

CORPORATIONS ACT

CONSTITUTION

of

**DNISTER UKRAINIAN CREDIT CO-OPERATIVE LIMITED
ABN 59 087 651 394**

*This Constitution was adopted by a special resolution of the
Company on the tenth day of December 2000*

(amended 18 November 2001)

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CORPORATIONS ACT**COMPANY LIMITED BY SHARES****CONSTITUTION****OF****DNISTER UKRAINIAN CREDIT CO-OPERATIVE LIMITED****ACN 087 651 394****1. Objects and Preliminary**

1.1 The Company is a financial co-operative and has the following objects:

- (a) to raise funds by subscription, deposit or otherwise, as authorised by *Corporations Act* and *Banking Act 1959* (Cth);
- (b) to apply the funds, subject to the *Corporations Act* and *Banking Act 1959* (Cth) and this Constitution, in providing Financial Accommodation to its Members;
- (c) to encourage savings amongst its Members;
- (d) to promote co-operative enterprise;
- (e) to provide grants, programs and services to its Members to assist them to meet their financial, economic and social needs;
- (f) to promote, encourage and bring about human and social development among individual Members and within the larger community within which Members work and reside or to which they belong; and
- (g) to further the interests of Members and the communities within which they work, live or to which they belong, through co-operation with other credit unions and co-operatives and associations of credit unions and co-operatives, locally and internationally.

1.1 In this Constitution, unless the contrary intention appears:

'ADI' has the same meaning as in the *Banking Act 1959*;

'Alternate Director' means a person appointed as an Alternate Director under **clause 52**;

'APRA' means Australian Prudential Regulation Authority;

'ASIC' means Australian Securities and Investments Commission;

'associate' has the same meaning as in the *Corporations Act*;

'Auditor' means the Company's external auditor;

'Board' means the Board of Directors;

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

'Company' means **Dnister Ukrainian Credit Co-Operative Limited ABN 59 087 651 394** and before 1 July 1999 means the credit union of the same name incorporated and formed under the *Financial Institutions Code*;

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

'Director' includes any person occupying the position of Director of the Company and, where appropriate, includes an Alternate Director;

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

'Dnister' means **Dnister Ukrainian Credit Co-operative Limited ABN 59 087 651 394**;

'Financial Accommodation' means:

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

that the Company provides or enters in the ordinary course of its banking business;

'Fit and Proper Policy' means the policy adopted by the Directors in relation to the fitness and propriety of Directors, senior managers and auditors required by APRA Prudential Standard 520 or any other prudential standard or law applying from time to time;

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

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

'**New Redeemable Preference Shares**' means Redeemable Preference Shares issued in accordance with **clause 9** after the date of adoption of this Constitution;

'**Nominations Committee**' means the committee established under the Fit and Proper Policy;

'**Office**' means the Company's registered office;

'**Redeemable Preference Shares**' mean Statutory Redeemable Preference Shares, Transitional Redeemable Preference Shares and New Redeemable Preference Shares and Redeemable Preference Shares issued under **clause 9**;

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

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

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

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

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

'**Shares**' means Shares of the Company including Redeemable Preference Shares;

'**Statutory Redeemable Preference Shares**' means the Redeemable Preference Shares referred to in **clause 2.2(b)**;

'**Transaction**' in **clause 15** in relation to a Member's deposit account with the Company means a debit or credit to the account, other than for:

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

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

1.2 In this Constitution, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
- (b) words importing natural persons include corporations;
- (c) words and expressions defined in the *Corporations Act* have the same meaning in this Constitution;
- (d) headings are for ease of reference only and do not affect the construction of this Constitution;

- (e) a reference to the *Corporations Act* is a reference to the *Corporations Act* and the *Corporations Regulations* as modified or amended from time to time;
 - (f) a reference to a statute or regulation includes all amendments, consolidations or replacements of the statute or regulation;
 - (g) a reference to in writing is technology neutral and is a reference to any mode of representing or reproducing information in a tangible and permanently visible form and includes without limitation a communication of information in the form of data, text or images by means of guided and/or unguided electromagnetic energy; and
 - (h) a reference to signing or signature is a reference to any authentication mechanism used to verify, without limitation, the following:
 - (i) the identity of the person to whom the information is communicated and their approval of the information communicated; and
 - (ii) where applicable that the person named in the form or notice consents to the requirement set out in the form or notice.
- 1.4 An expression in a provision of this Constitution has the same meaning as in a provision of the *Corporations Act* that deals with the same matter as the provision, unless the contrary intention appears in this Constitution.
- 1.5 To the extent permitted by law, the replaceable rules in the *Corporations Act* do not apply to the Company.
- 1.6 The adoption of this Constitution is not intended to have any of the effects contemplated in clause 29(1) of schedule 4 of the *Corporations Act*. The occurrence of any of those events is referred to as a 'demutualisation'. If the adoption of any provision of this Constitution results in a demutualisation, then that provision is severed from this Constitution and, to the extent permitted by law, is replaced by such of the provisions of the repealed constitution which was in force immediately before the adoption of this Constitution as is necessary or required so that the adoption of this Constitution does not cause or result in any demutualisation.

ISSUED SHARES

2. Statutory Membership Shares and Statutory Redeemable Preference Shares

- 2.1 Prior to 1 July 1999, the Company was a credit union regulated under the *Financial Institutions Code* with withdrawable shares on issue.
- 2.2 On 1 July 1999, the Company was taken to have become registered as a public company limited by shares under the *Corporations Act* and:
- (a) each person who was a member of the Company immediately before 1 July 1999, became a Member of the Company;
 - (b) all withdrawable shares of the Company on issue immediately before 1 July 1999 became Redeemable Preference Shares of the Company; and

- (c) any person who was a member of the Company immediately before 1 July 1999 and who did not hold any shares in the Company, was taken to have been issued with a Membership Share on 1 July 1999.
- 2.3 After 1 July 1999 but before the date of adoption of this Constitution, the Company issued to persons becoming Members of the Company, shares in the Company pursuant to regulation 12.8.12 of the *Corporations Regulations*. These shares are called 'Transitional Redeemable Preference Shares'.
- 2.4 Accordingly, the issued Shares of the Company as at the date of adoption of this Constitution comprise:
- (a) Membership Shares;
 - (b) Statutory Redeemable Preference Shares; and
 - (c) Transitional Redeemable Preference Shares.

The Redeemable Preference Shares issued under **clause 9** after the date of adoption of this Constitution are called 'New Redeemable Preference Shares'.

- 2.5 A Membership Share:
- (a) is taken to have been issued under the *Corporations Act*;
 - (b) carries the rights and obligations that were conferred or imposed on the shareholder in a capacity other than that of shareholder by:
 - (i) the Company's rules (as in force immediately before 1 July 1999); and
 - (ii) the previous Financial Institutions Code;
 - (c) has no amount paid or unpaid in respect of it;
 - (d) is not:
 - (i) transferable or transmissible; or
 - (ii) capable of devolution by will or by operation of law; and
 - (e) can be cancelled at the option of the shareholder or the Company in the circumstances in which the member who holds the share could have had their membership of the Company cancelled immediately before 1 July 1999.
- 2.6 Statutory Redeemable Preference Shares, Transitional Redeemable Preference Shares and New Redeemable Preference Shares comprise a single class of shares being Redeemable Preference Shares but have been separately identified in this Constitution to reflect the statutory history and origin of the shares.
- 2.7 A Redeemable Preference Share confers on the holder those rights and obligations conferred or imposed by the *Corporations Act* from time to time except that:

- (a) each share is redeemable on the same terms that a withdrawable share was withdrawable under the *Financial Institutions Code* and the Company's rules prior to 1 July 1999; and
- (b) the holders of the share continue to have the same rights and obligations that they had or would have had by holding a withdrawable share.

