputy chairperson of Directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) chair all or part of the meeting of Directors.
- (e) Subject to Rules 10.5(c) and 10.5(d), if:-
  - (i) there is no deputy chairperson of Directors;
  - (ii) the deputy chairperson of Directors is not present within 15 minutes after the time appointed for the meeting of Directors; or
  - (iii) the deputy chairperson of Directors is present within that time but is not willing to chair all or part of that meeting,
  - (iv) the Directors present must elect one of themselves to chair all or part of the meeting of Directors.
- (f) A person does not cease to be a chairperson of Directors or deputy chairperson of Directors if that person retires as a Director at a meeting of Members and is re-elected as a Director at that meeting.

## **10.6 Resolutions of Directors**

- (a) A resolution of Directors is passed if more votes are cast in favour of the resolution than against it.
- (b) Subject to Rule 7.6 and this Rule 10.6, each Director has one vote on a matter arising at a meeting of Directors.
- (c) In determining the number of votes a Director has on a matter arising at a meeting of Directors:-
  - (i) where a person is present as a Director and an Alternate Director for another Director, that person has one vote as a Director and, subject to Rule 7.4(e), one vote as an Alternate Director; and
  - (ii) where a person is present as an Alternate Director for more than one Director, that person has, subject to Rule 7.4(e), one vote for each appointment.
- (d) Subject to the Corporations Act, in case of an equality of votes on a resolution at a meeting of Directors, the chairperson of that meeting has a casting vote on that resolution in addition to any vote the chairperson has in his or her capacity as a Director in respect of that resolution.

## **10.7 Effectiveness of Acts by Directors**

- (a) An act done by a Director is effective even if the appointment of that Director, or the continuance of that appointment, is invalid because the Company or that Director did not comply with this Constitution or any provision of the Corporations Act.
- (b) Rule 10.7(a) does not deal with the question whether an effective act by a Director:-

- (i) binds the Company in its dealings with other people; or
- (ii) makes the Company liable to another person.

## 11. DIVIDENDS AND ~~DISTRIBUTIONS~~PROFITS

### 11.1 Payment of Dividends

- (a) Subject to the Corporations Act, the Listing Rules and any rights or restrictions attached to a class of Shares, the Company may determine and pay Dividends as the Directors resolve but only as permitted by law~~out of profits of the Company~~.
- (b) The Directors may determine that a Dividend is payable without a meeting of Members and may fix:-
  - (i) the amount of the Dividend;
  - (ii) if the Dividend is franked, the franking percentage and the franking class;
  - (iii) the time for determining entitlements to the Dividend;
  - (iv) the time for payment of the Dividend; and the method of payment of the Dividend.
- (c) The method of payment of a Dividend may include any or all of the payment of cash, the issue of Shares or other securities, the grant of options and the transfer of assets.
- (d) If the method of payment of a Dividend includes an issue or transfer of shares in a body corporate, each Member:-
  - (i) agrees to become a member of that body corporate; and
  - (ii) in the case of a transfer, appoints the Company and each Director as its agent to execute an instrument of transfer or other document required to transfer the relevant shares to that Member.
- (e) A Dividend in respect of a Share must be paid to the person whose name is entered in the Register as the holder of that Share:
  - (i) where the Directors have fixed a time under Rule 11.1 (b)(iii), at that time; or
  - (ii) in any other case, on the date the Dividend is declared.

### 11.2 Dividends for Different Classes

The Directors may determine that Dividends be paid:

- (a) on Shares of one class but not on another class; and
- (b) at different rates for different classes of Shares.

### 11.3 Dividends Proportional to Paid Up Capital

- (a) Subject to any rights or restrictions attached to a class of Shares, the person entitled to a Dividend on a Share is entitled to:
  - (i) if the Share is fully paid (whether the issue price of the Share was paid or credited or both), the entire Dividend; or
  - (ii) if the Share is partly paid, a proportion of that Dividend equal to the proportion which the amount paid (including amounts credited) on that Share bears to the total amount paid or payable (including amounts credited) on that Share.
- (b) Amounts paid in advance of a call on a Share are ignored when calculating the proportion under Rule 11.3(a)(ii).

### 11.4 Effect of a Transfer on Dividends

If a transfer of a Share is registered after the time determined for entitlements to a Dividend on that Share but before the Dividend is paid, the person transferring the Share is entitled to that Dividend.

### **11.5 No Interest on Dividends**

The Company is not required to pay any interest on a Dividend.

### **11.6 Unpaid Amounts**

The Company may retain the whole or part of any Dividend in respect of which the Company has a lien and apply that amount in total or part satisfaction of any amount secured by that lien.

### **11.7 Capitalisation of Profits**

- (a) Subject to the Listing Rules, the Directors may capitalise any profits of the Company and distribute that capital to the Members, in the same proportions as the Members are entitled to a distribution by Dividend.
- (b) The Directors may fix the time for determining entitlements to a capitalisation of profits.
- (c) The Directors may decide to apply any capital arising from a capitalisation of profits under Rule 11.7(a) in either or both of the following ways:-
  - (i) in paying up an amount unpaid on Shares already issued; and
  - (ii) in paying up in full any unissued Shares or other securities in the Company.
- (d) The Members must accept an application of capital pursuant to Rule 11.7(c) in full satisfaction of their interest in that capital.

### **11.8 Distributions of Assets**

The Directors may settle any dispute in relation to a distribution of capital under Rule 11.7 in any way including, but not limited to:

- (a) rounding amounts up or down to the nearest whole number;
- (b) ignoring fractions;
- (c) valuing assets for distribution;
- (d) paying cash to any Member on the basis of that valuation; and
- (e) vesting assets in a trustee on trust for the Members entitled.

### **11.9 Dividend Plans**

Subject to the Corporations Act and the Listing Rules:-

- (a) the Directors may establish a dividend selection plan or bonus share plan on such terms as the Directors resolve, under which participants may elect in respect of all or part of their Shares:
  - (i) to receive a Dividend from the Company paid in whole or in part out of a particular fund or reserve or out of profits derived from a particular source; or
  - (ii) to forego a Dividend from the Company and receive some other form of distribution or entitlement (including securities) from the Company or another body corporate or a trust;
- (b) the Directors may establish a dividend reinvestment plan on such terms as the Directors resolve, under which participants may elect in respect of all or part of their Shares to apply the whole or any part of a Dividend from the Company in subscribing for securities of the Company or a Related Corporation; and

- (c) the Directors may implement, amend, suspend or terminate any plan established under this Rule 11.9.

## **12. WINDING UP**

### **12.1 Distributions Proportional to Paid Up Capital**

Subject to the Corporations Act, the Listing Rules and any rights or restrictions attached to a class of Shares, on a winding up of the Company any surplus must be divided among the Members in the proportion which the amount paid (including amounts credited) on the Shares of a Member bears to the total amount paid and payable (including amounts credited) on the Shares of all Members.

### **12.2 Distributions of Assets**

Subject to the Corporations Act, the Listing Rules and any rights or restrictions attached to a class of Shares, on a winding up of the Company, the liquidator may, with the sanction of a special resolution of the Members:

- (a) distribute among the Members the whole or any part of the property of the Company;
- (b) decide how to distribute the property as between the Members or different classes of Members;
- (c) settle any dispute concerning a distribution under this Rule 12 in any way including, but not limited to:-
  - (i) rounding amounts up or down to the nearest whole number;
  - (ii) ignoring fractions;
  - (iii) valuing assets for distribution;
  - (iv) paying cash to any Member on the basis of that valuation; and
  - (v) vesting assets in a trustee on trust for the Members entitled, provided that a Member need not accept any property, including Shares or other securities, carrying a liability.

