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PACIFIC EDGE LIMITED**

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Constitution of Pacific Edge Limited

PART A: INTRODUCTION

1. DEFINITIONS AND INTERPRETATION

1.1 Defined Terms

In this Constitution, unless the context otherwise requires:

"Act"	means the Companies Act 1993.
"Alternate Director"	means a person appointed by a Director under clause 21 to act in the place of that Director.
"Board"	means those Directors who number not less than the required quorum acting together as the board of directors of the Company.
"Company"	means Pacific Edge Limited.
"Constitution"	means this constitution, as amended from time to time.
"Director"	means a person appointed as a director of the Company in accordance with this constitution.
"Distribution Right"	means a right in the nature of: <ol style="list-style-type: none">a present or future right to participate in the assets of the Company after payment of claims payable under section 313(1) of the Act; ora present or future right to participate in the income or profits of the Company.
"Executive Director"	means a Director who is also an employee of the Company.
"Independent Director"	means a Director who is not an executive officer of the Company and who has no Disqualifying Relationship.
"Listing Rules"	means the "NZX Listing Rules" of NZX, amended from time to time by NZX.
"NZX"	means NZX Limited, its successors and assigns and, as the context permits, includes any duly authorised delegate of NZX.
"person"	includes an individual, partnership, firm, company, body corporate, corporation, association, organisation, trust, a state or government or any agency thereof, a municipal, local or regional authority, and any other entity or organisation, whether incorporated or not (in each case whether or not having a separate legal personality).
"Personal"	means in relation to:

Representative"

- a. a deceased individual Shareholder, the executor, administrator or trustee of the estate of that Shareholder;
- b. a bankrupt individual Shareholder, the assignee in bankruptcy of that Shareholder; and
- c. any other individual Shareholder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed thereunder, and a donee of an enduring power of attorney complying with the Protection of Personal and Property Rights Act 1988.

"Representative"

means:

- a. person appointed as a proxy under paragraph 6 of the First Schedule;
- b. a Personal Representative; or
- c. a representative appointed by a corporation under paragraph 10 of the First Schedule.

"Share"

means a share issued, or to be issued, by the Company.

"Shareholder"

means a person whose name is entered in the share register of the Company as the holder for the time being of one or more Shares.

"Special Resolution"

means a resolution approved by a majority of 75% of the votes of those Shareholders entitled to vote and voting on the resolution.

**"in writing" or
"written"**

include any means of reproducing words, figures and symbols in a tangible and visible form.

1.2 Interpretation

In this Constitution, unless the context otherwise requires:

- a. words and expressions defined in the Act or the Listing Rules (whether or not expressed with an initial capital letter) have the same meaning in this Constitution, except where this Constitution expressly provides otherwise.
- b. the index and clause headings, and descriptions relating to sections of the Act, are included for convenience and must be ignored in interpreting this Constitution;
- c. words importing one gender include the other genders;
- d. the singular includes the plural and vice versa;
- e. a reference to any legislation includes:

- i. the statute and any regulations, rules or orders made pursuant to that statute and in existence from time to time; and
 - ii. all amendments, re-enactments and substituted legislation; and
 - iii. any statutory instruments, regulations, rules and orders issued under that legislation;
- f. references to clauses and schedules are references to clauses and schedules in this Constitution, unless stated otherwise. References to paragraphs are references to paragraphs in the Schedules to this Constitution;
- g. a reference to a Listing Rule includes all amendments to and substitutions for that Listing Rule; and
- h. references to time are New Zealand time.

1.3 Use of electronic means

Where a legal requirement under the Act is reproduced in this Constitution, that legal requirement may be met, for the purposes of this Constitution, by using electronic means in accordance with Part 4 of the Contract and Commercial Law Act 2017 to meet that legal requirement under the Act. In this clause, the term "legal requirement" has the same meaning given to it by section 219(2) of the Contract and Commercial Law Act 2017.

2. APPLICATION OF THE LISTING RULES

2.1 Compliance with Listing Rules

- a. While the Company is Listed, the Company must comply with the Listing Rules subject to any enactment or rule of law, and to any waiver or Ruling. If a provision of this Constitution is inconsistent with the Listing Rules, the Listing Rules prevail.
- b. For so long as the Company is Listed, those provisions of the Listing Rules which are required to be contained or incorporated by reference in this Constitution (and as modified by any waiver or Ruling relevant to the Company), will be deemed to be incorporated in this Constitution and have the same effect as if they were set out in full with any necessary modification.

2.2 Effect of Rulings by the NZX

If the NZX has granted a waiver or Ruling in relation to the Company authorising any act or omission, which in the absence of that waiver or Ruling would be in contravention of the Listing Rules or this Constitution, unless a contrary intention appears in this Constitution, that act or omission is deemed to be authorised by the Listing Rules and this Constitution.

2.3 Effect of failure to comply with Listing Rules

Failure to comply with the Listing Rules, or with a provision of the Constitution corresponding with a provision of the Listing Rules, shall not affect the validity or enforceability of any transaction, contract, action or other matter whatsoever (including the proceedings of, or voting at, any meeting) done or entered into by, or affecting, the Company, provided that:

- a. a party to a transaction or contract who knew of the failure to comply with the Listing Rules or the clauses referred to above, as the case may be, is not entitled to enforce that transaction or contract; and
- b. this clause 2.3 shall not limit the rights of Equity Security holders against the Company or the Directors.

PART B: SHARES AND SHAREHOLDERS

3. RIGHTS ATTACHING TO SHARES

3.1 Classes of Shares

Without limiting the Classes of Shares or securities that may be issued, Shares in the Company may be issued on terms that they:

- a. are convertible into or exchangeable for Shares;
- b. are redeemable;
- c. confer preferential rights to Distributions and capital or income which may be made subject to the power of the Directors to make Distributions;
- d. confer special, limited or conditional voting rights;
- e. do not confer voting rights; or
- f. have limitations or restrictions on transferability.

4. ISSUE OF SHARES AND OTHER SECURITIES

4.1 Board Has Power to Issue Shares and Other Securities

Subject to the Listing Rules, the Act and this Constitution, the Board may issue new Shares, Financial Products, or Options to any person and in any number it thinks fit.

4.2 Pre-emptive Rights on Issue

The provisions of section 45 of the Act do not apply to the issue of further Shares.

4.3 Consolidation and Subdivision of Shares

The Board may:

- a. consolidate and divide the Shares or the Shares of any Class in proportion to those Shares or the Shares in that Class; or
- b. subdivide the Shares or the Shares of any Class in proportion to those Shares or the Shares in that Class.

5. MODIFICATION OF SHAREHOLDER RIGHTS

5.1 Procedure for Modification of Shareholder Rights

The Company shall comply with the provisions of sections 116 and 117 of the Act before taking action affecting the rights attached to any Shares. For the purposes of this clause, those sections shall be deemed to be modified so that:

- a. reference in those sections to "shares" shall (subject to clause 5.2) be deemed to be references to all Equity Securities, and references to "shareholders" shall be read accordingly; and
- b. in respect of Equity Securities which are not Shares:
 - i. references to a special resolution shall be deemed to be references to a resolution approved by a majority of 75% of votes of the holders of those Financial Products entitled to vote and voting; and
 - ii. references to the constitution shall be deemed to be references to the document which governs the rights of those Equity Securities.