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

NEW SHARE ISSUES - MEMBERSHIP REQUIREMENTS

3. Eligibility

A person, including a body corporate is only eligible for membership in accordance with this Constitution.

4. Common bond for individuals

4.1 A person is only eligible for membership in accordance with this clause.

4.2 A person who is a Member when this Constitution becomes the Constitution of the Company continues to be a Member despite the fact that person may not otherwise be eligible for membership under this clause.

4.3 A person who is a member of a body corporate, which has validly transferred its engagements to the Company, becomes a Member of the Company upon APRA issuing a certificate confirming the transfer of business.

4.4 A person, other than a body corporate, is eligible for membership under any one of the following categories:

- (a) **Community** - a member of the Ukrainian community in Australia including but not limited to organisations which are members or are affiliated with the Federation of Ukrainian Organisations in Australia, or of any other Ukrainian religious, educational, welfare, sporting, social, academic, philanthropic, business or professional body;
- (b) **Family** - the spouse, parent, child, grandchild, great grandchild, brother, sister, uncle, aunt, niece or nephew of a person admitted to membership under paragraph (a);
- (c) **Depositors and Others** - any person who was a depositor or held an account with or was in receipt of Financial Accommodation from the Company without being a Member of the Company as at 1 July 1999;
- (d) **Approved Person** - a person approved by the Directors who has an affinity with the Company or its Members;
- (e) **Continuing Membership** - a person who is a Member but has ceased to be eligible for membership in accordance with the categories of membership;

- (f) **Transferring Members** - a person who was a member of another ADI that transferred its business and members to the Company under the *Financial Sector (Transfer of Business) Act 1999*.

5. Common bond for bodies corporate

5.1 A body corporate is eligible to be a Member under any of the following categories:

- (a) **Depositors and Borrowers** - the body corporate was a depositor with, held an account with or received financial accommodation from the Company without being a member of the Company as at 1 July 1999;
- (b) **Approved Body Corporate** - the body corporate has an affinity with or is an associate of the Company or its Members and is approved by the Directors;
- (c) **Transferring Members** - the body corporate was a member of another ADI that transferred its business and members to the company under the *Financial Sector (Transfer of Business) Act 1999*.

5.2 A body corporate does not cease to be a Member because the body corporate does not retain, subsequently, eligibility for membership under **clause 5.1**.

6. Admission to membership

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

- (a) the person makes written application in a form as required by the Directors. An application for membership may be made by completing an electronic application form, signing it (whether electronically or otherwise) and returning it to the Company;
- (b) the person submits evidence satisfactory to the Directors as to that person's eligibility under this Constitution;
- (c) if the person is an adult - the person subscribes for five (5) Redeemable Preference Shares at an issue price of \$2.00 per share;
- (d) if the person is a minor – the person subscribes for five (5) Redeemable Preference Shares at an issue price of \$2.00 per share and pays in cash an amount equal to 20% of the subscription price for such shares. The provisions in **Schedule 4** apply to minors; and
- (e) the person pays any admission fee.

7. Admission to membership - delegation of power

- (a) The Directors may, by resolution, delegate their power to admit Members to officers of the Company.
- (b) Any delegation must not include authority to:
 - (i) admit persons or bodies corporate on the grounds that they may have an affinity with the Company or its Members;

- (ii) reject any application for membership. Such applications must be referred to the Directors for consideration; or
 - (iii) further delegate the power to admit Members.
- (c) The delegation must be evidenced by a resolution of the Directors and a copy of that resolution must be given to each delegate.

8. Admission to membership - absolute discretion

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

9. Issue of New Redeemable Preference Shares

Upon the Directors admitting a person or body corporate to membership, the Directors must:

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

10. Trusts not recognised

- 10.1 Except as required by law or as otherwise provided by this Constitution, the Company will not recognise any person or body corporate as holding a Share on trust and the Company will not recognise any equitable, contingent, future or partial interest or any other right in respect of a Share except the registered holder's absolute right of ownership.
- 10.2 Subject to the other clauses, this **clause 10** applies even if the Company has notice of the relevant trust, interest or right.

11. Joint holders

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

MEMBERSHIP CEASING

12. Cessation of membership

A person or body corporate ceases to be a Member when:

- (a) that person or body corporate is expelled under **clause 14**;

- (b) that person's or body corporate's membership is cancelled under **clause 15**;
- (c) that person or body corporate redeems their Redeemable Preference Shares from the Company in accordance with **clause 19**;
- (d) the Directors approve an application for cancellation of membership by a holder of a membership share on being satisfied that all Financial Accommodation and other obligations have been discharged;
- (e) that person becomes a bankrupt or, being a body corporate is wound up; or
- (f) that person dies.

13. Cancellation of shares

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

14. Expulsion

- (a) The Directors may expel a Member on the grounds that the Member:
 - (i) has failed to discharge his, her or its obligations to the Company;
 - (ii) has been guilty of conduct detrimental to the Company; or
 - (iii) has obtained membership by misrepresentation or mistake.
- (b) Before proceedings to consider a resolution to expel a Member, the Directors must give the member 14 day's notice of the proposed resolution.
- (c) At the time the Directors consider the proposed resolution, the Member is entitled:
 - (i) to be present with or without his, her or its legal representative; and
 - (ii) to be heard, either in person or through his, her or its legal representative.
- (d) The Company must pay the expelled Member the amount paid up on that Member's Redeemable Preference Shares after satisfaction of all liabilities and obligations.
- (e) The expelled Member has the right of appeal in accordance with any procedures determined under **clause 70.1**.

15. Dormancy

- (a) The Company may classify a Member's deposit account as a dormant account if:
 - (i) there have been no Transactions in the account for at least 1 year;
 - (ii) the Company has given the Member a written notice stating that, unless the Member gives to the Company a written notice within 1 month stating that

the Member wishes the account to remain open, the Company intends to close the account; and

- (iii) the Company does not receive a written notice from the Member under paragraph (ii).
- (b) The Company may cancel that Member's shares if the Member's only account with the Company is a dormant account.
- (c) The Company may transfer the amount held in a dormant account to a suspense account.
- (d) The Company may charge a Member a fee for keeping an account for the Member in the suspense account but the fee must not be more than the lesser of:
 - (i) the amount held for the person in the suspense account; or
 - (ii) \$10.00 or such other amount determined by the Board from time to time.
- (e) This clause is subject to any law of unclaimed money.

16. Death of a Member

The estate of a deceased Member:

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

17. Bankruptcy or winding-up of a Member

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

SHARES

18. Ranking of shares

Each Share ranks equally with all other Shares.

19. Repayment of share capital

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

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

20. Shares not transferable

A Member may not transfer, sell or assign Redeemable Preference Shares but may require such Redeemable Preference Shares to be repaid in accordance with **clause 19**.

