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Constitution
of
Geneva Finance Limited

Electronic incorporation/adoption - This constitution has been registered electronically and does not require separate certification by a director.



Level 22, 120 Albert Street, Auckland 1010, New Zealand

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Constitution of Geneva Finance Limited

1. Interpretation

1.1 Definitions

In this Constitution, unless the context otherwise requires:

Alternate Director means a person appointed by a Director as his or her alternate in accordance with clause 11;

Audit Committee means the audit committee of the Board;

Board means Directors who number not less than the required quorum acting together as the board of directors of the Company.

Class means a class of Securities having identical rights, privileges, limitations and conditions and includes or excludes Securities which NZX in its discretion deems to be of or not of that class;

Company means Geneva Finance Limited (company no. 1230526);

Companies Act means the Companies Act 1993;

Constitution means this constitution, as altered from time to time;

Director means a person appointed as a director of the Company in accordance with this Constitution;

Dividend means a distribution by the Company other than a distribution to which section 59 (acquisition of ~~Company's company's~~ own Shares) or section 76 (financial assistance in acquisition of ~~Company's company's~~ Shares) of the Companies Act applies;

Employee has the meaning given in the Listing Rules;

Equity Security means an Equity Security, as defined in the Listing Rules, which has been issued, or is to be issued, by the Company, as the case may require;

Executive Director has the meaning given in the Listing Rules;

FMC Act means the Financial Markets Conduct Act 2013;

Independent Director has the meaning given in the Listing Rules;

Interest Group has the meaning given in section 116 of the Companies Act;

Listed has the meaning given in the Listing Rules;

Listing Rules or **Rules** means the NZX Main Board Listing Rules governing the NZX Main Board market (or any successor to that market) in force from time to time (except to the extent of any Ruling);

Main Board means the main board equity security market operated by NZX;

Minimum Holding has the meaning given in the Listing Rules;

NZ Markets Disciplinary Tribunal has the meaning given in the Listing Rules;

NZX means NZX Limited, its successors and assigns and, as the context permits, includes any duly authorised delegate of NZX (including the NZ Markets Disciplinary Tribunal);

Ordinary Resolution means a resolution approved by a simple majority of Shareholders entitled to Vote and voting on the resolution;

Personal Representative means:

- (a) in relation to a deceased individual shareholder, the executor, administrator or trustee of the estate of that shareholder;
- (b) in relation to a bankrupt individual shareholder, the assignee in bankruptcy of that shareholder; and
- (c) in relation to 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 that Act;

Quotation means, in respect of a Class of Securities of the Company, the granting of a right for Trading Participants to quote bids and offers for that Class of Security on NZX. **Quote** and **Quoted** have corresponding meanings;

Representative means a person appointed as a proxy or representative under clause 9 of Schedule 1;

Ruling has the meaning given in the Listing Rules;
~~Security has the meaning given in the Listing Rules;~~

Schedule means the Schedule to this Constitution;

Security has the meaning given in the Listing Rules:-

Share means a share issued, or to be issued, by the Company, as the case may be;

Shareholder means a person whose name is entered in the Share Register as the holder for the time being of one or more Shares;

Share Register means the share register for the Company kept in accordance with the Companies Act;

Special Meeting means any meeting (other than an annual meeting) of Shareholders entitled to Vote on an issue, called at any time by the Board;

Special Resolution means a resolution approved by a majority of 75% or more of the Votes of those Shareholders entitled to Vote and voting on the resolution;

Subsidiary has the meaning given in the Listing Rules;

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Treasury Stock means Shares which have been acquired by ~~that the~~ Company and are held by the Company as treasury stock pursuant to the Companies Act and includes Shares which are held by a Subsidiary other than in accordance with section 82(6) of the Companies Act;

Vote has the meaning given in the Listing Rules; and

Working Day has the meaning given in section 2(1) of the Companies Act.

1.2 Construction

In this Constitution, unless the context otherwise requires:

- (a) subject to clause 1.1:
 - (i) expressions which are defined in the Listing Rules (whether or not expressed with an initial capital letter) have the meanings given by the Listing Rules; and
 - (ii) expressions which are defined in the Companies Act (whether generally or for the purposes of one or more particular provisions) have the meanings given to them by the Companies Act. Where an expression is defined in the Companies Act more than once and in different contexts its meaning will be governed by the context in which it appears in this Constitution.
- (b) the headings appear as a matter of convenience and shall not affect the construction of this Constitution;
- (c) in the absence of an express indication to the contrary, references to clauses or paragraphs are to clauses and paragraphs of this Constitution;
- (d) a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted for that enactment or those regulations;
- (e) the singular includes the plural and vice versa and one gender includes the other genders;
- (f) the words **written** and **writing** include facsimile communications and any other means of communication resulting in permanent visible reproduction;
- (g) the word **person** includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality;
- (h) a reference to a Rule or the Listing Rules includes that Rule or the Listing Rules as from time to time amended or substituted or modified by any NZX ruling relevant to the Company; and
- (i) a reference to permitted by the Companies Act or permitted by the Listing Rules means not prohibited by the Companies Act or not prohibited by the Listing Rules.

1.3 Powers of shareholders

Unless otherwise specified in the Companies Act or this Constitution any power reserved to shareholders may be exercised and any approval of shareholders may be given by Ordinary Resolution.

1.4 Incorporation of provisions

Notwithstanding anything else in this Constitution, for so long as the Company is Listed, this Constitution is deemed to incorporate all provisions of the Listing Rules required under the Listing Rules to be contained or incorporated by reference (and as modified by, and subject to, any Ruling relevant to the Company), as those provisions apply from time to time and as if those provisions were set out in full with any necessary modification.

2. Companies Act 1993

2.1 Companies Act 1993

The Company, the Board, each Director and each Shareholder have the rights, powers, duties and obligations set out in the Companies Act except to the extent that they are negated or modified by this Constitution.

