

Draft: 15 October 2019



CONSTITUTION OF CONTACT ENERGY LIMITED

PART A: INTRODUCTION	1
INTERPRETATION	1
1 Defined terms	1
2 Construction	2
3 Confirmation of office	3
THE RELATIONSHIP BETWEEN THIS CONSTITUTION, THE ACT, AND THE RULES	3
4 Effect of the Act on this constitution	3
5 Incorporation of Rules	3
6 Company must comply with Rules while Listed	3
7 Rules prevail	4
8 NZX's rulings	4
9 Failure to comply with Rules has limited effect in some cases	4
PART B: SHARES AND SHAREHOLDERS	4
SHARES	4
10 New Shares	4
11 Share confers rights on shareholder	5
12 Voting restrictions under Rules	5
13 Resolution or proceedings not void	6
14 Further issues of Equity Securities do not affect rights of existing holders	6
15 Cancellation of unpaid amounts subject to Financial Product holder approval	6
16 Consolidation and subdivision	6
17 Bonus issues	6
ISSUE OF EQUITY SECURITIES	7
18 Board to issue Equity Securities	7
SHARE REGISTER	7
19 Share Register may be divided	7
20 Registration of separate parcels	7
21 Trusts not to be entered on registers	7
TRANSFER OF SHARES	7
22 Right to transfer	7
23 Method of transfer	8
24 Other forms of transfer	8
25 Registration	8
26 Participation in share transfer systems	9
27 Transfer of Financial Products other than Shares	9
MINIMUM HOLDINGS	9
28 Compulsory sale of minimum holdings	9

CALLS, FORFEITURE AND LIEN	9
29 Board may make calls on Shares	9
30 Forfeiture of Shares where calls or other amounts unpaid	10
31 Company's lien	10
ACQUISITION OF OWN SHARES, REDEMPTIONS AND FINANCIAL ASSISTANCE	10
32 Company may acquire and hold its own Equity Securities	10
33 Company may acquire Equity Securities on a non-proportional basis	10
34 Company may redeem Equity Securities	10
35 Financial assistance	11
DISTRIBUTIONS	11
36 Board may authorise distributions	11
37 Person to whom distribution payable	11
38 Board's power to authorise dividend is restricted	11
39 Shareholder may waive dividend	12
40 Board deductions from distribution amounts owed to Company or as required by law	12
41 Distributions do not bear interest	12
42 Unclaimed distributions	12
MEETINGS OF SHAREHOLDERS	12
43 Proceedings at meetings of shareholders and interest groups	12
PART C: DIRECTORS	13
APPOINTMENT AND REMOVAL	13
44 Number and residence of Directors is restricted	13
45 Fewer than minimum number of Directors may act for limited purposes	13
46 Appointment of Directors	13
47 Removal of Directors	13
48 Rotation of Directors	13
49 No shareholding qualification for Directors	14
CHAIR	14
50 Election of chair of the Board and term of office	14
VACATION OF OFFICE	14
51 Office of Director vacated in certain cases	14
52 Directors' resignation procedure	14
PROCEEDINGS OF THE BOARD	15
53 Meetings of the Board	15
54 Written resolutions of Board permitted	15
55 Written resolutions may be in counterparts	15

DELEGATION OF POWERS	15
56 Restriction on Board's right to delegate its powers	15
57 Board delegates to comply with conditions	15
INTERESTED DIRECTORS	15
58 Interested Director must not vote	15
REMUNERATION	16
59 Fixing Directors' remuneration	16
60 Expenses and special remuneration	16
ALTERNATE DIRECTORS	16
61 Directors may appoint and remove alternate Directors	16
62 Alternate Director has powers of appointor	17
63 Termination of appointment of alternate Director	17
64 Director may not appoint deputy or agent except as alternate	17
MANAGING DIRECTOR	18
65 Board may appoint Managing Director	18
66 Resignation	18
67 Remuneration of Managing Director	18
68 Powers conferred on Managing Director	18
69 Managing Director has no power to appoint alternate Managing Director	18
PART D: GENERAL	18
INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES	19
70 Company may indemnify directors and employees for certain liabilities	19
71 Company may effect insurance for directors and employees	19
EXECUTION OF CONTRACTS	19
72 Manner of execution	19
73 Company may appoint attorneys	20
LIQUIDATION	20
74 Distribution of assets in kind	20
REMOVAL OF COMPANY FROM REGISTER	20
75 Directors may remove Company from New Zealand register	20
FIRST SCHEDULE: SALE OF LESS THAN MINIMUM HOLDINGS	22
SECOND SCHEDULE: CALLS, FORFEITURE AND LIENS	24
THIRD SCHEDULE: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS	29
FOURTH SCHEDULE: PROCEEDINGS OF THE BOARD	39

PART A: INTRODUCTION

INTERPRETATION

1 Defined terms

In this constitution:

1.1 The following expressions have the following meanings:

Associated Person has the meaning given in the Rules;

the Act means the Companies Act 1993;

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

the Company means Contact Energy Limited;

this constitution means this constitution as it may be altered from time to time in accordance with the Act;

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

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

Financial Product has the meaning given in the Rules;

FMC Act means the Financial Markets Conduct Act 2013;

List, Listed and *Listing* have the meanings given in the Rules;

Managing Director means the Director appointed as managing director of the Company in accordance with *clause 65*;

NZX has the meaning given in the Rules;

Main Board has the meaning given in the Rules;

ordinary resolution has the same meaning in relation to the Company as the expression "Ordinary Resolution of the Issuer" under the Rules;

the Rules means the Listing Rules of NZX as altered from time to time by NZX;

Share means a share in the Company;

Share Register means the register of shareholders required to be kept pursuant to the Act;

special resolution means a resolution approved by a majority of 75 percent of votes of the holders of Equity Securities entitled to vote and voting;

treasury stock means Shares acquired by the Company and held as treasury stock pursuant to the Act and includes Shares held by a subsidiary of the Company other than in accordance with section 82(6) of the Act;

Tribunal has the meaning given in the Rules; and

written or in writing in relation to words, figures and symbols includes all modes of presenting or reproducing those words, figures and symbols in a tangible and visible form.