### **12.3 Remuneration of Liquidator**

The Company in general meeting must not fix the remuneration to be paid to a liquidator of the Company appointed pursuant to the Corporations Act unless at least 14 days notice of the meeting has been given to the Members specifying the amount of the proposed remuneration.

## **13. RECORDS**

### **13.1 Minutes**

- (a) The Company must keep minute books in which it records within one month:-
  - (i) proceedings and resolutions of meetings of Members;
  - (ii) proceedings and resolutions of meetings of Directors (including meetings of committees of Directors);
  - (iii) resolutions passed by Members without a meeting;
  - (iv) resolutions passed by the Directors without a meeting; and
  - (v) if the Company has only one Director, the making of declarations by that Director.
- (b) The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
  - (i) the chairperson of that meeting; or
  - (ii) the chairperson of the next meeting.

- (c) The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after that resolution is passed.
- (d) If the Company has only one Director, that Director must sign the minutes of the making of a declaration by that Director within a reasonable time after that resolution is passed.
- (e) A minute recorded and signed in accordance with this Rule 13.1 is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

### **13.2 Register**

- (a) The Company must set up and maintain the Register in accordance with section 169 of the Corporations Act.
- (b) The Company may set up and maintain a branch register of Members in accordance with the Corporations Act.
- (c) The Company must allow inspection of the Register only in accordance with the Corporations Act.
- (d) Unless the contrary is otherwise proved, the Register is sufficient evidence of the matters shown in the Register.

### **13.3 Financial Records**

The Company must keep financial records in accordance with the Corporations Act.

### **13.4 Inspection**

Unless authorised by a resolution of Directors or the Corporations Act, a Member is not entitled to inspect the books of the Company.

## **14. NOTICES AND PAYMENTS**

### **14.1 Notice to Members**

- (a) The Company may give notice to a Member:-
  - (i) in person;
  - (ii) by sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member; or
  - (iii) by sending it to the facsimile number or electronic address (if any) nominated by that Member.
- (b) If the address of a Member in the Register is not within Australia, the Company must send all documents to that Member by air-mail, air courier, facsimile or electronic address.
- (c) The Company must give any notice to Members who are joint holders of a Share to the person named first in the Register in respect of that Share, and such notice is deemed to be notice to all holders of that Share.
- (d) The Company may give notice to a person entitled to a Share because of a Transmission Event in any manner specified in Rule 14.1(a).
- (e) Notice to a person entitled to a Share because of a Transmission Event is taken to be notice to the Member of that Share.
- (f) Subject to the Corporations Act, a notice to a Member is sufficient, even if:-
  - (i) a Transmission Event occurs in respect of that Member (whether or not a joint holder of a Share); or
  - (ii) that Member is an externally administered body corporate, and regardless of whether or not the Company has notice of that event.

- (g) A person entitled to a Share because of a transfer, Transmission Event or otherwise, is bound by every notice given in respect of that Share.
- (h) Any notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

#### **14.2 Notice to Directors**

The Company may give notice to a Director or Alternate Director:-

- (a) in person;
- (b) by sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) by sending it to the facsimile number or electronic address (if any) nominated by that person; or
- (d) by any other means agreed between the Company and that person.

#### **14.3 Notice to the Company**

A person may give notice to the Company:

- (a) by leaving it at the registered office of the Company;
- (b) by sending it by post to the registered office of the Company;
- (c) by sending it to the facsimile number at the registered office of the Company;
- (d) by sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) by any other means permitted by the Corporations Act.

#### **14.4 Time of Service**

- (a) A notice sent by post to an address within Australia is taken to be given:
  - (i) in the case of a notice of meeting, one Business Day after it is posted; and
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by post or air-mail to an address outside Australia is taken to be given:-
  - (i) in the case of a notice of meeting, 3 Business Days after it is posted; and
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by air courier to a place outside Australia is taken to be given 3 Business Days after delivery to the air courier.
- (d) A notice sent by facsimile or electronic address is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct facsimile number or electronic address.
- (e) The giving of a notice by post, air-mail or air courier is sufficiently proved by evidence that the notice:-
  - (i) was addressed to the correct address of the recipient; and
  - (ii) was placed in the post or delivered to the air courier.
- (f) A certificate by a Director or Secretary of a matter referred to in Rule 14.4(e) is sufficient evidence of the matter, unless it is proved to the contrary.

## **14.5 Signatures**

The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.

## **14.6 Payments**

- (a) The Company may pay a person entitled to an amount payable in respect of a Share (including a Dividend) by:-
  - (i) crediting an account nominated in writing by that person;
  - (ii) cheque made payable to the person entitled to the amount or any other person the person entitled directs in writing; or
  - (iii) any other manner as the Directors resolve.
- (b) The Company may post a cheque referred to in Rule 14.6(a)(ii) to:-
  - (i) the address of the relevant Member in the Register;
  - (ii) if that Share is jointly held, the address of the relevant Member named first in the Register; or
  - (iii) any other address which that person directs in writing.
- (c) Any joint holder of a Share may give effective receipt for an amount (including a Dividend) paid in respect of the Share.
- (d) The Directors may:-
  - (i) realise into money any paid but unclaimed Dividends; and
  - (ii) invest for the benefit of the Company any paid but unclaimed Dividends until they are claimed or required to be dealt with in a particular manner by law.

## **14.7 ASX Listing Rules**

If the Company is admitted to the Official List, the following provisions apply:-

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

## SCHEDULE 1

### UNMARKETABLE PARCELS PRICES

#### 1. DEFINITIONS

In this Schedule 1:-

"**Elimination Notice**" means a notice in writing to Minority Members stating that the Company intends to sell or dispose of their Relevant Securities unless a Notice of Retention is received by the Retention Date;

"**Marketable Parcel**" has the meaning which it bears in the Listing Rules;

"**Minority Member**" means any Member holding a parcel of Relevant Securities;

"**Notice Date**" means the date on which an Elimination Notice is given;

"**Notice of Retention**" means a notice in writing from a Minority Member to the Company stating that all or some of the Relevant Securities are not to be sold or disposed of by the Company;

"**Relevant Securities**" means all parcels of Securities of a particular class that are less than a Marketable Parcel at the Notice Date;

"**Retention Date**" means the date (being not less than 42 days after the Notice Date) specified as such in the Elimination Notice;

"**Sale Securities**" means Relevant Securities for which a Retention Notice has not been received by the Retention Date; and

"**Takeover**" has the meaning which it bears in the Listing Rules.

#### 2. POWER TO SELL UNMARKETABLE PARCELS

##### 2.1 Elimination Notice

- (a) Subject to the Applicable Law and this Schedule 1, the Company may give an Elimination Notice at any time.
- (b) The Company may only give an Elimination Notice once in any 12 month period.
- (c) The Company's power under paragraph 2.1(a) lapses following the announcement of a Takeover, however, the procedure may be started again after the close of the offers made under the Takeover.