3. Relationship between Constitution and Listing Rules

3.1 Incorporation of Listing Rules

Notwithstanding any other provision in this Constitution, and for so long as the Company is Listed:

- (a) this Constitution is deemed to incorporate all provisions of the Listing Rules required under the Listing Rules to be contained or incorporated by reference in this Constitution;
- (b) the Company must comply with the Listing Rules, and the Listing Rules prevail over any inconsistent provision in this Constitution;
- (c) Shareholders shall not cast a vote if prohibited from doing so by the Listing Rules;
- (d) Directors shall not cast a vote if prohibited from doing so by the Listing Rules;
- (e) No provision in this Constitution will prohibit or restrict any action which is or may be permitted by the Listing Rules to be taken by the Company, each Director or the Shareholders of the Company; and
- (f) If the Listing Rules are changed so that any act or omission by the Company which was formerly prohibited by the Listing Rules, is subsequently required or permitted by the change, the act or omission is deemed to be authorised by this Constitution with effect from the date of the change.

3.2 Effect of failure to comply

Any failure to comply with:

- (a) the Listing Rules; or

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- (b) a provision of this Constitution corresponding with a provision of the Listing Rules (whether such provision is set out in full in this Constitution or is incorporated in it pursuant to clause 3.1),

does 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, except that a party to a transaction or contract who knew of the failure to comply with the Listing Rules is not entitled to enforce that transaction or contract. This clause 3.2 does not affect the rights of any holder of Securities of the Company against the Company or the Board arising from failure to comply with the Listing Rules or those provisions of this Constitution.

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3.3 Effect of Ruling

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

3.4 Cessation

Clauses 1.2(h), 1.4 and this clause 3 apply only for so long as the Company is Listed. If the Company ceases to be Listed, those clauses shall cease to have effect in so far as they relate to the Company's listing on the Main Board.

4. Shares and Shareholders

4.1 Pre-emptive rights

Section 45 of the Companies Act does not apply to the Company.

4.2 Issue of new Securities

Subject to this Constitution, the Board may issue Shares or other Equity Securities to any person and in any number it thinks fit provided that, while the Company is Listed, the issue is made in compliance with the Listing Rules.

4.3 New Shares

Subject to clause 3, further Shares (including different classes of Shares) may be issued which have any one or more of the following features:

- (a) rank equally with, or in priority to, existing Shares in the Company; or
- (b) have deferred, preferred or other special rights or restrictions, whether as to voting rights or Distributions or otherwise; or
- (c) confer preferential rights to Distributions of capital or income; or
- (d) confer special, limited or conditional voting rights; or
- (e) do not confer voting rights; or

- (f) are redeemable in accordance with section 68 of the Companies Act; or
- (g) are convertible.

4.4 Consolidation and subdivision of Securities

The Board may consolidate and divide, or subdivide, Securities or any class of Securities in proportion to those Securities or the Securities in that class.

4.5 Buybacks and redemptions of Equity Securities

Subject to clause 3, the Company may:

- (a) purchase or otherwise acquire Securities issued by the Company and may hold Securities as treasury stock; and
- (b) make an offer to one or more holders of Securities to acquire Securities issued by the Company in such number or proportions as it thinks fit; and
- (c) redeem any redeemable Securities or other Securities held by one or more holders,

in accordance with the Companies Act and the Listing Rules.

4.6 Financial assistance

The Company shall not give financial assistance for the purpose of, or in connection with, the acquisition of any Shares or other Equity Securities issued, or to be issued, by the Company unless giving of that assistance is in accordance with the provisions of the Companies Act and, while the Company is Listed, the Listing Rules.

4.7 Calls on Securities

The Board may make calls on any holder of Securities for any money that is unpaid on their Securities and not otherwise payable at a specified time or times under this Constitution or the terms of issue of those Securities or any contract for the issue of those Securities. The Company has a lien on all of a holder's Securities and all Distributions authorised in respect of such Securities for unpaid calls and instalments in respect of such Securities.

4.8 Bonus issues

Subject to any applicable provisions of this Constitution, the Board may resolve to apply any amount which is available for distribution to Shareholders either:

- (a) in paying up in full Shares or other Securities 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 Securities of the Company who are entitled by the terms of issue of those Securities to participate in bonus issues by the Company, whether at the time the bonus issue is made to the Shareholders, or at some time later, in accordance with

their respective entitlements; or

- (b) in paying up any amount which is unpaid on any Shares or other Securities held by the Shareholders or holders referred to in clause 4.8(a),

or partly in one way and partly in the other.

4.9 Alteration of rights

The Company shall, before taking action affecting the rights attached to any Securities, comply with any applicable provisions of the Companies Act, this Constitution and the Listing Rules. For the purposes of this clause 4, the issue of further Shares or other Equity Securities which rank equally with, or in priority to, any existing Shares or other Equity Securities, whether as to voting rights, Distributions or otherwise, is expressly permitted and deemed not to be action affecting the rights attaching to those existing Shares or other Equity Securities so that there will be no requirement for the holding of any meetings of holders of any Class of Securities in relation to such issue of further Shares or other Equity Securities.

4.10 Non-compliance in certain circumstances

In addition to the provisions of clause 4.9, the Company shall not be required to seek the consent of the holders of any Class of Securities in respect of actions that affect the rights attached to Equity Securities which are not Shares of the Company if:

- (a) those Equity Securities were issued on terms which expressly permitted the action in question to be taken without the prior approval of holders of those Equity Securities, and
- (b) those terms were clearly disclosed in the offering document (if any) pursuant to which those Equity Securities were offered.

This clause 4.10 shall not exempt the Company from compliance with covenants or undertakings which are contained in the document pursuant to which those Equity Securities were issued or constituted.

5. Lien on Securities

5.1 Lien on unpaid and partly paid Securities

The Company shall have a first and paramount lien on every Security which is not a fully paid Security (and any Distributions in respect of that Security) for:

- (a) all unpaid calls, instalments, or other amounts, and any interest payable on those amounts, relating to that Security;
- (b) any amounts the Company may be called upon to pay under any legislation in respect of that Security; and
- (c) sales expenses owing to the Company in respect of any such Security.

The Board may deduct from the Distributions payable to any holder of Securities all sums of money as may be due from that holder to the Company whether on account of calls or instalments upon the specific Securities in respect of which the dividend is

declared or on account of amounts that the Company may be called upon to pay under any statute or legislative enactment in respect of the Securities or otherwise.

5.2 Power of sale

If any amount due in respect of a Security on which the Company has a lien is unpaid for more than 10 working days after notice in writing demanding payment has been given to the holder or the person entitled to receive notices in respect of that Security:

- (a) the Company may sell the Security on such terms as the Board determines; and
- (b) to give effect to any such sale, the Board may authorise any person to execute a transfer of the Security to, or at the direction of, the purchaser.