1.2 Subject to *clause 1.1*, expressions:

- (a) which are defined in the Rules (whether generally or for the purposes of one or more particular provisions whether or not expressed with an initial capital letter) have the meanings given by the Rules; and
- (b) which are defined in the Act (whether generally or for the purposes of one or more particular provisions) have the meanings given to them by the Act. Where an expression is defined in the Act more than once and in different contexts, its meaning will be governed by the context in which it appears in this constitution.

2 Construction

In this constitution:

- 2.1 Headings appear as a matter of convenience and do not affect the interpretation of this constitution.
- 2.2 The singular includes the plural and vice versa, and words importing one gender include the other genders.

-
- 2.3 A reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations.
- 2.4 A reference to a Rule is to that Rule as amended or substituted from time to time.
- 2.5 References to the Company's previous constitution are to those previous constitutions as amended from time to time.
- 2.6 The Schedules form part of this constitution.

3 Confirmation of office

All offices, elections, and appointments (including of, or to, the Board and committees of the Board), registers, registrations, records, instruments, delegations, plans and generally all acts of authority that originated under any previous constitution of the Company and are subsisting and in force on the day on which this constitution is adopted by the shareholders of the Company shall continue and be deemed to be effective and in full force under this constitution.

THE RELATIONSHIP BETWEEN THIS CONSTITUTION, THE ACT, AND THE RULES

4 Effect of the Act on this constitution

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

5 Incorporation of Rules

For so long as the Company is Listed this constitution is deemed to incorporate the provisions of the Rules required under the Rules to be incorporated by reference in this Constitution, as those provisions apply from time to time (and as modified by any waiver or Ruling relevant to the Company).

6 Company must comply with Rules while Listed

For so long as the Company is Listed, subject to the terms of any ruling from time to time given by NZX or the requirements of the Act and any other applicable legislative or regulatory requirement, the Company must comply with the Rules.

7 Rules prevail

For so long as the Company is Listed, but subject to clause 8, if any provision in this constitution is inconsistent with the Rules, the Rules prevail to the extent of the inconsistency.

8 NZX's rulings

If 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 breach of this constitution that act or omission will, unless a contrary intention appears in this constitution, be deemed to be authorised by this constitution.

9 Failure to comply with Rules has limited effect in some cases

Any failure to comply with:

9.1 the Rules; or

9.2 a clause of this constitution corresponding with a provision of the Rules (whether such provision is set out in full in this Constitution or incorporated in it pursuant to clause 5),

does not affect the validity or enforceability of any transaction, contract, action, decision or vote taken at a meeting of Equity Security holders or other matter done or entered into by, or affecting, the Company, except that a party to a transaction or contract who knew of the non-compliance is not entitled to enforce that transaction or contract. This clause does not limit the rights of any Equity Security holders against the Company or the Directors.

PART B: SHARES AND SHAREHOLDERS**SHARES****10 New Shares**

Subject to *clause 18*, further Shares in the Company (including different classes of Shares) may be issued which:

10.1 rank equally with, or in priority to, existing Shares in the Company; or

10.2 have deferred, preferred or other special rights or restrictions, whether as to voting rights or distributions or otherwise; or

10.3 confer preferential rights to distributions of capital or income; or

-
- 10.4 confer special, limited or conditional voting rights; or
- 10.5 do not confer voting rights; or
- 10.6 are redeemable in accordance with section 68 of the Act; or
- 10.7 are convertible; or
- 10.8 have any one or more of the rights or limitations set out in *clauses 10.1 to 10.7*.

Sections 45(1) and 45(2) of the Act shall not apply to the issue of Shares by the Company.

11 Share confers rights on shareholder

11.1 Subject to the terms on which a Share is issued, a Share confers on the holder:

- (a) subject to *clause 12*, the right to one vote (subject to *clause 11.2*), on a poll at a meeting of shareholders on any resolution, including any resolution referred to in section 36(1)(a) of the Act;
- (b) the right to an equal share in dividends authorised by the Board; and
- (c) the right to an equal share in the distribution of the Company's surplus assets.

11.2 Each Share which is not fully paid shall carry only a proportion of the vote which would be exercisable if the Share were fully paid, equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (disregarding any amounts credited and any payment in advance of a call).

12 Voting restrictions under Rules

Notwithstanding anything to the contrary in the Rules or any other provision of this constitution (with the exception of *clause 8*), a person, or any Associated Person of that person, who is prohibited by Rule 6.3 of the Rules from casting a vote in favour of an applicable resolution must not cast such a vote on any Financial Products held by that person, unless that person is permitted to vote by an exception to those voting restrictions contained in the Rules.

13 Resolution or proceedings not void

No resolution of, or proceeding at, a meeting of Financial Product holders will be void on the basis of a breach of *clause 12*.

14 Further issues of Equity Securities do not affect rights of existing holders

Subject to this constitution, the Board may issue Equity Securities that rank as to voting or distribution rights, or both, equally with or in priority to any existing Equity Securities in the Company. Any such issue will not be treated as an action affecting the rights attached to the existing Equity Securities unless the terms of issue of those Equity Securities expressly provide otherwise.

15 Cancellation of unpaid amounts subject to Financial Product holder approval

No obligation to pay any amount which is unpaid on any Equity Security shall be cancelled, reduced or deferred without the authority of an ordinary resolution.

16 Consolidation and subdivision

The Board may, subject to any applicable provisions of the Rules or this constitution:

16.1 consolidate and divide Shares or any class of Shares in proportion to those Shares or the Shares in that class; or

16.2 subdivide Shares or any class of Shares in proportion to those Shares or the Shares in that class.

17 Bonus issues

Subject to any applicable provisions of the Rules or this constitution, the Board may resolve to apply any amount which is available for distribution to shareholders either:

17.1 in paying up in full Shares or other Financial Products of the Company to be issued credited as fully paid to:

(a) the shareholders who would be entitled to that amount if it were distributed by way of dividend, and in the same proportions; and

(b) if applicable, the holders of any other Financial Products of the Company who are entitled by the terms of issue of those 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 time later, in accordance with their respective entitlements; or

17.2 in paying up any amount which is unpaid on any Shares held by the shareholders referred to in *clause 17.1(a)*,

or partly in one way and partly in the other.