5.2 Exceptions

The Company shall not be required by clause 5.1 to comply with sections 116 and 117 of the Act in respect of actions that affect the rights attached to:

- a. Equity Securities which are not Quoted; or
- b. Equity Securities which are not Shares if those Equity Securities were issued on terms which expressly permitted the action in question to be taken without the approval of holders of those Equity Securities, and those terms were clearly disclosed in the Offer Document (if any) pursuant to which those Equity Securities were offered.

5.3 Issue of Equal Ranking Equity Securities

The issue of further Equity Securities which rank equally with, or in priority to, existing Equity Securities, whether as to voting rights, Distributions or otherwise, is deemed not to be an action affecting the rights attaching to those existing Equity Securities.

5.4 Cancellation of Unpaid Amounts

The Company shall not cancel, reduce or defer any obligation to pay an unpaid amount on any Equity Security without the authority of an Ordinary Resolution of the Company.

5.5 Actions not invalid

The taking of any action by the Company affecting the rights attached to any Quoted Equity Securities other than Shares shall not be invalid by reason only that the action was not approved in accordance with the provisions of clause 5.1.

6. CALLS ON SHARES

6.1 Board may make Calls

- a. The Board may make such calls as the Board thinks fit on the Shareholders in respect of any moneys unpaid on any Shares held by them which are not by the conditions of issue of those Shares made payable at a fixed time or times.
- b. Shareholders shall comply with the terms of payment set out in the Board resolution.
- c. A call may be revoked, reduced or postponed at any time by the Board.

6.2 Time of Call

A call is deemed to be made when the resolution of the Board authorising the call is passed, unless that resolution provides otherwise.

6.3 Fixed Instalment Deemed Calls

An amount which by the terms of issue of a Share is payable on issue or at a fixed date is deemed for the purposes of this Constitution to be a call duly made and in respect of which notice and particulars of the call have been given and shall be payable on the date on which the amount is due.

6.4 Notice of Call

- a. At least 21 days notice of call shall be given to the holder of the Shares in respect of which the call is made, specifying the amount, time and place of payment at the time the call is made.
- b. The Company is not required to give notice and particulars of call to a subsequent holder of those Shares.

6.5 Different amounts

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

6.6 Liability

The joint holders of a Share are jointly and severally liable to pay all calls in respect of those Shares.

6.7 Interest and Expenses

If a call is not paid by the day appointed for payment, the person from whom the sum is due shall be liable to pay:

- a. all interest on that sum from the date payment was due to the date of actual payment at such rate as the Board may determine;
- b. all expenses which the Company has or may incur by reason of non-payment of the call.

The Board may waive payment of all or part of that interest or expense.

6.8 Proceedings for Recovery of Call

In any proceedings for recovery of a call:

- a. it will be conclusive evidence of the debt if it is proved that:
 - i. the name of the Shareholder sued is entered in the Share Register as the holder, or one of the holders, of the Shares to which the call relates; and
 - ii. either the resolution making the call is entered in the Company's Records and notice of the call has been duly given; or
 - iii. the terms of issue of a Share require the sum to be paid on a certain date; and
- b. it is not necessary to prove the appointment or qualification of any member of the Board which made the call nor any other matter.

6.9 Payment in Advance of Calls

The Company may if it thinks fit, receive from any Shareholder in advance any amount uncalled and unpaid upon any Shares held by that Shareholder and may, until the date on which the amount becomes payable pursuant to a call, pay interest on the amount at such rate as the Board and the Shareholder agree. The Company may at any time repay the amount so advanced.

7. LIEN ON SHARES

7.1 Lien on Shares

The Company has a first and paramount lien upon each Share registered in the name of a Shareholder (whether solely or jointly with others), the proceeds of sale of the Share, and all Distributions made in respect of the Share for:

- a. all unpaid calls owing in respect of the Share and interest owing under clause 6.7 (if any); and
- b. such amount as the Company may be called upon to pay under any legislation in respect of the Share, whether or not the due date for payment has arrived.

7.2 Waiver of Lien

Unless otherwise agreed between the Company and the relevant Shareholder, the registration of a Transfer of a Share shall operate as a waiver of any lien which the Company may have on that Share, except as provided in clause 14.2.

8. FORFEITURE OF SHARES

8.1 Notice Requiring Payment of call

If a Shareholder fails to pay any call or instalment of a call the Company may at any time thereafter by notice to that Shareholder require payment of the amount unpaid

together with any accrued interest and all expenses incurred by the Company by reason of such non-payment.

8.2 **Contents of Notice**

The notice referred to in clause 8.1 shall specify a further date (not earlier than 14 days after the date of service of the notice) on or before which the payment is to be made and shall state that, if payment is not made by the specified date, the Share in respect of which the call or instalment of a call is due, is liable to be forfeited.

8.3 **Forfeiture for Non-Payment**

If payment is not made by the date specified in the notice then, at any time thereafter before the payment required by the notice has been made, any Share in respect of which the notice has been given may be forfeited by a resolution of the Board. The forfeiture shall include all Dividends declared in respect of the forfeited Share and not paid before the forfeiture.

8.4 **Evidence of Forfeiture**

A statutory declaration by a Director or any other person authorised by the Board that a Share has been forfeited on a specified date will be conclusive evidence of that forfeiture.

8.5 **Cancellation of Forfeiture**

A forfeiture may be cancelled at any time before the sale of the forfeited Share, on such terms as the Board thinks fit.

8.6 **Effect of Forfeiture**

The holder of a Share which has been forfeited ceases to be a Shareholder in respect of the forfeited Share, but remains liable to the Company for all money payable in respect of the forfeited Share.

9. **SALE OF SHARES SUBJECT TO LIEN OR FORFEITURE**

9.1 **Power of Sale**

The Company may sell, in such manner as the Board thinks fit, any forfeited Share or any Share on which the Company has a lien. No sale may be made unless:

- a. the sum in respect of which a lien exists is due and payable; and
- b. until 14 days have elapsed after a notice which requires payment of the amount owing has been given to the Shareholder entitled to receive notice of meetings of Shareholders in respect of the Share.

9.2 **Application of Proceeds of Sale**

If any Shares are forfeited and sold or are sold to enforce a lien, any residue after the satisfaction of unpaid calls, instalments, premiums or other amounts and interest thereon, and expenses, shall be paid to the previous holder, or to the executors, administrators or assigns of the previous holder.

9.3 **Sale Procedure**

- a. In order to give effect to any sale in the exercise of the powers given to it under clause 9.1 the Board may authorise any person to execute any relevant documentation.
- b. The purchaser will be registered as the Shareholder of the Shares which are transferred, and will not be bound to see to the application of the purchase money.
- c. The purchaser's title to the Shares will not be affected by any irregularity or invalidity in the forfeiture, sale or other disposal of the Shares.
- d. The remedy of any person aggrieved by the sale will be in damages only and against the Company exclusively.
- e. If the certificate for the Shares is not delivered to the Company the Board may issue a new certificate distinguishing it as the Board thinks fit from the certificate not delivered.
- f. The registration of a share transfer in respect of the Shares shall operate as a waiver of the lien by the Company in respect of those Shares, but not as a release of any outstanding liability owed by any previous Shareholder.