5.3 Absolute title of purchaser

The title of a purchaser of any Security sold pursuant to clause 5.2 shall not be affected by any irregularity or invalidity in any sale.

5.4 Application of sale proceeds

The net proceeds of sale of any Security sold pursuant to clause 5.2, after deducting expenses of sale, shall be applied in and towards satisfaction of any unpaid calls, instalments or other amount and any interest on those amounts, and the balance (if any) shall be paid to the person entitled to the Security at the date of sale. The remedy of any person aggrieved by such sale shall be in damages only and against the Company exclusively.

6. Transfer of Securities

6.1 Share Register

The Company will maintain a Share Register that records the Shares issued by the Company and states any restrictions or limitations on their transfer and where any document that contains the restrictions or limitations may be inspected. The Share Register may be divided in-to two or more registers kept in different places. The Company must not enter any notice of a trust on the Share Register, or any other register of Equity Securities, whether the trust is express, implied or constructive.

6.2 Transferor to remain holder until registration

The transferor of a Security shall remain the holder of the Security until the name of the transferee is entered in the Securities register.

6.3 Right to transfer

Subject to any restrictions contained in this Constitution, a Shareholder or Personal Representative may transfer any Share:

- (a) under a system of transfer approved under section 376 of the FMC Act which is applicable to the Company; or

- (b) by an instrument of transfer which complies with this Constitution; or
- (c) by any approved system of transfer by electronic means which operates in relation to trading in Securities on any other stock exchange on which the Company's Shares are traded and, in so participating, it shall comply with the requirements of NZX or of the relevant Share transfer system. The Board will not be obliged to enquire as to the due execution of any transfer effected by reason of such system; or
- (d) in accordance with any other system of transfer approved by legislation.

6.4 Method of transfer

A Share which is disposed of in a transaction which complies with the requirements of a system of transfer authorised under clause 6.23(a) may be transferred in accordance with the requirements of that system. Where an instrument of transfer executed by a transferor outside New Zealand would have complied with the provisions of subpart 9 of Part 5 of the FMC Act if it had been executed in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or the Share Registrar.

6.5 Other forms of transfer

An instrument of transfer of Shares to which the provisions of clause 6.3 are not applicable shall:

- (a) be in any common form or any other form approved by the Company or the Share Registrar;
- (b) be signed or executed by or on behalf of the transferor; and
- (c) if registration as holder of the Share imposes a liability on the transferee, be signed or executed by or on behalf of the transferee.

6.6 Delivery to Company

An instrument transferring Shares must be delivered to the Company or to the Share Registrar, together with such evidence (if any) as the Company or the Share Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Shares.

6.7 Power to refuse to register

Subject to clause 3 and section 84 of the Companies Act (which imposes certain procedural requirements on a board), the Board may refuse or delay the registration of any transfer of Securities (subject to their terms of issue) where:

- (a) the Company has a lien over the Shares; or
- (b) permitted to do so by the Companies Act; or
- (c) the transfer is not accompanied by such evidence as the Board or the Company's share registrar may reasonably require to show the right of the transferor to make the transfer; or

- (d) registration, together with the 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 a Minimum Holding; or
- (e) with the approval of NZX, if the transfer is for Shares of a Class that is not Quoted,

provided that the Board resolves to exercise its powers under this clause ~~6.6-7~~ within 30 Working Days after receipt of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee within 5 Working Days of the resolution to refuse or delay registration being passed by the Board.

6.8 Sale of less than Minimum Holding

- (a) The Board may at any time give notice to a holder of Securities holding less than a Minimum Holding of Securities of any Class that if, at the expiration of three months after the date the notice is given, Securities then registered in the name of the holder are less than a Minimum Holding, the Board may exercise the power of sale of those Securities ~~set out in~~ accordance with this clause ~~6.78(d)~~.
- (b) The notice pursuant to clause 6.8(a) shall advise the Shareholder of the Board's intention to proceed with the sale of the said Shares unless the Shareholder acquires further Shares so that the total of the Shares held by the Shareholder is not less than a Minimum Holding.
- (c) If that power of sale becomes exercisable:
 - (i) the Board may arrange for the sale of those shares through NZX or in some other manner approved by NZX;
 - (ii) the holder shall be deemed to have authorised the Company to act on the holder's behalf and to execute all necessary documents for the purposes of that sale;
 - (iii) the purchaser is not bound to see to the application of the purchase money;
 - (iv) the Company shall account to the person who was the holder immediately before or his or her ~~executors, administrators or assigns~~ Personal Representatives for the net proceeds of sale of the Securities (after deduction of reasonable sale expenses and any unpaid calls or any other amounts owing to the Company in respect of the Securities), which shall be held on trust for the holder by the Company and paid to the holder on surrender of any certificates for the Securities sold; and
 - (v) the title of a purchaser of any Securities sold pursuant to this clause 6.8 shall not be affected by any irregularity or invalidity in the exercise of the power of sale or the sale itself.

A certificate signed by a Director that records that a power of sale under this clause 6.8 has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.

6.9 Transfer of Securities other than Shares

This clause 6 shall **also** apply to transfers of Securities of the Company other than Shares with any necessary modifications.

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7. Transmission of shares

7.1 Transmission on death of Shareholder

If a Shareholder dies the survivor, if the deceased was a joint Shareholder, or the Shareholder's Personal Representative, shall be the only person recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder. Nothing in this clause 7 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.

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7.2 Rights of Personal Representatives

A Shareholder's Personal Representative:

- (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 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 paragraph (b).

7.3 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.

7.4 Change of trustees

Shares in the Company standing in the name of the Personal Representative of a deceased Shareholder may be transferred to the new Personal Representative upon any change of Personal Representative of the deceased Shareholder.

8. Proceedings at Meetings of Shareholders and Interest Groups

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- (a) The provisions of ~~the~~ Schedule 1 to this Constitution govern the proceedings at meetings of Shareholders.
- (b) The provisions of Schedule 1 to this Constitution relating to the proceedings at meetings of Shareholders shall also govern proceedings at meetings of any Interest Group required to be held by the Companies Act, the Listing Rules, or this Constitution, with all necessary consequential modifications, except that the quorum shall be the members of the Interest Group holding 5% or more of the voting rights entitled to be exercised on any of the questions to be considered at a meeting of the Interest Group in question.

