

# Allens > < Linklaters

## Constitution

### **Sydney Airport Limited**

A Company limited by Shares

Allens  
Deutsche Bank Place  
Corner Hunter and Phillip Streets  
Sydney NSW 2000  
Tel +61 2 9230 4000  
Fax +61 2 9230 5333  
[www.allens.com.au](http://www.allens.com.au)

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## 1. Definitions and Interpretation and Stapling generally

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### 1.1 Definitions

In this Constitution unless the contrary intention appears:

**Airline** has the meaning given to that term in the Airports Act.

**Airports Act** means the *Airports Act 1996* (Cth) and all applicable subordinate-legislation including, without limitation, the Ownership Regulations.

**Airport Investment** means any direct or indirect investment by the Company or a Stapled Entity in or in connection with an Airport Operator Company or a holding company of an Airport Operator Company.

**Airport Operator Company** has the meaning given to it in the Airports Act.

**Alternate Director** means a person appointed as an alternate director under clause 13.6 (Appointment of Alternate Director).

**ASX** means Australian Stock Exchange Limited or the market operated by it as the context requires.

**ASX Settlement** means ASX Settlement and Transfer Corporation Pty Limited.

**ASX Settlement Operating Rules** means the Operating Rules of ASX Settlement or the Operating Rules of any other Prescribed CS Facility that apply to the Company or its Shares in addition to, or in substitution for, the Operating Rules of ASX Settlement.

**Attached Securities** means a SAT1 Unit and any other security or securities which are from time to time stapled or to be stapled to an Ordinary Share.

**Auditor** means the appointed auditor of the Company.

**BBSW** for a period:

- (a) the rate determined by the Directors to be the arithmetic mean (rounded up, if necessary, to the nearest 0.01%) of the bid rates displayed at or about 10.30am Sydney time on the first day of that period on the Reuters screen BBSW page for a term of one month after eliminating one of the highest and one of the lowest of those rates; or
- (b) if for any reason there are no rates displayed for a term then BBSW will be the rate determined by the Board to be the average of the buying rates quoted to the Directors by 3 Australian banks selected by the Directors at or about that time on that day. The buying rates must be for bills of exchange which are accepted by an Australian bank and which have a term equivalent to one month.

**Cashout Bank** means an Australian Financial Services Licence holder with sufficient authority and expertise to sell the Transfer Securities.

**CHES** means Clearing House Electronic Subregister System.

**CHES Rules** means the Operating Rules of a Prescribed CS Facility (including the ASX Settlement Operating Rules) and the provisions of the Corporations Act and Listing Rules

concerning the electronic share registration and transfer system as and to the extent that they apply to the Company.

**CHES Approved Securities** means securities of the Company which are approved by ASX Settlement in accordance with the ASX Settlement Operating Rules.

**Company** means Sydney Airport Limited (ACN 165 056 360).

**Constitution** means this constitution as amended from time to time.

**Cross Stakeholder** means a person who has a Stake in the Airport Operator Company for Brisbane Airport, Perth Airport or Melbourne (Tullamarine) Airport.

**Director** means a person holding office as a director of the Company, and where appropriate includes an Alternate Director.

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

**Disposal Notice** has the meaning given in clause 6 in Schedule 1 or Schedule 2 (as the case may be).

**Divestment Date** means the period or date which must not be less than 30 days from the date of a Disposal Notice or such shorter period as ASX permits.

**Divestment Rules** at any time means the rules, procedures and matters (if any) then most recently adopted and published by the Company under clause 10 in Schedule 1 or Schedule 2 (as the case may be).

**Dividend Calculation Date** means each such day as the Directors designate.

**Executive Director** means a person appointed as an executive director under clause 13.26 ('Appointment of Managing and Executive Directors').

**Foreign Member** means any Member who is a citizen or resident of a jurisdiction outside Australia and New Zealand or whose address in the register of Members is a place outside of Australia and New Zealand, unless the Directors are satisfied that it would not be unlawful for the Company to issue shares or distribute assets to the Member either unconditionally or after compliance with conditions which the Directors in their sole discretion regard as acceptable and not unduly onerous.

**Foreign Ownership Trigger** means at any time the percentage specified by the Company under clause 15 of Schedule 1 or Schedule 2 (as the case may be) as the maximum Stake in the Company which may be held by a person who is a Foreign Person or in aggregate by persons who are Foreign Persons.

**Foreign Person** has the same meaning as in the Airports Act.

**Listed** means entered in the Official List of ASX.

**Listing Rules** means the Official Listing Rules of ASX from time to time, as and to the extent that they apply to the Company, with any modifications or waivers in their application to the Company which ASX may grant.

**Managing Director** means a person appointed as a managing director under clause 13.26 ('Appointment of Managing and Executive Directors').

**Member** means a person entered in the Register as the holder of shares in the capital of the Company.

**Minister** means any Minister of State of the Commonwealth administering the Airports Act or any part of that legislation and includes any Minister of State of the Commonwealth or member of the Federal Executive Council for the time being acting on behalf of such a Minister.

**Ordinary Shares** means ordinary, voting shares in the capital of the Company issuable by the Directors pursuant to clause 2.1 in such classes as the Directors may from time to time determine and having the rights, and being subject to the restrictions, specified in this Constitution or by the Directors.

**Officially Quoted** means quotation as the official list of ASX, including when quotation is suspended for a continuous period of not more than 60 days.

**Operating Rules**, in relation to a Prescribed CS Facility, means the operating rules of that Prescribed CS Facility, within the meaning of Chapter 7 of the Corporations Act.

**Other Instrument** means any other interests, rights or other instruments of a debt, equity, quasi-debt, quasi-equity or hybrid nature (other than shares or options).

**Ownership Provisions** means Part 3 of, and the schedule to, the Airports Act.

**Ownership Regulations** means the *Airports (Ownership – Interests in Shares) Regulations 1996* (Cth).

**Part** means a Part of this Constitution.

**Prescribed CS Facility** has the same meaning as in Chapter 7 of the Corporations Act.

**Prescribed Interest Rate** means the rate determined by the Directors for the purpose of this Constitution, being a rate not exceeding BBSW plus 3% per annum, and in the absence of a determination means BBSW plus 3% per annum.

**Register** means the register of members of the Company under the Corporations Act and if appropriate includes a branch register.

**Registered Office** means the registered office of the Company.

**Representative** means a person appointed by a body corporate to act as its representative at a general meeting of the Company in accordance with the Corporations Act.

**Restricted Securities** has the same meaning as in the Listing Rules.

**Restriction Agreement** means a restriction agreement within the meaning and for the purposes of the Listing Rules.

**Sale Price** means the average price (less any costs) at which Transfer Securities held by the Cashout Bank are sold under clause 24.3.

**SAT1** means Sydney Airport Trust 1 or, as the context requires, the responsible entity of Sydney Airport Trust 1.

**SAT1 Unit** means a fully paid ordinary unit in SAT1.

**Secretary** means a person appointed under clause 14.1 (Appointment of Secretary) as secretary of the Company and where appropriate includes an acting secretary and a

person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

**Share** means a share in the capital of the Company.

**Single Person Trigger** has the meaning given in clause 15 of Schedule 2.

**Special Resolution** has the same meaning as in the Corporations Act.

**Stake** has the meaning given to that term in the Airports Act. Where a reference is made to an aggregate of Stakes held by certain persons, this refers to the particular type of Stake held by each relevant person.

**Staple or Stapled** means the linking together of Ordinary Shares and Attached Securities so that one may not be transferred, or otherwise dealt with, without the other or others and which are quoted on the ASX jointly as a 'Stapled Security' or such other term as the ASX permits.

**Stapled Entity** means the Company and SAT1 and, if any other securities are attached to an Ordinary Share, the issuer of any such securities.

**Stapled Security** means one Ordinary Share and one SAT1 Unit and, if applicable, any other Attached Security, Stapled to each other.

**Stapled Security Register** means the register of Stapled Securities to be established and maintained in accordance with clause 3.7.

**Stapling** means the process that results in Ordinary Shares and Attached Securities being and remaining Stapled to each other.

**Stapling Commencement Date** means the date determined by the Directors.

**Stapling Provision** means the provisions of this Constitution relating to, referring to or connected with Stapling and, for avoidance of doubt, includes those provisions relating to, referring to or connected with Stapling contained in clauses 3, 6.10, 7.6, 9.2(b), 9.12, 10.24, 12.1, 17.9, 17.11, 18.4, 20.3 and 23(f) (inclusive) and clause 13 in Schedule 1 or Schedule 2 (as the case may be), and Stapling Provisions has a corresponding meaning.

**State** means the State or Territory in which the Company is for the time being registered.

**SYD Group** means the Company and the Stapled Entities once Stapling has commenced.

**Transfer Securities** means the securities referred to in clause 24.2(a) and, in the context of their sale by the Cashout Bank following a stapling of new Attached Securities, includes those new Attached Securities.

**Transfer Securities Price** means an amount equal to the Sale Price multiplied by the number of Transfer Securities which are transferred to the Cashout Bank or, where the Transfer Securities are consolidated or divided, by the number of consolidated or divided Transfer Securities referable to the number of Transfer Securities which were transferred to the Cashout Bank under clause 24.2(a).

**Unacceptable Airline Ownership Situation** has the same meaning as in the Airports Act.

**Unacceptable Cross Ownership Situation** has the same meaning as in the Airports Act.

**Unacceptable Foreign Ownership Situation** has the same meaning as in the Airports Act

**Unacceptable Ownership Situation** means each of an Unacceptable Cross Ownership Situation, Unacceptable Foreign Ownership Situation or Unacceptable Airline Ownership Situation.

## 1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (e) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (f) **(from time to time)** a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time; and
- (g) **(amount paid)** a reference to an amount paid on a share includes an amount credited as paid on that share.

## 1.3 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) 'section' means a section of the Corporations Act.

## 1.4 Headings and Parts

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

This Constitution is divided into Parts as indicated by its Contents.

## 1.5 Replaceable rules not to apply

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

## 1.6 Currency

The Directors may:

- (a) differentiate between Members as to the currency in which any amount payable to a Member is paid (whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution in a currency other than Australian and the amount payable will be converted from Australian currency in any manner, at any time and at any exchange rate as the Directors think fit; and
- (c) in deciding the currency in which a payment is to be made to a Member, have regard to the registered address of the Member, the register on which a Member's Shares are registered and any other matters as the Directors consider appropriate.

### **1.7 Application of Listing Rules**

While the Company is on the official list of the ASX:

- (a) despite anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must 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 taken 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 taken not to contain that provision; and
- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is taken not to contain that provision to the extent of the inconsistency.

### **1.8 Application of Stapling Provisions**

If there is an inconsistency between any Stapling Provision and any other provision of this Constitution, then the Stapling Provision prevails to the extent of the inconsistency, except where this would result in a breach of the Listing Rules, the ASX Settlement Operating Rules, the Corporations Act or any other law. The Stapling Provision prevails in this way, even if the other provisions are expressed to apply notwithstanding any other provisions in this Constitution.

### **1.9 Effective time for Stapling**

The Stapling Provisions only apply and come into effect in accordance with this clause 1.9. Each Ordinary Share will be Stapled to one SAT1 Unit on the Stapling Commencement Date and the Stapling Provisions will apply and come into effect from that time. The Directors may, subject to the Corporations Act and, while the Ordinary Shares are Officially Quoted, the Listing Rules, cause the Stapling of any other security or securities to the Ordinary Shares.

**1.10 Listing and consistency with SYD Constitution**

The Directors must use every reasonable endeavour to procure that Stapled Securities are dealt with under this Constitution in a manner consistent with the provisions relating to Stapled Securities in the constitution of any Stapled Entity.

**1.11 Intentions concerning issue and transfer of Stapled Securities**

The Ordinary Shares are intended to be Stapled to SAT1 Units and any other Attached Securities in the ratio of one share to one SAT1 Unit and one of each other category of Attached Securities (if any). It is the intention of the Company (and as more specifically set out in this Constitution) that:

- (a) the Members holding Ordinary Shares shall be identical to the SAT1 Unitholders and the holders of other Attached Securities (if any);
- (b) as far as the law permits, an Ordinary Share and one of each of the Attached Securities which are Stapled together shall be treated as one security;
- (c) no transfer of an Ordinary Share is to occur without one of each of the Attached Securities being transferred at the same time from the same transferor to the same transferee; and
- (d) no Ordinary Share is to be issued unless one of each of the Attached Securities is issued at the same time to the same person.