10. **DISTRIBUTIONS TO SHAREHOLDERS**

10.1 **Satisfaction of Solvency Test**

The Board, if it is satisfied on reasonable grounds that the Company will, immediately after the Distribution, satisfy the Solvency Test, may subject to section 53 of the Act and this Constitution, authorise a Distribution at a time, and of an amount, and to any Shareholders it determines and otherwise in accordance with the terms of issue.

10.2 **Restriction on Certain Distributions**

The Board shall not authorise a Dividend:

- a. in respect of some but not all the Shares in a Class; or
- b. that is of a greater value per Share in respect of some Shares of a Class than it is in respect of other Shares of that Class;

unless the amount of the Dividend in respect of a Share of that Class is in proportion to the amount paid to the Company in satisfaction of the liability of the Shareholder under this Constitution or under the terms of issue of the Share. A Shareholder may waive that Shareholder's entitlement to receive a Dividend by written notice to the Company signed by or on behalf of the Shareholder.

10.3 **Method of Payment**

- a. Any Distribution, interest, or other money payable in cash in respect of Shares may be paid as determined by the Board by automatic payment to a bank account nominated in writing by the Shareholder or by cheque sent through the post to the registered address of the Shareholder, or in the case of joint Shareholders, to the registered address of that one of the joint Shareholders who is first named in the Share Register or to such person and

to such bank account or address as the Shareholder or joint Shareholders may in writing direct.

- b. The Company shall not be responsible for any loss arising from any mode of transmission referred to in this clause 10.3. Every such cheque must be made payable to the order of the person to whom it is sent. Any one of two or more joint Shareholders may give effectual receipts for any Dividends, bonuses, or other money payable in respect of Shares held by them as joint Shareholders.

10.4 **Shares in Lieu of Dividends**

The Board may issue Shares to any Shareholders who have agreed to accept the issue of Shares, wholly or partly, in lieu of a proposed Dividend or proposed future Dividends if:

- a. the right to receive Shares, wholly or partly, in lieu of the proposed Dividend or proposed future Dividends has been offered to all Shareholders of the same Class on the same terms; and
- b. if all Shareholders elected to receive the Shares in lieu of the proposed Dividend, relative voting or Distribution Rights, or both, would be maintained; and
- c. the Shareholders to whom the right is offered are afforded a reasonable opportunity of accepting it; and
- d. the Shares issued to each Shareholder are issued on the same terms and subject to the same rights as the Shares issued to all Shareholders in that Class who agree to receive the Shares; and
- e. the provisions of section 47 of the Act are complied with by the Board.

The Board may vary, suspend or terminate any plan to issue Shares in lieu of Dividends.

10.5 **Bonus Issues**

The Board may resolve to apply any amount which is available for Distribution either:

- a. in paying up in full Shares or other Financial Products of the Company to be issued credited as fully paid to:
 - i. the Shareholders who would be entitled to that amount if it were distributed by way of Dividend, and in the same proportions; and
 - ii. if applicable, the holders of any other Financial Products of the Company who are entitled by the terms of issue of such Financial Products to participate in bonus issues by the Company, whether at the time the bonus issue is made to the Shareholders, or at some later time, in accordance with their respective entitlements; or
- b. in paying up any amount which is unpaid on any Shares held by the Shareholders referred to in subclause (a)(i); or

partly in one way and partly in the other.

10.6 Shareholder Discounts

The Board may resolve that the Company offer Shareholders discounts in respect of some or all of the goods sold or services provided by the Company (including any subsidiary of the Company) if:

- a. the Board has previously resolved that the proposed discounts are:
 - i. fair and reasonable to the Company and to all Shareholders; and
 - ii. to be available to all Shareholders or all Shareholders of the same Class on the same terms; and
- b. the Board is satisfied on reasonable grounds that the Company at the time of the offering of the discount scheme or its continuation satisfies the Solvency Test.

10.7 Deduction

The Board may deduct from a Distribution payable to a Shareholder any amount which is due and payable by the Shareholder to the Company on account of:

- a. unpaid calls or otherwise in relation to any Shares held by that Shareholder; and
- b. such amounts as the Company may be called upon by law to pay in respect of those Shares, including withholding and other taxes.

10.8 No Interest

No Distribution bears interest against the Company unless the applicable terms of issue of Shares expressly provide otherwise.

10.9 Unclaimed Distributions

- a. All Distributions unclaimed for 1 year after having been authorised may be invested or otherwise made use of by the Board for the benefit of the Company until claimed. The Company shall not be required to set those monies apart from its other funds or to regard it as being held on trust. All Distributions unclaimed for 5 years after having been declared may be forfeited by the Board for the benefit of the Company.
- b. The Board must, however, annul any such forfeiture and agree to pay a claimant who produces, to the Board's satisfaction, evidence of entitlement to the amount due to such claimant, unless in the opinion of the Board such payment would embarrass the Company.

11. ACQUISITION AND REDEMPTION OF COMPANY'S OWN SHARES

11.1 Company may Purchase, Acquire or Redeem its own Shares

Subject to the Act, the Listing Rules and this Constitution, the Company may:

- a. purchase or otherwise acquire Shares or other Equity Securities from one or more Shareholders; and

- b. redeem any redeemable Shares or other Equity Securities; and
- c. hold any Shares or other Equity Securities so purchased, acquired or redeemed.

12. FINANCIAL ASSISTANCE BY THE COMPANY TO PURCHASE ITS SHARES

12.1 Financial Assistance

The Company may give financial assistance for the purpose of, or in connection with, the acquisition of Equity Securities issued, or to be issued, by the Company only if the giving of that assistance complies with Act and this Constitution, and is permitted by the Rules.

12.2 Permitted Financial Assistance

The Company may only give financial assistance of the nature referred to in clause 12.1 if:

- a. the financial assistance is not given in whole or in part to any Director, Associated Person of a Director, or Employee, and the amount of the financial assistance, together with the amount of all other financial assistance given by the Company under this subclause during the 12 months preceding the date of giving of the financial assistance does not exceed 5% of the Average Market Capitalisation of the Company; or
- b. the financial assistance is given to Employees and the amount of the financial assistance, together with the amount of all other financial assistance given by the Company under this subclause b. during the:
 - i. 12 months preceding the date of giving of the financial assistance does not exceed 2% of the Average Market Capitalisation of the Company; and
 - ii. five years preceding the date of giving of the financial assistance does not exceed 5% of the Average Market Capitalisation of the Company; and

the financial assistance is not given to any Director or Associated Person of a Director unless it is given to a Director, or an Associated Person of a Director, solely in that person's capacity as a trustee of a bona fide employee share scheme, superannuation scheme, or the like, in which that Director or Associated Person has no beneficial interest; or

- c. the financial assistance is offered or given so that all holders of Equity Securities are treated, or given the opportunity to be treated, on the same basis.

12.3 Financial Assistance with Approval of Equity Security Holders

The Company may give financial assistance of the nature referred to in clause 12.1 if the precise terms and conditions of the giving of that financial assistance have been approved by separate resolutions (passed by a simple majority of Votes) of the members of each separate group whose rights or entitlements are materially affected in

a similar way by the giving of the financial assistance and the giving of the financial assistance is given within 6 months after the passing of the relevant resolutions.