##### 2.2 New Unmarketable Parcels

- (a) Subject to the Applicable Law, the Company may sell any Securities of a Member if the Securities held by that Member are in a new holding created by a transfer on or after 1 September 1999 of a number of Securities of that class that was less than a Marketable Parcel at the time:-
  - (i) a Proper SCHASTC Transfer was initiated; or
  - (ii) a paper based transfer was lodged.
- (b) The Company must give a Member referred to in paragraph 2.2(a) a notice stating that the Securities have been sold or disposed of.

#### 3. EXERCISE OF POWER OF SALE

##### 3.1 Extinguishment of Interests and Claims

Subject to this Schedule 1, the exercise by the Company of the power referred to in paragraph 2 extinguishes:-

- (a) all interests in the Sale Securities of the former Minority Member; and

- (b) all claims against the Company in respect of the Sale Securities by that Minority Member, including all Dividends determined to be paid in respect of those Sale Securities and not actually paid.

### **3.2 Authorisation**

For the purposes of the sale or disposal of Sale Securities under this Schedule 1, each Minority Member appoints the Company:-

- (a) as the Minority Member's agent to sell or otherwise dispose of all of the Sale Securities at such price or consideration, on such other terms, in such manner, and at such times as the Directors think fit;
- (b) as the Minority Member's agent to receive the proceeds of sale on behalf of the Minority Member; and
- (c) and each of its Directors jointly and severally, as the Minority Member's attorneys, in that Minority Member's name and on that Minority Member's behalf, to effect all transfer documents, deeds, instruments or other documents necessary to sell or dispose of the Sale Securities.

### **3.3 Sale or Disposal of Sale Securities**

- (a) Subject to the Applicable Law and this Schedule 1, the Company may sell, or dispose of, Sale Securities at any time, in any manner and on any terms as the Directors may determine in their absolute discretion.
- (b) The Company may:-
  - (i) exercise any powers permitted under the Applicable Law to enable the sale or disposal of Sale Securities under this Schedule 1;
  - (ii) receive the proceeds of any sale or disposal of the Sale Securities;
  - (iii) appoint a person to sign a transfer for the Sale Securities; and
  - (iv) enter in the Register the name of the person to whom Sale Securities are sold or disposed.
- (c) The person to whom a Sale Security is sold or disposed need not enquire whether the Company:-
  - (i) properly exercised its power under this Schedule 1 in respect of that Share; or
  - (ii) properly applied the proceeds of sale or disposal of those Securities, and the title of that person is not affected by those matters.
- (d) The remedy of any person aggrieved by a sale or disposal of Sale Securities is in damages only and against the Company exclusively.
- (e) A certificate in writing from the Company, signed by a Director or Secretary, stating that the Sale Securities were sold, or disposed of, in accordance with this Schedule 1 is sufficient evidence of those matters.

### **3.4 Application of Proceeds**

- (a) If the Company exercises its power under paragraph 2.1, either the Company or the person to whom a Sale Security is sold, or disposed of, must pay the expenses of the sale or disposal.
- (b) The Company must apply the proceeds of any sale or disposal of any Sale Securities in the following order:-
  - (i) in the case of an exercise of its power under paragraph 2.2, the expenses of the sale or disposal;

- (ii) the amounts due and unpaid in respect of those Sale Securities; and
- (iii) the balance (if any) to the former Minority Member or the former Minority Member's Personal Representative, on the Company receiving the certificate (if any) for those Sale Securities or other evidence satisfactory to the Company regarding the ownership of those Securities.

### 3.5 Voting and Dividend Rights Pending Sale

- (a) If the Company is entitled to exercise its power under this Schedule 1, the Company may, by resolution of the Directors, remove or change either or both:-
  - (i) the right to vote; and
  - (ii) the right to receive Dividends,of the relevant Minority Member in respect of some or all of the Relevant Securities liable to be sold or disposed of.
- (b) After the sale of the relevant Sale Securities, the Company must pay to the person entitled any Dividends that have been withheld pursuant to paragraph 3.5(a).

## SCHEDULE 2

### CALLS, COMPANY PAYMENTS, FORFEITURE AND LIENS

#### 1. CALLS

##### 1.1 Making a Call

- (a) Subject to the Corporations Act and the terms of issue of a Share, the Company (under the control of the Directors) may, at any time, make calls on the Members of a Share for all, or any part of, the amount unpaid on the Share.
- (b) The Company (under the control of the Directors) may make calls payable for one or more Members for different amounts and at different times.
- (c) Subject to the terms of issue of a Share, a call may be made payable by instalments.
- (d) The Directors may revoke or postpone a call or extend the time for payment of a call.
- (e) A call is made when the Directors resolve to make the call.

##### 1.2 Notice of a Call

- (a) The Company must give notice of a call to Members as required by the Applicable Law.
- (b) A notice of a call must:-
  - (i) be in writing;
  - (ii) specify the amount of the call;
  - (iii) specify the time and place of payment of the call; and
  - (iv) specify the person to whom that call must be paid.
- (c) A call is not invalid if:-
  - (i) a Member does not receive notice of the call; or
  - (ii) the Company accidentally does not give notice of the call to a Member.

##### 1.3 Payment of a Call

- (a) A Member must pay to the Company the amount of each call made on the Member to the persons and at the times and places specified in the notice of the call.
- (b) If an amount unpaid on a Share is payable, by the terms of issue of the Share or otherwise, in one of more fixed amounts on one or more fixed dates, the Member of that Share must pay to the Company those amounts on those dates.
- (c) A Member must pay to the Company:-
  - (i) interest at the rate specified in paragraph 6(a) on any amount referred to in paragraphs 1.3(a) or 1.3(b) which is not paid on or before the time appointed for payment, from the time appointed for payment to the time of the actual payment; and
  - (ii) expenses incurred by the Company because of the failure to pay, or late payment of, that amount.
- (d) The Directors may waive payment of all, or any part of, an amount payable under paragraph 1.3(c).
- (e) The joint holders of a Share are jointly and severally liable for the payment of all calls due in respect of that Share.

##### 1.4 Recovery of a Call

- (a) The Company may recover an amount due and payable under this paragraph 1 from a Member by:-
  - (i) commencing legal action against the Member for all, or part of, the amount due;
  - (ii) enforcing a lien on the Share in respect of which the call was made; or
  - (iii) forfeiting the Share in respect of which the call was made.
- (b) The debt due in respect of an amount payable under this paragraph 1 in respect of a Share is sufficiently proved by evidence that:
  - (i) the name of the Member sued is entered in the Register as one or more of the holders of that Share; and
  - (ii) there is a record in the minute books of the Company of:-
    - in the case of an amount referred to in paragraph 1.3(c), that amount; or
    - in any other case, the resolution making the call.

## 1.5 Payment in Advance of a Call

- (a) The Company may:-
  - (i) accept from any Member all, or any part of, the amount unpaid on a Share held by the Member before that amount is called for;
  - (ii) pay interest at any rate the Directors resolve, on the amount paid before it is called, from the date of payment until and including the date the amount becomes actually payable; and
  - (iii) repay the amount paid to that Member.
- (b) An amount paid in advance pursuant to paragraph 1.5(a)(i) does not confer a right to participate in:-
  - (i) a Dividend determined to be paid ~~from the profits of the Company~~; or
  - (ii) any surplus of the Company in a winding up of the Company, for the period before the date when the amount paid would have otherwise become payable.