**1.12 Suspension of Stapling Provisions**

Subject to the Corporations Act, the Listing Rules, approval by resolution at a meeting of Members, and approval by a resolution of SAT1 Unitholders, the Directors may determine that the Stapling Provisions will cease to apply provided that at the same time each Stapled Entity also suspends the Stapling Provisions in accordance with the constitutions of the Stapled Entities.

**2. Share capital and variation of rights****2.1 Power of Directors to issue shares**

The issue of shares in the Company is under the control of the Directors who:

- (a) may issue or dispose of shares to any person at any time and on any terms and conditions and having attached to them any preferred, deferred or other special rights or restrictions, whether with regard to dividend, voting, return of capital, payment of calls or otherwise, as the Directors think fit including, without limitation, issuing redeemable preference shares;
- (b) may grant to any person an option over shares or pre-emptive rights at any time and for any consideration as they think fit; and
- (c) have the right to settle the manner in which fractions of a share, however arising, are to be dealt with,

subject to the Stapling Provisions, clauses 2.5 to 2.6, the Corporations Act, the Listing Rules and any special rights conferred on the holders of any shares or class of shares.

## 2.2 Issue of further shares - no variation

- (a) The rights conferred on the holders of the shares of any class are not to be taken as varied by the issue of further shares ranking equally with the first-mentioned shares unless:
- (i) expressly provided by the terms of issue of the first-mentioned shares; or
  - (ii) required by the Corporations Act or, while the Company remains on the official list of ASX, the Listing Rules.
- (b) If at any time the capital of the Company is divided into different classes of shares, the special rights for the time being attached to any class of shares on issue may from time to time (whether or not the Company is being wound up) be varied subject to any necessary additional requirement to comply with the provisions of the Corporations Act and the Listing Rules:
- (i) in such manner (if any) as may be provided by those rights; or
  - (ii) in the absence of any such provision, with the consent in writing of the holders of three quarters in nominal value of the issued shares in that class, or with the sanction of a Special Resolution passed at a separate meeting of the holders of the shares of that class,
- but not otherwise. To every such separate meeting, the provisions of this Constitution relating to general meetings shall apply, except that the necessary quorum at such meetings other than an adjourned meeting shall be two persons together holding or representing holders of shares of the class in question and at an adjourned meeting shall be one person holding shares of the class in question or his proxy, but if there is only one shareholder in a class that one will be a quorum.

## 2.3 Class Meetings

The provisions of this Constitution relating to general meetings apply so far as they are capable of application and with any necessary changes to every separate meeting of the holders of a class of shares held under the Corporations Act except that:

- (a) a quorum is constituted by at least two persons who hold, or who represent the holders of, at least 10% of the shares on issue of the relevant class (unless only one person holds all of the shares of the class, in which case that person constitutes a quorum);
- (b) any holder of shares of the class, present in person or by proxy, or attorney or Representative, may demand a poll.

## 2.4 Non-recognition of interests

Except as required by law, the Company is not required to recognise:

- (a) a person as holding a share on any trust; or



- (b) any other equitable, contingent, future or partial claim to, or interest in any share or any other right in respect of a share except an absolute right of ownership in the registered holder or as otherwise provided by this Constitution or by law, whether or not it has notice of the interest or right.

## 2.5 Joint holders of shares

Where two or more persons are registered as the joint holders of shares then they are taken to hold the shares as joint tenants with rights of survivorship, subject to the following provisions:

- (a) the Company is not bound to register more than three persons as joint holders of a share;
- (b) the Company is not bound to issue more than one certificate or holding statement in respect of shares jointly held;
- (c) the joint holders of the shares are liable severally as well as jointly in respect of all payments which ought to be made in respect of the shares;
- (d) on the death of any one of the joint holders, the remaining joint holders are the only persons recognised by the company as having any title to the Shares but the Directors may require evidence of death and estate of the deceased joint holder is not released from any liability in respect of the shares;
- (e) any one of the joint holders may give a receipt for any dividend, bonus or return of capital payable to the joint holders in respect of the shares;
- (f) only the person whose name stands first in the Register as one of the joint holders of the shares is entitled, if the Company determines to issue certificates for shares, to delivery of a certificate relating to the Shares or to receive notices from the Company and any notice given to that person is considered notice to all the joint holders; and
- (g) any one of the joint holders may vote at any meeting of the Company in person, or by properly authorised representative, proxy or attorney, in respect of the shares as if that joint holder was solely entitled to the shares. If more than one of the joint holders tenders a vote in person or by properly authorised representative, proxy or attorney, only the vote of the joint holder whose name appears first in the Register counts.

## 2.6 Ordinary Shares

The holders of the Ordinary Shares shall:

- (a) be entitled to receive notice of and attend any meeting of the Company and shall be entitled to vote on all matters;
- (b) be entitled to such dividends as may be determined by the Directors from time to time; and

in the event of the winding up or dissolution of the Company, whether voluntary or involuntary or for the reorganisation or otherwise or upon the distribution of capital, be

entitled pari passu to receive a distribution of capital paid up on the Ordinary Shares and to share pari passu in the surplus assets of the Company.

### **3. Stapled Security issues**

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#### **3.1 Paramountcy**

The provisions of this clause 3 apply with effect from the Stapling Commencement Date (except clause 3.9, which applies with effect from the date of this Constitution), notwithstanding the provisions of clause 2.

#### **3.2 Stapling**

From the Stapling Commencement Date, each Ordinary Share will be Stapled to one SAT1 Unit to form a Stapled Security.

Each Ordinary Share (if any) allotted and issued before Stapling applies will, from the Stapling Commencement Date, become Stapled to one SAT1 Unit to form a Stapled Security.

If further Attached Securities are from time to time Stapled to the Ordinary Shares the intention is that, so far as the law permits, an Ordinary Share and one of each of the Attached Securities which are stapled together shall be treated as one security (where the Attached Securities comprise of SAT1 Units, a Stapled Security).

While Stapling applies, the number of issued Ordinary Shares must equal the number of issued Attached Securities of each category at that time.

#### **3.3 Registration**

The Stapled Securities (and any further securities attached to Ordinary Shares in accordance with clause 3.8) must be registered in the Stapled Security Register and, subject to clauses 2.3 and 2.4, the Company must issue a certificate, or a holding statement in accordance with the requirements of the CHES system, in respect of the Stapled Securities (and any other Attached Securities), identifying the Stapled Securities (and any other Attached Securities) to which the certificate relates.

#### **3.4 No issue without corresponding issue of Attached Securities**

- (a) Subject to clause 3.4(b), the Directors may not allot or issue an Ordinary Share unless there is an issue at the same time of an Attached Security of each category to the same person.
- (b) The Directors may allot or issue an Ordinary Share without there being at the same time an issue of an Attached Security in the case of the issue of an Ordinary Share upon the incorporation of the Company.

#### **3.5 Partly-paid shares**

The Directors may allot or issue any share on the basis that the issue price is payable by instalments. If an Ordinary Share is to be issued as part of a Stapled Security (or, if further securities are attached to an Ordinary Share, a Stapled Security and those additional

Attached Securities) and the Attached Securities are to be partly paid the Ordinary Share must also be issued as partly paid and with terms for the making and payment of calls which are compatible with the terms of issue of the Attached Securities.

### **3.6 Shares to Remain Stapled**

Subject to clause 1.12, each issued Ordinary Share will remain Stapled from the Stapling Commencement Date for so long as those shares remain on issue.

Subject to clause 1.12, the Directors and the Company must neither do any act, matter or thing nor refrain from doing any act, matter or thing if to do so or refrain from doing so, as the case may be, would result directly or indirectly in any Ordinary Share no longer being Stapled to the relevant Attached Securities. In particular, the Directors and the Company must not re-organise any Ordinary Shares unless at the same time there is a corresponding re-organisation of the relevant Attached Securities that are Stapled to those shares so that the person holding Ordinary Shares holds an equal number of Attached Securities of each category. For the purposes of this clause 3.6, the term 're-organise' has the meaning given in Listing Rules 7.18 to 7.24 (inclusive) and the term 're-organisation' has a corresponding meaning and includes any consolidation, division, cancellation, subdivision, buy back or reduction of any share capital.

### **3.7 Stapled Security Register**

The Directors must maintain or cause to be maintained the Stapled Security Register which records the names and addresses of the Members holding Ordinary Shares, the number of Ordinary Shares held, the number of relevant Attached Securities held by the Members and any additional information required by the Corporations Act, the Listing Rules or by the Directors from time to time. The Directors may establish and maintain a Register together with the relevant register of securityholders of any Attached Securities.

The Stapled Security Register will, for so long as Stapling applies, be deemed to constitute part of the Register of Members, and in this case all other provisions of this Constitution applicable to the Register of Members will apply only to any part of the Register of Members kept in addition to the Stapled Security Register.

The Directors must maintain in accordance with the Corporations Act a Register of Members recording details of any class of shares other than Ordinary Shares.

### **3.8 Power to staple additional Securities**

The Company may, subject to the Corporations Act and the Listing Rules, cause the Stapling of any other security or securities to the Ordinary Shares.

The Company is empowered to execute all documents and do all things that it considers to be necessary, desirable or reasonably incidental to give effect to the Stapling of any other security or securities to the Ordinary Shares including consolidating or dividing the Ordinary Shares, without needing further authority or approval from Members.

The Company is irrevocably appointed as the agent and attorney of each Member to execute all documents and do all things which it reasonably considers are necessary or desirable to be done on behalf of Members to give effect to the Stapling of any security or

securities to the Ordinary Shares, including making distributions (whether of cash, securities or any other asset) to or on behalf of a Member, applying for or acquiring securities on behalf of a Member, transferring securities to a Member (including, without limitation, by way of an in specie distribution), agreeing to become a member of the company or managed investment scheme issuing the securities or whose securities are being acquired or transferred, and consenting to the entry of the name of the Member in the register of members of the company or managed investment scheme issuing the securities or whose securities are being acquired or transferred and, so far as permitted by law, to supply any such company or responsible entity or trustee of such managed investment scheme (or their advisers or service providers) information, notices and elections relating to that Member.

### **3.9 Amendment to Stapling Provisions**

Without limitation to the provisions of this Constitution or the Corporations Act, no Stapling Provision (including this clause 3.9) may be deleted or amended without the approval of a Special Resolution of the SAT1 Unitholders, and, if applicable, the securityholders of any additional Attached Securities.

## **4. Lien**

### **4.1 Lien on share**

The Company has a first and paramount lien on every share for:

- (a) all due and unpaid calls and instalments in respect of that share;
- (b) all money which the Company has been called on by law to pay, and has paid, in respect of that share;
- (c) interest at the Prescribed Interest Rate on the amount due from the date it becomes due until payment, such interest being calculated daily and payable monthly in arrears; and
- (d) reasonable expenses of the Company in respect of the default on payment.

### **4.2 Lien on loans under employee incentive schemes**

The Company also has a first and paramount lien on each share registered in the name of the Member for all money payable to the Company by the Member under loans made under an employee incentive scheme.

### **4.3 Lien on distributions**

A lien on a share under clause 4.1 (Lien on share) or 4.2 (Lien on loans under employee incentive schemes) extends to all distributions in respect of that share, including dividends.

### **4.4 Exemption from clause 4.1 or 4.2**

The Directors may at any time exempt a share wholly or in part from the provisions of clause 4.1 (Lien on share) or 4.2 (Lien on loans under employee incentive schemes).

#### **4.5 Extinguishment of lien**

The Company's lien on a share is extinguished if a transfer of the share is registered without the Company giving notice of the lien to the transferee.