13. **TRANSFER OF SHARES**

13.1 **Transferability**

Subject to any restrictions contained in this Constitution and to any applicable legislation, a Share is freely transferable.

13.2 **Form of Transfer**

A Shareholder may transfer all or any of its Shares in accordance with the Act, by using a wholly or partly electronic system for the transfer of securities which has been approved by any statute or regulations in New Zealand where the transfer takes place in New Zealand.

13.3 **Transfers Executed Overseas**

Where an instrument of transfer would have complied with the requirements of the Act if it had been executed in New Zealand, it may nevertheless be registered by the Company if it is executed under the common seal of a corporation as transferor or if the signature of the transferor has been witnessed by a person who has added his or her occupation and address after his or her signature.

13.4 **Other Forms of Transfer**

Every instrument of transfer of Shares not falling within the provisions of clauses 13.2 or 13.3 must:

- a. be signed or executed by or on behalf of the transferor in any manner permitted by law; and
- b. if registration of the transfer imposes any liability on the transferee, the transfer must be signed or executed by or on behalf of the transferee.

13.5 **Delivery to Company**

An instrument of transfer, together with the Share certificate (if any) relating to the Shares to be transferred, must be delivered to the Company or to the agent of the Company who maintains the Share Register.

13.6 **Power to Refuse or Delay Registration**

The Board may refuse to register a transfer of any Share if:

- a. the Company has a lien on the Share; or
- b. the instrument of transfer is not accompanied by the relevant Share certificate (if any) and such other evidence as the Board reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Share; or
- c. registration of the transfer (together with registration of any further transfer or transfers then held by the Company and awaiting registration) would result in the proposed transferee holding Shares of less than the Minimum Holding; or

- d. such action is permitted by any legislation or the Listing Rules.

provided that the Board resolves to exercise its power under this clause within 30 Business Days after receipt of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee within 5 Business Days of the resolution being passed by the Board.

13.7 **Compulsory Disposal When Holding Less than Minimum Holding**

The Company may at any time give notice to a Shareholder holding less than a Minimum Holding that it intends to exercise its rights under this clause to dispose of the Shares unless within three months (or such longer period as the Board may determine) the relevant Shares are disposed of or further Shares are acquired by the Shareholder to bring the relevant holding up to a Minimum Holding. If, after such period, the Shares then registered in the name of the Shareholder are less than the Minimum Holding:

- a. The Company may sell the Shares by means of a transaction on the Main Board (including through a broker acting on the Company's behalf).
- b. To give effect to any sale under clause 13.7a, the Board may authorise the transfer the Shares sold under this clause to a purchaser of the Shares through the Main Board or in some other manner approved by NZX, at the best price reasonably obtainable at the relevant time.
- c. The Shareholder is deemed to have authorised the Board to act on behalf of the Shareholder in relation to the sale of the relevant Shares, and to sign all documents relating to such sale.
- d. The proceeds of sale of any Shares sold under this clause must be applied as follows:
- i. first, in payment of any reasonable sale expenses;
 - ii. second, in satisfaction of any unpaid calls or any other amounts owing to the Company in respect of the Shares, and any interest payable on such amounts; and
 - iii. the residue, if any, must be paid to the person who was the shareholder immediately before the sale or his or her executors, administrators or assigns.
- e. The purchaser is not bound to see to the application of the purchase money, nor shall the title to the Shares be affected by any irregularity or invalidity in the procedures under this Constitution relating to the sale. The remedy of any person aggrieved by the sale is in damages only and against the Company exclusively.

A certificate, signed by a Director that records that a power of sale under this clause has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.

13.8 **When Transfer Effective**

A transferor remains the holder of the Share until the name of the transferee is entered in the Share Register in respect of the Share.

13.9 Multiple Registers

The Share Register may, by resolution of the Board, be divided into two or more registers, kept in different places.

14. TRANSMISSIONS AND EQUITABLE INTERESTS

14.1 Transmission on death of Shareholder

If a Shareholder dies the survivor, if the deceased was a joint Shareholder, or the Personal Representative, shall be the only persons recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder but nothing in this clause shall release the estate of a deceased joint Shareholder from any liability in respect of any Share or constitute a release of any lien which the Company may have in respect of any Share.

14.2 Rights of Personal Representatives

A Personal Representative of a Shareholder:

- a. is entitled to exercise all rights (including without limitation the rights to receive Distributions, to attend meetings and to vote in person or by Representative), and is subject to all limitations, attached to the Shares held by that Shareholder; and
- b. is entitled to be registered as the holder of those Shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the Personal Representative pursuant to this subclause.

14.3 Joint Personal Representatives

Where a Share is subject to the control of two or more persons as Personal Representatives they shall, for the purposes of this Constitution, be deemed to be joint holders of the Share.

14.4 No Notice of Trusts

No notice of a trust, whether express, implied, or constructive, may be entered on the Share Register.

14.5 No Recognition of Equitable Interests

Except as required by law or by this Constitution, no person shall be recognised by the Company as holding any Share upon trust and the Company shall not be bound by, nor be compelled to recognise (even after notice), any equitable, contingent, future or partial interest in any Share, or any interest in any fraction or part of a Share or (except as provided by this Constitution or by law) any other rights in respect of any Share, except an absolute right of the registered holder to the entire Share.

15. SEPARATE PARCELS OF SHARES

15.1 Separate Parcels

The Share Registrar of the Company, on request by a Shareholder, or proposed transferee, may register a shareholding in separate parcels identified by a distinguishing

word, number or other parcel differentiator. Where a Shareholder's shareholding is so registered, the Company may communicate separately with the Shareholder in respect of each parcel, make Distributions and otherwise act, so far as the Directors consider convenient, as if the separate parcels belonged to different Shareholders.

16. SHAREHOLDER REPORTS, INFORMATION AND NOTICES

16.1 Company Reports and Financial Statements

Shareholders of all Classes shall be entitled to attend general meetings and to receive copies of all notices, reports and financial statements issued generally by the Company to holders of Financial Products carrying Votes.

16.2 Inspection by Shareholders

No Shareholder who is not also a Director is entitled to inspect any accounting or other Records of the Company except as expressly authorised by law or permitted by the Board. Subject to the provisions of section 216 of the Act the Board may from time to time determine whether, to what extent, at what times and places, and under what conditions, the accounting or other Records of the Company are open to inspection.

16.3 Method of Service of Notices, Reports and Other Documents

All notices, reports, accounts and other documents required to be sent:

- a. to a Shareholder, shall be sent in the manner provided in section 391 of the Act;
- b. to a holder of any other Equity Security, shall be sent in the same manner, as though that holder were a Shareholder.

16.4 Service of notices overseas

If the holder of a Share or other Equity Security has no registered address within New Zealand and has not supplied to the Company an address within New Zealand for the giving of notices, but has supplied an address outside New Zealand, then notices for that Shareholder shall be posted to that holder at such international address and shall be deemed to have been received by that Shareholder 24 hours after the time of posting.

16.5 Accidental omissions

The failure to send an annual report, notice, or other document to a Shareholder or other Equity Security holder in accordance with the Act or this Constitution does not invalidate the proceedings at a meeting of Shareholders if the failure to do so was accidental.

16.6 Joint Shareholders

A notice may be given by the Company to the joint holders of an Equity Security by giving the notice to the joint holder named first in the register in respect of that Equity Security.