## 2. COMPANY PAYMENTS ON BEHALF OF A MEMBER

### 2.1 Rights of the Company

- (a) A Member or, if the Member is deceased, the Member's Personal Representative, must indemnify the Company against any liability which the Company has under any law to make a payment (including payment of a tax) in respect of:-
  - (i) a Share held by that Member (whether solely or jointly);
  - (ii) a transfer or transmission of Shares by that Member;
  - (iii) a Dividend or other money which is, or may become, due or payable to that Member; or
  - (iv) that Member.
- (b) A member, or if the Member is deceased, the Member's Personal Representative, must pay to the Company immediately on demand:-
  - (i) the amount required to reimburse the Company for a payment referred to in paragraph 2.1 (a); and
  - (ii) pay to the Company interest at the rate specified in paragraph 6(a) on any amount referred to in paragraph 2.1 (a) paid by the Company, from the date of payment by

the Company until and including the date the Company is reimbursed in full for that payment.

- (c) The Company may refuse to register a transfer of any Shares by a Member referred to in paragraph 2.1 (a), or that Member's Personal Representative, until all money payable to the Company under this paragraph 2.1 has been paid.
- (d) The powers and rights of the Company under this paragraph 2.1 are in addition to any right or remedy that the Company may have under the law which requires the Company to make a payment referred to in paragraph 2.1 (a).

## **2.2 Recovery of Company Payments**

- (a) The company may recover an amount due and payable under paragraph 2.1 from the Member or the Member's Personal Representative by any or all of:-
  - (i) deducting all, or part of, that amount from any other amount payable by the Company to that person in respect of the Shares of that person;
  - (ii) commencing legal action against that person for all, or part of, that amount; or
  - (iii) enforcing a lien on one or more of the Shares of that person.
- (b) The Directors may waive any or all of the rights of the Company under this paragraph 2.

## **3. FORFEITURE**

### **3.1 Procedure**

The Directors may resolve that a Share of a Member is forfeited if:

- (a) the Member does not pay a call or instalment on that Share on or before the date for its payment; and
- (b) the Company gives the Member notice in writing:-
  - (i) requiring the Member to pay that call or instalment, any interest on it and all expenses incurred by the Company by reason of the non-payment; and
  - (ii) stating that the Share is liable to be forfeited if the Member does not pay to the Company, at the place specified in the notice, the amount specified in the notice, within the period required by the Applicable Law; and
- (c) the Member does not pay that amount in accordance with that notice.

### **3.2 Notice of Forfeiture**

- (a) When any Share has been forfeited, the Company must:-
  - (i) give notice in writing of the forfeiture to the Member registered as its holder before the forfeiture; and
  - (ii) record the forfeiture with the date of forfeiture in the Register.
- (b) Failure by the Company to comply with any requirement in paragraph 3.2(a) does not invalidate the forfeiture.

### **3.3 Effect of Forfeiture**

- (a) The forfeiture of a Share extinguishes:-
  - (i) all interests in that Share of the former Member; and
  - (ii) all claims against the Company in respect of that Share by the former Member, including all Dividends determined to be paid in respect of that Share and not actually paid.
- (b) A former Member of a forfeited Share must pay to the Company:-

- (i) all calls, instalments, interest and expenses in respect of that Share at the time of forfeiture; and
- (ii) interest at the rate specified in paragraph 6(a) on those amounts from the time of forfeiture until and including the date of payment of those amounts.

### **3.4 Sale or Reissue of Forfeited Shares**

The Company may sell, reissue, or otherwise dispose of, a Share which has been forfeited on any terms and in any manner as the Directors resolve.

### **3.5 Cancellation of Forfeited Shares**

The Company may, by ordinary resolution passed at a general meeting of Members, cancel a Share which has been forfeited under the terms on which the Share is on issue.

### **3.6 Proof of Forfeiture**

A certificate in writing from the Company signed by a Director or Secretary certifying that a Share was forfeited on a specified date is sufficient evidence of:-

- (a) the forfeiture of that Share; and
- (b) the right and title of the Company to sell, reissue, or otherwise dispose of, that Share.

### **3.7 Waiver or Cancellation of Forfeiture**

Subject to the Corporations Act, the Directors may:-

- (a) waive any or all of the rights of the Company under this paragraph 3; and
- (b) at any time before a sale, disposition, reissue or cancellation of a forfeited Share, cancel the forfeiture on any terms as the Directors resolve.

## **4. LIENS**

### **4.1 First Ranking Lien**

The Company has a first ranking lien on:-

- (a) each Share registered in the name of a Member;
- (b) the proceeds of sale of those Shares; and
- (c) all Dividends determined to be payable in respect of those Shares, for:
- (d) each unpaid call or instalment which is due but unpaid on those Shares;
- (e) all amounts which the Company is required by law to pay, and has paid, in respect of those Shares (including any payment under paragraph 2) or the forfeiture or sale of those Shares; and
- (f) all interest and expenses due and payable to the Company under this Schedule.

### **4.2 Enforcement by Sale**

The Company may sell a Share of a Member to enforce a lien on that Share if:-

- (a) an amount secured by that lien is due and payable;
- (b) the Company gives the Member or the Member's Personal Representative notice in writing:-
  - (i) requiring payment of that amount, any interest on it and all expenses incurred by the Company by reason of the non-payment; and

- (ii) stating that the Share is liable to be sold if that person does not pay to the Company, at the place specified in the notice, the amount specified in the notice within the period required by the Applicable Law; and
- (c) the Member or the Member's Personal Representative does not pay that amount in accordance with that notice.

#### 4.3 Release or Waiver of Lien

- (a) Registration of a transfer of a Share by the Company releases any lien of the Company on that Share in respect of any amount owing on that Share, unless the Company gives notice in writing, to the person to whom that Share is transferred, of the amount owing.
- (b) The Directors may waive any or all of Company's rights under this paragraph 4.

### 5. SALES, DISPOSALS AND REISSUES

#### 5.1 Sale Procedure

- (a) The Company may:-
  - (i) receive the purchase money or consideration for Shares sold, or disposed of, under this Schedule 2;
  - (ii) appoint a person to sign a transfer of Shares sold, or disposed of, under this Schedule 2; and
  - (iii) enter in the Register the name of the person to whom Shares are sold or disposed.
- (b) The person to whom a Share is sold or disposed under this Schedule 2 need not enquire whether the Company:-
  - (i) properly exercised its powers under this Schedule 2 in respect of that Share; or
  - (ii) properly applied the proceeds of sale or disposal or those Shares, and the title of that person is not affected by those matters.
- (c) The remedy (if any) of any person aggrieved by a sale or other disposal of Shares under this Schedule 2 is in damages only and against the Company exclusively.
- (d) A certificate in writing from the Company signed by a Director or Secretary that a Share was sold, reissued or otherwise disposed of in accordance with this Schedule 2 is sufficient evidence of those matters.

#### 5.2 Application of Proceeds

The Company must apply the proceeds of any sale, re-issue or other disposal of any Shares under this Schedule 2 in the following order:-

- (a) the expenses of the sale, other disposal or reissue;
- (b) the amounts due and unpaid in respect of those Shares; and
- (c) the balance (if any) to the former Member or the former Member's Personal Representative, on the Company receiving the certificate (if any) of those Shares or other evidence satisfactory to the Company regarding the ownership of those Shares.