21. deleted

GENERAL MEETINGS

22. Convening general meeting

22.1 Any Director may, at any time, convene a general meeting.

22.2 (a) A Member may request the Directors to convene a general meeting only in accordance with section 249D of the *Corporations Act*.

(b) A Member may not convene or join in convening a general meeting except in accordance with section 249E or 249F of the *Corporations Act*.

23. Notice of general meeting

23.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice and exempting the Company from the requirement to give notices of meetings of the Company to a particular Member, at least 30 days written notice of any general meeting personally or by sending it by post to the address of the Member in the Register of Members or by electronic means (if any) nominated by the Member (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members entitled to vote at the general meeting.

23.2 A notice convening a general meeting:

(a) must specify the place, date and time of the meeting and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this;

(b) must state the general nature of the business to be transacted at the meeting;

(c) if a special resolution is to be proposed at the meeting, must set out an intention to propose the special resolution and state the resolution; and

(d) may specify a place, facsimile number and/or electronic address for the purposes of proxy appointment.

23.3 A notice of annual general meeting must state the business to be transacted at the meeting such as:

(a) the consideration of the annual financial report, Directors' report and Auditor's report;

(b) the election of Directors;

(c) the appointment and fixing of the remuneration of the Directors.

23.4 The following documents must accompany the notice of annual general meeting:

- (a) Annual financial report, Directors' report and Auditor's report, but only if an election is positively made by a Member to receive the reports in accordance with section 314 of the Corporations Act.
 - (b) Notice of any proposed resolution and proposed special resolution which Members or the Board propose to move at the general meeting, which is/are known at that time, together with the Members' and/or Board statements relating to such proposed resolution/s in not more than 1000 words, which must not be defamatory.
 - (c) The documents referred to in **clause 2-7(1)(a), (b), (c) and (d)** of Schedule 2, together with the candidates' resumes in not more than 150 words.
 - (d) Proxy forms.
- 23.5 (a) The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting convened as the result of a request under **clause 22.2**).
- (b) The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices from the Company.
- 23.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

PROCEEDINGS AT GENERAL MEETINGS

24. Member

Unless otherwise provided, in **clauses 25, 26, 27, 29**, 'Member' includes a Member present in person or by proxy, attorney or Representative.

25. Quorum

25.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.

25.2 A quorum is constituted by 25 Members personally present at the meeting.

25.3 If a quorum is not present within 30 minutes after the time appointed for a meeting:

if the meeting was convened on the requisition of Members, it is automatically dissolved;
or

in any other case:

- (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
- (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, it is automatically dissolved.

26. Chairperson

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

26.2 If:

- (a) there is no chairperson or deputy chairperson; or
- (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the meeting; or
- (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the meeting,

the Directors present may elect a chairperson.

26.3 If no election is made under **clause 26.2**, then:

the Members may elect one of the Directors present as chairperson; or

- (d) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.

26.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

26.5 The standing orders in **Schedule 3** apply to the conduct of debate at a general meeting.

27. Adjournment

27.1 The chairperson of a meeting at which a quorum is present:

- (a) in his or her discretion may adjourn a meeting with the meeting's consent; and
- (b) must adjourn a meeting if the meeting directs him or her to do so.

27.2 An adjourned meeting may take place at a different venue to the initial meeting.

27.3 The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.

27.4 If a general meeting has been adjourned for more than 21 days, at least 3 days written notice (exclusive of the day on which the notice is served or taken to be served and of the day for which notice is given) of the adjourned meeting must be given to Members.

28. Decision of questions

28.1 Subject to the *Corporations Act* in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

28.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the *Corporations Act*.

28.3 The chairperson does not have a casting vote in addition to the chairperson's votes as a Member, proxy, attorney or Representative.

28.4 Unless a poll is demanded:

- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
- (b) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

28.5 The demand for a poll may be withdrawn.

28.6 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

29. Taking a poll

29.1 A poll will be taken when and in the manner that the chairperson directs.

29.2 The result of the poll will be the resolution of the question for which the poll was demanded.

29.3 The chairperson may determine any dispute about the admission or rejection of a vote.

29.4 The chairperson's determination, if made in good faith, will be final and conclusive.

29.5 A poll demanded on the election of the chairperson or the adjournment of a meeting must be taken immediately.

29.6 After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.

VOTES OF MEMBERS

30. Entitlement to vote

A Member's entitlement to vote may not be exercised if:

- (a) in the case of a Member who is a holder of Redeemable Preference Shares, that Member did not hold the required number of Redeemable Preference Shares required to be held under the former rules of the Company or (where the Shares are issued under this Constitution) under **clause 9**, as paid up shares:
 - (i) in relation to an annual general meeting, on the day before nominations for election of Directors close; and
 - (ii) in relation to a special general meeting, at least seven days before notice of the special general meeting is given; and
- (b) in the case of a Member who is the holder of a Membership Share, that Member did not make a deposit of or does not subsequently hold a deposit of the amount required to be tendered under the previous rules of the Company:

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

31. Voting Rights

At general meetings:

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

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

32. Joint holders

- 32.1 If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.
- 32.2 For the purposes of this clause 32, several executors or administrators of a deceased Member in whose sole name any Shares are registered will be taken to be joint holders of those Shares.

33. Objections

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

34. Votes by operation of law

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

35. Votes by proxy

- 35.1 If a Member appoints one proxy, that proxy may vote on a show of hands.
- 35.2 A proxy may demand or join in demanding a poll.

36. Instrument appointing proxy

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

37. Lodgement of proxy

- 37.1 The written appointment of a proxy or attorney must be received by the Company, not less than 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.
- 37.2 If the appointment purports to be executed under a power of attorney or other authority, then the original document, or an office copy or a certified copy of it, must be forwarded with the appointment.
- 37.3 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:
- (a) the Office: by hand, or in a sealed envelope addressed to the returning officer;
- (b) a facsimile number at the Office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting. The electronic address will be that of the returning officer of the Company.
- 37.4 All proxies submitted by Members, shall be opened, witnessed and counted at appointed times before the annual general meeting by a committee comprising the following persons:

- (i) the Company secretary or any other person appointed by the Board; and
- (ii) the returning officer but if the returning officer is not available then the internal auditor.

38. Validity

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

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

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

39. Representatives of corporations

- 39.1 Any Member which is a corporation may appoint an individual as its Representative as provided by the *Corporations Act*.
- 39.2 The chairperson of a general meeting may permit a person claiming to be a Representative to exercise his or her powers if a copy of the instrument evidencing his or her appointment is received by the Company as soon as practicable after appointing the Representative and in any event before any general meeting at which the Representative may exercise the rights of the Member.
- 39.3 The appointment of a Representative may set out restrictions on the Representative's powers.

APPOINTMENT AND REMOVAL OF DIRECTORS

40. Number of Directors

- 40.1 Subject to the *Corporations Act*, the Company may by a special resolution passed at a general meeting increase or reduce the minimum or maximum number of Directors.
- 40.2 Until the Company by special resolution resolves otherwise:
- (a) until the conclusion of the Annual General Meeting to be held in 2012 there will be nine Directors of the Company; and
 - (b) thereafter until the conclusion of the Annual General meeting to be held in 2013 there shall be eight Directors of the Company; and
 - (c) thereafter there will be seven Directors of the Company.