- (c) If the Board so determines, one meeting may be held by holders constituting more than one Interest Group, so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of members of each Interest Group. Any holder of Securities in the Interest Group, present in person or by Representative, may demand a poll.
- (d) A meeting of the holders of Securities in an Interest Group may be called by the Board at any time, and shall be called on the written request of persons holding Securities 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 of the Interest Group in question. All the provisions of Schedule 1 to this Constitution relating to meetings of Shareholders apply, with all necessary consequential modifications, to a meeting of any Interest Group required to be held by the Companies Act, the Listing Rules, or this Constitution, except that:
 - (i) the necessary quorum is two persons holding, or representing the holders of, Securities in the Interest Group;
 - (ii) if the Board so elects, one meeting may be held of holders constituting more than one Interest Group, so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of members of each Interest Group; and
 - (iii) any holder of Securities in the Interest Group, present in person or by Representative, may demand a poll.

9. Appointment and removal of Directors

9.1 Number and residence

The composition of the Board shall include the following:

- (a) the minimum number of Directors (other than Alternate Directors) is three and, subject to this limitation, the number of Directors to hold office shall be fixed from time to time by the Board. The maximum number of Directors (other than Alternate Directors) may be determined from time to time by the Board, and unless so determined, is eight;
- (b) at least two Directors shall be ordinarily resident in New Zealand; and
- (c) while the Company is Listed, it shall have not less than the minimum number of Independent Directors prescribed in the Listing Rules. The Company and Board shall comply with the Listing Rules applicable to the appointment and identification of Independent Directors.

9.2 Existing Directors

The Directors in office at the date of adoption of this Constitution are deemed to have been appointed in accordance with this Constitution and shall continue in office subject to the provisions of this Constitution. Similarly, the chairperson of the Board on the adoption of this Constitution continues in office and is deemed to have been appointed as chairperson in accordance with this Constitution.

9.3 Vacancies and reduction of numbers

Directors may act notwithstanding any vacancy in their body but, if and for so long as their number is reduced below the number fixed by clause 9.1 as the minimum number of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a meeting of Shareholders, but for no other purpose.

9.4 Nominations as 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) Subject to any restrictions contained in the Companies Act, this Constitution and the Listing Rules, there shall be no restriction on the persons who may be nominated as Directors and ~~there~~ shall not be any pre-condition to the nomination of a Director other than that the nomination complies with this clause 9.

9.5 Individual voting

Subject to clause 9.1 and the Listing Rules, a Director may be appointed by Ordinary Resolution. No resolution to appoint or elect a Director (including a resolution to re-elect any Director appointed under clause 9.6) shall be put to the Shareholders unless:

- (a) the resolution is for the appointment of one Director; or
- (b) the resolution is a single resolution for the appointment of two or more Directors and a separate resolution that it be so voted on has first been passed without a Vote being cast against it,

but nothing in this clause 9.5 shall prevent the election of two or more Directors by ballot or poll.

9.6 Board may appoint Directors

Subject to the ~~NZX Main Board~~ Listing Rules, the Board may at any time appoint a person to be a Director either as an additional Director or to fill a casual vacancy. Any person who is appointed a Director by the Board shall retire from office at the next annual meeting of the Company, but shall be eligible for re-election at that meeting.

9.7 Rotation

Subject to clause 9.8, a Director of an Issuer must not hold office (without re-election) past the third annual meeting following the Director's appointment or 3 years, whichever is longer. However, a Director appointed by the Board must not hold office (without re-election) past the next annual meeting following the Director's appointment.

9.8 Exceptions to rotation

The following Directors shall be exempt from the obligation to retire pursuant to clause 9.7:

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- (a) Directors appointed by the Board who are subject to re-election pursuant to clause 9.6; and
- (b) a Director appointed by an Equity Security holder under the Listing Rules.

9.9 Removal of Directors

A Director may be removed from office by Ordinary Resolution passed at a meeting called for that purpose or for purposes that include the removal of the Director. The notice of meeting must state that the purpose or a purpose of the meeting is the removal of the Director.

9.10 Director ceasing to hold office

The office of Director is vacated if the person holding that office:

- (a) resigns in accordance with the Companies Act; or
- (b) is removed from office in accordance with the Companies Act or this Constitution; or
- (c) becomes disqualified from being a Director pursuant to the Companies Act; or
- (d) dies; or
- (e) acts in a manner which is contrary to any statutory provision or obligation, or contrary to any policy of the Board, and the Board resolves that the office be vacated; or
- (f) is absent for more than three consecutive meetings of the Board, without the Board's permission and the Board resolves that the office be vacated; or
- (g) retires from office, and is not re-elected, under this clause 9.

~~9.11 Existing Directors~~

~~The persons holding office as Directors of the Company on adoption of this Constitution continue in office and are deemed to have been appointed in accordance with this Constitution. Similarly, the chairperson of the Board on the adoption of this Constitution continues in office and is deemed to have been appointed as chairperson in accordance with this Constitution.~~

9.129.11 Timing of retirement and appointment

If:

- (a) a Director retires at a meeting of Shareholders and is not re-elected, the Director shall remain in office until, and his or her retirement shall take effect at, the conclusion of the meeting or any adjournment of that meeting;
- (b) a Director is removed from office at a meeting of Shareholders by Ordinary Resolution, the Director shall remain in office until, and his or her removal shall take effect at, the conclusion of the meeting or any adjournment of that meeting; and
- (c) a person who is not already a Director is appointed or elected as a Director at a

meeting of Shareholders, that person shall take office as a Director immediately after the conclusion of the meeting or after any adjournment of the meeting, whichever is earlier.

9-139.12 Audit Committee

While the Company is Listed, the Company must appoint an Audit Committee in accordance with the Listing Rules. The Audit Committee shall have responsibilities set by the Board but which include those specified in the Listing Rules.

9-149.13 Resignation and removal of Executive Director

An Executive Director shall be subject to the same provisions as to resignation and removal as the other Directors of the Company.

10. Powers and duties of the Board

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10.1 Management by the Board

The business and affairs of the Company shall be managed by or under the direction or supervision of the Board which shall have all the powers necessary for managing and for directing and for supervising the management of the business and affairs of the Company, except to the extent the Companies Act or this Constitution provides otherwise.