### 6. INTEREST

- (a) A person must pay interest under this Schedule 2 to the Company:
  - (i) at a rate the Directors resolve; or
  - (ii) if the Directors do not resolve, at 8% per annum.
- (b) Interest payable to the Company under this Schedule 2 accrues daily.

- (c) The Company may capitalise interest payable under this Schedule 2 at any interval the Directors resolve.

## SCHEDULE 3

### PROPORTIONAL TAKEOVER BID

#### 1. PLEBISCITE TO APPROVE PROPORTIONAL TAKEOVER BIDS

##### 1.1 Definitions

In this rule 1:

- (a) approving resolution, in relation to a proportional takeover bid, means a resolution to approve the proportional takeover bid passed in accordance with rule 1.3;
- (b) proportional takeover bid means a takeover bid that is made or purports to be made under section 618(1)(b) of the Corporations Act in respect of securities included in a class of securities in the company;
- (c) relevant class, in relation to a proportional takeover bid, means the class of securities in the company in respect of which offers are made under the proportional takeover bid; and
- (d) approving resolution deadline, in relation to a proportional takeover bid, means the day that is 14 days before last day of the bid period.

##### 1.2 Transfers not to be Registered

Despite rules 4.3 and 4.6, a transfer giving effect to a contract resulting from the acceptance of an offer made under a proportional takeover bid must not be registered unless and until an approving resolution to approve the proportional takeover bid has been passed or is taken to have been passed in accordance with rule 1.3.

##### 1.3 Resolution

- (a) Where offers have been made under a proportional takeover bid, the directors must:
  - (i) convene a meeting of the persons entitled to vote on the approving resolution for the purpose of considering and, if thought fit, passing a resolution to approve the proportional takeover bid; and
  - (ii) ensure that such a resolution is voted on in accordance with this rule 1.3, before the approving resolution deadline.
- (b) The provisions of this constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to a meeting that is convened pursuant to rule 1.3(a).
- (c) The bidder under a proportional takeover bid and any associates of the bidder are not entitled to vote on the approving resolution and if they do vote, their votes must not be counted.
- (d) Subject to rule 1.3(c), a person who, as at the end of the day on which the first offer under the proportional takeover bid was made, held securities of the relevant class is entitled to vote on the approving resolution relating to the proportional takeover bid and, for the purposes of so voting, is entitled to 1 vote for each such security held at that time.
- (e) An approving resolution is to be taken as passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one half, and otherwise is to be taken to have been rejected.
- (f) If an approving resolution has not been voted on in accordance with this rule 1.3 before the approving resolution deadline, an approving resolution will be taken to have been passed in accordance with this rule 1.3 on the approving resolution deadline.

##### 1.4 Sunset

Rules 1.1, 1.2 and 1.3, cease to have effect at the end of 3 years beginning:-

- (a) where those rules have not been renewed in accordance with the Corporations Act, on the date that those rules were adopted by the company; or
- (b) where those rules have been renewed in accordance with the Corporations Act, on the date those rules were last renewed.

## SCHEDULE 4 TRANSMISSION

### 1. DECEASED MEMBERS

#### 1.1 Effect of Death

- (a) If a Member (not being one of several joint holders) dies, the Company must recognise only the Personal Representative of that Member as having any title or interest in the Shares registered in the name of that Member or any benefits accruing in respect of those Shares.
- (b) If a Member (being any one or more of the joint registered holders of any Share) dies, the Company must recognise only the surviving joint registered holders of that Share as having any title to, or interest in, or any benefits accruing in respect of, that Share.

#### 1.2 Estates and Personal Representatives

- (a) The estate of a deceased Member is not released from any liability in respect of the Shares registered in the name of that Member.
- (b) Where 2 or more persons are jointly entitled to any Share as a consequence of the death of the registered holder of that Share, they are taken to be joint holders of that Share.

### 2. TRANSMISSION EVENTS

#### 2.1 Right to Register or Transfer

- (a) Subject to the Bankruptcy Act 1966 and the Corporations Act, if a person entitled to a Share because of a Transmission Event gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of any Shares, that person may:
  - (i) elect to be registered as a Member in respect of those Shares by giving a signed notice in writing to the Company; or
  - (ii) transfer those Shares to another person.
- (b) Upon receiving a notice under paragraph 2.1(a)(i), the Company must register the person as the holder of those Shares.
- (c) A transfer pursuant to paragraph 2.1(a)(ii) is subject to all provisions of this Constitution relating to transfers of shares.

## **2.2 Other Rights and Obligations**

- (a) A person registered as a Member as a consequence of paragraph 2.1 must indemnify the Company to the extent of any loss or damage suffered by the Company as a result of that registration.
- (b) A person who has given to the Directors the information referred to in paragraph 2.1 (a) in respect of a Share, is entitled to the same rights to which that person would be entitled if registered as the holder of that Share.

**ANNEXURE B**  
**TERRITORY RESOURCES LIMITED**

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**PERFORMANCE RIGHTS PLAN**  
**(Adopted by the Board on 28 April 2010)**

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## TABLE OF CONTENTS

<b>1.</b>	<b>PURPOSE</b>	<b>4</b>
<b>2.</b>	<b>DEFINITIONS AND INTERPRETATION</b>	<b>4</b>
	2.1 Definitions	4
	2.2 Interpretation	6
<b>3.</b>	<b>OFFER TO PARTICIPATE</b>	<b>7</b>
	3.1 Offers	7
	3.2 Application Form	7
	3.3 Participants	7
<b>4.</b>	<b>GRANT OF PERFORMANCE RIGHTS</b>	<b>8</b>
	4.1 Grant	8
	4.2 Not transferable	8
	4.3 Security Interest	8
	4.4 New issues	8
	4.5 Dividend and Voting Rights	8
<b>5.</b>	<b>VESTING OF PERFORMANCE RIGHTS</b>	<b>9</b>
	5.1 Performance Conditions	9
	5.2 Determination of number of Vested Performance Rights	9
	5.3 Automatic Issue of Shares for Vested Performance Rights	9
	5.4 Performance Rights and Trading of Shares	9
<b>6.</b>	<b>TIME OF LAPSE OF PERFORMANCE RIGHTS</b>	<b>10</b>
<b>7.</b>	<b>CESSATION OF EMPLOYMENT OR OFFICE</b>	<b>10</b>
	7.1 Unvested Performance Rights	10
	7.2 Secretary's Certificate	10
	7.3 Death of a Participant	10
<b>8.</b>	<b>BREACH, FRAUD OR DISHONESTY</b>	<b>11</b>

<b>9.</b>	<b>CHANGE OF CONTROL</b>	<b>11</b>
9.1	Vesting upon change of control	11
<b>10.</b>	<b>ADMINISTRATION OF THE PLAN</b>	<b>11</b>
<b>11.</b>	<b>CAPITAL EVENTS</b>	<b>12</b>
11.1	Variation of Capital	12
11.2	Adjustments	12
11.3	Notice of Variation	12
<b>12.</b>	<b>RIGHTS OF PARTICIPANTS</b>	<b>12</b>
<b>13.</b>	<b>AMENDMENT, TERMINATION AND SUSPENSION</b>	<b>13</b>
<b>14.</b>	<b>GENERAL</b>	<b>13</b>
14.1	Law, Listing Rules and the Constitution	13
14.2	Compliance with the Income Tax Assessment Act	13
14.3	Issue limitations	13
14.4	Costs and Expenses	14
14.5	Withholding	14
14.6	Data protection	14
14.7	Error in Allocation	15
14.8	Dispute	15
14.9	Notices	15
14.10	Governing Law	15

## 1. PURPOSE

The Performance Rights Plan is a long term incentive aimed at creating a stronger link between employee performance and reward and increasing shareholder value by enabling Participants to have a greater involvement with, and share in the future growth and profitability of, the Company.