#### **4.6 Company's rights to recover payments**

A Member must reimburse the Company on demand in writing for all payments the Company makes to a government or taxing authority in respect of the Member, the death of a Member or the Member's shares or any distributions on the Member's shares, including dividends, where the Company is either:

- (a) obliged by law to make the relevant payment; or
- (b) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxing authority that the Company is obliged by law to make the relevant payment.

The Company is not obliged to advise the Member in advance of its intention to make the payment.

#### **4.7 Reimbursement is a debt due**

The obligation of the Member to reimburse the Company is a debt due to the Company as if it were a call on all the Member's shares, duly made at the time when the written demand for reimbursement is given by the Company to the Member. The provisions of this Constitution relating to non-payment of calls, including payment of interest and sale of the Member's shares under lien, apply to the debt.

#### **4.8 Sale under lien**

Subject to clause 4.9 (Limitations on sale under lien), the Company may sell, in any manner the Directors think fit, any share on which the Company has a lien and an equal number of Attached Securities.

#### **4.9 Limitations on sale under lien**

A share on which the Company has a lien may not be sold by the Company unless:

- (a) an amount in respect of which the lien exists is presently payable; and
- (b) the Company has, not less than 14 days before the date of sale, given to the registered holder of the share or the person entitled to the share by reason of the death or bankruptcy of the registered holder, a notice in writing setting out, and demanding payment of, the amount which is presently payable in respect of which the lien exists.

#### **4.10 Transfer on sale under lien**

For the purpose of giving effect to a sale under clause 4.8 (Sale under lien), the Company may receive the consideration, if any, given for the share and the Attached Securities so sold and may execute a transfer of the share and the Attached Securities sold in favour of the purchaser of the share and the Attached Securities, or do all such other things as may

be necessary or appropriate for it to do to effect the transfer. The purchaser is not bound to see to the application of the purchase money.

#### **4.11 Irregularity or invalidity**

The title of the purchaser to the share and the Attached Securities is not affected by any irregularity or invalidity in connection with the sale or disposal of the share and the Attached Securities.

#### **4.12 Proceeds of sale**

The proceeds of a sale under clause 4.8 (Sale under lien) must be applied by the Company in payment of the amount in respect of which the lien exists as is presently payable, and the residue, if any, must be paid to the person entitled to the share immediately before the sale.

## **5. Calls on shares**

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### **5.1 Directors to make calls**

Subject to the terms of issue of any shares, the Directors may:

- (a) make calls on a Member in respect of any money unpaid on the shares of that Member, if the money is not by the terms of issue of those shares made payable at fixed times;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call.

### **5.2 Time of call**

A call is taken to be made at the time when the resolution of the Directors authorising the call is passed.

### **5.3 Members' liability**

Each Member must upon receiving not less than 30 business days notice specifying the time or times and place of payment, pay to the Company at the time or times and place so specified the amount called on that Member's shares.

### **5.4 Joint holders' liability**

The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.

### **5.5 Non-receipt of notice**

The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, a Member does not invalidate the call.

**5.6 Interest on default**

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due must pay interest on the sum to the time of actual payment at the Prescribed Interest Rate, calculated daily and payable monthly in arrears. The Directors may waive payment of that interest wholly or in part.

**5.7 Fixed instalments**

Subject to any notice requirements under the Listing Rules, any sum that, by the terms of issue of a share, becomes payable on issue of the share or at a fixed date, is to be taken to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable. In case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

**5.8 Differentiation between shareholders as to calls**

The Directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

**5.9 Prepayment of calls and interest**

The Directors may:

- (a) accept from a Member the whole or a part of the amount unpaid on a share although no part of that amount has been called; and
- (b) authorise payment by the Company of interest on the whole or any part of an amount so accepted, until the amount becomes payable, at such rate, not exceeding the Prescribed Interest Rate, as is agreed on between the Directors and the Member paying the sum.

**5.10 Payment of calls**

While Stapling applies any issue of partly paid Ordinary Shares shall be upon the basis that a call will not be regarded as having been validly paid unless any amount payable at the same time in relation to the partly paid Attached Securities is also paid.

**6. Transfer of shares**

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**6.1 Forms of instrument of transfer**

Subject to the Listing Rules and to this Constitution, shares in the Company are transferable:

- (a) in the case of CHESS Approved Securities, in accordance with the CHESS Rules;
- (b) by instrument in writing in any usual or common form or in any other form that the Directors approve; or
- (c) by any other method of transfer of marketable securities which is recognised by the Corporations Act, ASX Settlement and ASX and is approved by the Directors.

## 6.2 Execution and delivery of transfer

If an instrument of transfer is to be used to transfer a share in accordance with clause 6.1(b) (Forms of instrument of transfer), it must be:

- (a) a proper instrument of transfer within the meaning of the Corporations Act;
- (b) 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; and
- (c) left for registration at the share registry of the Company, accompanied by the information the Directors properly require to show the right of the transferor to make the transfer,

and in that event the Company must, subject to the powers vested in the Directors by this Constitution, register the transferee as the holder of the share.

The Company may participate in any computerised or electronic system for market settlement, securities transfer and registration conducted in accordance with the Corporations Act, the Listing Rules, the ASX Settlement Operating Rules, or corresponding laws or securities exchange rules in any other country.

## 6.3 Effect of registration

Except as provided by the CHES Rules, a transferor of a share remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the share and a transfer of a share does not pass the right to any dividends determined in respect of the share until registration.

## 6.4 Company to register forms without charge

The Company must register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and mark or note transfer forms without charge except where the issue of a certificate is to replace a lost or destroyed certificate.

## 6.5 Power to refuse to register

If permitted to do so by the Listing Rules, the Directors may:

- (a) request ASX Settlement or any applicable Prescribed CS Facility to apply a holding lock to prevent a transfer of shares from being registered on the CHES subregister; or
- (b) refuse to register a transfer of other shares in the Company.

## 6.6 Obligation to refuse to register

The Directors must:

- (a) request ASX Settlement or any applicable Prescribed CS Facility to apply a holding lock to prevent a transfer of shares from being registered on the CHES subregister; or
- (b) refuse to register any transfer of other shares in the Company,



if:

- (c) the Listing Rules require the Company to do so;
- (d) clause 6.10(b) requires the Directors not to register the transfer; or
- (e) the transfer is in breach of the Listing Rules or a Restriction Agreement.

#### **6.7 Written notice to security holder of holding lock or refusal**

If in the exercise of their rights under clauses 6.5 (Power to refuse to register) and 6.6 (Obligation to refuse to register) the Directors request application of a holding lock to prevent a transfer of shares or refuse to register a transfer of a share they must give written notice of the request or refusal to the holder of the share, to the transferee and the broker lodging the transfer, if any. Failure to give such notice does not invalidate the decision of the Directors.

#### **6.8 Company to retain instrument of transfer**

The Company must retain every instrument of transfer which is registered for such period as the Directors determine.

#### **6.9 Refusal to register**

If the Directors refuse registration of a transfer, the transfer must be returned to the person who deposited it if demand is made within 12 months of the giving of notice of refusal to register unless there has been an allegation of fraud concerning the transfer or the transaction to which it relates.

#### **6.10 Effect of Stapling**

- (a) A transfer of an Ordinary Share will only be accepted as a proper transfer in registrable form if, in addition to the requirements of this clause 6 or clause 7, as the case may be, the transfer relates to or is accompanied by a transfer or a copy of a transfer of the relevant Attached Securities to which the share is Stapled in favour of the same transferee.
- (b) Subject to the ASX Settlement Operating Rules and the Listing Rules, the Directors must not register a transfer of a share unless the relevant Attached Securities are also to be transferred, or is capable of transfer, simultaneously.
- (c) A transfer of an Ordinary Share which is not accompanied by a transfer referred to in clause 6.10(a) or a copy of such a transfer of the relevant Attached Securities to which the share is Stapled will be taken to authorise the Company as agent for the transferor to effect in accordance with the provisions of the relevant constitution or constitutions, a transfer of the Attached Securities, to the same transferee.

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## 7. Transmission of shares

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### 7.1 Transmission of shares on death of holder

If a Member who does not own shares jointly dies, the Company will recognise only the personal representative of the Member as being entitled to the Member's interest in the shares.

### 7.2 Information given by personal representative

If the personal representative gives the Directors the information they reasonably require to establish the representative's entitlement to be registered as a holder of the shares:

- (a) the personal representative may:
  - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under clause 7.2(a)(i), the Company must register the personal representative as the holder of the shares.

A transfer under clause 7.2(a)(ii) is subject to the clauses that apply to transfers generally.

### 7.3 Death of joint owner

If a Member who owns shares jointly dies, the Company will recognise only the survivor as being entitled to the Member's interest in the shares. The estate of the Member is not released from any liability in respect of the shares.

### 7.4 Transmission of shares on bankruptcy

If a person entitled to shares because of the bankruptcy of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as holder of the shares, the person may:

- (a) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
- (b) by giving a completed transfer form to the Company, transfer the shares to another person.

On receiving an election under clause 7.4(a), the Company must register the person as the holder of the shares.

A transfer under clause 7.4(b) is subject to the clauses that apply to transfers generally.

**7.5 Transmission of shares on mental incapacity**

If a person entitled to shares because of the mental incapacity of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares:

- (a) the person may:
  - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; and
  - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under clause 7.5(a)(i), the Company must register the person as the holder of the shares.

A transfer under clause 7.5(a)(ii) is subject to the clauses that apply to transfers generally.

**7.6 Stapling**

Notwithstanding any other provision of this Constitution, no person under this clause 7 may become a registered holder of Ordinary Shares unless that person is also entitled to become the registered holder of each category of Attached Securities to which those shares are Stapled.

**8. Forfeiture of shares**

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**8.1 Notice requiring payment of call**

If a Member fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment, the Directors may, at any time afterwards during such time as any part of the call or instalment remains unpaid, give a notice on the Member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs and expenses that may have been incurred by the Company by reason of that non-payment.

**8.2 Contents of notice**

The notice must name a further day, not earlier than the expiration of 10 days from the date of service of the notice, on or before which the payment required by the notice is to be made and must state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made and an equal number of Attached Securities to which the shares are Stapled will be liable to be forfeited. If the shares are officially quoted by ASX the notice must contain such other information as is required by the Listing Rules (or ASX under the Listing Rules).

**8.3 Forfeiture for failure to comply with notice**

A share in respect of which the notice under clause 8.1 (Notice requiring payment of call) has not been complied with may at any time, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.

**8.4 Dividends and distributions included in forfeiture**

A forfeiture under clause 8.3 (Forfeiture for failure to comply with notice) includes all dividends and other distributions declared or to be made in respect of the forfeited shares and not actually paid or distributed before the forfeiture.

**8.5 Sale or re-issue of forfeited shares**

Subject to the Corporations Act and Listing Rules:

- (a) a share (other than an Ordinary Share) forfeited under clause 8.3 may be sold, re-issued or otherwise disposed of to whom and on such terms as the Directors think fit; and
- (b) an Ordinary Share forfeited under clause 8.3 (together with the Attached Securities) may be sold or otherwise disposed of as a fully paid Ordinary Share (together with the Attached Securities) at a price of 3 cents or the fair value thereof as determined by the Directors with the balance of the sale price of the Stapled Security being allocated between the Attached Securities in accordance with the constitutions of each Stapled Entity (as applicable).

**8.6 Notice of forfeiture**

If any share is forfeited under clause 8.3 (Forfeiture for failure to comply with notice) notice of the forfeiture must be given to the Member holding the share immediately before the forfeiture and an entry of the forfeiture and its date must be made in the Register.

**8.7 Surrender instead of forfeiture**

In their discretion, the Directors may accept the surrender of any share which they are entitled to forfeit on any terms they think fit and any surrendered share is taken to be a forfeited share.

**8.8 Cancellation of forfeiture**

At any time before a sale or disposition of a share, the forfeiture of that share may be cancelled on such terms as the Directors think fit.