10.2 Power to delegate

Subject to the provisions of the Companies Act, the Board may delegate any of its powers to a committee of Directors, a Director or Employee of the Company, or any other person.

11. Alternate Directors

11.1 Appointment

Each Director may from time to time appoint any person who is not already a Director, who is approved by a majority of the Board, to be that Director's alternate. No Director may appoint a deputy or agent otherwise than by way of appointment of an Alternate Director.

11.2 Form of appointment and removal

Any appointment or removal of an Alternate Director must be by notice in writing to the Company signed by the relevant Director.

11.3 Rights of Alternate Director

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

- (a) is not entitled to receive notices of any meetings of the Board unless his or her appointor has given written notice to the Company requesting that notice be given to the alternate Director (subject to such person giving to the Company an address within New Zealand at which notices may be served upon such person)

and the Director who appointed the Alternate Director is known to be either outside of New Zealand or otherwise unable to attend meetings;

- (b) is entitled, in the absence of unavailability of his or her appointor, to attend and vote at any Board meeting at which the appointor is not personally present (whether physically or by audio/video link); and
- (c) in the absence of his or her appointor, is entitled to perform all the functions, and exercise all the powers and is subject to the same duties and obligations, of that Director in the appointing Director's absence (other than the power to appoint an alternate).

11.4 Remuneration and expenses

An Alternate Director is not entitled to any remuneration from the Company in his or her capacity as an Alternate Director other than:

- (a) such proportion (if any) of the remuneration otherwise payable to his or her appointing Director as such appointing Director may by notice in writing to the Company from time to time direct; and
- (b) expenses incurred in attending meetings of the Directors and otherwise in relation to the discharge of duties, which will be paid by the Company,

and shall be entitled to be indemnified by the Company, to the same extent, with any necessary modifications, as if he or she were a Director.

11.5 Cessation of appointment

An Alternate Director will cease to be an Alternate Director:

- (a) if the Director who appointed the Alternate Director ceases for any reason to be a Director, otherwise than by retiring and being re-elected at the same meeting, or revokes the appointment; or
- (b) on the occurrence of any event relating to the Alternate Director which, if the Alternate Director were a Director, would disqualify the Alternate Director from being a Director; or
- (c) **if** the appointment of an Alternate Director is revoked by a majority of the Board.

11.6 Rights and powers of Alternate Director

- (a) Unless otherwise provided by the terms of appointment, and subject to clause 11.1 an Alternate Director shall have the same rights, powers and privileges (excluding the right to be elected as chairperson and excluding the power to appoint an Alternate Director) and shall discharge all the duties of, and be subject to the same provisions as, the Director in whose place the Alternate Director acts.
- (b) An Alternate Director for an Executive Director may not act as an Executive Director.

12. Proceedings of the Board

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- (a) The provisions of ~~the~~ Schedule 2 to this Constitution govern the proceedings of the Board. The Third Schedule to the Companies Act shall not apply to the Company except to the extent that those provisions are included in this Constitution.
- (b) The provisions of this Constitution relating to meetings and proceedings of the Board also apply to meetings and proceedings of any committee of Directors, except to the extent that the Board determines otherwise.

13. Directors' remuneration and other benefits

13.1 Remuneration and benefits

The Board may, subject to the Listing Rules, exercise the power conferred by section 161 of the Companies Act to authorise any payment or other benefit of the kind referred to in that section.

13.2 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 Company's business.

13.3 Special remuneration

Without limiting clause 13.1, the Board may authorise special remuneration to any Director who is or has been engaged by the Company or a Subsidiary to carry out any work or perform any services which is not in the capacity of a Director of the Company or a Subsidiary.

13.4 Other offices with Company held by Director

- (a) Any Director may act by himself or herself or by the Director's firm in a professional capacity for the Company, and the Director or the Director's firm will be entitled to remuneration for professional services as if the Director were not a Director. Nothing in this clause 13.4 authorises a Director or the Director's firm to act as auditor to the Company.
- (b) A Director may hold any other office or place of profit in the Company (other than the office of auditor) in conjunction with the Director's office for such period and on such terms (as to remuneration and otherwise) as the Board may determine.
- (c) Other than as provided in the Companies Act or the Listing Rules, a Director is not disqualified by virtue of his or her office from entering into any transaction with the Company. Any such transaction will be valid and enforceable to the same extent as if he or she were not a Director and not in a fiduciary relationship with the Company.

14. Indemnity and insurance for Directors and employees

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14.1 Indemnity for Directors

Every Director shall be indemnified by the Company for any costs referred to in section 162(3) of the Companies Act and any liability or costs referred to in section 162(4) of the Companies Act. The Board may determine the amounts and terms and conditions of such an indemnity.

14.2 Indemnities and insurance

In addition to the indemnity set out in clause 14.1, the Company may:

- (a) indemnify a ~~Director-director~~ or employee of the Company or a related company for any costs referred to in section 162(3) of the Companies Act. The Board may determine the amounts and terms and conditions of any such indemnity;
- (b) indemnify a ~~Director-director~~ or employee of the Company or a related company in respect of any liability or costs referred to in section 162(4) of the Companies Act. The Board may determine the amounts and terms and conditions of any such indemnity; and
- (c) with the prior approval of the Board effect insurance for a Director or employee of the Company or a related company in respect of any liability or costs referred to in section 162(5) of the Companies Act. The Board may determine the amounts and terms and conditions of any such insurance.

14.3 Interests register

The Board must ensure that particulars of any indemnity given to, or insurance affected for, any Director or employee of the Company or related company, are forthwith entered in the interests register.

14.4 Interpretation

Words given extended meanings by section 162(9) of the Companies Act have those extended meanings in this clause 14.

15. Distributions

15.1 Method of payment

Any Dividend or other money payable to a ~~Security-Share~~holder in respect of Shares may be paid by automatic payment to any bank nominated in writing by the Shareholder or by cheque sent through the post to the registered address of the ~~Security-Share~~holder or in any other manner determined by the Board and directed by the person entitled to the payment. In the case of joint holders, cheques may be sent to the registered address of the person first named on the register or to such person and to such address as the holder or joint holders may in writing direct. 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 holders may give effectual receipts for any Dividends, bonuses, or other money payable in respect of Shares held by them as joint holders.