17. MEETINGS OF SHAREHOLDERS

17.1 Annual meetings

The Company shall hold annual meetings of Shareholders in accordance with section 120 of the Act.

17.2 Time and place of annual meeting

Each annual meeting shall be held at such time and place as the Board appoints.

17.3 Special meetings

All meetings of Shareholders, other than annual meetings, shall be called special meetings.

17.4 Calling of special meetings

A special meeting:

- a. may be called at any time by the Board;
- b. must be called by the Board on the written request of Shareholders holding Shares carrying together not less than 5% of the voting rights entitled to be exercised on any of the questions to be considered at the meeting.

17.5 Equity Security holders entitled to attend

Equity Security holders of all Classes are entitled to attend meetings of Shareholders.

17.6 Methods of Holding Meetings

A meeting of Shareholders may be held either:

- a. by a number of Shareholders, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- b. by means of audio, audio and visual, or electronic communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

18. PROCEDURE AT SHAREHOLDER MEETINGS

18.1 The provisions of the First Schedule to this Constitution govern proceedings at meetings of Shareholders.

18.2 The provisions of the First Schedule to this Constitution, with all necessary modifications, govern proceedings at meetings of Interest Groups and Classes.

PART C: DIRECTORS

19. POWERS OF DIRECTORS

19.1 Management of Company

The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.

19.2 Exercise of powers by Board

The Board may exercise all the powers of the Company which are not required, either by the Act or this Constitution, to be exercised by the Shareholders.

19.3 Delegation of powers

The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in the second schedule to the Act.

19.4 Appointment of attorney

The Company may exercise the power conferred by section 181 of the Act to appoint a person as its attorney, either generally or in relation to a specified matter. Any such power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

19.5 Ratification by Shareholders

Subject to the provisions of section 177 of the Act the Shareholders, or any other person in whom a power is vested by this Constitution or the Act, may ratify the purported exercise of that power by a Director or the Board in the same manner as the power may be exercised. The purported exercise of a power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that power.

20. APPOINTMENT AND REMOVAL OF DIRECTORS

20.1 Number of Directors and Residence

- a. The number of Directors shall not be more than 8.
- b. The Company shall comply with the minimum board composition requirements of the Listing Rules.

20.2 Appointment

Subject to 20.1, a person who is not disqualified under the Act may be appointed as a Director at any time by:

- a. an Ordinary Resolution; or
- b. by the Board under clause 20.1 and in accordance with the Listing Rules.

20.3 Existing Directors to continue

The persons holding office as Directors at the date of this Constitution continue in office and are deemed to have been appointed as Directors pursuant to this Constitution.

20.4 Nomination of Directors

- a. No person (other than a Director retiring at the meeting) shall be elected as a Director at an annual meeting of Shareholders unless that person has been nominated by a Shareholder entitled to attend and vote at the meeting.
- b. The closing date for nominations shall not be more than two months before the date of the annual meeting at which the election is to take place. The Company shall make an announcement to the market of the closing date for Director nominations and contact details for making nominations no less than 10 Business Days before the closing date for Director nominations.
- c. Notice of every valid nomination received by the Company before the closing date for nominations shall be given by the Company to all persons entitled to attend the meeting as part of the notice of the meeting.

20.5 Restriction on appointment of several Directors by single resolution

Each resolution of the holders of Equity Securities to appoint a Director must be for the appointment of one Director only. Nothing in this clause prevents the election of two or more Directors by ballot or poll.

20.6 Rotation of Directors

A retiring Director continues to hold office:

- a. until he or she is re-elected; or
- b. if he or she is not re-elected, or does not offer himself or herself up for re-election, until the end of the annual meeting or any adjournment of that meeting.

20.7 Rotation requirements

Each Director shall retire from office when required to do so by the Listing Rules, but, subject to the Listing Rules, shall be eligible for re-election (including at any meeting at which the Director retires).

20.8 Vacation of Office

A Director ceases to be a Director if he or she:

- a. is removed from office by an Ordinary Resolution or in accordance with the Act or this Constitution; or
- b. dies, or becomes mentally disordered or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988; or
- c. resigns by written notice delivered to the Company at its address for service or at its registered office (such notice to be effective at the time when it is so received unless a later time is specified in the notice); or

- d. retires from office; or
- e. becomes disqualified from being a Director pursuant to the Act; or
- f. becomes bankrupt or makes an arrangement or composition with his or her creditors generally; or
- g. is an Executive Director and ceases for any reason to be in the salaried employment of the Company or any of its subsidiaries unless the Board decides otherwise; or
- h. has for more than six months been absent without the approval of the Board from meetings of the Board held during that period, unless the Board decides otherwise.

20.9 **Appointment by Board**

The Board may appoint any person to be a Director either to fill a casual vacancy or as an additional Director. Any Director appointed under this clause 20.9 will cease to hold office at the commencement of the next annual meeting of the Company.

21. **ALTERNATE DIRECTORS**

21.1 **Appointment**

A Director may from time to time by written notice to the Company appoint any person, who is not already a Director to be that Director's alternate. No Director may appoint an Alternate Director for him or her without the consent of a majority of the other Directors. That appointment may be revoked by a majority of his or her Co-Directors or by the Director having appointed the alternate. No Director may appoint a deputy or agent except by way of appointment of an Alternate Director under this clause 21.

21.2 **Rights of Alternate Director**

Unless otherwise specified by the terms of his or her appointment, an Alternate Director:

- a. is entitled, in the absence or unavailability of the Director who appointed him or her (the "**Appointer**"), to exercise the same rights, powers and privileges (other than the power to appoint an Alternate Director) as the Appointer;
- b. when acting as an Alternate Director is subject to the same duties and obligations as the Appointer;
- c. is not entitled to be given notice of a meeting of the Directors unless the Appointer has give written notice to the Company requesting that notice be given to the Alternate Director;
- d. is entitled to be Indemnified by the Company to the same extent as if he or she were a Director.

21.3 **Remuneration and expenses**

An Alternate Director is not entitled to any remuneration from the Company in his or her capacity as Alternate Director other than out of the remuneration of the Appointer, but is entitled to be reimbursed by the Company for all expenses incurred in attending

meetings of the Directors and in the discharge of his or her duties, to the same extent as if he or she were a Director.

21.4 **Cessation of appointment**

An Alternate Director ceases to be an Alternate Director:

- a. if the Appointer ceases to be a Director, or revokes the appointment by written notice to the Company; or
- b. on the occurrence of any event that would disqualify the Alternate Director if he or she were a Director; or
- c. if a majority of the other Directors resolve to revoke the Alternate Director's appointment.

22. **DIRECTOR EXPENSES**

Each Director is entitled to be paid for all reasonable travelling, accommodation and other expenses incurred by the Director in connection with the Director's attendance at meetings or otherwise in connection with the business of the Company.

23. **INDEMNITY AND INSURANCE**

23.1 **Indemnity of Directors**

Subject to clause 23.3, every Director shall be Indemnified by the Company:

- a. for any costs incurred by him or her in any proceeding that relates to liability for any act or omission in his or her capacity as a Director or a director of a subsidiary of the Company and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and
- b. in respect of liability to any person other than the Company or a related company for any act or omission by that Director in his or her capacity as a Director or a director of a subsidiary of the Company, and costs incurred by that Director in defending or settling any claim or proceeding relating to any such liability.