**8.9 Effect of forfeiture on former holder's liability**

A person whose shares have been forfeited:

- (a) ceases to be a Member in respect of the forfeited shares and ceases to be a member of each Stapled Entity in respect of the Attached Securities and loses all entitlement to dividends and other distributions or entitlements on the shares and relevant Attached Securities; and

- (b) remains liable to pay the Company all money that, at the date of forfeiture, was payable by that person to the Company in respect of the shares, plus interest at the Prescribed Interest Rate from the date of forfeiture and also reasonable expenses of sale but the former Member's liability ceases if and when the Company receives payment in full of all such money and, if applicable, interest in respect of forfeited shares.

#### **8.10 Evidence of forfeiture**

A statement in writing declaring that the person making the statement is a director or a secretary of the Company, and that a share in the Company has been forfeited in accordance with this Constitution on the date stated in the statement, is prima facie evidence of the facts stated in the statement as against all persons claiming to be entitled to the share.

#### **8.11 Transfer of forfeited share**

The Company may receive the consideration (if any) given for a forfeited share on any sale or disposition of the share and may execute or effect a transfer of the share in favour of the person to whom the share is sold or disposed of and is not obliged to ensure that any part of the money which the person has paid for the share is paid to the former holder of the share.

#### **8.12 Registration of transferee**

On the execution of the transfer, the transferee must be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.

#### **8.13 Irregularity or invalidity**

The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.

#### **8.14 Forfeiture applies to non-payment of instalment**

The provisions of this Constitution as to forfeiture apply in the case of non-payment of any sum that, by the terms of issue of a share, becomes payable at a fixed time, as if that sum had been payable by virtue of a call duly made and notified.

#### **8.15 Attached Securities**

Where the share is an Ordinary Share, a reference to a share in this clause is deemed to be a reference to the Ordinary Share and the Attached Securities where applicable. Ordinary Shares may be subject to forfeiture and sold pursuant to this clause 8 even if they are fully paid in circumstances where there is default in payment of a call on any Attached Security.

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## **9. General meetings**

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### **9.1 Annual general meeting**

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

### **9.2 Convening general meeting**

The Directors may:

- (a) convene and arrange to hold a general meeting of the Company whenever they think fit and must do so if required to do so under the Corporations Act; and
- (b) while Stapling applies, convene a meeting of Members in conjunction with a meeting of the holders of Attached Securities and, subject to the Corporations Act, make such rules for the conduct of such a meeting as they think fit.

### **9.3 Notice of general meeting**

Notice of a meeting of Members must be given in accordance with the Corporations Act.

### **9.4 Calculation of period of notice**

In computing the period of notice under clause 9.3 (Notice of general meeting), both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

### **9.5 Cancellation or postponement of a meeting**

Where a meeting of Members (including an annual general meeting) is convened by the Directors they may, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them. This clause does not apply to a meeting convened in accordance with the Corporations Act by a single director, by Members or by the Directors on the request of Members.

### **9.6 Notice of cancellation or postponement of a meeting**

Notice of cancellation or postponement of a general meeting must state the reason for cancellation or postponement and be given:

- (a) to each Member individually; and
- (b) to each other person entitled to be given notice of a meeting of the Company's Members under the Corporations Act.

### **9.7 Contents of notice of postponement of meeting**

A notice of postponement of a general meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and

- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

#### **9.8 Number of clear days for postponement of meeting**

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days notice of the general meeting required to be given by this Constitution or the Corporations Act.

#### **9.9 Business at postponed meeting**

The only business that may be transacted at a general meeting the holding of which is postponed is the business specified in the notice convening the meeting.

#### **9.10 Proxy, attorney or Representative at postponed meeting**

Where:

- (a) by the terms of an instrument appointing a proxy or attorney or of an appointment of a Representative, a proxy or an attorney or a Representative is authorised to attend and vote at a general meeting to be held on a specified date or at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then, by force of this clause, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of a Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its registered office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

#### **9.11 Non-receipt of notice**

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

#### **9.12 Stapling**

While Stapling applies, the auditor of each Stapled Entity, the Directors and representatives of each other Stapled Entity (if any) may attend and speak at any general meeting.

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## 10. Proceedings at general meetings

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### 10.1 Reference to a Member

Unless the contrary intention appears, a reference to a Member in clause 10 includes a Member present in person or by a proxy, attorney or Representative.

### 10.2 Number for a quorum

Subject to clause 10.5 (Adjourned meeting) two Members present in person or by proxy, attorney or Representative, holding or representing the holders of at least 10% of the Shares on issue are a quorum at a general meeting unless the Company has only one Member entitled to vote, in which case that one Member constitutes a quorum.

### 10.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the chairman of the meeting (on the chairman's own motion or at the instance of a Member, proxy, attorney or Representative who is present) declares otherwise.

### 10.4 Quorum and time

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or by or on requisition of, Members, is dissolved; and
- (b) in any other case stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

### 10.5 Adjourned meeting

At a meeting adjourned under clause 10.4(b) (Quorum and time), the Member or Members present in person or proxy, attorney or Representative are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

### 10.6 Appointment and powers of chairman of general meeting

If the Directors have elected one of their number as chairman of their meetings, that person is entitled to preside as chairman at a general meeting.

### 10.7 Absence of chairman at general meeting

If a general meeting is held and:

- (a) a chairman has not been elected by the Directors; or
- (b) the elected chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chairman of the meeting (in order of precedence):



- (c) the deputy chairman (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present;
- (f) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

#### **10.8 Conduct of general meetings**

The chairman of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this clause is final.

#### **10.9 Adjournment of general meeting**

- (a) The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place.
- (b) In exercising this discretion, the chairman may, but need not, seek the approval of the Members present. Unless required by the chairman, no vote may be taken or demanded by the Members present in respect of any adjournment.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

#### **10.10 Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

#### **10.11 Demand for a poll**

A poll may be demanded by at least five Members entitled to vote on the resolution, Members with at least 5% of the votes that may be cast on the resolution on a poll or by the chairman. A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

**10.12 Declaration of poll**

Unless a poll is properly demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chairman nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

**10.13 Questions decided by majority**

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

**10.14 Poll**

If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is the resolution of the meeting at which the poll was demanded.

A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

A demand for a poll may be withdrawn.

**10.15 Equality of votes - no casting vote for chairman**

If there is an equality of votes, either on a show of hands or on a poll, the chairman of the meeting is not entitled to a casting vote in addition to any votes to which the chairman is entitled as a Member or proxy or attorney or Representative.

**10.16 Entitlement to vote**

Subject to any rights or restrictions for the time being attached to any class or classes of shares and to this Constitution:

- (a) on a show of hands, each Member present in person and each other person present as a proxy, attorney or Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote for each fully paid share held by the Member and each person present as proxy, attorney or Representative of a Member has one vote for each fully paid share held by the Member that the person represents.

A Member is not entitled to vote at a general meeting in respect of shares which are the subject of a current Restriction Agreement for so long as any breach of that agreement subsists.

**10.17 Voting on a poll for partly paid shares**

If a Member holds partly paid shares, the number of votes the Member has in respect of those shares on a poll is the proportion that the aggregate amount paid on the shares bears to their aggregate issue price.

To determine the aggregate amount paid on the shares, exclude any amount:

- (a) paid or credited as paid in advance of a call; and
- (b) credited as paid on those shares to the extent that it exceeds the value (ascertained at the time of issue of those shares) of the consideration received for the issue of those shares.

#### **10.18 Fractions disregarded for a poll**

On the application of clause 10.17 (Voting on a poll for partly paid shares), disregard any fraction which arises.

#### **10.19 Joint shareholders' vote**

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.

#### **10.20 Vote of shareholder of unsound mind**

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, then the Member's committee or trustee or any other person who properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

#### **10.21 Effect of unpaid call**

A Member is not entitled at a general meeting to cast a vote attached to a share on which a call is due and payable and has not been paid.

#### **10.22 Objection to voting qualification**

An objection to the right of a person to attend or vote at the meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

#### **10.23 Validity of vote in certain circumstances**

A vote cast by a person as a proxy, attorney or Representative is valid even if:

- (a) the previous revocation of that person's authority by the death of the holder of the shares in respect of which the vote is cast or otherwise; or
- (b) the execution of a transfer of those shares by that holder,

unless a notice in writing of the revocation or transfer has been received at the Registered Office or by the chairman of the meeting before the vote is cast.

#### **10.24 Proxy form while Stapling applies**

While Stapling applies, unless the Corporations Act requires otherwise, the form of proxy used may be the same form as the Member uses to appoint a proxy to vote on their behalf in respect of the Attached Securities which they hold.

**10.25 Meetings by technology**

A meeting of the shareholders or any class of shareholders may be held by means of such telephone, electronic or other communication facilities as permit all persons in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting.

**10.26 Joint Meetings**

While Stapling applies, meetings of Members may be held in conjunction with meetings of the holders of Attached Securities and, unless the Corporations Act requires otherwise, the Directors may make such rules of the conduct of such meetings as the Directors determine.

**11. The Directors****11.1 Appointment of Directors**

The number of Directors is to be not less than six nor more than:

- (a) twelve; or
- (b) any other number determined by the Directors (but the number must not be less than the number of Directors in office at the time the determination takes effect).

**11.2 Change of number of directors**

The Company in general meeting may by resolution increase or reduce the number of Directors, and may also determine the rotation in which the increased or reduced number is to retire from office.

**11.3 Rotation of Directors**

At each annual general meeting one-third of the Directors for the time being, or, if their number is not three nor a multiple of three, then the number nearest one-third, and any other Director who has held office for three years or more, must retire from office. In determining the number of Directors to retire, no account is to be taken of a Director who only holds office until the conclusion of the meeting in accordance with clause 11.8 (Casual Vacancy) or the Managing Director who is exempted from retirement by rotation in accordance with clause 13.28 (One Managing Director exempt from retirement by rotation).

**11.4 Office held until conclusion of meeting**

A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for re-election.

**11.5 Directors to retire**

The Directors to retire at any annual general meeting must be those who have been longest in office since their last election, but, as between persons who were last elected as Directors on the same day, those to retire must be determined by lot, unless they otherwise agree among themselves.

**11.6 Director elected at general meeting**

The Company may, at a general meeting at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.

**11.7 Eligibility for election as Director**

- (a) Except for a person who is eligible for election or re-election under clause 11.4 (Office held until conclusion of meeting) or 11.8 (Casual Vacancy), a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the person has been lodged at the Registered Office at least:
  - (i) in the case of a person recommended for election by the Directors, 20 business days before the general meeting; and
  - (ii) in any other case, not less than 50 business days before the general meeting, or any lesser maximum number of business days before the relevant general meeting applicable to the Company under the Listing Rules.
- (b) A person is not eligible for election as a Director if that would cause the Company to have a Director who is also a director of the responsible entity of SAT1.

**11.8 Casual Vacancy**

The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number determined in accordance with clause 11.1 (Appointment of Directors).

A Director appointed under this clause holds office until the conclusion of the next annual general meeting of the Company but is eligible for election at that meeting.

**11.9 Remuneration of Directors**

- (a) The Directors are to be paid for their services as Directors.
- (b) Each non-executive Director is to be paid or provided remuneration for services, of the amount, at the time and in the manner determined by the Directors, provided that the aggregate amount or value of the remuneration paid or provided to all non-executive Directors in any year may not exceed:
  - (i) unless paragraph (ii) applies, the amount fixed by the Directors prior to the Company being admitted to the official list of the ASX, as disclosed in a prospectus or equivalent disclosure provided in connection with that admission; or
  - (ii) the amount last approved by the Company in general meeting.
- (c) The remuneration to be paid or provided under clause 11.9(b) is to be divided among the Directors in the proportions as they may agree or, if they cannot agree, equally among them. This clause does not apply to the remuneration of a

Managing Director or an Executive Director in either capacity. The Directors' remuneration accrues from day to day.

- (d) The remuneration to which a Director is entitled may be provided to a Director in cash or in any other form as is agreed between the Company and the Director. A Director may elect to forgo some or all of the Director's entitlement to cash remuneration in favour of another agreed form of remuneration and vice versa, provided the total cost to the Company of that Director's remuneration is not increased above the maximum amount for that Director under clause 11.9(c).
- (e) Any remuneration for services to be paid under clause 11.9 is to be paid out of the funds of the Company. The Directors may determine to suspend, reduce or postpone payment of any remuneration as they think fit. The expression **remuneration** in this clause 11.9 does not include any amount which may be paid by the Company under any of clauses 11.10 and 11.11.