41. Qualification

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

- (a) is not a Member of the Company; or
- (b) is not the representative of a body corporate Member of the Company; or
- (c) is a minor; or
- (d) is an employee of the Company; or
- (e) is bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors, or made an assignment of his or her remuneration for their benefit; or
- (f) is disqualified, prevented or prohibited by the *Corporations Act, Banking Act 1959* or any other law from being or becoming a Director of a body corporate; or
- (g) has been convicted in the last ten years of:
 - (i) an indictable offence in relation to the promotion, formation or management of a body corporate; or
 - (ii) an offence involving fraud or dishonesty; or
 - (iii) is a Member whose voting rights have been suspended under **clause 30**; or
- (h) is not of appropriate fitness and propriety to be and act as a Director by reference to the Fit and Proper Policy; or
- (i) is in arrears for more than 28 days in relation to money due to the Company; or
- (j) fails to provide all information and consents the Directors reasonably request to determine if the person is of appropriate fitness and propriety to be and act as a Director by reference to the Fit and Proper Policy or is disqualified or prevented by law from being a Director; or
- (k) is assessed as being not of appropriate fitness and propriety to be and act as a Director by reference to the Fit and Proper Policy; or
- (l) is a Member who has been admitted to membership by the Directors after 31 December 2000 only on the basis of affinity with the Company or its Members pursuant to **clauses 4.4(d)** or **5.1(b)**.

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

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

42.2 The Company may by resolution passed in general meeting:

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

43. Additional and casual Directors

- 43.1 Subject to **clause 41**, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors but not if that appointment would result in the maximum number of Directors being exceeded.
- 43.2 If a person is appointed by the other Directors as a Director, that person holds office until the conclusion of the Company's next annual general meeting. Subject to the *Corporations Act* and this Constitution that person is eligible to be elected at that annual general meeting as a Director in accordance with this Constitution. If the person is not so elected as a Director, then the person ceases to be a Director of the Company at the end of the annual general meeting.

44. Retirement by rotation and nominations of Directors

- 44.1 At each annual general meeting, either two or three Directors must retire from office.
- 44.2 (a) The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election or appointment.
- (b) Directors elected or appointed on the same day may agree among themselves or determine by lot which of them must retire.
- 44.3 A Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected, even if his or her retirement results in more than three Directors retiring from office.
- 44.4 A retiring Director will be eligible for re-election without nomination unless excluded under **clause 41** or in accordance with **Schedule 2**.
- 44.5 A Member is not eligible** for election as a Director at a general meeting unless the Member complies with the rules relating to nominations **set out in Schedule 2**.

45. Period of office

Subject to this Constitution, a Director is elected for a term of three years, commencing at the end of the annual general meeting at which his or her election is announced and ending at the end of the third annual general meeting happening after his or her election. Subject to this clause, a Director will continue to hold office until he or she dies or until his or her office is vacated pursuant to **clause 46**.

46. Vacation of office

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

- (a) dies;
- (b) ceases to be eligible to be a Director under **clause 41**;
- (c) as a Representative of a body corporate Member of the Company whose eligibility for election to the office was based on being that Representative, ceases to be so eligible;
- (d) is absent from three consecutive ordinary meetings of the Board of Directors without its leave;

- (e) resigns by written notice given to the Board of Directors;
- (f) is three months in arrears in relation to money due to the Company and has failed to make arrangement for payment satisfactory to the Company;
- (g) completes a term of office;
- (h) is prohibited or disqualified by the *Corporations Act, Banking Act 1959* or any other law from holding office or continuing as a Director;
- (i) cannot manage the Company because of his or her mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it;
- (j) fails to provide all information and consents the Directors reasonably request to determine if the Director is of appropriate fitness and propriety to be and act as a Director by reference to the Fit and Proper Policy or is disqualified or prevented by law from being a Director;
- (k) is assessed as being not of appropriate fitness and propriety to be and act as a Director by reference to the Fit and Proper Policy;
- (l) is the subject of a direction under Section 23 of the *Banking Act 1959 (Cth)*; or
- (m) is removed by a resolution of the Company.

REMUNERATION OF DIRECTORS

47. Remuneration of Directors

- 47.1 The Directors may be paid as remuneration for their services the aggregate maximum sum from time to time determined by the Company in general meeting.
- 47.2 Unless otherwise resolved by the Company in general meeting, the remuneration will be divided between the Directors in such proportion and manner as the Directors agree and, in default of agreement, equally and the Directors may determine how and when it is to be paid. The remuneration accrues from day to day.
- 47.3 If a Director performs services for the Company which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, then the Company may pay the Director a fixed sum determined by the Directors in addition to or instead of the Director's remuneration under **clause 47.1** and such payments shall be identified in the annual report as pertaining to **clause 47.3**.
- 47.4 In addition to remuneration, the Directors may be paid all reasonable expenses incurred by them in connection with the business of the Company.
- 47.5 The Company may also pay a premium in respect of a contract insuring a person who is or has been a Director against a liability incurred by the person as a Director, except in circumstances prohibited by the *Corporations Act*.

POWERS AND DUTIES OF DIRECTORS

48. Directors to manage Company

- 48.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the *Corporations Act* do not require to be exercised by the Company in general meeting.
- 48.2 Without limiting the generality of **clause 48.1**, subject to any applicable prudential standards (including standards issued by APRA) the Directors may exercise all the powers of the Company to:
- (a) borrow money;
 - (b) charge any property or business of the Company or all or any of its uncalled capital;
 - (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.
- 48.3 Every Director and other agent officer and employee of the Company must:
- (a) keep secret all aspects of all transactions of the Company, except:
 - (i) to the extent necessary to enable the person to perform his or her duties to the Company;
 - (ii) as required by law; and
 - (iii) when requested to disclose information by the Directors, to the Auditors of the Company or a general meeting of the Company; and
 - (b) if requested by the Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Company.

PROCEEDINGS OF DIRECTORS**49. Directors' meetings**

- 49.1 A Director may at any time, and the Secretary must on the request of a Director, convene a Directors' meeting.
- 49.2 It is not necessary to give notice of a meeting of the Directors to a Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia.
- 49.3 (a) Subject to the *Corporations Act*, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (b) The Directors need not all be physically present in the same place for a Directors' meeting to be held.

- (c) A Director who participates in a meeting held in accordance with this **clause 49.3** is taken to be present and entitled to vote at the meeting.
- (d) A Director can only withdraw his or her consent to the means of communication between Directors proposed for a Director's Meeting if the Director does so at least 48 hours before the meeting,

49.4 **Clause 49.3** applies to meetings of Directors' committees as if all committee members were Directors.

49.5 The Directors may meet together, adjourn and regulate their meetings as they think fit.

49.6 At a meeting of Directors, a quorum is five (5) or a number not less than half of the total number of Directors. If within 30 minutes of the time appointed for a meeting of the Board, a quorum is not present the meeting will stand adjourned to the same day in the next week at the same time and place.

49.7 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

50. Decision of questions

50.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to this **clause 50**, each Director has one vote.

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

50.3 Subject to **clause 52**, an Alternate Director has one vote for the Director for whom he or she is an alternate during such Director's absence.

51. Directors' interests

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

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

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

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

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

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

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

(b) The requirement in this **clause 51.5(a)** is in addition to any requirements of the *Corporations Act* in relation to voting by an interested director of a public company.