## 2. DEFINITIONS AND INTERPRETATION

### 2.1 Definitions

In these Rules the following terms have the following meanings:

"**Application Form**" means an application form by which an Eligible Person or a Permitted Nominee can accept an Offer in such form as the Board may approve from time to time;

"**Allocate**" means granting a right to acquire unissued Shares, or if there is no such grant, the issue and allotment of Shares;

"**ASIC**" means Australian Securities and Investments Commission;

"**ASX**" means ASX Limited ACN 008 624 691 and, where the context permits, the Australian Securities Exchange operated by ASX Limited;

"**Blackout Period**" has the meaning given to that term in the Share Trading Policy;

"**Board**" means the board of directors of the Company from time to time;

"**Change of Control Event**" means a shareholder, or a group of associated shareholders:

- (a) becoming entitled to sufficient shares in the Company to give it or them the ability, and that ability is successfully exercised, in general meeting, to replace all or a majority of the Board; or
- (b) gaining the ability to control more than 50% of the voting power (as defined in the Corporations Act) in the Company;

"**Company**" means Territory Resources Limited ACN 100 552 118 whose registered office is at Ground Floor, 23 Ventnor Avenue West Perth, Western Australia 6005;

"**Constitution**" means the constitution of the Company;

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

"**Eligible Person**" means a director or a full time or permanent part-time employee of a Group Company whom the Board determines in its absolute discretion is to participate in the Plan;

"**Expiry Date**" means the day ending 5.00 pm Perth time on the date 7 years after the date of grant of the Performance Right, or such other date as determined by the Board in its absolute discretion and specified in the Offer;

"**Group**" means the Company and its Subsidiaries (if any) from time to time and a "**Group Company**" means any one of them;

"**Law**" means the laws of Australia;

"**Legal Personal Representative**" means the executor of the will or an administrator of the estate of a deceased person, the trustee of the estate of a person under a legal disability or a person who holds an enduring power of attorney granted by another person;

"**Listing Rules**" means the listing rules of the ASX as amended from time to time;

"**Measurement Date**" in relation to a Performance Right means the date at which Performance Conditions are to be measured to determine whether that Performance Right becomes a Vested Performance Right;

"**Offer**" means an offer to participate in the Plan in respect of a Performance Period in accordance with clause 3.1;

"**Participant**" means an Eligible Person or their Permitted Nominee, as the case may be, who returns a duly completed Application Form and to whom Performance Rights are granted under the Plan;

"**Performance Conditions**" means the conditions relating to the performance of the Group (and the manner in which those conditions will be tested) for the purposes of determining the number of a Participant's Performance Rights which may be exercised, as set out in the Offer;

"**Performance Period**" means the period set out in the Offer for the purpose of determining the extent (if any) to which the Performance Conditions have been met;

"**Performance Right**" means a right granted under clause 4.1(a) to acquire a Share on the terms set out in the Plan for the relevant Performance Period, subject to the Performance Conditions;

"**Permitted Nominee**" has the meaning given to it under clause 3.3(b);

"**Plan**" means the Performance Rights Plan of the Company;

"**Redundancy**" means, in relation to an Eligible Person, a determination by the Board that the Company's need to employ a person for the particular kind of work carried out by that Eligible Person has ceased (but, for the avoidance of any doubt, does not include the dismissal of an Eligible Person for personal or disciplinary reasons or where the Eligible Person leaves the employ of the Company of his or her own accord);

"**Retirement**" means, in relation to an Eligible Person, retirement by that Eligible Person from the Company at a date greater than 6 months from the grant of the Performance Right, who is age 55 or over;

"**Security Interest**" means a mortgage, charge, pledge, lien or other encumbrance of any nature;

"**Share**" means a fully paid ordinary share in the capital of the Company;

"**Share Trading Policy**" means the Company's share trading policy pursuant to its corporate governance system as published on the Company's website;

"**Subsidiary**" means a body corporate which is a subsidiary of the Company within the meaning of section 9 of the Corporations Act;

"**Specified Reason**" means Retirement, Total and Permanent Disablement, Redundancy or death;

"**Total and Permanent Disablement**" means, in relation to an Eligible Person, that the Eligible Person has, in the opinion of the Board and with effect on a date determined by the Board, after considering such medical and other evidence as it sees fit, become incapacitated to such an extent as to render the Eligible Person unlikely ever to engage in any occupation for which he is reasonably qualified by education, training or experience;

"**Unvested Performance Rights**" means Performance Rights which have not yet vested in accordance with the Plan; and

"**Vested Performance Rights**" means Performance Rights which are determined to have vested in accordance with the Plan.

## 2.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a clause is to a clause of the Plan.
- (f) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by the Plan.
- (g) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (h) A reference to conduct includes any omission and any statement or undertaking, whether or not in writing.
- (i) A reference to writing includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (j) Mentioning anything after include, includes or including does not limit what else might be included.

### 3. OFFER TO PARTICIPATE

#### 3.1 Offers

- (a) The Board may from time to time in its absolute discretion issue or cause to be issued Offers on behalf of the Company to Eligible Persons. That Offer will be in such form as the Board determines from time to time and will include the following information:
  - (i) the date of the Offer;
  - (ii) the name of the Eligible Person to whom the Offer is made;
  - (iii) the number of Performance Rights which are capable of vesting if Performance Conditions are met;
  - (iv) the Performance Conditions and Performance Period;
  - (v) the approximate Measurement Date(s) in respect of the Performance Rights;
  - (vi) the Expiry Date; and
  - (vii) the time period in which to accept the Offer by returning a duly completed Application Form.
- (b) Offers may be made by the Board on a differential basis to Eligible Persons, different classes of Eligible Persons or to Eligible Persons within the same class, as the case may be.

#### 3.2 Application Form

- (a) An Eligible Person who receives an Offer can only participate in the Plan by returning a duly completed Application Form within the time period and as otherwise specified in the Offer.
- (b) An Eligible Person may nominate a person to whom the Eligible Person wishes to be granted all the Performance Rights as specified in the Offer by notice in writing to the Board. The Board may, in its absolute discretion, resolve not to allow the grant of the Performance Rights to the nominee without giving any reason for such decision.
- (c) If an Application Form is not returned within the time specified or otherwise in accordance with the requirements set out in the Offer, the Board may nevertheless in its sole discretion treat any Application Form received from an Eligible Person (or their nominee) as being returned in accordance with clause 3.2(a).
- (d) For the avoidance of doubt, the Board in its sole discretion can refuse to allow an Eligible Person (or their nominee) to participate in the Plan even though a duly completed Application Form is received from the Eligible Person (or their nominee) in accordance with clause 3.2(a).