#### **11.10 Additional or special duties**

If a Director at the request of the Directors performs additional or special duties for the Company, the Company may remunerate that Director as determined by the Directors and that remuneration may be either in addition to or in substitution for that Director's remuneration under clause 11.9 (Remuneration of Directors).

#### **11.11 Retirement benefit**

Subject to limitations imposed by the Listing Rules and Corporations Act, the Company may pay a former Director, or the personal representatives of a Director who dies in office, a retirement benefit in recognition of past services of an amount determined by the Directors. The Company may also enter into a contract with a Director providing for payment of a retiring benefit. A retirement benefit paid under this clause is not remuneration to which clause 11.9 (Remuneration of Directors) applies.

#### **11.12 Expenses**

A Director is also entitled to be reimbursed out of the funds of the Company such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company.

#### **11.13 Director's interests**

- (a) Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
  - (i) hold any office or place of profit in the Company, except that of auditor;
  - (ii) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
  - (iii) enter into any contract or arrangement with the Company;

- (iv) participate in any association, institution, fund, trust or scheme for past or present employees or directors of the Company or persons dependent on or connected with them;
  - (v) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor; and
  - (vi) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors.
- (b) A Director may do any of the above despite the fiduciary relationship of the Director's office:
- (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement.
- (c) A reference to the Company in this clause is also a reference to each related body corporate of the Company.

#### **11.14 Signing documents**

A Director is not disqualified because of a material personal interest from signing or participating in the execution of a document by or on behalf of the Company.

#### **11.15 Vacation of office of Director**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (b) resigns from the office by notice in writing to the Company; or
- (c) is not present personally or by proxy or represented by an Alternate Director at meetings of the Directors for a continuous period of six months without leave of absence from the Directors.

#### **11.16 Removal of Directors**

Subject to the Corporations Act:

- (a) the Company may at a special General Meeting called for that purpose remove a Director provided notice of any such meeting shall be served upon the Director concerned not less than 14 days before the meeting and he or she shall be entitled to be heard at that meeting;
- (b) a Director can only be removed at a special General Meeting by a resolution of Ordinary Shares. Any vacancy created by that removal may be filled at the meeting by the election of another Director in his or her place or, in the absence of any such election, by the Directors.

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## 12. Powers and duties of Directors

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### 12.1 Directors to manage Company

- (a) The business of the Company is to be managed by the Directors, who may exercise all such powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.
- (b) To the extent permitted by law, while Stapling applies, the Directors may have regard to the interests of the holders of Attached Securities and must act in the best interests of the SYD Group as a whole rather than only in the interests of the Company.

### 12.2 Specific powers of Directors

Without limiting the generality of clause 12.1 (Directors to manage Company), the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

### 12.3 Appointment of attorney

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.

### 12.4 Provisions in power of attorney

Any power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

### 12.5 Minutes

The Directors must cause minutes of meetings to be made and kept in accordance with the Corporations Act.

### 12.6 Signing of cheques

Cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed in the manner and by the persons as the Directors determine.



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## **13. Proceedings of Directors**

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### **13.1 Directors' meetings**

The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.

### **13.2 Director may convene a meeting**

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

### **13.3 Questions decided by majority**

Questions arising at a meeting of Directors are to be decided by a majority of votes of Directors present and entitled to vote. Their decision is for all purposes a decision of the Directors.

### **13.4 Alternate Director or proxy and voting**

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy and, if that person is also a Director, has one vote as a Director in that capacity.

### **13.5 Chairman's Casting Vote**

The chairman of the meeting does not have a casting vote.

### **13.6 Appointment of Alternate Director**

Subject to the Corporations Act, a Director may appoint a person, approved by a majority of the other Directors, to be an Alternate Director in the Director's place during such period as the Director thinks fit.

### **13.7 Alternate Director and meetings**

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not attend a meeting, is entitled to attend and vote in the appointor's place.

### **13.8 Alternate Director's powers**

An Alternate Director may exercise all the powers except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor insofar as the appointor has not exercised or performed them.

### **13.9 Alternate Director responsible for own acts and defaults**

Whilst acting as a Director, an Alternate Director is responsible to the Company for the Alternate Director's own acts and defaults and the appointor is not responsible for them.

### **13.10 Alternate Director and remuneration**

An Alternate Director is not entitled to receive from the Company any remuneration or benefit under clause 11.9 (Remuneration of Directors) or 11.11 (Retirement benefit).

**13.11 Termination of appointment of Alternate Director**

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

**13.12 Appointment or termination in writing**

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and delivered to the Company.

**13.13 Alternate Director and number of Directors**

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

**13.14 Director attending and voting by proxy**

A Director may attend and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointor.

The appointment may be general or for one or more particular meetings. A Director present as a proxy for another Director who would be entitled to vote if present at the meeting has one vote for that other Director and one vote as a Director in that capacity.

**13.15 Quorum for Directors' meeting**

- (a) The quorum necessary for the transaction of the business of the Directors shall be two directors entitled to vote.
- (b) Unless the Directors determine otherwise, the quorum need only be present at the time the meeting commences.

**13.16 Remaining Directors may act**

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by clause 11.1 (Number of Directors), the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

**13.17 Chairman of Directors**

The Directors may elect one of their number as chairman of their meetings and may also determine the period for which the person elected as chairman is to hold office.

**13.18 Absence of chairman at Directors' meeting**

If a Directors' meeting is held and:

- (a) a chairman has not been elected under clause 13.17 (Chairman of Directors); or

- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairman of the meeting.

#### **13.19 Directors' committees**

The Directors may delegate any of their powers, to a committee or committees consisting of at least one Director and such other persons as they think fit.

#### **13.20 Powers delegated to Directors' committees**

A committee to which any powers have been delegated under clause 13.19 (Directors' committees) must exercise those powers in accordance with any directions of the Directors. A power exercised by a committee is taken to have been exercised by the Directors.

#### **13.21 Chairman of Directors' committee**

The members of a committee may elect one of their number as chairman of their meetings. If a meeting of a committee is held and:

- (a) a chairman has not been elected; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be chairman of the meeting.

#### **13.22 Meetings of Directors' committee**

A committee may meet and adjourn as it thinks proper.

#### **13.23 Determination of questions**

Questions arising at a meeting of a committee are to be determined by a majority of votes of the members involved and voting. The chairman of the meeting does not have a casting vote.

#### **13.24 Circulating resolutions**

The Directors may pass a resolution without a Directors' meeting being held if a simple majority of the Directors who are then in Australia and 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. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when a simple majority of the Directors have signed. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director for the purposes of this clause 13.24, and is deemed to be signed when received in legible form.

#### **13.25 Validity of acts of Directors**

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
  - (b) a person acting as a Director was disqualified or was not entitled to vote,
- as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

### **13.26 Appointment of Managing and Executive Directors**

- (a) The Directors may appoint one or more of their number to the office of Managing Director or to any other executive office of the Company for such term as the Directors think fit.
- (b) The Directors may:
  - (i) appoint one or more of their number as an Executive Director or to any other office, except auditor, of employment by the Company for the period and on the terms they think fit; and
  - (ii) subject to the terms of any contract between the relevant Director and the Company, at any time remove or dismiss any Executive Director from that office and appoint another Director in their place.

### **13.27 Ceasing to be Managing or Executive Director**

A Managing Director or Executive Director automatically ceases to be a Managing Director or Executive Director on ceasing to be a Director.

### **13.28 One Managing Director exempt from retirement by rotation**

One Managing Director, nominated by the Directors, is exempt from retirement by rotation and is not counted under clause 11.3 (Rotation of Directors) for determining the number of Directors to retire by rotation.

### **13.29 Remuneration of Managing and Executive Directors**

The remuneration of a Managing Director or an Executive Director may be fixed by the Directors and may be by way of salary or commission or participation in profits or by all or any of those modes, but may not be by a commission on or percentage of operating revenue.

### **13.30 Powers of Managing and Executive Directors**

The Directors may:

- (a) confer on a Managing Director or an Executive Director such of the powers exercisable by them, on such terms and conditions and with such restrictions, as they think fit; and
- (b) withdraw or vary any of the powers conferred on a Managing Director or an Executive Director.

## **14. Secretary**

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### **14.1 Appointment of Secretary**

There must be at least one secretary of the Company who is to be appointed by the Directors.

### **14.2 Suspension and removal of Secretary**

The Directors may suspend or remove a Secretary from that office.

### **14.3 Powers, duties and authorities of Secretary**

The Directors may vest in a Secretary such powers, duties and authorities as they may from time to time determine and the Secretary must exercise all such powers and authorities subject at all times to the control of the Directors.

## **15. Seals**

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### **15.1 Safe Custody of common seals**

The Directors must provide for the safe custody of any seal of the Company.

### **15.2 Use of common seal**

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

## **16. Inspection of records**

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### **16.1 Inspection by Members**

The Directors may determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors) but must make them available to the extent required by the Corporations Act.

### **16.2 Right of a member to inspect**

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

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## 17. Dividends and reserves

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### 17.1 Payment of dividend

Subject to the Corporations Act, this Constitution and the rights of persons (if any) entitled to shares with special rights to dividend, the Directors may determine that a dividend is payable, fix the amount and the time for payment, determine the method of payment of the dividend, and authorise the payment or crediting by the Company to, or at the direction of, each Member entitled to that dividend. The method of payment may include the payment of cash, the issue of Securities, the grant of options and the transfer of assets, including securities in another corporation (or any combination of them).

### 17.2 No interest on dividends

Interest is not payable by the Company on a dividend.

### 17.3 Reserves

The Directors may, before paying any dividend, set aside such sums as they think proper as reserves, to be applied, at the discretion of the Directors, for any purpose for which those sums may be properly applied.

Pending any application, the reserves may, at the discretion of the Directors, be used in the business of the Company or be invested in such investments as the Directors think fit.

The Directors may carry forward any sums they consider ought not to be distributed as dividends without transferring those sums to a reserve.

### 17.4 Calculation and apportionment of dividends

Subject to the rights of any persons entitled to shares with special rights as to dividend and to the terms of any shares issued to the contrary, the amount which the Directors have determined is payable as a dividend is divisible among the Members so that, on each occasion on which a dividend is paid:

- (a) the same sum is paid on each share on which all amounts payable have been paid; and
- (b) the sum paid on a share on which all amounts payable have not been paid is the proportion of the sum referred to in paragraph (a) that the amount paid on the shares bears to the total of the amounts paid and payable on the share.

To determine the amount paid on a share, exclude any amount:

- (c) paid or credited as paid in advance of a call; and
- (d) credited as paid on a share to the extent that it exceeds the value (ascertained at the time of issue of the share) of the consideration received for the issue of the share.

**17.5 Deductions from dividends**

The Directors may deduct from any dividend payable to, or at the direction of, a Member all sums of money (if any) presently payable by that Member to the Company on account of calls or otherwise in relation to shares in the Company.

**17.6 Distribution of specific assets**

When resolving to pay a dividend, the Directors may:

- (a) resolve that the dividend be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend, including fully paid shares in or debentures of the Company or fully paid shares in or debentures of any other body corporate;
- (b) direct that the dividend payable in respect of any particular shares be satisfied wholly or partly by such a distribution and that the dividend payable in respect of other shares be paid in cash; and
- (c) deduct the costs involved in the transfer of those assets from the dividend payable to the Members.

**17.7 Resolution of distribution difficulties**

If a difficulty arises in regard to a distribution under clause 17.6 (Distribution of specific assets), the Directors may:

- (a) settle the matter as they consider expedient;
- (b) fix the value for distribution of the specific assets or any part of those assets based on a valuation done within 1 month of the proposed transfer;
- (c) determine that cash payments will be made to, or at the direction of, any Members on the basis of the value so fixed in order to adjust the rights of all parties; and
- (d) vest any such specific assets in trustees as the Directors consider expedient.