ISSUE OF EQUITY SECURITIES

18 Board to issue Equity Securities

The Board may issue Shares or other Equity Securities to any person and in any number it thinks fit provided that:

18.1 the issue does not contravene any other provision of this constitution; and

18.2 while the Company is Listed, the issue is made in compliance with the Rules.

SHARE REGISTER

19 Share Register may be divided

The Share Register may be divided into two or more registers kept in different places.

20 Registration of separate parcels

A holder of Financial Products of the Company or a transferee may request the Company to register the Financial Products held by that person in two or more separately identifiable parcels. Where the Company agrees to such a request, the Company may, so far as it considers convenient, communicate with the holder of the Financial Products, pay dividends and otherwise act in respect of such parcel, as if the separately identifiable parcels belonged to different persons.

21 Trusts not to be entered on registers

The Company must not enter any notice of a trust on the Share Register, or any other register of Equity Securities, whether that trust is express, implied or constructive.

TRANSFER OF SHARES

22 Right to transfer

Subject to any restrictions contained in this constitution, Shares may be transferred:

-
- 22.1 under a system of transfer approved under the FMC Act or pursuant to a “designated settlement system” within the meaning set out in section 156M of the Reserve Bank of New Zealand Act 1989 which is applicable to the Company;
- 22.2 under any other share transfer system which operates in relation to the trading of Financial Products on any stock exchange outside New Zealand on which Shares are listed and which is applicable to the Company; or
- 22.3 by an instrument of transfer which complies with this constitution.

23 Method of transfer

A Share which is disposed of in a transaction which complies with the requirements of a system of transfer referred to in *clauses 22.1* or *22.2* may be transferred in accordance with the requirements of that system. Where an instrument of transfer would have complied with the provisions of the FMC Act if it had been executed by the transferor in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or the Company’s share registrar.

24 Other forms of transfer

An instrument of transfer of shares to which the provisions of *clause 23* are not applicable shall comply with the following provisions:

- 24.1 the form of the instrument of transfer shall be any usual or common form or any other form which the Board or the Company’s share registrar may approve;
- 24.2 the instrument of transfer must be signed or executed by or on behalf of the transferor; and
- 24.3 where the Shares being transferred are not fully paid up, the instrument of transfer must also be signed or executed by or on behalf of the transferee.

25 Registration

- 25.1 Every instrument of transfer shall be delivered to the Company’s share registrar, together with 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. The transferor of a Share shall remain the holder of the Share until the name of the transferee is entered in the Share Register.
- 25.2 The Board may decline to register any transfer of Shares where:

-
- (a) the Company has a lien on any of the Shares; or
 - (b) 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
 - (c) registration, together with the registration of any further transfer then held by the Company and awaiting registration, would result in the proposed transferee or transferor holding Shares of less than a minimum holding,

provided that the Board resolves to exercise its powers under this *clause 25.2* 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 five working days of the resolution being passed by the Board.

26 Participation in share transfer systems

The Company may participate in any share transfer system approved under the FMC Act and implemented by NZX or in any share transfer system which operates in relation to trading in Financial Products 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 Main Board or of the relevant share transfer system. The Board may register any transfer of Financial Products presented for registration in accordance with the requirements of any such system and will not be obliged to enquire as to the due execution of any transfer effected by reason of such system.

27 Transfer of Financial Products other than Shares

Clauses 22 to 26 shall apply to transfers of Financial Products of the Company other than Shares with any necessary modifications.

MINIMUM HOLDINGS

28 Compulsory sale of minimum holdings

The Company may sell Financial Products of less than a minimum holding in accordance with the procedures set out in the First Schedule.

CALLS, FORFEITURE AND LIEN

29 Board may make calls on Shares

The Board may make calls on any shareholder for any money that is unpaid on that shareholder's Shares and not otherwise payable at a specified time or times

under this constitution or the terms of issue of those Shares or any contract for the issue of those Shares. The Second Schedule governs calls on Shares.

30 Forfeiture of Shares where calls or other amounts unpaid

The Board may exercise the rights set out in the Second Schedule for forfeiture of any Shares if the holder of those Shares fails to pay:

30.1 a call, or an instalment of a call, on those Shares; or

30.2 any amount that is payable under this constitution or the terms of issue of those Shares or any contract for the issue of the Shares.

31 Company's lien

The Company has a lien on Shares, proceeds of sale of Shares, and dividends in respect of such Shares on the terms set out in the Second Schedule.

ACQUISITION OF OWN SHARES, REDEMPTIONS AND FINANCIAL ASSISTANCE

32 Company may acquire and hold its own Equity Securities

Subject to the Act, this constitution and the Rules, the Company may purchase or otherwise acquire Equity Securities issued by the Company and may hold those Equity Securities as treasury stock in accordance with the Act, this constitution, and the Rules.

33 Company may acquire Equity Securities on a non-proportional basis

Subject to the Act, this constitution and the Rules, the Board may make an offer to one or more holders of Equity Securities to acquire Equity Securities issued by the Company in such number or proportions as it thinks fit, in accordance with the Act, this constitution, and the Rules.

34 Company may redeem Equity Securities

Subject to the Act, this constitution and the Rules, the Company may:

50.1 redeem Equity Securities:

- (a) at the option of the Company if permitted by their terms of issue; or
- (b) at the option of the holder of the Equity Securities if permitted by their terms of issue; or
- (c) on a date for redemption specified as such in the terms of issue of such Equity Securities,

for a consideration that is specified, calculated by reference to a formula, or required to be fixed by a suitably qualified person who is not associated with or interested in the Company, in accordance with the Act, this constitution, and the Rules; and

50.2 exercise an option to redeem Equity Securities issued by the Company in relation to one or more holders of Equity Securities, in accordance with the Act, this constitution, and the Rules.