#### 3.3 Participants

Subject to clause 3.2(d), following:

- (a) receipt of a duly completed Application Form by an Eligible Person; or
- (b) the Board approving the grant of Performance Rights to an eligible person's nominee ("**Permitted Nominee**") and the Permitted Nominee giving the Company a duly completed Application Form,

then the Eligible Person or the Permitted Nominee, as the case may be, will be taken to have agreed to be bound by rules of this Plan and will be granted Performance Rights subject to these rules. On the grant of Performance Rights following receipt by the Company of an Application Form, an Eligible Person or the Permitted Nominee, as the case may be, becomes a Participant.

## **4. GRANT OF PERFORMANCE RIGHTS**

### **4.1 Grant**

- (a) As soon as practicable after the receipt of a duly completed Application Form, the Company will grant to each Participant the number of Performance Rights as set out in the Offer.
- (b) A Participant will not pay anything for the grant of Performance Rights.
- (c) An Eligible Person has no entitlement to be granted any Performance Rights unless and until such Performance Rights are granted.
- (d) None of the Performance Rights will be listed for quotation on any stock exchange.

### **4.2 Not transferable**

Except on the death of a Participant, Performance Rights may not be transferred, assigned or novated except with the approval of the Board.

### **4.3 Security Interest**

Subject to clause 4.2, Participants will not grant any Security Interest in or over or otherwise dispose of or deal with any Performance Rights or any interest in them until the relevant Shares are either issued or transferred to that Participant, and any such Security Interest or disposal or dealing will not be recognised in any manner by the Company.

### **4.4 New issues**

A Performance Right does not confer on a Participant the right to participate in new issues of Shares by the Company, including by way of bonus issue, rights issue or otherwise.

### **4.5 Dividend and Voting Rights**

Performance Rights will not give any right to participate in dividends or any voting rights until Shares are issued or transferred to a Participant pursuant to the exercise of Vested Performance Rights.

## 5. VESTING OF PERFORMANCE RIGHTS

### 5.1 Performance Conditions

The Performance Conditions applicable to any Performance Period relating to Performance Rights shall be as set out in the Offer, including the Measurement Date, and shall be as determined by the Board in its absolute discretion from time to time.

### 5.2 Determination of number of Vested Performance Rights

- (a) Subject to 5.2(b), as soon as reasonably practicable after each Measurement Date applicable to any Performance Period, the Board shall determine in respect of each Participant as at that Measurement Date:
- (i) whether, and to what extent, the Performance Conditions applicable up to the Measurement Date have been satisfied;
  - (ii) the number of Performance Rights (if any) that will become Vested Performance Rights as at the Measurement Date; and
  - (iii) the number of Performance Rights (if any) that will lapse as a result of the non-satisfaction of Performance Conditions as at the Measurement Date;

and shall provide written notification to each Participant as to that determination.

- (b) Until the Board has made a determination that a Performance Right has become a Vested Performance Right in accordance with clause 5.2(a), all Performance Rights remain at all times Unvested Performance Rights.

### 5.3 Automatic Issue of Shares for Vested Performance Rights

Upon determination that Performance Rights have become Vested Performance Rights in accordance with clause 5.2, the Vested Performance Rights are deemed to be automatically exercised and the Company will, as soon as reasonably practicable, automatically issue (or procure the transfer of) to the Participant the number of Shares in respect of which the Performance Rights have vested (as adjusted under clause 11.2 (if relevant)), unless the Company is in a Blackout Period, or the Company determines in good faith that to issue the shares may breach the Corporations Act in respect of insider trading, in which case the Company will issue (or procure the transfer of) the Shares as soon as reasonably practicable thereafter.

### 5.4 Performance Rights and Trading of Shares

- (a) Unless and until Performance Rights have vested and the relevant Shares are either issued or transferred to that Participant as a result of that exercise, a Participant has no interest in those Shares.
- (b) All Shares issued or transferred to a Participant under this Plan, will, from the date of issue or transfer, rank equally with all other issued Shares. The Company will apply for official quotation of these Shares on each stock exchange on which Shares are quoted.

- (c) A Participant who wishes to trade any Shares issued or transferred under this Plan must do so in accordance with the Share Trading Policy.

## 6. TIME OF LAPSE OF PERFORMANCE RIGHTS

Unless otherwise determined by the Board, a Performance Right lapses on the earlier to occur of:

- (a) where Performance Conditions have not been satisfied on the Measurement Date - the date the Board makes a determination under clause 5.2(a)(iii) that the Performance Right will lapse;
- (b) if an Eligible Person ceases to be an Eligible Person because of a Specified Reason - the date of lapse under clause 7.1(b);
- (c) if an Eligible Person ceases to be an Eligible Person for any reason other than a Specified Reason - the date of lapse either under clause 7.1(a);
- (d) the day the Board makes a determination that the Performance Rights lapse under clause 8; and
- (e) the Expiry Date.

## 7. CESSATION OF EMPLOYMENT OR OFFICE

### 7.1 Unvested Performance Rights

- (a) Unless otherwise determined by the Board:
  - (a) if an Eligible Person ceases to be an Eligible Person for any reason other than a Specified Reason, any Unvested Performance Rights held by such Eligible Person, or if appropriate, their Permitted Nominee, will automatically lapse; and
  - (b) if the Eligible Person ceases to be an Eligible Person for a Specified Reason, the Board, in its absolute discretion, will determine the extent to which Unvested Performance Rights will become Vested Performance Rights.

### 7.2 Secretary's Certificate

A certificate signed by the company secretary of the Company stating that a person ceased for any reason to be an Eligible Person shall (in the absence of manifest error) be conclusive for the purposes of the Plan, both as to such occurrence and the reason for such occurrence and the date of such occurrence.

### 7.3 Death of a Participant

Subject to clause 7.1(b), if at any time prior to the Expiry Date of any Performance Rights a Participant dies, the deceased Participant's Legal Personal Representative may:

- (a) elect to be registered as the new holder of the deceased Participant's Performance Rights; and

- (b) whether or not the deceased Participant's Legal Personal Representative becomes so registered, participate in accordance with and subject to the rules of this Plan as if they were the holder of such Performance Rights.

## 8. BREACH, FRAUD OR DISHONESTY

If in the opinion of the Board a Participant acts fraudulently or dishonestly or is in material breach of his or her obligations to any Group Company then the Board may in its absolute discretion determine that all the Participant's Performance Rights will lapse and the Board's decision will be final and binding.

## 9. CHANGE OF CONTROL

### 9.1 Vesting upon change of control

In the following circumstances:

- (a) in the event a takeover bid (as defined in the Corporations Act) to acquire any Shares becomes or is declared to be unconditional, irrespective of whether the takeover bid extends to Shares issued and allotted after the date of the takeover bid or not;
- (b) at any time after a Change of Control Event has occurred; or
- (c) if a merger by way of scheme of arrangement under the Corporations Act has been approved by the Court under section 411(4)(b) of the Corporations Act,
- (d) the Board will determine an alternate Measurement Date ("**Alternate Measurement Date**"), and the provisions of clauses 5.2 and 5.3 shall then apply as if the references to the Measurement Date are references to the Alternate Measurement Date.

## 10. ADMINISTRATION OF THE PLAN

- (a) The Plan will be administered by the Board. The Board will have power to delegate the exercise of its powers or discretions arising under the Plan to any one or more persons (including, but not restricted to, a committee or sub-committee of the Board) for such period and on such conditions as the Board may determine.
- (b) The Board may at any time appoint or engage specialist service providers for the operation and administration of the Plan.
- (c) The Board will ensure a complete register of Participants is maintained to facilitate efficient management and administration and to comply with regulatory reporting requirements.
- (d) Shares to be provided under the Plan may either be satisfied by the issue of new Shares or by the transfer of existing Shares.
- (e) Where the Board is required to make a determination or is entitled to exercise discretion in respect of the Plan, that determination or discretion shall be exercised reasonably and in good faith, unless provided otherwise.