If a distribution of specific assets to, or at the direction of, a particular Member or Members is illegal or, in the Directors' opinion, impracticable the Directors may make a cash payment to the Member or Members on the basis of the cash amount of the dividend instead of the distribution of specific assets.

**17.8 Payment by cheque and receipts from joint holders**

A dividend, interest or other money payable in cash in respect of shares may be paid:

- (a) by cheque sent through the post directed to the address of the holder as shown in the Register or, in the case of joint holders, to the address of the joint holder first named in the Register;
- (b) by cheque sent through the post directed to such other address as the holder or joint holder in writing directs; or
- (c) by some other method of direct credit determined by the Directors to the holder or holders shown on the Register or to such person or place directed by them.

**17.9 Unsuccessful payments**

- (a) Cheques that are not presented within 6 months of issue may be cancelled where a cheque which is cancelled was drawn in favour of a Member the money is to be held by the Company for the Member or paid by the Company in accordance with the legislation relating to unclaimed money unless the Company in its discretion decides to reinvest the money in Ordinary Shares and Attached Securities in which event the provisions of clause 17.11 will apply.
- (b) Where payment is attempted to be made to Member by electronic transfer of funds or any other means and the transfer is unsuccessful, the money may be held for the Member as a non-interest bearing deposit until it is claimed or required to be dealt with in accordance with applicable laws relating to unclaimed money.

**17.10 Effectual receipt from one joint holder**

Any one of two or more joint holders may give an effectual receipt for any dividend, interest or other money payable in respect of the shares held by them as joint holders.

**17.11 Election to reinvest dividend**

The Directors may decide whether to permit or require Members or any class of Members to reinvest cash dividends paid by the Company by subscribing for shares in the Company of the same class on such terms and conditions as the Directors think fit.

While Stapling applies, no reinvestment by Members holding Ordinary Shares may occur unless at the same time the Member acquires an identical number of each category of Attached Securities which when issued or acquired are Stapled to the additional Ordinary Shares. The Directors may make provisions governing the amount of the reinvested dividends to be used to subscribe for shares in the Company and the amount to be used to subscribe for the Attached Securities having regard to the issue price of the Attached Securities.

**17.12 Election to accept shares in lieu of dividend**

Subject to the Listing Rules, the Directors may determine in respect of any dividend which it is proposed to pay on any shares of the Company that holders of the shares may elect:

- (a) to forego the right to share in the proposed dividend or part of such proposed dividend; and
- (b) to receive instead an issue of shares credited as fully paid on such terms as the Directors think fit.

The provisions of the second paragraph of clause 17.11 apply (with such changes as may be necessary) to this clause 17.12.

**17.13 Unclaimed dividends**

Unclaimed dividends may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed moneys.



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## 18. Capitalisation of profits

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### 18.1 Capitalisation of reserves and profits

The Directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members; and
- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in clause 18.2 (Applying a sum for the benefit of Members), for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

### 18.2 Applying a sum for the benefit of Members

The ways in which a sum may be applied for the benefit of Members under clause 18.1 (Capitalisation of reserves and profits) are:

- (a) in paying up any amounts unpaid on shares and, while Stapling applies, Attached Securities held by Members;
- (b) in paying up in full unissued shares or debentures to be issued to Members as fully paid; or
- (c) partly as mentioned in paragraph 18.2(a) and partly as mentioned in paragraph 18.2(b).

### 18.3 Effecting the resolution

The Directors may do all things necessary to give effect to the resolution and, in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

- (a) make cash payments in cases where shares or debentures become issuable in fractions; and
- (b) authorise any person to make, on behalf of all or any of the Members entitled to any further shares or debentures on the capitalisation, an agreement with the Company providing for:
  - (i) the issue to them, credited as fully paid up, of any further shares or debentures; or
  - (ii) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,and any agreement so made is effective and binding on all the Members concerned.

**18.4 Issue of further shares while Stapling applies**

While Stapling applies, the Directors must not resolve to issue any Ordinary Shares to Members under this clause 18 unless, at the same time as the issue, an identical number of Attached Securities are issued to those Members.

**19. Service of documents****19.1 Document includes notice**

In clause 19, a reference to a document includes a notice.

**19.2 Methods of service**

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to a fax number or electronic address nominated by the Member;
- (d) where it is a notice of meeting, by giving it in accordance with section 249J(3) of the Corporations Act; or
- (e) by any other means that the Corporations Act permits.

**19.3 Post**

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

**19.4 Fax or electronic transmission**

- (a) Subject to the Corporations Act, if a document is sent by fax or electronic transmission, delivery of the document is taken:
  - (i) to be effected by properly addressing and transmitting the fax or electronic transmission; and
  - (ii) to have been delivered 1 hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine or computer to which the message was transmitted.
- (b) A notice of meeting given to a Member under section 249J(3)(cb) of the Corporations Act is taken to be given on the business day after the day on which the member is notified that the notice of meeting is available.

**19.5 Joint Holders**

A document may be given by the Company to the joint holders of a share by giving it to the joint holder first named in the Register in respect of the share.

**19.6 Persons entitled to shares**

A person who by operation of law, transfer or other means whatsoever becomes entitled to any share is absolutely bound by every document given in accordance with this clause to the person from whom that person derives title prior to registration of that person's title in the Register.

**19.7 Service on the Company**

A document required under this Constitution or the Corporations Act to be given to the Company must be given in writing (which includes a fax), or in such other manner as the Directors determine. The Document must bear the actual, facsimile or electronic signature of the Member or a duly authorised office or representative of the Member unless the Directors dispense with this requirement. Service is only effective at the time of receipt.

**20. Winding up**

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**20.1 Distribution of assets**

If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as the liquidator considers fair on any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

**20.2 Powers of liquidator to vest property**

The liquidator may, with the sanction of a special resolution of the Company, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any shares or other securities in respect of which there is any liability on the part of the holder.

**20.3 Cessation of Stapling Provisions**

Notwithstanding any other terms of this Constitution, should SAT1 or any other Stapled Entity be terminated or wound up, the Stapling Provisions will cease to apply.

**20.4 Shares issued on special terms**

Clauses 20.1 (Distribution of assets), 20.2 (Powers of liquidator to vest property) and 20.3 (Cessation of Stapling Provisions) do not prejudice or affect the rights of a Member holding shares issued on special terms and conditions.

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## 21. Indemnity and insurance

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### 21.1 Indemnity

Every person who is or has been:

- (a) a director of the Company or executive officer of the Company; or
- (b) a secretary of the Company or executive officer of the Company,

is entitled to be indemnified out of the property of the Company against:

- (c) every liability incurred by the person in that capacity (except a liability for legal costs); and
- (d) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (e) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (f) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

### 21.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director, secretary or executive officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

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## 22. Restricted Securities

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### 22.1 Disposal during Escrow Period

Restricted Securities cannot be disposed of during the Escrow Period except as permitted by the Listing Rules or ASX.

The Company must not acknowledge a disposal (including by registering a transfer) of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.

### 22.2 Breach of Restriction Agreement or Listing Rules

During a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the holder of the Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.

### 22.3 Interpretation - Restricted Securities

In this clause, the expressions 'disposed of', 'disposed', 'Escrow Period' and 'Restricted Securities' have the same meaning as in the Listing Rules.

## 23. Small Holdings

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- (a) Subject to the provisions of this clause 23, while the Company is Listed, the Directors may in their discretion from time to time sell any Ordinary Shares held by a Member which comprise less than a marketable parcel as provided in the Listing Rules without request by the Member.
- (b) The Directors may only sell Ordinary Shares pursuant to this clause 23 on one occasion in any 12 month period. The Directors must notify the Member of the Company's intention to sell Ordinary Shares under this clause 23.
- (c) The Directors will not sell the relevant Ordinary Shares:
  - (i) before the expiry of 6 weeks from the date of the notice given under this clause 23; or
  - (ii) if, within the 6 weeks allowed under clause 23(c)(i), the Member advises the Company that the Member wishes to retain the shares.
- (d) The Directors' power to sell the shares lapses following the announcement of a full takeover but the procedure may be started again after the close of the offers made under the takeover.
- (e) The Directors or the purchaser of the shares must pay the costs of the sale as the Directors decide. The proceeds of the sale will not be sent until the Company has received the certificate (if any) relating to the shares, or is satisfied that it has been lost or destroyed.
- (f) While Stapling applies, no sale under this clause 23 may occur unless, at the same time as Ordinary Shares are sold, an identical number of each category of Attached Securities are also redeemed or sold.

## 24. Sale Facility

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### 24.1 Sale Facility

Subject to the Corporations Act and the Listing Rules, the Directors shall be entitled to invoke the procedure in clauses 24.2 and 24.3 in respect of any Foreign Member if the Directors propose to distribute assets in the form of securities or Staple Attached Securities to the Ordinary Shares under clause 3.2.

### 24.2 Transfer

On either the Dividend Calculation Date or the Stapling Commencement Date (**Transfer Date**):

- (a) each Foreign Member will have transferred to the Cashout Bank:

- (i) in respect of a distribution of assets in the form of securities, the securities that they would have been entitled to receive under the distribution; or
  - (ii) in respect of the Attached Securities to be Stapled to the Ordinary Shares and existing Attached Securities (the **Transfer Securities**), the unencumbered beneficial and legal title to all Ordinary Shares and existing Attached Securities registered in their name on that date; and
- (b) the Cashout Bank will become the legal and beneficial owner of the Transfer Securities under clause 24.2(a) without need for any further act by the Foreign Member. For the avoidance of doubt, the Cashout Bank will not be acting as a trustee, custodian, nominee or agent in respect of the Transfer Securities (whether for the purpose of distributions to be paid on those Transfer Securities or any sale or transfer of those Transfer Securities or otherwise).

### 24.3 Sale of Transfer Securities by Cashout Bank

On the Transfer Date the Directors must procure that the Cashout Bank:

- (a) on, or as soon as reasonably practical after the Transfer Date, sells the Transfer Securities; and
- (b) pays or arranges for the payment of the Transfer Securities Price to the Foreign Member within 30 days of the Transfer Date in consideration for the Transfer Securities transferred under clause 24.2(a). The Cashout Bank's obligation to make such payment will be satisfied upon payment of the Transfer Securities Price to the Company's share registry, for payment to the relevant Foreign Member within 30 days of the Transfer Date.

### 24.4 Agent

The Company is irrevocably appointed the agent and attorney of each Member to execute all documents and do all things which it reasonably considers are necessary or desirable to be done on behalf of Members to give effect to clause 24.

## 25. Airports Act compliance

- (a) The provisions set out in Schedule 1 apply with effect from the date on and the time at which the Company becomes the registered owner of all of the fully-paid ordinary units in Sydney Airport Trust 2 (ARSN 099 597 896) (**SAT2**), and cease to apply when the provisions set out in Schedule 2 apply in accordance with clause 25(b).
- (b) The provisions set out in Schedule 2 apply with effect from the date on and the time at which both of the following have occurred:
  - (i) the Company has become the registered owner of all of the fully-paid ordinary shares in Southern Cross Airports Corporation Holdings Limited (ACN 098 082 029); and
  - (ii) the Company has ceased to be the registered owner of any units in SAT2.

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**Schedule 1****Airports Act compliance for the purpose of clause 25(a)**

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**1 Ownership Regulations**

The purpose of this Schedule is to assist in ensuring that an Unacceptable Foreign Ownership Situation does not arise in:

- (a) the Company; or
- (b) any Airport Investment.

**2 Information on foreign ownership**

(a) Except where the Directors otherwise specifies in the Divestment Rules, a Member, applicant for Shares or options or option holder must notify the Directors in a form and in a manner approved by the Directors whether:

- (i) the Member (or any person on whose behalf the Member holds Shares) is or is not or becomes or ceases to be;
- (ii) an applicant (or any person on whose behalf the applicant is applying) for Shares or options is or is not; or
- (iii) an option holder (or any person on whose behalf the option holder holds options) is or is not,

a Foreign Person.

(b) Notification under clause 2(a) must be made at the same time as or within 5 business days after:

- (i) an application for Shares is made (including an application consequent on the exercise of an option);
- (ii) an application for options is made;
- (iii) registration of a transfer or transmission application under which the Member, applicant for Shares or options or option holder has first acquired Shares or options; or
- (iv) the Member or option holder (or a person on whose behalf they hold Shares or options, as applicable) has become, or ceased to be, a Foreign Person.