35 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 the giving of that assistance is in accordance with the provisions of the Act and the Rules.

DISTRIBUTIONS

36 Board may authorise distributions

The Board may authorise a distribution by the Company in accordance with the Act.

37 Person to whom distribution payable

A distribution shall be payable to the person who is, on the record date, the registered holder of the Share in respect of which the distribution is made.

38 Board's power to authorise dividend is restricted

The Board must not authorise a dividend:

38.1 in respect of some but not all the Shares in a class; or

38.2 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 or under a contract for the issue of the Share. Nothing in this clause prevents the Board issuing Shares wholly or partly in lieu of a dividend in accordance with the Act.

39 Shareholder may waive dividend

Notwithstanding *clause 38*, a shareholder may waive his, her or its entitlement to receive a dividend by giving a written notice to the Company signed by or on behalf of the shareholder.

40 Board deductions from distribution amounts owed to Company or as required by law

The Board may, at its discretion, deduct from any dividend or other distribution payable to a shareholder any amount owed by the shareholder to the Company in respect of which the Company has a lien over the specific Shares on which the dividend or other distribution is payable. The Board must deduct from any dividend or other distribution payable to any shareholder any amount it is required by law to deduct, including withholding and other taxes.

41 Distributions do not bear interest

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

42 Unclaimed distributions

All dividends and other distributions unclaimed for one year after the due date for payment may be invested or otherwise made use of by the Board for the benefit of the Company until claimed. The Company shall be entitled to mingle the 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.

MEETINGS OF SHAREHOLDERS

43 Proceedings at meetings of shareholders and interest groups

The Third Schedule governs the proceedings at meetings of shareholders. The Third Schedule also governs the proceedings of meetings of any interest group required to be held by the Act, the Rules, or this constitution, with all necessary consequential modifications, except that the quorum shall be the members of the interest group holding five percent or more of the total number of Financial Products held by all members of that group having the right to vote at the meeting.

PART C: DIRECTORS

APPOINTMENT AND REMOVAL

44 Number and residence of Directors is restricted

The minimum number of Directors (other than alternate Directors) is three. The maximum number of Directors is eight. The minimum (to not less than three) and/or the maximum number of Directors may be changed by ordinary resolution.

At least two Directors must be ordinarily resident in New Zealand. The minimum number of Independent Directors of the Company shall be two.

45 Fewer than minimum number of Directors may act for limited purposes

The Board may act notwithstanding any vacancy in their body, but, if and for so long as the number of Directors is reduced below the minimum number, the continuing Directors may act for the purpose of increasing the number of Directors to the minimum number (by the Board making an appointment to fill the vacancy, in accordance with this constitution), or of summoning a meeting of Equity Security holders, but for no other purpose.

46 Appointment of Directors

46.1 Subject to the Rules, any natural person who is not disqualified under the Act may be appointed as a Director by an ordinary resolution of Financial Product holders.

46.2 Subject to the Rules, the Board may appoint any person who is not disqualified under the Act to be a Director to fill a casual vacancy or as an addition to the existing Directors, but subject to the maximum number of Directors under *clause 44*. Any Director appointed under this clause may hold office only until the next annual meeting, and is then eligible for election at that meeting.

47 Removal of Directors

Any Director may be removed from office by an ordinary resolution passed at a meeting called for the purpose of, or for purposes that include, removal of the Director.

48 Rotation of Directors

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

49 No shareholding qualification for Directors

There is no shareholding qualification for Directors.

CHAIR

50 Election of chair of the Board and term of office

50.1 The Directors may elect one of their number (other than any Managing Director) as chair, and if they so determine a deputy chair, of the Board. The Managing Director shall not vote on the election of any chair or deputy chair.

50.2 The chair of the Board and, if one has been elected, the deputy chair of the Board holds that office until he or she vacates that office or the Directors elect a chair or deputy chair (as the case may be) in his or her place.

VACATION OF OFFICE

51 Office of Director vacated in certain cases

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

51.1 dies; or

51.2 becomes disqualified from being a director pursuant to the Act; or

51.3 retires from office under *clause 48* and is not re-elected or deemed to have been re-elected under that clause; or

51.4 resigns that office in accordance with this constitution; or

51.5 is removed from office in accordance with this constitution.

52 Directors' resignation procedure

A Director may resign office:

52.1 by signing a written notice of resignation and delivering it to the address for service of the Company, the notice being effective when it is received at that address or at any later time specified in the notice; or

52.2 in any other manner permitted by the Act.

PROCEEDINGS OF THE BOARD

53 Meetings of the Board

The Fourth Schedule governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. The Third Schedule to the Act does not apply to proceedings of the Board.

54 Written resolutions of Board permitted

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

55 Written resolutions may be in counterparts

Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors. A copy of a written resolution, which has been signed and is sent by facsimile or any similar means of communication, will satisfy the requirements of this clause.

DELEGATION OF POWERS

56 Restriction on Board's right to delegate its powers

Subject to the restrictions on delegation in the Act, the Board may delegate any one or more of its powers to a committee of Directors, a Director, an employee of the Company or any other person.

57 Board delegates to comply with conditions

In exercising the Board's delegated powers, any committee of Directors, Director, employee of the Company, or any other person must comply with any conditions that the Board may impose.

INTERESTED DIRECTORS

58 Interested Director must not vote

A Director of the Company who is interested in a transaction entered into, or to be entered into, by the Company must not:

58.1 vote on a Board resolution on a matter relating to that transaction; or

58.2 be counted in the quorum for the purposes of consideration of 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 relating to that transaction in which that Director is interested if the 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.

A Director who is interested in a transaction may:

- (a) attend a meeting of Directors at which a matter relating to the transaction arises; or
- (b) sign a document relating to the transaction on behalf of the Company; or
- (c) do anything else as a Director in relation to the transaction as if he or she were not interested in the transaction.

REMUNERATION

59 Fixing Directors' remuneration

The Board may, subject to the Rules, exercise the power conferred by section 161 of the Act to authorise remuneration and other benefits to and for Directors.