23.2 **Other Indemnities**

Subject to clause 23.3, the Company may, with the prior approval of the Board, Indemnify a director of a related company, or an Employee of the Company or a related company:

- a. for any costs incurred by him or her in any proceeding that relates to liability for any act or omission by him or her in such capacity and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and
- b. in respect of liability to any person other than the Company or a related company for any act or omission by that director or Employee in such capacity, or costs incurred by that director or Employee in defending or settling any claim or proceeding relating to such liability.

23.3 **Exceptions**

An Indemnity conferred by clause 23.1b, or given pursuant to clause 23.2b, shall not apply in respect of:

- a. any criminal liability; or
- b. in the case of an Employee of the Company or the related company, any liability in respect of a breach of any fiduciary duty owed to the Company or related company; or
- c. in the case of a Director or a director of a related company, any liability in respect of a breach of the duty specified in section 131 of the Act.

23.4 **Insurance**

The Company may, with the prior approval of the Board, Effect Insurance for a Director or Employee of the Company or a director or Employee of a related company, in respect of:

- a. liability, not being criminal liability, for any act or omission by him or her in such capacity; or
- b. costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability; or
- c. costs incurred by him or her in defending any criminal proceedings in which he or she is acquitted.

23.5 **Definitions**

Words given extended meanings by section 162(9) of the Act have those extended meanings in this clause 23.

24. **PROCEEDINGS OF THE BOARD**

- 24.1 The provisions of the Second Schedule to this Constitution govern the proceedings of the Board. The third schedule to the Act does not apply to the Company.

PART D: GENERAL

25. **METHOD OF CONTRACTING**

25.1 **Deeds**

An obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:

- a. two or more Directors; or
- b. a Director, or other person or persons authorised to do so by the Board whose signature or signatures must be witnessed; or
- c. one or more attorneys appointed by the Company in accordance with section 181 of the Act.

25.2 **Other written contracts**

An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by a person acting under the express or implied authority of the Company.

25.3 **Other obligations**

Any other obligation or contract may be entered into on behalf of the Company in writing or orally by a person acting under the express or implied authority of the Company.

26. **ACCOUNTS**

26.1 **Accounts to be Kept**

The Directors shall cause proper books of account to be kept in which shall be kept full true and complete accounts of the affairs and transactions of the Company. The books of account shall be kept at the registered office of the Company, or, subject to the Act, at such other place or places as the Directors shall think fit, and shall always be open to the inspection of any of the Directors.

26.2 **Appointment of Auditors**

Auditors shall be appointed and their duties regulated in accordance with the Act.

27. **LIQUIDATION**

27.1 **Distribution of assets**

If the Company is liquidated the liquidator may, with the approval of Shareholders by Special Resolution and any other sanction required by the Act:

- a. divide among the Shareholders in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may for that purpose fix such value as the liquidator deems fair in respect of any property to be so divided, and may determine how the division shall be carried out as between Shareholders or between different Classes; and
- b. vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the persons so entitled as the liquidator thinks fit, but so that no Shareholder is compelled to accept any shares or other securities on which there is any liability.

FIRST SCHEDULE

PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

1. CHAIRPERSON

1.1 Chairperson to be Chairperson of the Board

If the Directors have elected a chairperson of the Board, and the chairperson of the Board is present at a meeting of Shareholders, he or she must chair the meeting, unless or except to the extent that the chairperson considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or to any particular item or items of business to be considered.

1.2 Appointment by Directors

If no chairperson of the Board has been elected, or if at any meeting of Shareholders the chairperson of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting or the chairperson considers it not proper or desirable to act as chairperson for all or any part of the meeting, the Directors present may elect one of their number to chair the meeting or that part of the meeting that the chairperson has indicated he or she does not wish to chair.

1.3 Appointment by Shareholders

If at any meeting no Director is willing to act as chairperson, or if no Director is present within 15 minutes of the time appointed for holding the meeting, the Shareholders present must choose one of their number to be chairperson of the meeting.

2. NOTICE OF MEETINGS

2.1 Notice in writing

Written notice of the time and place of a meeting of Shareholders must be sent to every Shareholder entitled to receive notice of the meeting and to every Director and to the auditor of the Company not less than 10 Business Days before the meeting, but with the consent of all Shareholders entitled to attend and vote at a meeting, it may be convened by such shorter notice and in such manner as those Shareholders agree.

2.2 Contents of notice

The notice must state:

- a. the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgement in relation to it;
- b. the text of any Special Resolution to be submitted to the meeting;
- c. that a Shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of the Shareholder and that a proxy need not be a Shareholder.

So far as is reasonably practicable, resolutions shall be formed in a manner which facilitates two way voting instructions for proxy holders.

2.3 Irregularities in notice

An irregularity in a notice of a meeting is waived if all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Shareholders agree to the waiver.

2.4 Accidental omission to give notice

The accidental omission to give a notice of a meeting to, or the non-receipt of a notice of a meeting by, any person entitled to receive notice does not invalidate the proceedings at that meeting.

3. PROCEEDINGS AT MEETINGS

3.1 Adjournment By Chairperson

The chairperson may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place, but no business can be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting. Except as so provided, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

3.2 Adjournment or dissolution of meeting if disorderly

If any meeting becomes so unruly, disorderly or inordinately protracted, that in the opinion of the chairperson the business of the meeting cannot be conducted in a proper and orderly manner, the chairperson, notwithstanding any provision to the contrary contained in this Constitution and without the consent of the meeting, may, in his or her sole and absolute discretion and without giving any reason therefor, either adjourn or dissolve the meeting.

3.3 Completion of unfinished business if meeting dissolved

If any meeting is dissolved by the chairperson pursuant to paragraph 3.2 of this Schedule, the unfinished business of the meeting shall be dealt with as follows:

- a. in respect of any resolution concerning the approval or authorisation of a Distribution, the Board may, in the exercise of the powers conferred on it by the Act or this Constitution, authorise such Distribution;
- b. in respect of any resolution concerning the remuneration of the auditors, the meeting shall be deemed to have resolved that the Board be authorised to fix the remuneration of the auditors;
- c. the chairperson may direct that any other item of business which is uncompleted which, in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion, in accordance with paragraph 5.12 of this Schedule.

3.4 Other Proceedings

Except as provided in this Schedule, and subject to the Constitution of the Company, the chairperson may regulate the meetings of Shareholders.

4. **QUORUM**

4.1 **Necessity for quorum**

Subject to paragraph 4.3 of this Schedule, no business may be transacted at a meeting of Shareholders if a quorum is not present.

4.2 **Numbers for quorum**

A quorum for a meeting of Shareholders is 5 Shareholders having the right to vote at the meeting, present in person or by proxy or by Representative.

5. **VOTING**

5.1 **Number of votes**

Subject to paragraphs 12.1 and 12.2 of this Schedule and to any rights or restrictions for the time being attached to any Class of Shares:

- a. where voting is by show of hands or by voice every Shareholder present in person or by Representative has one vote;
- b. on a poll every Shareholder present in person or by Representative has:
 - i. in respect of each fully paid ordinary Share held by that Shareholder, one vote;
 - ii. in respect of each Share held by that Shareholder which is not fully paid, a proportion of the vote or votes which would be exercisable if that Share were fully paid equivalent to the proportion of the total issue price of that Share which has been paid (disregarding any payment in advance).