(c) Notification may be made under this clause 2 by a broker or other person on behalf of the Member, applicant for Shares or options or option holder.

**3 Required Information**

(a) The Directors may, at any time send to a Member, applicant for Shares or options or option holder who:

- (i) has a foreign address; or

- (ii) who has notified the Directors (in accordance with clause 2) that it is, or holds on behalf of, a Foreign Person; or
- (iii) has not given a notification in accordance with clause 2; or
- (iv) holds more Shares or options than the minimum number specified by the Directors in the Divestment Rules for the purposes of this clause 3; or
- (v) the Directors has reason to believe, or is concerned, may be, or hold on behalf of, a Foreign Person; or
- (vi) the Minister has requested be sent such a request,

a request in a form approved by the Directors which requires the Member, applicant for Shares or options or option holder to inform the Directors of any (or all) of the following:

- (vii) whether the Member, applicant for Shares or options, option holder, or person on whose behalf they hold Shares or options or are making application, is or is not a Foreign Person;
- (viii) if the Member or option holder is, or holds on behalf of, a Foreign Person, the number of Shares or options held by that Member or option holder;
- (ix) such other information relating to foreign ownership as determined by the Directors,

(the information so requested being the **Required Information**).

- (b) Within the period specified by the Directors in the request given under clause 3(a), the Member, applicant for Shares or options or option holder must give the Directors information in the form requested which:
  - (i) contains the Required Information; and
  - (ii) is signed by that Member, applicant for Shares or options or option holder or, in the case of a corporation, an officer of that Member, applicant for Shares or options or option holder.
- (c) The Directors may send a request under clause 3(a) which requires the Member, applicant for Shares or options or option holder to inform the Directors of the Required Information at the times or at the intervals specified in the request, in which case the Member, applicant for Shares or options or option holder must give the Directors information in the form requested at the times or the expirations of each interval so specified but otherwise in compliance with clause 3(b).

#### 4 Directors' power to dispose of shares and options

The Directors may, for the purpose of seeking to prevent or cure an Unacceptable Foreign Ownership Situation at any time, procure the disposal of Shares and/or options when the Foreign Ownership Trigger has been or is likely to be exceeded. In determining:

- (a) which Shares or options give rise to the Foreign Ownership Trigger being, or being likely to be, exceeded (the **Offending Securities**); and



- (b) which Member and/or option holder the Directors requires to dispose of Shares and/or options,

the Directors must, unless in its opinion it would be inequitable or not in the best interests of the Directors to do so, have regard to the chronological order in which the Shares or options became registered, on the basis that:

- (c) the last registered Share or option is to be the first treated as an Offending Security; unless
- (d) a Member or option holder who was not previously a Foreign Person becomes a Foreign Person, in which case the Shares and/or options of that Member or option holder are to be the first treated as Offending Securities.

## 5 Warning Notice

If the Directors believe at any time that the Foreign Ownership Trigger has been or is likely to be exceeded, the Directors may (but are not obliged to), by notice in writing or in any other form approved by the Directors (**Warning Notice**), inform a Member or option holder who is, or holds on behalf of, a Foreign Person that the Member or option holder may be required to dispose of Shares and/or options.

## 6 Disposal Notice

- (a) If the Directors believe at any time that the Foreign Ownership Trigger has been or is likely to be exceeded, the Directors may (but are not obliged to), by notice in writing or in any other form or manner approved by the Directors (**Disposal Notice**), require a Member or option holder who is, or holds on behalf of, a Foreign Person to dispose of such number of Shares and/or options as would ensure that the Foreign Ownership Trigger is no longer or will not be exceeded by no later than the Divestment Date, consistent with the Divestment Rules. The Disposal Notice may specify circumstances, consistent with the Divestment Rules, in which the relevant Member or option holder need not dispose of all or any of the Shares and/or options the subject of a Disposal Notice if certain events happen.
- (b) A Disposal Notice may require the Member or option holder to whom it is addressed to dispose of all or any of that Member's or Option holder's Shares and / or options as specified in the Disposal Notice.
- (c) If a Disposal Notice is not complied with by the Member or option holder to whom it is addressed, the Directors may, at any time, sell all or any of that Member's or option holder's Shares and/or options specified in the Disposal Notice.
- (d) For the purposes of paragraph (c);
  - (i) the Directors may sell the relevant Member's or option holder's Shares and/or options at the best price reasonably obtainable at the relevant time. For this purpose, any sale of Shares and/or options by the Directors on the ASX will be regarded as discharging this obligation;
  - (ii) each Member or option holder appoints each Director as its attorney (with power to appoint sub-attorneys) in the name of the Member or option

holder and on behalf of the Member or option holder to execute any documents and implement any procedures as may be necessary or desirable in the opinion of the attorney to procure the transfer of Shares and/or options on behalf of the Member or option holder; and

- (iii) the title of the transferee to any Shares and/or options so sold is not affected by any irregularity or invalidity in connection with the sale of the Shares and/or options to the transferee (but nothing in this clause 6(d) prevents the exercise by the Directors of its powers under this Schedule if the transferee is a Foreign Person).

## **7 Proceeds of sale**

The Directors may receive and give a good discharge for the proceeds of a sale under clause 6(c), may pay or recoup out of those proceeds all reasonable costs and expenses of or incidental to the sale (including, but not limited to, any brokerage, duties, taxes or registry or administration costs) and shall pay the net amount to the person who immediately before the Divestment Date was the Member or option holder in respect of the Shares and / or options sold (**Former Member or option holder**).

## **8 Payment of net amount**

The net amount payable under clause 7 may be paid by cheque posted to the Former Member or option holder at the relevant address appearing in the register immediately before the Divestment Date.

## **9 Exercise of powers by the Directors**

- (a) Each Member, applicant for Shares or options and option holder acknowledges and recognises that the exercise of the powers given to the Directors under this Schedule may cause individual Members, applicants for Shares or options and option holders, or persons on whose behalf they hold Shares or options or make application, considerable disadvantage (including possible adverse financial and taxation consequences) but each Member, applicant for Shares or options and option holder acknowledges that such a result is necessary to enable the requirements of the Airports Act to be met.
- (b) To the fullest extent permitted by law the Directors shall be under no liability to any Member, applicant for Shares or options or option holder, or persons on whose behalf they hold Shares or options or make application, and the Directors shall be under no liability to any Member, applicant for Shares or options or option holder, or persons on whose behalf they hold Shares or options or make application, for any loss or disadvantage incurred by a Member, applicant for Shares or options or option holder, or persons on whose behalf they hold Shares or options or make application, as a result, whether directly or indirectly, of the Directors exercising the powers provided by this Schedule.
- (c) Any resolution, determination or decision to exercise any discretion or power by the Directors under this Schedule shall be final and conclusive and may be made or exercised by the Directors at their discretion including, without limitation, a decision

to issue a Warning Notice under clause 5, Disposal Notice under clause 6(a) and to sell Shares under clause 6(c).

## 10 Forms and rules

The Directors, may from time to time, publish:

- (a) the form (whether electronic, written or otherwise) in which, and method by which, information may be provided under clauses 2 and 3;
- (b) the form of request the Directors will use for the purposes of clause 3;
- (c) the rules the Directors will apply to determine whether to issue a Warning Notice under clause 5, a Disposal Notice under clause 6(a) and to sell Shares and / or options under clause 6(c);
- (d) the procedures by which any divestment will be effected;
- (e) any other matters required or permitted to be determined or prescribed by the Directors under this Schedule and related definitions; and
- (f) related matters.

Such rules, procedures and matters (including circumstances in which a Member, applicant for Shares or options or option holder will be treated as a Foreign Person) may include provisions giving the Directors rights to deal with Shares and / or options and will be binding on Members, applicants for Shares or options and option holders.

## 11 Register

- (a) The Directors may establish and maintain a register (**Compliance Register**) containing such information as they consider appropriate in relation to Shares and options held by, or on behalf of a Foreign Person and foreign ownership generally.
- (b) The Compliance Register does not form part of the Register.
- (c) The Directors may treat any Member, applicant for Shares or options or option holder who does not comply with clause 2 or a request for information under clause 3 as a Foreign Person. For this purpose, the Directors may specify one or more groups of Members, applicants for Shares or options or option holders who will be treated as Foreign Persons in the event of non-compliance with clause 2 or a request for information under clause 3.
- (d) The Directors may rely on information contained in the Compliance Register when forming their belief at any time as to whether or not:
  - (i) an Unacceptable Foreign Ownership Situation has occurred or is likely to occur; and
  - (ii) the Foreign Ownership Trigger has been or is likely to be exceeded.

The information contained in the Compliance Register is to be taken as correct unless proven otherwise.

**12 Delegation**

The Directors may delegate any of their powers under this Schedule to any person. The provisions of this Schedule apply to each person to whom the Directors have delegated a power under this Constitution as if a reference to the Directors included a reference to that person.

**13 Stapling**

If the Directors exercise their powers under this Schedule to effect the disposal of Shares and the Shares comprise part of a Stapled Security, the relevant Member (or the Stapled Entities on the Member's behalf) must at the same time effect the disposal of the relevant Attached Securities.

**14 Other Instruments**

If any Other Instrument issued by the Directors confers a beneficial interest in the income or capital of the Company or a right to acquire such an interest, then the provisions of this Schedule shall apply to that Other Instrument and Other Instrument holder:

- (a) as though the Other Instrument was a Share; and
- (b) as though the Other Instrument holder was a Member; and
- (c) with such other changes as may be necessary.

**15 Foreign Ownership Trigger**

The Directors may from time to time specify and notify to Members a percentage in relation to the Company (the ***Foreign Ownership Trigger***) which must not exceed:

- (a) 39.99% as the maximum total aggregate of Stakes in the Company held by all Foreign Persons; and
- (b) 14.99% as the maximum Stake in the Company held by a single Foreign Person.

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**Schedule 2****Airports Act compliance for the purpose of clause 25(b)**

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**1 Ownership Regulations**

The purpose of this Schedule is to assist in ensuring that an Unacceptable Ownership Situation does not arise in:

- (a) the Company; or
- (b) any Airport Investment.

**2 Information on foreign, cross and airline ownership**

(a) Except where the Directors otherwise specifies in the Divestment Rules, a Member, applicant for Shares or options or option holder must notify the Directors in a form and in a manner approved by the Directors whether:

- (i) the Member (or any person on whose behalf the Member holds Shares) is or is not or becomes or ceases to be;
- (ii) an applicant (or any person on whose behalf the applicant is applying) for Shares or options is or is not; or
- (iii) an option holder (or any person on whose behalf the option holder holds options) is or is not,

a Foreign Person, a Cross Stakeholder or Airline.

(b) Notification under clause 2(a) must be made at the same time as or within 5 business days after:

- (i) an application for Shares is made (including an application consequent on the exercise of an option);
- (ii) an application for options is made;
- (iii) registration of a transfer or transmission application under which the Member, applicant for Shares or options or option holder has first acquired Shares or options; or
- (iv) the Member or option holder (or a person on whose behalf they hold Shares or options, as applicable) has become, or ceased to be, a Foreign Person, a Cross Stakeholder or Airline.

(c) Notification may be made under this clause 2 by a broker or other person on behalf of the Member, applicant for Shares or options or option holder.