15.2 Dividends on Shares not fully paid up to be paid pro rata

- (a) All Dividends on Shares not fully paid up must be authorised and paid in proportion to the amount paid to the Company in satisfaction of the liability of the Shareholder to the Company in respect of the Shares. This provision does not apply where Shares have been issued with special rights as to Dividends.
- (b) No amount paid or credited as paid on a Share in advance of calls is to be treated for these purposes as paid on the Share. All Dividends are to be apportioned and paid proportionately to the amounts paid or credited as paid on the Shares during any portion or portions of the period in respect of which the Dividend is paid, but if any Share is issued on terms providing that it ranks for Dividends as from a particular date that Share ranks for Dividends accordingly.

15.3 Currency of payment

The Board may, in its discretion, differentiate between Security holders as to the currency in which ~~dividends-Dividends~~ are to be paid. In exercising that discretion the Board may have regard to the registered address of a Security holder, the register on which a holder's Securities are registered or any other matter the Board considers appropriate. In any case where a ~~dividend-Dividend~~ is to be paid in a currency other than New Zealand currency, the amount payable will be converted from New Zealand currency in a manner, at a time and at an exchange rate determined by the Board.

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15.4 Deductions

The Board may deduct from ~~dividends-Dividends~~ payable to any holder in respect of any Securities any:

- (a) unpaid calls, instalments or other amounts, and any interest payable on such amounts, relating to the specific Securities; and
- (b) amounts the Company may be called upon to pay under any legislation in respect of the specific Securities.

15.5 No interest

No ~~dividend-Dividend~~ or other distribution shall bear interest against the Company unless the applicable terms of issue of the Security expressly provide otherwise.

15.6 Entitlement date

Dividends and other distributions or payments to Security holders will be payable to the persons who are the registered ~~as~~-holders on an entitlement date fixed by the Board.

15.7 Unclaimed distributions

Dividends or other monetary distributions unclaimed for one year after having been authorised may be used for the benefit of the Company until claimed. The Company shall be entitled to mingle the unclaimed distribution with other money of the Company and shall not be required to hold it or to regard it as being impressed with any trust but, subject to compliance with the solvency test, shall pay the distribution to the person producing evidence of entitlement. All ~~dividends-Dividends~~ or other monetary distributions unclaimed for five years after having been authorised

may be forfeited by the Board for the benefit of the Company. The Board shall, nonetheless, 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.

16. Notices

16.1 Method of Service

All notices, reports, accounts or documents required to be sent to a Shareholder shall be sent in the manner set out in section 391 of the Companies Act. Notices to any other person shall be sent in the same manner as if that person was a Shareholder.

16.2 Service of notices outside New Zealand

If a Shareholder 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 or an electronic address, then notices will be posted to that Shareholder at that address outside New Zealand or sent electronically to such electronic address and will be deemed to have been received by that Shareholder 24 hours after the time of the posting.

16.3 Joint holders

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

16.4 Service on Representatives

A notice may be given by the Company to the person or persons entitled to a Share in consequence of the death, bankruptcy or incapacity of a Shareholder by addressing it to such person or persons by name or by title or by any appropriate description, at the address, if any, supplied for the purpose by the person or persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which it might have been given if the death or bankruptcy had not occurred.

17. Inspection of records

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

18. Liquidation

18.1 Distribution of surplus

If the Company is liquidated the liquidator may, with the approval of Shareholders by special resolution, but subject to any other sanction required by the Companies Act:

- (a) divide among the Shareholders in kind the whole or any part of the surplus assets of the Company and for that purpose the liquidator may:
 - (i) fix such values for surplus assets as the liquidator considers to be appropriate, and
 - (ii) determine how the division will be carried out as between Shareholders or different Classes of Shareholder; and
- (b) vest the whole or any part of any such surplus assets in trustees upon such trusts for the benefit of such of those Shareholders 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.

18.2 Distribution in kind

With the approval of the Shareholders by Ordinary Resolution, the liquidator of the Company may divide amongst the Shareholders in kind the whole or any part of the assets of the Company (whether or not they are of the same kind) and for that purpose the liquidator may:

- (a) attribute values to assets as the liquidator considers appropriate; and
- (b) determine how the division will be carried out as between the Shareholders or different Classes of Shareholders.

18.3 Trusts

The liquidator may, with the approval of the ~~shareholders~~ Shareholders of the Company by Ordinary Resolution, vest the whole or any surplus assets in trustees of the Company upon trust for the benefit of the Shareholders. The liquidator may determine the terms of the trust, but so that no Shareholder will be compelled to accept any shares or other securities in relation to which there is any liability.

19. Removal from the New Zealand Register

In the event that:

- (a) the Company has ceased to carry on business, has discharged in full its liabilities to all its known creditors, and has distributed its surplus assets in accordance with this Constitution and the Companies Act; or
- (b) the Company has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court under section 241 of the Companies Act for an order putting the Company into liquidation,

the Board may, in the prescribed form, request the Registrar to remove the Company from the New Zealand register.

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20. Method of contracting

20.1 Deeds

A deed which is to be entered into by the Company may be signed on behalf of the Company, by:

- (a) two or more Directors;
- (b) if there is only one Director, by that Director whose signature must be witnessed;
- (c) one or more attorneys appointed by the Company; or
- (d) any Director, or any other person authorised by the Board, whose signature must be witnessed.

20.2 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.

20.3 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.

20.4 Company may appoint attorneys

The Company may, by an instrument in writing executed in accordance with clauses 20.1 to 20.3, appoint one or more persons as its attorney or attorneys either generally or in relation to a specified matter or matters. An act of an attorney in accordance with the instrument binds the Company.

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Schedule 1

Proceedings at Meetings of Shareholders

1. 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) if determined by the Board, assembled together at the date and time appointed for the meeting and at one or more venues at which, by means of audio, or audio and visual, communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

2. Chairperson

2.1 Chairperson to be Chairperson of the Board

Subject to clause 2.2 of this Schedule, 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.

2.2 Election of Chairperson

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, the Directors present may elect one of their number to be chairperson of the meeting. 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.

2.3 Regulation of procedure

Subject to the provisions of the Companies Act, and except as otherwise provided in this Constitution, the chairperson may regulate the proceedings at meetings of Shareholders.

3. Notice of Meetings

3.1 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 the auditor of the Company not less than 10 Working Days before the meeting. A proxy form must be sent with each notice of meeting.