5.2 **Voting method**

In the case of a meeting of Shareholders held under clause 17.6a unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting:

- a. voting by voice; or
- b. voting by show of hands.

5.3 **Voting method - audio, audio/visual**

In the case of a meeting of Shareholders held under clause 17.6b, unless a poll is demanded, voting at the meeting shall be by the Shareholders signifying individually their assent or dissent by voice.

5.4 **Evidence that resolution carried**

A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with paragraph 5.5 of this Schedule.

5.5 Who may demand poll

At a meeting of Shareholders a poll may be demanded by:

- a. not less than 5 Shareholders having the right to vote at the meeting; or
- b. a Shareholder or Shareholders representing not less than 10 percent of the total voting rights of all Shareholders having the right to vote at the meeting; or
- c. by a Shareholder or Shareholders holding Shares in the Company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 percent of the total amount paid up on all Shares that confer that right.

5.6 When poll may be demanded

A poll may be demanded either before or after the vote is taken on a resolution.

5.7 Counting of votes

If a poll is taken:

- a. votes must be counted according to the votes attached to the Shares of each Shareholder present in person or by proxy or Representative and voting;
- b. the scrutineers shall be the auditor unless the auditor is unable or unwilling to act or unless the chairperson directs to the contrary in which case the scrutineers shall be appointed by the chairperson;
- c. the chairperson of the meeting shall finally determine in good faith the admission or rejection of any vote;
- d. the chairperson may declare the result of a poll when its outcome is known regardless of whether all votes have been counted;
- e. the chairperson may declare the result of the poll at or after the meeting.

5.8 Equality of votes

In the case of an equality of votes, whether voting is by voice or show of hands or poll, the chairperson of the meeting is entitled to a second or casting vote.

5.9 Proxy holder may demand poll

For the purposes of this paragraph 5, the instrument appointing a proxy to vote at a meeting of a Company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a Shareholder has the same effect as a demand by the Shareholder.

5.10 Voting entitlement

Subject to any rights or restrictions for the time being attached to any Class of Shares, every Shareholder present in person or by proxy and voting by voice or on a show of hands has one vote.

5.11 Chairperson may demand poll

The chairperson may demand a poll on a resolution, either before or after a vote on such resolution, by voice or on show of hands.

5.12 Withdrawal of demand

The demand for a poll may be withdrawn.

5.13 Poll to be taken as chairperson directs

Except as provided in paragraph 5.14 of this Schedule, if a poll is duly demanded it must be taken in such manner as the chairperson directs, and the result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.

5.14 Poll on election of chairperson

A poll demanded on the election of a chairperson or on a question of adjournment must be taken forthwith. A poll demanded on any other question may be taken at such time and place as the chairperson of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

6. PROXIES

6.1 Right to vote by proxy

A Shareholder may exercise the right to vote either by being present in person or by proxy.

6.2 Right of proxy to attend

A proxy for a Shareholder is entitled to attend and be heard at a meeting of Shareholders as if the proxy were the Shareholder.

6.3 Appointment of proxy

A proxy must be appointed by notice in writing signed by the Shareholder and the notice must state whether the appointment is for a particular meeting or a specified term not exceeding 12 months.

6.4 Proxy form to be sent with Notice of Meeting

A proxy form must be sent to all Shareholders of the Company with each notice calling a meeting of the Company.

6.5 Two Way Voting

The proxy form shall as a minimum, (so far as the subject-matter and form of the resolution reasonably permits) provide for two-way voting (for or against) on all resolutions, enabling the Shareholder to instruct the proxy as to the casting of the vote and may provide for the Shareholder to abstain from voting on each resolution and/or for the Proxy to exercise a discretion to vote (for or against) each resolution and should state clearly the consequences if no Proxy instruction is provided.

6.6 Proxy form must not name proxy

The Company shall not issue any form of notice of appointment with a proxy named in it, either by name or by reference to an office which that proxy holds, but the Company may indicate in a footnote that certain persons or officers are willing to act as a proxy if a Shareholder desires to appoint them or any of them.

6.7 Validity of vote

A vote given in accordance with the terms of an instrument of proxy is valid notwithstanding the previous death or insanity of the Appointer or revocation of the proxy or revocation of the authority under which the proxy was executed, or the Transfer of any Share in respect of which the proxy is given, if no notice in writing of such death, insanity, revocation or Transfer has been received by the Company before the start of the meeting or adjourned meeting at which the proxy is used.

6.8 Deposit of Proxy

No proxy is effective in relation to a meeting unless the proxy notice is received at the place nominated in the notice of meeting not later than 48 hours before the start of the meeting.

7. POSTAL VOTES

7.1 Shareholders may not exercise the right to vote at a meeting by casting a postal vote unless the Board elects to the contrary in relation to a particular meeting. A postal vote may be cast using electronic means permitted by the Board.

8. MINUTES

8.1 Minutes must be kept

The Board must ensure that minutes are kept of all proceedings at meetings of Shareholders.

8.2 Evidence

Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

9. SHAREHOLDER PROPOSALS

9.1 Notice of matter for discussion or resolution

A Shareholder may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote.

9.2 Notice of Shareholder proposal at Company's expense

If the notice is received by the Board not less than 20 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, at the expense of the Company, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

9.3 Notice of Shareholder proposal at Shareholder's expenses

If the notice is received by the Board not less than 5 Business Days and not more than 20 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

9.4 Notice of late Shareholder proposal to be given if practicable

If the notice is received by the Board less than 5 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board may, if practicable, and at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

9.5 Proposing Shareholder's written statement

If the Directors intend that Shareholders may vote on the proposal by proxy or by postal vote, they must give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.

9.6 Limits on obligation to include statement

The Board is not required to include in or with the notice given by the Board a statement prepared by a Shareholder which the Directors consider to be defamatory, frivolous, or vexatious.

9.7 Payment by Shareholder of costs

Where the costs of giving notice of the Shareholder proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder must, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

10. CORPORATIONS MAY ACT BY REPRESENTATIVES

A body corporate which is a Shareholder may appoint a Representative to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy provided that the chairperson of a meeting, the Board, or the persons checking the entitlement of people to attend a meeting, shall waive any time limit for prior notice in respect of a corporation in favour of a person who at a meeting can produce reasonable evidence of their authority to represent the corporation. Until notice of revocation of such authority shall have been given to the Company any person so authorised shall be entitled to exercise the same powers on behalf of the corporation which such person represents as that corporation could exercise if it were an individual member of the Company.

11. VOTES OF JOINT HOLDERS

Where 2 or more persons are registered as the holder of a Share, the vote of the person named first in the Share Register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

12. **LOSS OF VOTING RIGHTS**

12.1 **No vote when amount owing on Share**

A Shareholder is not entitled to vote at any meeting of Shareholders (including a meeting of an Interest Group) in respect of any Share if any amount is due and payable on that Share by the Shareholder to the Company.

12.2 **Voting restrictions**

Notwithstanding anything to the contrary in this Constitution or the Listing Rules, a person is not entitled to cast a vote on a resolution when that person is disqualified from voting by virtue of the voting restrictions specified in the Listing Rules.