**3 Required Information**

(a) The Directors may, at any time send to a Member, applicant for Shares or options or option holder who:

- (i) has a foreign address; or

- (ii) who has notified the Directors (in accordance with clause 2) that it is, or holds on behalf of, a Foreign Person, a Cross Stakeholder or Airline; or
- (iii) has not given a notification in accordance with clause 2; or
- (iv) holds more Shares or options than the minimum number specified by the Directors in the Divestment Rules for the purposes of this clause 3; or
- (v) the Directors has reason to believe, or is concerned, may be, or hold on behalf of, a Foreign Person, a Cross Stakeholder or Airline; or
- (vi) the Minister has requested be sent such a request,

a request in a form approved by the Directors which requires the Member, applicant for Shares or options or option holder to inform the Directors of any (or all) of the following:

- (vii) whether the Member, applicant for Shares or options, option holder, or person on whose behalf they hold Shares or options or are making application, is or is not a Foreign Person, a Cross Stakeholder or Airline;
- (viii) if the Member or option holder is, or holds on behalf of, a Foreign Person, a Cross Stakeholder or Airline, the number of Shares or options held by that Member or option holder;
- (ix) such other information relating to:
  - (A) foreign ownership;
  - (B) cross-ownership of the Airline Operator Companies for either Perth Airport, Melbourne Airport or Brisbane Airport; or
  - (C) Airline ownership,as determined by the Directors,

(the information so requested being the **Required Information**).

- (b) Within the period specified by the Directors in the request given under clause 3(a), the Member, applicant for Shares or options or option holder must give the Directors information in the form requested which:
  - (i) contains the Required Information; and
  - (ii) is signed by that Member, applicant for Shares or options or option holder or, in the case of a corporation, an officer of that Member, applicant for Shares or options or option holder.
- (c) The Directors may send a request under clause 3(a) which requires the Member, applicant for Shares or options or option holder to inform the Directors of the Required Information at the times or at the intervals specified in the request, in which case the Member, applicant for Shares or options or option holder must give the Directors information in the form requested at the times or the expirations of each interval so specified but otherwise in compliance with clause 3(b).

#### 4 Directors' power to dispose of shares and options

The Directors may, for the purpose of seeking to prevent or cure an Unacceptable Ownership Situation at any time, procure the disposal of Shares and/or options when:

- (a) the Foreign Ownership Trigger has been or is likely to be exceeded;
- (b) an Unacceptable Cross Ownership Situation has occurred or is likely to occur in respect of the Company or any Airport Investment; or
- (c) an Unacceptable Airline Ownership Situation has occurred or is likely to occur in respect of the Company or any Airport Investment.

In determining:

- (d) which Shares or options give rise to (as applicable):
  - (i) the Foreign Ownership Trigger being, or being likely to be, exceeded;
  - (ii) the Unacceptable Cross Ownership Situation occurring or being likely to occur in respect of the Company or any Airport Investment; or
  - (iii) the Unacceptable Airline Ownership Situation occurring or being likely to occur in respect of the Company or any Airport Investment,(the **Offending Securities**); and
- (e) which Member and/or option holder the Directors requires to dispose of Shares and/or options,

the Directors must, unless in its opinion it would be inequitable or not in the best interests of the Directors to do so, have regard to the chronological order in which the Shares or options became registered, on the basis that:

- (f) the last registered Share or option is to be the first treated as an Offending Security; unless
- (g) a Member or option holder who was not previously a Foreign Person, a Cross Stakeholder or Airline becomes a Foreign Person, a Cross Stakeholder or Airline (as applicable), in which case the Shares and/or options of that Member or option holder are to be the first treated as Offending Securities.

#### 5 Warning Notice

If the Directors believe at any time that:

- (a) the Foreign Ownership Trigger has been or is likely to be exceeded;
- (b) an Unacceptable Cross Ownership Situation has occurred or is likely to occur in respect of the Company or any Airport Investment; or
- (c) an Unacceptable Airline Ownership Situation has occurred or is likely to occur in respect of the Company or any Airport Investment,

the Directors may (but are not obliged to), by notice in writing or in any other form approved by the Directors (**Warning Notice**), inform a Member or option holder who is, or holds on behalf of, a Foreign Person, a Cross Stakeholder or Airline that the Member or option holder may be required to dispose of Shares and/or options.

**6 Disposal Notice**

- (a) If the Directors believe at any time that:
- (i) the Foreign Ownership Trigger has been or is likely to be exceeded;
  - (ii) an Unacceptable Cross Ownership Situation has occurred or is likely to occur in respect of the Company or any Airport Investment; or
  - (iii) an Unacceptable Airline Ownership Situation has occurred or is likely to occur in respect of the Company or any Airport Investment,
- the Directors may (but are not obliged to), by notice in writing or in any other form or manner approved by the Directors (**Disposal Notice**), require a Member or option holder who is, or holds on behalf of, a Foreign Person, Cross Stakeholder or Airline (as applicable) to dispose of such number of Shares and/or options as would ensure that (as applicable):
- (iv) the Foreign Ownership Trigger is no longer or will not be exceeded;
  - (v) the Unacceptable Cross Ownership Situation no longer occurs or will no longer occur in respect of the Company or any Airport Investment; or
  - (vi) the Unacceptable Airline Ownership Situation no longer occurs or will no longer occur in respect of the Company or any Airport Investment,
- by no later than the Divestment Date, consistent with the Divestment Rules. The Disposal Notice may specify circumstances, consistent with the Divestment Rules, in which the relevant Member or option holder need not dispose of all or any of the Shares and/or options the subject of a Disposal Notice if certain events happen.
- (b) A Disposal Notice may require the Member or option holder to whom it is addressed to dispose of all or any of that Member's or Option holder's Shares and / or options as specified in the Disposal Notice.
- (c) If a Disposal Notice is not complied with by the Member or option holder to whom it is addressed, the Directors may, at any time, sell all or any of that Member's or option holder's Shares and/or options specified in the Disposal Notice.
- (d) For the purposes of paragraph (c);
- (i) the Directors may sell the relevant Member's or option holder's Shares and/or options at the best price reasonably obtainable at the relevant time. For this purpose, any sale of Shares and/or options by the Directors on the ASX will be regarded as discharging this obligation;
  - (ii) each Member or option holder appoints each Director as its attorney (with power to appoint sub-attorneys) in the name of the Member or option holder and on behalf of the Member or option holder to execute any documents and implement any procedures as may be necessary or desirable in the opinion of the attorney to procure the transfer of Shares and/or options on behalf of the Member or option holder; and
  - (iii) the title of the transferee to any Shares and/or options so sold is not affected by any irregularity or invalidity in connection with the sale of the



Shares and/or options to the transferee (but nothing in this clause 6(d) prevents the exercise by the Directors of its powers under this Schedule if the transferee is a Foreign Person, a Cross Stakeholder or Airline).

## **7 Proceeds of sale**

The Directors may receive and give a good discharge for the proceeds of a sale under clause 6(c), may pay or recoup out of those proceeds all reasonable costs and expenses of or incidental to the sale (including, but not limited to, any brokerage, duties, taxes or registry or administration costs) and shall pay the net amount to the person who immediately before the Divestment Date was the Member or option holder in respect of the Shares and / or options sold (**Former Member or option holder**).

## **8 Payment of net amount**

The net amount payable under clause 7 may be paid by cheque posted to the Former Member or option holder at the relevant address appearing in the register immediately before the Divestment Date.

## **9 Exercise of powers by the Directors**

- (a) Each Member, applicant for Shares or options and option holder acknowledges and recognises that the exercise of the powers given to the Directors under this Schedule may cause individual Members, applicants for Shares or options and option holders, or persons on whose behalf they hold Shares or options or make application, considerable disadvantage (including possible adverse financial and taxation consequences) but each Member, applicant for Shares or options and option holder acknowledges that such a result is necessary to enable the requirements of the Airports Act to be met.
- (b) To the fullest extent permitted by law the Directors shall be under no liability to any Member, applicant for Shares or options or option holder, or persons on whose behalf they hold Shares or options or make application, and the Directors shall be under no liability to any Member, applicant for Shares or options or option holder, or persons on whose behalf they hold Shares or options or make application, for any loss or disadvantage incurred by a Member, applicant for Shares or options or option holder, or persons on whose behalf they hold Shares or options or make application, as a result, whether directly or indirectly, of the Directors exercising the powers provided by this Schedule.
- (c) Any resolution, determination or decision to exercise any discretion or power by the Directors under this Schedule shall be final and conclusive and may be made or exercised by the Directors at their discretion including, without limitation, a decision to issue a Warning Notice under clause 5, Disposal Notice under clause 6(a) and to sell Shares under clause 6(c).

## **10 Forms and rules**

The Directors, may from time to time, publish:

- (a) the form (whether electronic, written or otherwise) in which, and method by which, information may be provided under clauses 2 and 3;
- (b) the form of request the Directors will use for the purposes of clause 3;
- (c) the rules the Directors will apply to determine whether to issue a Warning Notice under clause 5, a Disposal Notice under clause 6(a) and to sell Shares and / or options under clause 6(c);
- (d) the procedures by which any divestment will be effected;
- (e) any other matters required or permitted to be determined or prescribed by the Directors under this Schedule and related definitions; and
- (f) related matters.

Such rules, procedures and matters (including circumstances in which a Member, applicant for Shares or options or option holder will be treated as a Foreign Person, a Cross Stakeholder or Airline) may include provisions giving the Directors rights to deal with Shares and / or options and will be binding on Members, applicants for Shares or options and option holders.

## 11 Register

- (a) The Directors may establish and maintain a register (**Compliance Register**) containing such information as they consider appropriate in relation to Shares and options:
  - (i) held by, or on behalf of a Foreign Person and foreign ownership generally;
  - (ii) held by, or on behalf of an Airline and the ownership of Shares and options by Airlines generally; and
  - (iii) held by, or on behalf of a Cross Stakeholder and cross-ownership generally of the Airline Operator Companies for either Perth Airport, Melbourne Airport or Brisbane Airport paired, in each case, with Sydney Airport Corporation Limited.
- (b) The Compliance Register does not form part of the Register.
- (c) The Directors may treat any Member, applicant for Shares or options or option holder who does not comply with clause 2 or a request for information under clause 3 as a Foreign Person, a Cross Stakeholder or an Airline. For this purpose, the Directors may specify one or more groups of Members, applicants for Shares or options or option holders who will be treated as Foreign Persons, Cross Stakeholders or Airlines in the event of non-compliance with clause 2 or a request for information under clause 3.
- (d) The Directors may rely on information contained in the Compliance Register when forming their belief at any time as to whether or not:
  - (i) an Unacceptable Ownership Situation has occurred or is likely to occur; and
  - (ii) the Foreign Ownership Trigger has been or is likely to be exceeded.

The information contained in the Compliance Register is to be taken as correct unless proven otherwise.

## 12 Delegation

The Directors may delegate any of their powers under this Schedule to any person. The provisions of this Schedule apply to each person to whom the Directors have delegated a power under this Constitution as if a reference to the Directors included a reference to that person.

## 13 Stapling

If the Directors exercise their powers under this Schedule to effect the disposal of Shares and the Shares comprise part of a Stapled Security, the relevant Member (or the Stapled Entities on the Member's behalf) must at the same time effect the disposal of the relevant Attached Securities.

## 14 Other Instruments

If any Other Instrument issued by the Directors confers a beneficial interest in the income or capital of the Company or a right to acquire such an interest, then the provisions of this Schedule shall apply to that Other Instrument and Other Instrument holder:

- (a) as though the Other Instrument was a Share; and
- (b) as though the Other Instrument holder was a Member; and
- (c) with such other changes as may be necessary.

## 15 Foreign Ownership Trigger

- (a) The Directors may from time to time specify and notify to Members a percentage in relation to the Company (the **Foreign Ownership Trigger**) which must not exceed:
  - (i) 48.99% as the maximum total aggregate of Stakes in the Company held by all Foreign Persons; and
  - (ii) 14.99% as the maximum Stake in the Company held by a single Foreign Person (the **Single Person Trigger**) in circumstances where the Directors have determined that the Single Person Trigger will apply.
- (b) The Single Person Trigger will only apply where the Directors determine that the imposition of the trigger is reasonably necessary to ensure that an Unacceptable Foreign Ownership Situation does not arise.
- (c) A reduction in the Foreign Ownership Trigger in relation to the Company, as specified by the Directors at any time, is permitted only to avoid an Unacceptable Foreign Ownership Situation arising in relation to the Company, a Stapled Entity or any Airport Investment of the Company or a Stapled Entity, in whole or in part by reason of Stakes held in the Company and/or a Stapled Entity by a person who is a Foreign Person or in aggregate by persons who are Foreign Persons.