3.2 Contents of notice

The notice must state:

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- (a) the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it; and
- (b) the text of any Special Resolution to be submitted to the meeting; and
- (c) in the case of Special Resolutions required by section 106(1)(a) or (b) of the Companies Act, the right of a Shareholder under section 110 of the Companies Act.

The notice of meeting must contain or be accompanied by sufficient explanation to enable a reasonable person to understand the effect of the resolutions proposed by the notice.

3.3 Irregularity 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.

3.4 Adjournment

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.

3.5 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.

4. Quorum

4.1 Necessity for quorum

Subject to clause 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 present if three or more of the persons having the right to Vote at the meeting, being Shareholders or their proxies, attorneys or Representatives (in the case of a body corporate), are present in person or by proxy.

4.3 No quorum

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

- (a) in the case of a meeting called by the Board at the request of Shareholders under section 121(b) of the Companies Act, the meeting is dissolved; or

- (b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the Directors may appoint, and, subject to this Constitution, if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the Shareholders or their proxies present are a quorum.

5. Voting

5.1 Voting method/entitlement

Subject to the provisions of clause 5.3 of this Schedule and subject to any rights or restrictions attached to any Share:

- (a) where voting is by voice or a show of hands, 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) one vote in respect of every fully paid Share held by that Shareholder; and
 - (ii) in respect of each Share held by that Shareholder which is not fully paid, a fraction of the vote or votes which would be exercisable if that Share was fully paid. That fraction must be equivalent to the proportion which the amount paid or credited as paid bears to the total amount so paid and payable (excluding amounts paid in advance of a call).
- (c) In the case of an audio, or audio-visual, meeting of Shareholders, unless a poll is demanded, voting at the meeting will be by the Shareholders signifying individually their assent or dissent by voice.

5.2 Votes of joint holders

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

5.3 Voting restrictions

A Shareholder is not entitled to vote at any meeting of Shareholders (including a meeting of an Interest Group):

- (a) in respect of any Share if any amount is due and payable on that Share by the Shareholder to the Company; or
- (b) in favour of a resolution when that person is disqualified from doing so by virtue of any applicable voting restriction in the Listing Rules.

5.4 Validity of votes

In the case of any dispute as to the admission or rejection of a vote the chairperson shall determine the same and such determination made in good faith shall be conclusive.

5.5 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 clause 5.46 of this Schedule.

6. Polls

6.1 Who may demand poll

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

- (a) not ~~less~~ fewer than five Shareholders having the right to Vote at the meeting; or
- (b) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to Vote at the meeting; or
- (c) a Shareholder or Shareholders holding Shares that confer a right to Vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right; or
- (d) the chairperson.

6.2 When poll may be demanded

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

6.3 Counting of Votes

If a poll is taken, Votes must be counted according to the Votes attached to the Shares of each Shareholder present in person or by proxy and voting.

6.4 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.

6.5 Proxy holder may demand poll

For the purposes of this clause 6, the instrument appointing a proxy to Vote at a meeting of the 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.

6.6 Withdrawal of demand

The demand for a poll may be withdrawn.

6.7 Poll to be taken as chairperson directs

Except as provided in clause 6.10 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.

In the case of any dispute as to the admission or rejection of a Vote, the chairperson shall determine the same and such determination made in good faith shall be conclusive.

6.8 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.

6.9 Scrutineers

If a poll is taken the scrutineers shall be the auditors of the Company for the time being unless they are unable or unwilling to act or unless the chairperson directs to the contrary in which case the scrutineers shall be appointed by the chairperson.

6.10 Declaration of result

The chairperson shall be entitled to declare the result of a poll upon the receipt of a certificate from the scrutineers setting out the maximum number of Votes which could be cast at the meeting and that sufficient Votes to determine the result of the resolution have been counted. The scrutineers' certificate may set out the maximum number of Votes which could be cast at the meeting if all persons entitled to attend and Vote at the meeting did so, or it may set out the maximum number of Votes which could be cast at the meeting if all persons at the meeting who are entitled to Vote did Vote.

7. Electronic voting

To the extent permitted by the Companies Act and the Listing Rules, the Board may permit, in relation to a particular meeting or generally:

- (a) the appointment of proxies or Representatives to be made by electronic means;
- (b) postal votes to be cast by electronic means; and
- (c) to the extent permitted by law, votes to be cast on resolutions at meetings of Shareholders (or of other groups) by electronic means.

The procedures in relation to such electronic appointment or electronic voting shall be those required by law (if any) together with any other procedures determined by the Board. If the Board permits electronic appointment of proxies or Representatives or electronic voting in accordance with this clause 7, such electronic appointments may be made or electronic votes cast notwithstanding any other provision of this Constitution.

8. Postal votes

Unless the Board determines otherwise, Shareholders may not exercise the right to vote at a meeting by casting postal votes. If the Board determines that Shareholders may exercise the right to vote at a meeting by casting postal votes, the procedures in relation to postal voting will be those set out in clause 7 of the First Schedule to the Companies Act together with any other procedures

determined by the Board.

9. Proxies and corporate Representatives

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9.1 Right to Vote by proxy

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

9.2 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. A proxy need not be a Shareholder of the Company.

9.3 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.

9.4 Proxy form to be sent with Notice of Meeting

A proxy form must be sent with each notice calling a meeting of the Company which complies with the requirements of the Listing Rules.

9.5 Form of proxy

The proxy form must, as a minimum (so far as the subject matter and form of the resolutions reasonably permit) provide for two-way voting (for and against) on all resolutions, enabling the Shareholder to instruct the proxy as to casting of the vote, and must not be sent with any name or office (e.g., "chairperson of directors") filled in as a proxy holder.

9.6 Multiple appointments

A Shareholder may appoint more than one proxy for a particular meeting, provided that more than one proxy is not appointed to exercise the rights attached to a particular share held by the Shareholder.

9.7 Lodging proxy

No proxy is effective in relation to a meeting unless the proxy form is received by or on behalf of the Company at any place specified for the purpose in the notice of meeting not later than 48 hours before the start of the meeting. If the written notice appointing a proxy is signed under a power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

9.8 Validity of proxy vote

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or mental disorder of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the

Share in respect of which the proxy is given, if no written notice of such death, mental disorder, revocation, or transfer has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

10. Corporate Representatives

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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. A corporate representative shall have the same rights and powers as if the representative were a proxy.