52. Alternate Directors

52.1 In this clause, unless the context requires otherwise:

(a) 'alternate' means a person that a Director appoints as his or her Alternate Director under **clause 52.3** but only in the person's capacity as the Alternate Director; and

(b) 'appointor' means the Director who appoints the alternate under **clause 52.3**

52.2 A person is eligible to be an alternate for a Director if the person:

(a) is eligible to be a Director under **clause 41**;

(b) is not a Director; and

(c) is not an alternate for another Director.

52.3 A Director (but not an alternate) may give the Company a notice appointing a person eligible under **clause 52.2** to be his or her alternate. The notice must set out:

(a) the name of the person to be appointed as alternate;

(b) the term of the alternate's appointment (or that the appointment is for an indefinite term); and

(c) whether the alternate may exercise all or only some of the appointor's powers during the appointor's absence at Board meetings.

The notice of appointment only takes effect if the Directors approve the alternate's appointment and the alternate gives the Company a signed consent to act as alternate.

52.4 The appointor may revoke the alternate's appointment at any time by written notice to the alternate and to the Company.

52.5 The alternate may not sign any circulating resolutions.

52.6 The alternate is not the appointor's agent, but a Director of the Company. Except as otherwise specified by a Director in accordance with **clause 52.3**, the alternate has all the duties, powers and rights of the appointor as a Director. Except to the extent that this clause provides otherwise, all references to Directors in the Constitution include references to the alternate.

52.7 The Company must give notices of Directors' meetings to the alternate.

- 52.8 The alternate may be present at all meetings of Directors.
- 52.9 If the notice of appointment referred to in **clause 52.3** is to the effect that the alternate may exercise the appointor's power to vote, the alternate may vote in the absence of the appointor even on a matter in which the appointor has a material personal interest.
- 52.10 The alternate does not breach his or her duties to the Company by reason of any matter voted on at a meeting at which the alternate did not vote because the appointor was present.
- 52.11 The Company must not provide remuneration to the alternate (in his or her capacity as alternate). However the Company may pay the alternate's travelling and other expenses that he or she reasonably and properly incurs:
- (a) in attending Directors' meetings or any other meetings of committees of Directors; and
 - (b) otherwise in connection with the Company's business.
- 52.12 The Company may pay a premium in respect of a contract insuring an alternate against liability incurred by the alternate as a Director, except in circumstances prohibited by the *Corporations Act*.
- 52.13 The alternate's office automatically becomes vacant if:
- (a) the appointor revokes the alternate's appointment, notwithstanding that the alternate was appointed for a particular term;
 - (b) the appointor's office as a Director becomes vacant (except where the appointor's term as a Director ends at the end of an annual general meeting under **clause 45** and members re-elect the appointor as a Director at that annual general meeting); or
 - (c) the circumstances set out in **clause 46** arise.
- 52.14 The Company must give the appropriate notice to ASIC within fourteen (14) days of the appointment or removal of an alternate.
- 52.15 The term of the alternate shall be reviewed by the Directors after three months and after six months, the alternate's appointment shall cease.

53. Remaining Directors

- 53.1 The Directors may act even if there are vacancies on the Board.
- 53.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
- (a) appoint a Director; or
 - (b) convene a general meeting.

54. Chairperson

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

55. Directors' committees

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

56. Circulating Resolutions

- 56.1 The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 56.2 Notwithstanding **clause 56.1** the Directors may pass a resolution on urgent matters without a Directors' meeting being held if the resolution has been provided to all Directors and a majority of Directors entitled to vote on the resolution sign a document containing a statement that they approve the resolution, unless a Director requests, in writing, that the proposed resolution be dealt with at a Directors' meeting.
- 56.3 For the purposes of **clauses 56.1** and **56.2**, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical or to the like effect in each copy.
- 56.4 Any document referred to in this clause may be in the form of a facsimile transmission or electronic notification.
- 56.5 The resolution is passed when the chairperson or other Director nominated by a majority of Directors receives the last signed notice.
- 56.6 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

57. Validity of acts of Directors

If it is discovered that:

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

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

58. Minutes and Registers

58.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by the Directors in accordance with **clause 56**;
- (d) all orders made by the Directors and Directors' committees; and
- (e) all disclosures of interests made pursuant to **clause 51**.

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

59. Appointment of attorneys and agents

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

- (a) for the purposes;
- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
- (c) for the period; and
- (d) subject to the conditions,

determined by the Directors.

59.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:

- (a) any company;

- (b) the members, directors, nominees or managers of any company or firm; or
- (c) any fluctuating body of persons whether nominated directly or indirectly by the Directors.

- 59.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 59.4 The Directors may appoint attorneys or agents in writing to act for and on behalf of the Company.
- 59.5 An attorney or agent appointed under this **clause 59** may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

SECRETARY

60. Secretary

- 60.1 There must be at least one Secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them. The terms of appointment must be consistent with the Fit and Proper Policy.
- 60.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 60.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

SEALS

61. Common Seal

If the Company has a Seal:

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

INSPECTION OF RECORDS

62. Times for inspection

- 62.1 Except as otherwise required by the *Corporations Act*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.

- 62.2 A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

RESERVES

63. Calculation and Distribution of reserves

The Company's profit or loss in any one financial year arising from its operations must be determined and dealt with in accordance with any applicable prudential standards. The Directors must also resolve in each financial year the amount of profit which must be carried to a reserve. Reserves can be used in the business of the Company or can be distributed on a winding up in accordance with this Constitution. No dividend is payable in respect of any Shares.

NOTICES

64. Service of notices

- 64.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution by:
- (a) serving it on the person;
 - (b) sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person; or
 - (c) if the notice is to a Member and the Member has no registered address, posting it on a notice board at the Office.
- 64.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting a letter containing the notice; and
 - (b) on the third business day after the day on which it was posted.
- 64.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the business day after its despatch.
- 64.4 A notice posted on a notice board is taken to be served 24 hours after it is posted on the board.
- 64.5 A notice may be given by the Company to joint holders by giving the notice to the joint holder whose name appears first in the Register.
- 64.6 Every person who is entitled to a Share by operation of law and who is not registered as the holder of the Share is taken to receive any notice served in accordance with this clause on the person from whom it derives its title.

- 64.7 A Member whose registered address is not in Australia may specify in writing an address in Australia as the Member's registered address within the meaning of this clause.
- 64.8 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 64.9 Subject to the *Corporations Act* the signature to a written notice given by the Company may be written or printed.
- 64.10 All notices sent by post outside Australia must be sent by prepaid airmail post.

65. Persons entitled to notice

- 65.1 Notice of every general meeting must be given:
- (a) subject to **clause 23.1** to every Member entitled to vote at the meeting;
 - (b) to every Director and Alternate Director; and
 - (c) to any Auditor.
- 65.2 No other person is entitled to receive notice of a general meeting.

AUDITS AND ACCOUNTS

66. Company to keep accounts

- 66.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the *Corporations Act*.
- 66.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the *Corporations Act*.

WINDING UP

67. Liability on Winding Up

- 67.1 Subject to this **clause 67**, on the winding up of the Company:
- (a) a Member's liability is limited to the amount unpaid in relation to the Member's contractual obligations with the Company; and
 - (b) the liability of a holder of Statutory Redeemable Preference Shares extends to the amount unpaid in relation to those shares.
- 67.2 Any deposit paid by the holder of a Membership Share for the purposes of becoming a Member of the Company held by the Company at the date of commencement of any winding up will be subordinated to the claims of other creditors.