## 11. CAPITAL EVENTS

### 11.1 Variation of Capital

If there are certain variations of the share capital of the Company including a capitalisation or rights issue, sub-division, consolidation or reduction of share capital, a demerger (in whatever form) or other distribution in specie, the Board may make such adjustments as it considers appropriate under clause 11.2 in accordance with the provisions of the Listing Rules.

### 11.2 Adjustments

An adjustment made under this clause will be to one of the following:

- (a) the number of Shares which may be issued or transferred upon vesting of any Performance Rights; or
- (b) where Performance Rights have become Vested Performance Rights but no Shares have been issued or transferred, the number of Shares which may be issued or transferred.

### 11.3 Notice of Variation

As soon as reasonably practicable after making any adjustment under clause 11.2, the Board will give notice in writing of the adjustment to any Participant affected by it.

## 12. RIGHTS OF PARTICIPANTS

Nothing in this Plan or participation in the Plan:

- (a) confers on any Eligible Person or Participant the right to continue as an employee or officer of any Group Company;
- (b) confers on any Eligible Person the right to become or remain an Eligible Person or Participant or to participate under the Plan;
- (c) will be taken into account in determining an Eligible Person's salary or remuneration for the purposes of superannuation or other pension arrangements;
- (d) affects the rights and obligations of any Eligible Person or Participant under the terms of their office or employment with any Group Company;
- (e) affects any rights which a Group Company may have to terminate the employment or office of an Eligible Person or Participant or will be taken into account in determining an Eligible Person or Participant's termination or severance pay;
- (f) may be used to increase damages in any action brought against any Group Company in respect of any such termination; and
- (g) confers any responsibility or liability on any Group Company or its directors, officers, employees, representatives or agents in respect of any taxation liabilities of the Eligible Person or Participant.

### **13. AMENDMENT, TERMINATION AND SUSPENSION**

- (a) Grants of Performance Rights under this Plan may only be made for a period of 3 years commencing on the date on which the Plan is approved by the Company's shareholders.
- (b) Subject to clause 13(c), the Board may at any time and from time to time by resolution alter the Plan.
- (c) Any amendment to the Plan is subject to any restrictions or procedural requirements relating to the amendment of the rules of an employee incentive scheme imposed by the Listing Rules.
- (d) The Board may at any time, and at its complete discretion, suspend or terminate the Plan without notice to Participants. The suspension or termination of the Plan will not affect any existing grants of Performance Rights already made under the Plan and the terms of the Plan will continue to apply to such grants.

### **14. GENERAL**

#### **14.1 Law, Listing Rules and the Constitution**

The Plan and all offers and issues of Performance Rights under the Plan are subject to the Law, the Listing Rules and the Constitution, each as in force from time to time.

#### **14.2 Compliance with the Income Tax Assessment Act**

The Plan and all offers and issues of Performance Rights under the Plan must at all times be compliant with subdivision 83A-C of the Income Tax Assessment Act 1997 (Cth).

#### **14.3 Issue limitations**

- (a) The number of Shares to be received on vesting of the Performance Rights the subject of an Offer when aggregated with:
  - (i) the number of Shares which would be issued were each outstanding offer or Performance Right, being an offer made or Performance Rights granted pursuant to the Plan or any other employee incentive scheme extended only to employees or directors of the Company, exercised; and
  - (ii) the number of Shares issued during the previous 5 years pursuant to the Plan or any other employee incentive scheme extended only to employees or directors of the Company;

but disregarding any offer made, or Performance Rights acquired or Share issued by way of or as a result of:

- (iii) an offer to a person situated at the time of receipt of the offer outside Australia; or
- (iv) an offer that did not need disclosure to investors because of section 708 of the Corporations Act; or

- (v) an offer made under a disclosure document,

must not exceed 5% (or such other maximum permitted under any ASIC Class Order providing relief from the disclosure regime of the Corporations Act) of the total number of issued Shares as at the time of the Offer.

- (b) Where the Performance Right lapses without vesting, the Shares concerned are ignored when calculating the limits in this clause.

#### 14.4 Costs and Expenses

The Company will pay all expenses, costs and charges in relation to the establishment, implementation and administration of the Plan, including all costs incurred in or associated with the issue or purchase of Shares (except for taxes which are payable by Participants for the Performance Rights) for the purposes of the Plan. Each Group Company will, if required by the Board, reimburse the Company for any such costs and charges to the extent that they relate to its employees officers or former employees or officers.

#### 14.5 Withholding

- (a) If any person (not being the Participant) is obliged as a result of or in connection with the grant or vesting, of any Performance Rights to account for income tax or employment taxes under any wage, withholding or other arrangements or for any other tax, social security contributions or levy or charge of a similar nature, then that person is entitled to be reimbursed by the Participant for the amounts so paid or payable.
- (b) Where clause 14.5(a) applies, the Company is not obliged to pay the relevant amount or issue or transfer the relevant Shares to the Participant, unless the relevant person is satisfied that arrangements have been made for reimbursement. Those arrangements may include, without limitation, the sale, on behalf of the Participant, of Shares issued or transferred or otherwise to be issued or transferred to the Participant and, where this happens, the Participant will also reimburse the costs of any such sale (e.g. stamp duty, brokerage, etc.)

#### 14.6 Data protection

By returning an Application Form, each Participant consents to the holding and processing of personal data provided by the Participant to any Group Company for all purposes relating to the operation of the Plan. These include, but are not limited to:

- (a) administering and maintaining Participants' records;
- (b) providing information to trustees of any employee benefit trust, registrars, brokers or third party administrators of the Plan;
- (c) providing information to future purchasers of the Company or the business in which the Participant works;
- (d) transferring information about the Participant to a country or territory outside Australia.

#### 14.7 **Error in Allocation**

If any Performance Right is provided under this Plan in error or by mistake to a person ("**Mistaken Recipient**") who is not the intended recipient, the Mistaken Recipient shall have no right or interest, and shall be taken never to have had any right or interest, in that Performance Right and those Performance Rights will immediately lapse.

#### 14.8 **Dispute**

Any disputes or differences of any nature arising under the Plan will be referred to the Board and its decision will be final and binding in all respects.

#### 14.9 **Notices**

Any notice or other communication under or in connection with the Plan may be given by personal delivery or by sending it by post or fax or email, in the case of a company to its registered office (or any other address notified by that company from time to time ("**Notified Address**")) or the fax number (if any) of that registered office (or Notified Address), and in the case of an individual to their last known address, fax number, email address or, if they are a director or employee of a Group Company, either to their last known address, fax number or to the address of the place of business at which they carry out all or most of their duties, or to the fax number or email address relating to that address.

#### 14.10 **Governing Law**

- (a) This Plan and the rights of Eligible Persons and Participants under the Plan are governed by the laws in force in the State of Western Australia, Australia.
- (b) Each Participant and the Company irrevocably and unconditionally submit to the non-exclusive jurisdiction of the Courts of Western Australia, the Commonwealth of Australia and Court entitled to hear appeals from those Courts.