11. Minutes of Shareholder meetings

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The Board must ensure that minutes are kept of all proceedings at meetings of Shareholders. Minutes which have been signed correct by the chairperson are prima facie evidence of the proceedings.

12. Adjourned meetings and disorderly meetings

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12.1 Chairperson's discretion to adjourn meetings

The chairperson at any time during a meeting at which a quorum is present may adjourn the meeting (including either to a later time at the same meeting or to an adjourned meeting).

12.2 Provisions relating to the adjourned meetings

No business can be transacted at any adjourned meeting other than the unfinished business of the original meeting. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in the same manner as the original meeting. Otherwise, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

12.3 Adjournment of disorderly meetings

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 reasons, either adjourn or dissolve the meeting.

12.4 Completion of unfinished business

If any meeting is dissolved by the chairperson pursuant to clause 4412.3 of this Schedule, the unfinished business of the meeting must 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 Companies Act, authorise the Distribution;
- (b) in respect of any resolution concerning the remuneration of the auditors, the meeting is deemed to have resolved that the Board be authorised to fix the

remuneration of the auditors; and

- (c) the chairperson may direct that any item of business which is uncompleted at the meeting, and which in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion.

13. Shareholder Proposals

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. The provisions of clause 9 of the First Schedule of the Companies Act apply to any notice given pursuant to this clause.

~~14. Other proceedings~~

~~Except as provided in this Schedule, the chairperson of a meeting of Shareholders may regulate the proceeding at the meeting.~~

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Schedule 2
Proceedings of the Board

1. Methods of holding meetings

A meeting of the Board may be held either:

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

2. Notice of Meeting

A Director or, if requested by a Director to do so, an Employee of the Company, may convene a meeting of the Board by giving notice in accordance with this clause 2 and clauses 3 and 4 of this Schedule. The notice of meeting may be given to a Director in any of the following ways:

- (a) by giving the notice to the Director in person, or by telephone to the telephone number given by the Director to the Company for purposes of receiving notices, in which case the notice will be deemed to be given when the call is answered by telephone, or other oral communication; or
- (b) by delivery of the notice to the Director, in which case the notice will be deemed to be given when delivered; or
- (c) by posting the notice to the address given by the Director for the purpose of receiving notices, in which case the notice will be deemed to be given three days after it is posted; or
- (d) by sending by electronic means in accordance with any request made by the Director from time to time for such purpose (and any such notice given after 5.00pm on a Working Day will be deemed to have been given on the next Working Day).

3. Length of notice

At least two days' notice of a meeting of the Board must be given unless each Director who did not receive two days' notice waives that right or the chairperson (or Directors who would together constitute a quorum at the meeting) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice of the meeting of the Board may be given, in which event such notice as is practicable in the circumstances must be given.

4. Contents of notice

The notice of meeting must include:

- (a) the date, time and place of the meeting and, if the meeting is to be by means of audio or audio and visual communication, the manner in which the Director will be contacted to participate at the time of the meeting; and
- (b) the matters to be discussed in sufficient detail to enable a reasonable Director to appreciate the general import of the matters unless this is already known to all the Directors or is impracticable in any particular circumstances.

5. Waiver of irregularity

Any irregularity in the notice of a meeting, or failure to comply with clauses 2 to 4 of this Schedule, is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or failure or if all such Directors agree to the waiver.

6. No notice to Directors outside New Zealand

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 11 of this Constitution) be given to the Alternate Director.

7. Meeting and Quorum

Unless otherwise determined by the Board, the quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. No business may be transacted at a meeting of the Board unless a quorum is present. In accordance with clause 11 of this Constitution, an Alternate Director present at a meeting may be included for the purpose of establishing a quorum. If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the following day at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting the Directors present will constitute a quorum.

8. Chairperson

- 8.1** The Directors may elect one of their number as chairperson of the Board and determine the period for which the chairperson is to hold office. A Director may not simultaneously hold the positions of Chief Executive of the Company and chairperson of the Board.
- 8.2** If no chairperson is elected, or if at any meeting the chairperson is not present within five 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.
- 8.3** 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.
- 8.4** Subject to the provisions of the Companies Act, and except as otherwise provided in this Constitution, the chairperson may regulate the proceedings at meetings of the Board.

9. Voting

Each Director has one vote. In the case of an equality of votes the chairperson will

not have a casting vote except where only two Directors form a quorum and are present at the meeting. 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. 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 that Director expressly dissents or expressly abstains from voting on, or votes against, the resolution. An Alternate Director may attend and Vote at meetings of the Board in accordance with and subject to clause 11 of this Constitution if the Director that has appointed the Alternate Director is absent from the meeting.

10. Interested Director may not vote

A Director who is “interested” (as defined in section 139 of the Companies Act) in a matter shall not in a matter:

- (a) vote on a Board resolution in respect of that matter; nor
- (b) be included among the Directors present at a meeting of Directors, for the purpose of a quorum, in considering that matter,

except that a Director may vote in respect of and be counted in the quorum for the Board for the purposes of a matter in which that Director is interested if the matter is one in respect of which, pursuant to an express provision of the Companies Act, Directors are required to sign a certificate or one which relates to the grant of an indemnity under section 162 of the Companies Act.

11. Written resolution

A resolution in writing, signed or assented to by letter, facsimile, or other written form by a majority of the Directors then entitled to vote on that resolution, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Each Director must be given notice of the form of the proposed resolution. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more Directors. A copy of any such resolution must be entered in the minute book of Board proceedings.

12. Minutes

The Board must ensure that minutes are kept of all proceedings of meetings of the Board. Minutes which have been signed correct by the chairperson of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

13. Committees

The Directors may delegate any of their powers, other than powers required by law or the Listing Rules to be dealt with by the Directors, to one or more committees, each consisting of at least one of their number and such other persons as they think fit. A committee shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this Constitution relating to proceedings of Directors apply, with appropriate modification, to meetings of any committee, including the audit committee.

14. Validity of acts

All acts done by any meeting of the Board or of a committee of Directors or by any person acting as a Director are valid notwithstanding:

- (a) any defect in the appointment of any Director or person acting as a Director; or
 - (b) that they or any of them were disqualified; or
- any irregularity in a notice of meeting.

Other Proceedings

Except as set out in this Schedule, the Board may regulate its own procedure.

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