60 Expenses and special remuneration

60.1 A Director may be reimbursed for reasonable travelling, accommodation and other expenses incurred in the course of performing duties or exercising powers as a Director of the Company, without requiring the prior authorisation of shareholders.

60.2 Subject to any applicable restrictions in the Rules, the Board may authorise the payment of special remuneration to a Director for work not in his or her capacity as a director of the Company or a subsidiary of the Company, without requiring the prior authorisation of shareholders if the Board is satisfied that it is fair to the Company.

ALTERNATE DIRECTORS

61 Directors may appoint and remove alternate Directors

Every Director may:

- 61.1 appoint any person who is not a Director and is not disqualified by the Act or this constitution from being a Director, and whose appointment

has been approved in writing by a majority of the other Directors, to act as an alternate Director in his or her place either for a specified period, or generally during the absence or inability to act from time to time of such Director; and

61.2 remove his or her alternate Director from that office,

by giving written notice to that effect to the Company. A majority of the other Directors may similarly remove an alternate of a Director from that office.

62 Alternate Director has powers of appointor

While acting in the place of the Director who appointed him or her, an alternate Director:

62.1 has, and may exercise and discharge, all the powers, rights, duties and privileges of that Director (including the right to receive notice of, be counted as part of the quorum of, and participate in a meeting, of the Board, and to sign any document, including a written resolution, and to act as chair of the Board, but excluding the right to appoint an alternate Director);

62.2 is also subject to the same terms and conditions of appointment as that Director, except that he or she is not entitled to receive remuneration other than such proportion (if any) of the remuneration otherwise payable to his or her appointor as the appointor may direct by notice in writing to the Company.

63 Termination of appointment of alternate Director

The appointment of an alternate Director terminates automatically if the Director who appointed him or her ceases to be a Director or if an event occurs which would cause him or her to vacate office if he or she were a Director. A Director retiring by rotation and being re-elected is not to be treated as having ceased to be a Director for the purposes of this clause.

64 Director may not appoint deputy or agent except as alternate

No Director shall appoint a deputy or agent otherwise than by way of appointment of an alternate in accordance with *clause 61*.

MANAGING DIRECTOR

65 Board may appoint Managing Director

The Board may appoint one of the Directors to the office of Managing Director either for a fixed term or otherwise and on such other terms as the Board thinks fit. Subject to the terms of any agreement entered into between the Board and the Director concerned, the Board may revoke the appointment. The appointment of a Managing Director shall terminate automatically if he or she ceases to be a Director and the Managing Director shall be deemed to have resigned as a Director under *clause 52* if he or she ceases to be an executive of the Company.

66 Resignation

A Managing Director shall, subject to the provisions of any contract between him or her and the Company (but provided that it is not inconsistent with the Rules), be subject to the same provisions concerning rotation, resignation, removal and disqualification as the other Directors. If a Managing Director ceases to hold the office of Director from any cause he or she immediately ceases to be Managing Director.

67 Remuneration of Managing Director

A Managing Director will receive in addition to remuneration for services as a Director such remuneration and benefits as the Board may determine.

68 Powers conferred on Managing Director

Subject to the restrictions on delegation in the Act, the Board may:

68.1 confer on a Managing Director any of the powers exercisable by the Board; and

68.2 without affecting the powers of a Managing Director to act as a member of the Board, impose such terms and conditions and such restrictions as the Board thinks fit; and

68.3 alter or revoke any of the powers it confers under this clause.

69 Managing Director has no power to appoint alternate Managing Director

The power to appoint an alternate Director conferred on Directors by this constitution does not confer on any Managing Director the power to appoint an alternate Managing Director.

PART D: GENERAL

INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

70 Company may indemnify directors and employees for certain liabilities

The Company may indemnify a director or employee of the Company or a related company for any costs referred to in section 162(3) of the Act and any liability or costs referred to in section 162(4) of the Act. The Board may determine the terms and conditions of such an indemnity.

71 Company may effect insurance for directors and employees

The Company may, with the prior approval of the Board, effect insurance for a director or employee of the Company or a related company for any liability or costs referred to in section 162(5) of the Act. The Board may determine the amounts and the terms and conditions of any such insurance.

EXECUTION OF CONTRACTS

72 Manner of execution

A contract or other enforceable obligation may be entered into by the Company as follows:

- 72.1 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) one Director whose signature must be witnessed; or
 - (c) any other person authorised by the Board whose signature must be witnessed; or
 - (d) one or more attorneys appointed by the Company in accordance with this constitution (or any previous constitution);
- 72.2 an obligation which, if entered into by a natural person, is by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and
- 72.3 an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company

in writing or orally by a person acting under the Company's express or implied authority.

73 Company may appoint attorneys

The Company may, by an instrument in writing executed in accordance with *clause 72.1*, 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.

LIQUIDATION

74 Distribution of assets in kind

If the Company is liquidated the liquidator may, with the approval of shareholders by ordinary resolution and any other sanction required by the Act:

74.1 divide among the shareholders in kind the whole or any part of the assets of the Company and for that purpose the liquidator may:

- (a) fix such values for assets as the liquidator considers to be appropriate, and
- (b) determine how the division will be carried out as between shareholders or different classes of shareholder; and

74.2 vest the whole or any part of any such 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 Equity Securities on which there is any liability.

REMOVAL OF COMPANY FROM REGISTER

75 Directors may remove Company from New Zealand register

If the Company:

75.1 has ceased to carry on business, discharged in full its liabilities to all known creditors, and distributed its surplus assets in accordance with the Act; or

75.2 has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court for an order putting the Company into liquidation,

the Board may request the Registrar to remove the Company from the New Zealand register.

FIRST SCHEDULE: SALE OF LESS THAN MINIMUM HOLDINGS

INTERPRETATION

1 Construction

Unless stated otherwise, references to clauses are references to clauses in this Schedule.

NOTICE

2 Notice to holder with less than a minimum holding

Where Shares registered in the name of a holder are less than a minimum holding, the Board may at any time give written notice of that fact and of the provisions of *clause 3* to that holder.