12.3 **Deadline for challenge**

Without prejudice to any remedy (other than those which take legal effect against the Company) which any Shareholder may have against any disqualified person who casts a vote at a meeting in breach of paragraph 12.2 of this Schedule, no resolution of, or proceeding at, that meeting may be impugned on the basis of a breach of that paragraph. Any objection by a Shareholder to the accuracy or completeness of any list of Shareholders who are disqualified from voting on a resolution pursuant to paragraph 12.2 of this Schedule, which has been supplied by the Company to the NZX or to any Shareholder on request pursuant to the Listing Rules shall be disregarded by the Company and the chairperson of the relevant meeting if it is notified to the Company later than one Business Day before the time fixed for commencement of the meeting.

SECOND SCHEDULE

PROCEEDINGS OF THE BOARD

1. CHAIRPERSON

1.1 Election of chairperson

The Directors may elect one of their number as chairperson of the Board.

1.2 Terms of office

The Director elected as chairperson holds that office until he or she dies or resigns or the Directors elect a chairperson in his or her place.

1.3 Election of chairperson for particular meetings

If no chairperson is elected, or if at a meeting of the Board the chairperson is not present within 5 minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be chairperson of the meeting.

2. NOTICE OF MEETING

2.1 Convening meetings

A Director or an Employee, if requested by a Director to do so, may convene a meeting of the Board by giving notice in accordance with paragraph 2.2 of this Schedule.

2.2 Notice

The following provisions apply in relation to meetings of the Board (except where otherwise agreed by all Directors in relation to any particular meeting or meetings or as provided in paragraph 2.3 of this Schedule):

- a. not less than two clear days' notice of a meeting of the Board shall be sent to each Director and to an Alternate Director required to receive notice pursuant to clause 21.2, unless the Director waives that right, or a shorter period of notice is required to enable the Board to comply with its obligations under the Listing Rules.
- b. notice to a Director of a meeting of the Board may be:
 - i. delivered to the Director;
 - ii. posted to the address given by the Director to the Company for such purpose; or
 - iv. sent by electronic means in accordance with any request made by the Director from time to time for such purpose.
- c. a notice of meeting shall specify the date, time and place of the meeting and, in the case of a meeting by means of audio, or audio and visual, or electronic communication, the manner in which each Director may participate in the proceedings of the meeting.

- d. a notice given to a director pursuant to this paragraph 2.2 is deemed to be given:
 - i. in the case of delivery, by handing the notice to the Director or by delivery of the notice to the address of the Director;
 - ii. in the case of posting, 3 days after it is posted; or
 - iii. in the case of electronic means, at the time of transmission.

2.3 Irregularity in notice

An irregularity in the notice of the meeting is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.

3. METHOD OF HOLDING MEETINGS

3.1 A meeting of the Board may be held either:

- a. by a number of Directors sufficient to form a quorum being assembled together at the place, date and time appointed for the meeting; or
- b. by means of audio, audio and visual, or electronic communication by which all the Directors participating in the meeting and constituting a quorum can simultaneously hear each other throughout the meeting.

4. QUORUM

4.1 Number constituting quorum

A quorum for a meeting of the Board is three Directors.

4.2 No business without quorum

No business may be transacted at a meeting of Directors if a quorum is not present.

4.3 Alternate Director may be included

In accordance with clause 21.1 of this Constitution an Alternate Director entitled to be present at a meeting shall be included for the purpose of establishing a quorum.

4.4 Interested Director

A Director shall not be counted in the quorum for the purpose of consideration of a matter in which the Director is interested (as defined in section 139 of the Act) unless the matter is one in respect of which Directors are expressly required by the Act to sign a certificate.

5. VOTING

5.1 Number of votes

Every Director has one vote.

5.2 **Chairperson has casting vote**

Subject to any restriction in the Listing Rules, the chairperson has a casting vote.

5.3 **Majority**

A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it.

5.4 **Presumption as to voting**

A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of a resolution of the Board, unless he or she expressly dissents from, or votes against the resolution at the meeting.

5.5 **Disclosure of Interests**

A Director shall comply with the provisions of section 140 of the Act (relating to disclosure of interest of directors) but failure to comply with that section does not affect the operation of paragraph 5.6 of this Schedule.

5.6 **Personal involvement of Directors**

Notwithstanding any rule of law or equity to the contrary, but subject to sections 107(3) and 141 of the Act and section 199(2) of the Act, a Director may:

- a. contract with the Company in any capacity;
- b. be a party to any transaction with the Company;
- c. have any direct or indirect personal involvement or Interest in any transaction or arrangement to which the Company is a party or in which it is otherwise directly or indirectly interested or involved;
- d. become a director or other officer of, or otherwise be Interested in, any corporation promoted by the Company or in which the Company may be directly or indirectly interested as a shareholder or otherwise; and
- e. retain any remuneration, profit or benefits in relation to any of the foregoing;

and no contract or arrangement of any kind referred to in this clause may be avoided by reason of a Director's Interest.

5.7 **Interested Directors may not vote**

A Director who is Interested in a transaction entered into, or to be entered into, by the Company:

- a. may attend a meeting of the Board at which any matter relating to the transaction arises but shall not be included among the Directors present at the meeting for the purposes of a quorum and may not vote on a Board Resolution in respect of any matter relating to the transaction except as provided in paragraph 5.8 of this Schedule;

- b. may sign a document relating to the transaction on behalf of the Company, and may do any other thing in his or her capacity as a Director in relation to the transaction, as if the Director were not interested in the transaction.

5.8 **Exception to voting prohibition**

Notwithstanding the provisions of paragraph 5.7a of this Schedule, a Director may vote in respect of a matter in which he or she is Interested if that matter is one in respect of which, pursuant to an express provision of the Act, Directors are required to sign a certificate or one which relates to the grant of an indemnity pursuant to section 162 of the Act.

5.9 **Alternate Director may vote**

An Alternate Director may attend and vote at meetings of the Board in accordance with and subject to clause 21.2 of this Constitution if the Director that has appointed the Alternate Director is absent from the meeting.

6. **MINUTES**

The Board must ensure minutes are kept of all proceedings at meetings of the Board.

7. **RESOLUTIONS**

7.1 **Written resolution**

A resolution in writing, signed or assented to by all Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

7.2 **Forms of resolution**

Any such resolution may consist of several documents (including those transmitted by electronic means) in like form each signed or assented to by one or more Directors.

7.3 **Resolution to be kept in minute book**

A copy of any such resolution must be entered in the minute book of Board proceedings.

8. **NO NOTICE TO DIRECTORS OUTSIDE NEW ZEALAND**

It is not necessary to give notice of a meeting of the Board to any Director for the time being absent from New Zealand but if a Director is resident outside New Zealand, or to the knowledge of the Company is temporarily absent from New Zealand and the Director has appointed an Alternate Director under the provisions of this Constitution, notice must (subject to clause 21.2 of this Constitution) be given to the Alternate Director.

9. **COMMITTEES**

The proceedings of committees of the Board shall be governed by this Schedule with all necessary modifications, provided that the quorum for such meetings shall be a majority of the members of the committee or where there are more than 3 members of a sub-committee, the quorum shall be 2 members of the committee present or participating in the meeting.

10. **OTHER PROCEEDINGS**

Except as provided in this Schedule the Board may regulate its own procedure.