68. Surplus

On a winding up, Members are entitled to participate in any surplus equally and without regard to the number of Shares held by any Member. In the case of a voluntary winding

up, the Members at the time they resolve to wind up the Company may resolve that any surplus be transferred to any Company which has a mutual structure in accordance with any current policy of ASIC or APRA.

PAYMENTS BY THE COMPANY

69. Indemnity and Insurance

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

GENERAL

70. Dispute Resolution

- 70.1 The Directors must appoint a person to settle disputes between the Company and Member (in the capacity as a Member), and establish procedures for the settlement of such disputes.
- 70.2 A dispute between the Company and a Member (in the capacity as a Member) if not settled by the Company's internal procedures, will be settled by arbitration in accordance with the *Commercial Arbitration Act 1984* (Vic) as amended from time to time or by some other external dispute settling person or body acceptable to both parties. If the *Commercial Arbitration Act 1984* is repealed, the Directors may adopt (and amend from time to time) an alternative dispute resolution policy.

70.3 Nothing in **clause 70** shall apply to any dispute as to the construction or effect of the *Corporations Act* or of any mortgage or of any contract contained in any document other than this Constitution.

70.4 For the purposes of **clause 70**:

- (a) 'Company' includes the Directors and any officer of the Company;
- (b) 'Member' includes:
 - (i) any person aggrieved who has not for more than three months ceased to be a Member; and
 - (ii) any person claiming by or through a Member or by or through a person referred to in (i) above.

71. Fines and Forfeiture

Unless expressly provided by any other clause of the Constitution, no Member is liable to any fine or forfeiture other than as may be imposed by law.

72. Fees and Charges

- 72.1 (a) The Directors may from time to time:
- (i) determine fees and charges for any one service and/or product provided by the Company; and
 - (ii) recoup in full or in part, fees, charges, taxes, levies and duties.
- (b) The Board must cause notice of its determinations under **clause 72** to be published at regular intervals to Members and to be displayed at all offices of the Company.
- 72.2 If the Company is prepared to or required by the *Corporations Act* to provide a person with a copy of any Company document or part thereof on request, the Company may charge such fee for the provision of the document as the Directors from time to time determine in their absolute discretion, and if there is a maximum fee prescribed for such provision, an amount not exceeding that prescribed amount.

73. Financial Assistance Fund

- 73.1 There shall be a Financial Assistance Fund ('Fund') to be administered by the Directors, for the provision of financial assistance to its Members in accordance with the policy guidelines developed by the Directors from time to time.
- 73.2 By a resolution of the Directors, a sum may be transferred to the Fund from the interest income received from loans and overdrafts during the financial year, but shall not exceed the amount paid from the Fund during that year, adjusted for any proportional increase or decrease in membership of the Company.

74. Transfer of Business

The Directors shall not:-

- (a) sell or dispose of the business of the Credit Union to another ADI or effect a reconstruction of the Credit Union as provided in Section 63 of the *Banking Act 1959 (Cth)*; or
- (b) undertake or accept a transfer of business with another ADI as provided in the *Financial Sector (Transfers of Business) Act 1999 (Cth)*

unless authorised by a special resolution at a general meeting of Members or directed by APRA.

75. Sale of 902-912 Mount Alexander Road, Essendon

The Directors shall not sell or transfer the property situated at 902-912 Mount Alexander Road, Essendon or the adjoining Willow Street car parking facility unless approved by a special resolution at a general meeting of Members or directed by APRA.

76. Securitisation

The Directors shall not enter into a securitisation program involving the pooling in a special purpose vehicle in any financial year of more than 50% of the value of the loans as at the end of the immediately preceding financial year unless approved by a resolution at a general meeting of Members.

SCHEDULE 1

**DNISTER UKRAINIAN CREDIT CO-OPERATIVE LIMITED (DNISTER)
ABN 59 087 651 394**

Right to Vote by Proxy at General Meetings

If you cannot or do not wish to attend and vote at the general meeting of Dnister on the
....., at commencing at and at any
adjournment thereof, you may appoint a person to attend and vote as your proxy at the meeting. If
you wish to appoint a proxy, please complete and return this Proxy Form, (and any power of
attorney or other authority under which this Proxy Form is signed), so that it is received at the
registered office of Dnister by personal delivery or mail by *no later than 5.00pm on the*
....., being not later than 48 hours before the meeting. Late proxies will be disregarded. Your proxy
need not be a member of Dnister.

PROXY FORM

**The Secretary
Dnister Ukrainian Credit Co-op Limited
912 Mt Alexander Road
ESSENDON VICTORIA 3040**

I.....(please print)

of..... (my phone no.....optional)
(please print)

being a member of Dnister, APPOINT:

the Chairman
of the meeting
(mark box
with an 'X')

OR

Write in the box to the
left the name of the
person you are
appointing if this
person is someone
other than the
Chairman of the
Meeting.

**AS MY PROXY to attend and vote on my behalf at the general meeting of Dnister on the
..... and any adjournment thereof.**

*If you wish to DIRECT your proxy to vote "FOR", "AGAINST" or "ABSTAIN" on any particular item of
business, please mark the appropriate box with X. If you do not instruct your proxy how to vote on a
particular item of business, your proxy may vote as the proxy thinks fit or may abstain from voting.*

I DIRECT my proxy to vote in respect of items of business specified hereunder as follows:

ITEM OF BUSINESS	DESCRIPTION	FOR	AGAINST	ABSTAIN
Resolution 1		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This proxy must be dated and signed ON THE REVERSE SIDE OF THIS FORM by the member or the member's attorney

and I DIRECT my proxy to vote as my proxy sees fit in respect to any other general business conducted at the general meeting.

Please Note:

- (i) *A member who is entitled to vote at the meeting, may appoint 1 proxy.*
- (ii) *A proxy given by a member company must be executed in accordance with Sec 127 of the Corporations Act or signed by an authorised officer or attorney.*
- (iii) *A proxy given by an un-incorporated member organisation, must be given by authority of that organisation and should be signed by its president and secretary.*
- (iv) *If you mark the abstain box for a particular item of business, your are directing your proxy not to vote on your behalf on a show of hands or on a poll in relation to such item of business and your vote will not be counted when determining the required majority on a poll for such item of business.*
- (v) *If you require an additional proxy form, Dnister will supply it on request.*

DATED.....200 .

If you forget to date your proxy, Dnister will date it with the date on which the envelope containing the Proxy Form is received and opened at Dnister's office.