3 Company may sell less than minimum holdings

The Company may at any time not less than three months after a notice has been given under *clause 2*, if Shares then registered in the name of a holder are less than a minimum holding, sell those Shares.

4 Sale procedures

The Board may authorise the transfer of the Shares sold to a purchaser of the Shares. 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. Where the certificate for those Shares, if any, is not delivered to the Company, the Board may issue a new certificate in such manner as it thinks fit and the certificate not delivered is deemed to be cancelled.

5 Application of proceeds

The proceeds of the sale of any Shares sold under *clauses 3* and *4* must be applied as follows:

- 5.1 first, in payment of any reasonable sale expenses.
- 5.2 second, in satisfaction of any unpaid calls or any other amounts owing to the Company in respect of the Shares.
- 5.3 the residue, if any, must be paid to the person who was the holder immediately before the sale or his or her executors, administrators or assigns.

6 Evidence of sale

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

SECOND SCHEDULE: CALLS, FORFEITURE AND LIENS

INTERPRETATION

1 Construction

Unless stated otherwise, references to clauses are references to clauses in this Schedule.

CALLS ON SHARES

2 Shareholders must pay calls

Every shareholder on receiving at least ten working days' notice specifying the time or times and the place of payment must pay, in accordance with that notice, the amount called to be paid in respect of any Shares that shareholder holds. The Board may revoke or postpone a call, or require a call to be paid by instalments.

3 Call made when Board resolution passed

A call is regarded as having been made at the time when the Board resolution authorising the call was passed.

4 Joint holders are jointly and severally liable

The joint holders of a Share are jointly and severally liable to pay all calls for that Share.

5 Unpaid calls will accrue interest

If an amount called is not paid in full at the time specified for payment, the person from whom the amount is due must pay the Company interest on the amount that remains unpaid at a rate determined by the Board and calculated from the time specified for payment until the day of actual payment. Subject to the Rules, the Board may waive some or all of the payment of that interest.

6 Amounts payable under terms of issue treated as calls

Any amount that becomes payable on issue or at any specified date under this constitution or under the terms of issue of Shares or under a contract for the issue of Shares, will be regarded as being a call duly made and payable on the specified date. If the payment is not made, the relevant provisions of this constitution will apply as if the amount had become payable by virtue of a call made in accordance with this constitution.

7 Board may differentiate between shareholders as to calls

Calls may be made in respect of certain Shares and not others and for different amounts in respect of certain Shares. On the issue of Shares, the Board may differentiate between shareholders as to the amount of calls to be paid and the times of payment.

8 Board may accept payment in advance for calls

8.1 Where a shareholder is willing to advance some or all of the money unpaid and uncalled on any Share of that shareholder, the Board may accept the amount advanced on the Company's behalf. The Board may pay interest on that amount at a rate agreed between the Board and that shareholder for the period between the date that the amount is accepted and the date that the amount becomes payable pursuant to a call or the date specified for its payment.

8.2 The Board may at any time repay to any shareholder the whole or any portion of any money so advanced upon giving that holder at least ten working days' notice in writing and as from the date of such repayment interest (if any) shall cease to accrue on the money so repaid.

8.3 A shareholder is not entitled as of right to any payment of interest on any amount so paid in advance and the Board may decline to pay any interest. Any amount so paid in advance must not be taken into account in ascertaining the amount of any dividend or other distribution payable upon the Shares concerned.

FORFEITURE OF SHARES

9 Board may by notice require forfeiture of Shares if calls unpaid

The Board may during the time that a call, instalment, or other amount remains unpaid on a Share, serve a notice on the holder of that Share requiring payment of the unpaid call, instalment, or other amount, together with any accrued interest and any expenses incurred by the Company by reason of non-payment.

10 Notice of forfeiture must satisfy certain requirements

The notice served on a shareholder under *clause 9* must specify a date not earlier than ten working days after the date the notice is served by which the payment is to be made. The notice must also state that in the event of non-payment by the appointed time, the Equity Securities to which the call, instalment, or other amount relates, will be liable to be forfeited by the shareholder.

11 Failure to comply with notice may lead to forfeiture

Where a valid notice under *clause 9* is served on a shareholder and the shareholder fails to comply with the notice, then the Board:

11.1 may resolve that any Share for which that notice was given and all distributions authorised and not paid before the notice was served be forfeited; and

11.2 may cancel any certificate relating to any Share which has been forfeited pursuant to any such resolutions.

12 Board may deal with forfeited Share

A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment or other amount which remains unpaid on the Share is paid.

13 Shareholder whose Shares are forfeited loses rights

A person whose Shares have been forfeited immediately ceases to be a shareholder in respect of those Shares notwithstanding any other provision of this constitution, and remains liable to pay the unpaid amount that the shareholder owes the Company, but that liability shall cease if the Company receives payment in full of all money owing for those Shares.

14 Evidence of forfeiture

A certificate signed by a Director that a Share has been duly forfeited on a stated date is conclusive evidence of the facts stated in that certificate.

15 Company may sell forfeited Share

The Company may receive consideration, if any, given for a forfeited Share following a sale or disposition, and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and register that person as the holder of the Share. That person is not bound to see to the application of the purchase money, if any, nor is the title to the Share affected by any irregularity or invalidity in the procedures under this constitution in respect of the forfeiture, sale or disposal of that Share. Where the certificate, if any, for the forfeited Share is not delivered to the Company, the Board may issue a new certificate distinguishing it as it thinks fit from the certificate not delivered, which is deemed to be cancelled. Any residue after satisfaction of unpaid calls, instalments, premiums or other amounts and interest, and expenses, shall be paid to the previous owner, or to his or her executors, administrators or assigns.

LIEN ON SHARES

16 Company's lien

The Company has a lien, ranking in priority over all other equities, on:

16.1 all Shares registered in the name of a shareholder; and

16.2 all dividends or other distributions authorised in respect of such Shares;
and

16.3 the proceeds of sale of such Shares,

for:

16.4 unpaid calls, instalments, premiums or other amounts payable in respect
of any such Shares; and

16.5 interest on any such calls, instalments, premiums or other amounts; and

16.6 sale expenses owing to the Company in respect of any such Shares; and

16.7 any amounts that the Company may be called on to pay under any statute,
regulation, ordinance or other legislation in respect of the Shares of that
shareholder, whether the period for payment has arrived or not.