IF APPOINTOR IS AN INDIVIDUAL PERSON	IF APPOINTOR IS A COMPANY	IF APPOINTOR IS AN UN-INCORPORATED ORGANISATION
<p>.....</p> <p>Signature</p> <p>.....</p> <p>Name (please print)</p>	<p>Common Seal</p> <p>.....</p> <p>Director's Signature</p> <p>.....</p> <p>Second Signatory</p>	<p>.....</p> <p>Signature of President</p> <p>.....</p> <p>Signature of Secretary or other authorised committee member</p>

SCHEDULE 2**ELECTION OF DIRECTORS*****POSTAL BALLOT*****2-1 Election**

- (1) An election of Directors is held by secret ballot to which the provisions of this Schedule apply.
- (2) The following table sets out the timetable for election of Directors by Members:

Steps in Election Procedure	Time
Call for nominations (see clause 2-2(1) of this schedule)	56 days before annual general meeting ('AGM')
Nominations close (see clause 2-2(2))	35 days before AGM
Returning officer must send ballot papers to Members (see clause 2-7(1)) together with notice of the AGM	30 days before AGM
Announcement of Directors (see clause 2-9(3))	AGM

2-2 Nominations

- (1) The Directors must give Members a notice calling for nominations not less than 56 days before the AGM.
- (2) Nominations close 35 days before the AGM.
- (3) In order to be nominated, a Member ("the nominee") must:
 - (a) be eligible under **clause 41**;
 - (b) be nominated by two Members;
 - (c) state the nominee's date of birth;
 - (d) consent to the nomination and to an assessment under the Fit and Proper Policy in the terms required by the Company;
 - (e) agree to be bound by all decisions made in good faith in implementing or seeking to implement the Fit and Proper Policy; and
 - (f) give the Company a notice of nomination and a declaration complying with **clause 2-2(4)** before nominations close.

(4) Declaration

A Member nominated pursuant to **clause 2-2(3)** or retiring Director standing for re-election without nomination pursuant to **clause 44.4** must furnish to the Company together with the nomination (if nominated) a declaration in such form as the Directors may require:

- (a) That the nominee is not disqualified or prevented by law from being a Director and provide the Company with all information and consents the Company reasonably requests, to determine whether the person is disqualified or prevented by law from acting as a director and is of appropriate fitness and propriety to be and act as a Director for the coming term by reference to the Fit and Proper Policy;
 - (b) Whether the nominee has any interest in a contract or a proposed contract with the Company other than a contract, or proposed contract to provide Financial Accommodation;
 - (c) Whether the nominee holds an office or has an interest in property, whereby, whether directly or indirectly duties or interests may be created that could conflict with a director's duties or interests as a Director of the Company; and
 - (d) That the nominee agrees to comply with the Fit and Proper Policy and any codes of practice and procedures for Directors approved by the Directors from time to time.
- (5) A nominee may submit to the Company for circulation to Members if the nominee becomes a candidate pursuant to **clause 2-2C** a statement not exceeding 250 words in support of their candidacy.
- (6) Any statement submitted by a nominee for election must not contain any matter or thing that is likely to mislead or deceive a Member in relation to the casting of their vote.
- (7) Any statement submitted by a nominee must not make any criticism of another candidate, the Directors or their composition or offer to act as advocate for any sections of the membership.
- (8) A candidate's statement must be referred to the returning officer not later than 40 days before the AGM. The returning officer may:
- (a) approve a candidate's statement; or
 - (b) refuse to approve a candidate's statement; or
 - (c) request a variation to a candidate's statement.
- (9) **Initial Rejection of Nominations**
- (a) As soon as possible after receipt, the Company must provide each nomination and accompanying documents to the returning officer. The returning officer must scrutinise nominations immediately upon receipt and reject a nomination where it appears to the returning officer that the nominating member or retiring Director standing for re-election without nomination pursuant to **clause 44.4** is not eligible under **clause 41**;

- (b) The returning officer must reject a nomination where the nominee has failed to provide a declaration complying with **clause 2-2(4)**;
 - (c) Upon rejecting a nomination, the returning officer is to notify immediately the Member, the Member's proposers and the Directors.
- (10) The returning officer must cause nominations not rejected pursuant to **clauses 2-2(9)(a)** and **(b)** and any accompanying documents to be forwarded to the Nominations Committee as soon as practicable thereafter.
- (11) The returning officer is only required to issue each member with the ballot paper and those candidates' statements, which have been approved by the returning officer.
- (12) Any failure by the Company to provide any required document or information to the returning officer within the time specified that in the Board's reasonable opinion will not impact the fair running of the election shall not prevent the returning officer from accepting such document or information and the returning officer shall continue as if such document or information was provided within time.

2-2A Nominations Committee

- (a) Each nominee must upon invitation by the Nominations Committee submit to an interview with the Nominations Committee to determine their fitness and propriety to be and act as a Director by reference to the Fit and Proper Policy.
- (b) The interview can be conducted in such manner and at such time after the close of nominations and prior to the sending of ballot papers to Members as determined by the Nominations Committee after consulting the returning officer.
- (c) After interviewing all nominees who make themselves available for interview, the Nominations Committee must provide the returning officer with a report as soon as practicable and in any event in sufficient time for the preparation and sending of ballot papers to Members stating the:
 - (i) name of each nominee interviewed by the Nominations Committee;
 - (ii) name of each nominee who was unavailable to be interviewed by the Nominations Committee;
 - (iii) name of each nominee who failed to provide the Nominations Committee with all information and documentation reasonably requested by the Nominations Committee to determine if the nominee was of appropriate fitness and propriety to be and act as a Director for the coming term by reference to the Fit and Proper Policy;
 - (iv) name of each nominee who demonstrated appropriate fitness and propriety to be and act as a Director for the coming term by reference to the Fit and Proper Policy; and

- (v) name of each nominee who failed to demonstrate appropriate fitness and propriety to be and act as a Director for the coming term by reference to the Fit and Proper Policy.

2-2B Subsequent Rejection of Nominations

The returning officer must reject a nomination as soon as practicable after receipt of the Nominations Committee's report and notify immediately the nominee, their proposers and the Board if the Nominations Committee reports that the nominee:

- (a) was unavailable to be interviewed by the Nominations Committee;
- (b) failed to provide the Nominations Committee with all information and documentation reasonably requested by the Nominations Committee to determine if the nominee was of appropriate fitness and propriety to be and act as a Director for the coming term by reference to the Fit and Proper Policy; or
- (c) in the assessment of the Nominations Committee did not demonstrate appropriate fitness and propriety to be and act as a Director for the coming term by reference to the Fit and Proper Policy.

2-2C Candidates

Any nominee not rejected by the returning officer in accordance with clauses 2-2(9) or 2-2B becomes a candidate.

2-3 Proceeding with Election

- (1) The number of positions to be filled in the election is the maximum number of Directors under **clause 40.2** less the number of Directors who are not due to retire at the AGM.
- (2) If the number of candidates is equal to or less than the number of positions to be filled:
 - (a) the general meeting may appoint each Member who becomes a candidate as a Director by passing a separate resolution at the AGM;
 - (b) the election process otherwise set out in this Schedule is discontinued; and
 - (c) the Company must give each Member a notice that:
 - (i) states that the election process has been discontinued;
 - (ii) sets out the name of each candidate;
 - (iii) states that the general meeting will vote on the appointment of each candidate as a Director by a separate ordinary resolution at the AGM.

2-4 Appointment of Returning Officers

- (1) The Directors must appoint a returning officer approved by the Electoral Commission or its equivalent, who may appoint assistant returning officers, none of whom can be an officer of the Company, a candidate, or relative of a candidate.
- (2) The Secretary must prepare and give the returning officer a roll of Members.

2-5 Appointment of Scrutineer

- (1) A candidate may appoint a scrutineer.
- (2) The duties and responsibilities of scrutineers are:
 - (a) to observe the sorting, counting and recording of ballot papers;
 - (b) to ensure that the votes of unrejected ballot papers are correctly credited to the appropriate candidates; and
 - (c) to raise any query with the returning officer regarding any of the ballot papers.