17 Waiver of lien

Registration of a transfer of Shares on which the Company has any lien will
operate as a waiver of the lien, unless the Company gives notice to the contrary
to the transferee prior to registration.

18 Company may sell Share on which it has a lien

The Company may sell a Share on which it has a lien in such manner as the
Board thinks fit, where:

18.1 the lien on the Share is for a sum which is presently payable; and

18.2 the registered holder of the Share, or the person entitled to it on his or her
death or bankruptcy, has failed to pay that sum within ten working days
after the Company has served that registered holder written notice
demanding payment of that sum.

19 Company may transfer Share and apply proceeds

- 19.1 The Company may receive consideration given for a Share sold under *clause 18*, and may execute a transfer of a Share in favour of the person to whom the Share is sold, and register that person as the holder of the Share discharged from all calls due prior to the purchase.
- 19.2 The purchaser is not bound to see to the application of the purchase money, and the purchaser's title to the Share is not affected by any irregularity or invalidity in the proceedings relating to the sale. The remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.
- 19.3 If the certificate, if any, for the Share is not delivered to the Company, the Board may issue a new certificate distinguishing it as it thinks fit from the certificate not delivered, which shall be deemed to have been cancelled.
- 19.4 The Company must apply the sale proceeds in payment of the sum presently payable on the lien, and the balance, if any, shall (subject to a like lien for sums not presently payable that existed upon the Share before the sale) be paid to the person who held the Share immediately before the date of sale or to his or her executors, administrators or assigns.

THIRD SCHEDULE: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

INTERPRETATION

1 Construction

- 1.1 Unless stated otherwise, references to clauses are references to clauses in this Schedule.
- 1.2 A reference in this Schedule to a shareholder present at a meeting or entitled to vote at a meeting includes a reference to a proxy of a shareholder, a representative of a corporate shareholder, an attorney of a shareholder, and any person who may lawfully act on behalf of a shareholder.

NOTICE

2 Written notice must be given to shareholders, Directors and auditors

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 any auditor of the Company not less than ten working days before the meeting.

3 Notice must state nature of business

The notice must:

- 3.1 state 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
- 3.2 state the text of any special resolution to be submitted to the meeting or the text of any resolution to be put to the meeting required under the Rules; and
- 3.3 contain or be accompanied by sufficient explanation to enable a reasonable person to understand the effect of the resolutions proposed in the notice; and
- 3.4 comply with the requirements of the Rules.

4 Proxy form must be sent with notice

A proxy form must be sent with each notice of meeting.

5 Irregularities in notice may be waived

Any irregularity in a notice of 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.

6 Company's accidental failure to send notice does not invalidate meeting

The accidental omission to send notice of meeting to, or the failure to receive notice by, any person entitled to that notice, does not invalidate the proceedings at that meeting.

7 Notice of an adjournment

7.1 If a meeting is adjourned for less than 30 days no notice of the time and place of the adjourned meeting need be given other than by announcement at the meeting from which the adjournment took place.

7.2 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in the same way as notice was given of the meeting from which the adjournment took place.

MEETING AND QUORUM

8 Methods of holding meetings

A meeting of shareholders may be held by a number of shareholders, who constitute a quorum:

8.1 being assembled together at the place, date and time appointed for the meeting; or

8.2 participating in the meeting by means of an audio, audio and visual, or electronic communication; or

8.3 by a combination of both the methods described in *clauses 8.1* and *8.2*.

The Company is not required to hold meetings of shareholders in the manner specified in these *clauses 8.2* or *8.3*. Meetings will be held in that manner only if the notice of meeting so specifies or the Board otherwise decides that the Company should do so. To avoid doubt, if a meeting is held in the manner specified in these *clauses 8.2* or *8.3*, a shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

9 Business to be transacted only if a quorum is present

Subject to *clauses 11 and 12*, business may be transacted at a meeting of shareholders only if a quorum is present at the time when the meeting proceeds to business.

10 Quorum for shareholders' meeting

A quorum for a meeting of shareholders is present if five or more shareholders are present holding Shares together carrying at least five percent of the voting rights entitled to be exercised.

11 Meeting convened at shareholders' request dissolved if no quorum

If a quorum is not present within 30 minutes after the time appointed for the meeting convened on the written request of shareholders holding Shares carrying together not less than five percent of the voting rights entitled to be exercised, the meeting will be dissolved automatically.

12 Other meetings to be adjourned if no quorum

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a meeting convened at shareholders' request), the meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time, and place as the Directors may appoint. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders present will constitute a quorum.

CHAIR

13 Chair of Board to be chair of meeting

The chair of the Board, if one has been elected by the Directors and is present at a meeting of shareholders, will chair the meeting.

14 Directors may elect chair if chair of Board not available

If no chair of the Board has been elected or, if at any meeting of shareholders the chair of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting or is unwilling to act, the deputy chair of the Board (if any) shall be the chair, or failing him or her, the Directors present may elect one of their number to be chair of the meeting.

15 As a last resort shareholders may elect chair

If at any meeting of shareholders, no Director is willing to act as chair or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting, the shareholders present may elect one of their number to be chair of the meeting.

16 Chair's power to adjourn meeting

The chair of a meeting at which a quorum is present:

16.1 may adjourn the meeting with the consent of the shareholders present who are entitled to attend and vote at that meeting; and

16.2 must adjourn the meeting if directed by the meeting to do so.

The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

17 Chair may dissolve or adjourn unruly meetings

The chair may adjourn or dissolve the meeting if in his or her opinion the meeting has become so unruly, disorderly or inordinately protracted, that the business of the meeting cannot be conducted in a proper and orderly manner. The chair may exercise this power without the consent of the meeting and without giving reasons.

18 Dissolved meetings - unfinished business

If the chair proposes to dissolve a meeting pursuant to *clause 17*, and there is any item of unfinished business of the meeting which in his or her opinion requires to be voted upon, then that item shall be dealt with by the chair directing it to be put to the vote by a poll without further discussion.