2-6 Ballot Papers

- (1) After nominations have closed, the returning officer must prepare ballot papers for the election.
- (2) The order in which the candidates appear on the ballot paper is to be determined by the returning officer by lot.
- (3) The ballot paper must state that each candidate has been assessed by the Nominations Committee as demonstrating appropriate fitness and propriety to be and act as a Director for the coming term by reference to the Fit and Proper Policy.
- (4) The returning officer must ensure some authenticating mark appears on each ballot paper before sending them to the Members.

2-7 Postal Vote

- (1) The returning officer must send to each Member at least 30 days before the AGM:
 - (a) a ballot paper;
 - (b) any candidate's statement approved by the Returning Officer in accordance with **clause 2-2(8)**;
 - (c) an unsealed envelope, called the 'Outer Envelope' addressed to the returning officer, the reverse side of which bears the following:

<p><i>Name of member</i></p> <p><i>Signature of member or corporate member's representative</i></p>
--

- (d) a smaller plain envelope, called the 'Inner Envelope', in which the Member must enclose their completed ballot papers.
- (2) The returning officer must send ballot papers by mail or prepaid post and addressed to each Member at the address shown in the Register of Members for the purposes of giving notices.
- (3) A Member exercising a right to vote must:
- (a) Firstly, complete the ballot paper in accordance with this Constitution;
 - (b) secondly, place the ballot paper in the Inner Envelope; and
 - (c) thirdly, place the Inner Envelope in the Outer Envelope, complete the Outer Envelope and return it by post to the returning officer.
- (4) A Member must ensure that the returning officer receives the Member's ballot paper by 5.00pm on the day fixed for the closing of the ballot.
- (5) Any ballot paper that the returning officer receives after the ballot closes is informal.
- (6) A Member who does not receive the Member's ballot paper or who spoils it must give the returning officer a declaration to that effect. The returning officer must then send a duplicate ballot paper to that Member.

2-8 Closure of the Ballot

- (1) Except in the circumstances specified in **clause 2-8(2)** of this Schedule the ballot closes 7 days before the AGM.
- (2) Where the AGM is scheduled to occur on a Sunday, or on any day when the Office may be closed, ballot papers shall be deemed to be accepted as being received within the period specified in sub-clause (1) of this clause, provided that they are received by noon on the first day of opening of the Company after the day specified in **clause 2-8(1)**.

2-9 Procedures After Close of the Ballot

- (1) As soon as practicable after the ballot closes, the returning officer must ensure that the ballots are dealt with as follows:

- (a) for each ballot paper, mark the Member's name off a roll of members;
 - (b) if a duplicate ballot paper has been sent to a Member and the original Outer Envelope received — mark the original Outer Envelope 'rejected';
 - (c) if the Member or the Member's corporate representative has not signed the Outer Envelope, or there is insufficient detail to identify the Member— mark the Outer Envelope 'rejected';
 - (d) extract the Inner Envelopes containing the ballot papers from all unrejected Outer Envelopes, separating the contents from the Outer Envelopes in such a way that no Inner Envelope can be identified with any particular Member;
 - (e) when all the Outer Envelopes have been so dealt with, open all the Inner Envelopes and take out the ballot papers;
 - (f) supervise the scrutinising of the ballot papers and reject informal ballot papers;
 - (g) count the votes;
 - (h) sign a declaration of the ballot as to the:
 - (i) names of the candidates appointed as Directors;
 - (ii) votes cast for each candidate;
 - (iii) number of votes rejected as informal; and
 - (i) deliver the declaration to the Secretary.
- (2) A ballot paper is informal if:
- (a) it is not authenticated by the returning officer; or
 - (b) it has no vote indicated on it or it does not indicate the Member's preference for a candidate.
- (3) The Secretary must announce the results of the ballot at the next AGM.
- (4) If a Member gives the Company a written request, the Company must make available to any Member a copy of the returning officer's declaration of the ballot.
- (5) The returning officer must destroy the ballot papers three months after the declaration of the ballot.

2-10 Voting System

- (1) The candidates with the highest number of votes in accordance with the number of vacancies are appointed as Directors.

- (2) If 2 or more candidates have the same number of votes, the candidate appointed as a Director is determined by lot.

2-11 Irregularity in the Conduct of an Election

- (1) The candidates that the returning officer declares to have been appointed are appointed unless the Secretary receives an objection to the ballot within 7 days of the Secretary notifying Members of the result of the ballot.
- (2) If the Directors are of the opinion that the objection is reasonable, they may resolve to declare the returning officer's declaration void.
- (3) The returning officer must then conduct a further scrutiny in accordance with the Constitution the results of which prevail unless the Directors resolve to call a new poll by a unanimous resolution of all Directors other than those appointed as a result of the ballot to which the objection relates.
- (4) No election shall be voided on account of any error or omission of the Company or the returning officer, which does not affect the result of the election.

SCHEDULE 3

STANDING ORDERS

3-1 Time Limits for Speakers

- (1) The mover of a motion may speak for no more than 5 minutes.
- (2) Subsequent speakers may speak for no more than 5 minutes.
- (3) The mover of the motion may reply for no more than 5 minutes.
- (4) The meeting is free to extend the time a speaker may speak.

3-2 Amendment

- (1) On an amendment being proposed to an original motion, no second amendment may be considered until the first amendment has been dealt with.
- (2) An amendment, when carried, displaces the original motion and becomes the motion to which any further amendment may be moved.
- (3) If the amendment is not carried, then further amendments to the original motion may be considered.

3-3 Speakers

- (1) The mover of an original motion has a right of reply.
- (2) The mover of an amendment does not have a right of reply.
- (3) Except as otherwise provided in this Schedule, a Member may speak only once on the same question except to raise a point of order or, with the consent of the chair of the meeting, to give an explanation.

3-4 Motions to be in Writing

Every motion and every amendment to a motion must be submitted in writing as and when the chairperson of the meeting requests.

3-5 Closure of Debate

- (1) Debate on a motion or an amendment may be brought to a close by a resolution ‘that the question be now put’.
- (2) The motion ‘that the question be now put’ must be put to the meeting without debate.

SCHEDULE 4**MEMBERS WHO ARE MINORS**

- 4-1** This schedule applies to a Member who was a minor when he or she became a Member:
- (1) While a Member remains a minor, except when the Company is being wound up, the Company must not:
 - (a) call for payment of the unpaid amount in respect of the minor's shares;
 - (b) credit any dividend to the unpaid amount in respect of the minor's share; or
 - (c) otherwise set off against the unpaid amount of any amounts owing by the Company to the minor.
 - (2) After reaching the age of 18, the Member must pay the remaining 80% of the subscription price for the shares applicable as at the time he or she became a member. Any time after the Member reaches the age of 18 the Board may:-
 - (a) call for payment of all or part of the unpaid amount in respect of the shares;
 - (b) debit any of the Member's deposit accounts with the Member's consent.
 - (3) After reaching the age of 18, the Member must not exercise any of the rights attaching to his or her shares until the Member pays the amount of the unpaid subscription price.
- 4-2** A Member who is as minor must not:-
- (a) vote at a meeting of the Company; or
 - (b) be a Director, Alternate Director or Secretary of the Company.