VOTING

19 Voting by show of hands or voice vote at meeting

In the case of a meeting of shareholders held under *clause 8.1*, voting at the meeting will be by a show of hands or by voice vote or by poll, as the chair may determine, unless a poll is demanded or is required under the Rules, in which case it will be by poll.

20 Voting by voice if audio-conference meeting

In the case of a meeting of shareholders held under *clauses 8.2 or 8.3*, unless a poll is demanded or is required under the Rules, voting at the meeting will be by the shareholders signifying individually their assent or dissent by voice or by such other manner as the chair may decide.

21 Voting by electronic means

To the extent permitted by the Act, and if applicable the Rules, the Company may allow shareholders to vote by signifying their assent or dissent by electronic means (including, for the avoidance of doubt, voting on a personal computer or

other electronic device, with such vote being transmitted to the meeting), instead of the shareholder voting by another method permitted by the Act or this constitution.

22 Votes of joint holders

Where two or more persons are registered as the holders 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.

23 Shareholder loses certain voting rights if calls unpaid

If a sum due to the Company in respect of any Share registered in a shareholder's name has not been paid then that Share may be voted at a meeting of an interest group but not at any other meeting of shareholders.

24 Chair not allowed casting vote

In the case of an equality of votes, whether on a show of hands, voice vote or on a poll, the chair does not have a casting vote.

25 Chair's declaration of result

Unless a poll is demanded, a declaration by the chair of the meeting that a resolution on a show of hands or voice vote or by such other manner as the chair may have decided under *clause 20* is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

26 Shareholder participation by electronic means

A shareholder, or the shareholder's proxy or representative, may, to the extent permitted by the Act and the Rules, participate in a meeting by means of audio, audio and visual, or electronic communication if:

26.1 the Board approves those means; and

26.2 the shareholder, proxy, or representative complies with any conditions imposed by the Board in relation to the use of those means (including, for example, conditions relating to the identity of the shareholder, proxy, or representative and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means).

To avoid doubt, participation in a meeting includes participation in any manner specified in Schedule 1 of the Act or this constitution.

POLLS

27 Poll may be demanded by chair or shareholder

At a meeting of shareholders, a poll may be demanded, either before or after a vote by show of hands or voice vote, by:

27.1 the chair, at his or her absolute discretion; or

27.2 at least five shareholders having the right to vote at the meeting; or

27.3 a shareholder or shareholders having the right to exercise at least ten percent of the total votes entitled to be exercised on the business to be transacted at the meeting; or

27.4 a shareholder or shareholders holding Shares that confer a right to vote at the meeting and on which the total amount paid up is at least ten percent of the total amount paid up on all the Shares that confer that right.

28 Time at which polls to be taken

A poll demanded on the election of a chair of a meeting or on a question of adjournment must be taken immediately. A poll demanded on any other question is to be taken at such time as the chair of the meeting directs. The meeting may proceed to deal with any business other than that upon which a poll has been demanded pending the taking of the poll.

29 Counting votes cast in a poll

If a poll is taken, votes must be counted according to the votes attached to the Shares of each shareholder present and voting.

30 Result of a poll to be treated as resolution of the meeting

The result of a poll declared by the chair of the meeting will be treated as the resolution of the meeting at which the poll was demanded on the issue for which the poll was taken.

31 Proxy allowed to demand a poll

The instrument appointing a proxy to vote at a meeting 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.

SHAREHOLDER PROPOSALS

32 Shareholder proposals by written notice

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.

33 Board to give notice of proposal at Company's expense

If the Board receives the notice at least 20 working 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.

34 Board to give notice of proposal at shareholder's expense

If the Board receives the notice at least five working days and not more than 20 working 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.

35 Board must give notice of proposal on short notice

If the notice is received by the Board less than five working 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, 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.

36 Proposing shareholder may include 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.

37 Board may exclude statement in some cases

The Board is not required to include in or with the notice given by the Board:

37.1 any part of a statement prepared by a shareholder which the Directors consider to be defamatory (within the meaning of the Defamation Act 1992), frivolous or vexatious; or

37.2 any part of a proposal or resolution prepared by a shareholder that the Directors consider to be defamatory (within the meaning of the Defamation Act 1992).

38 Shareholder to give security for costs for proposal with short notice

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.

PROXIES

39 Proxies permitted

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

40 Proxy to be treated as shareholder

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

41 Appointment of proxy must be in writing and specify restrictions

A proxy must be appointed by a notice in writing that is signed by, or, in the case of an electronic notice, sent by the shareholder, or by appointing the proxy online as per the Company's instructions in a notice of meeting, and the notice must state whether the appointment is for a particular meeting or a specified term. A proxy need not be a shareholder of the Company.

42 Notice of proxy to be produced at least 48 hours before meeting

No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company at any place specified for that purpose in the notice of meeting. The notice of meeting may provide for different matters for different kinds of proxies (for example, a different specified time for the receipt of a proxy by electronic means). In any case, the time or times specified may not be later than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under 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.

43 Vote by proxy valid where Company not notified before meeting of disqualified proxy

Where:

43.1 the shareholder has died or become incapacitated; or

43.2 the proxy, or the authority under which the proxy was executed, has been revoked; or

43.3 the Share in respect of which the notice of proxy is given has been transferred,

before a meeting at which a proxy exercises a vote in terms of a notice of proxy but the Company does not receive written notice of that death, incapacity, revocation, or transfer before the start of the meeting, the vote of the proxy is valid.

POSTAL VOTES

44 Postal votes

The Board may permit, in relation to a particular meeting or generally, that shareholders may exercise the right to vote at a meeting by casting a postal vote. To avoid doubt, a postal vote may be cast using electronic means permitted by the Board.

CORPORATE REPRESENTATIVES

45 Corporations may act by representative

A body corporate which is a shareholder may appoint a representative to attend any meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy and the provisions of *clauses 39 to 43* (inclusive) shall apply to such appointment as if references to proxy were references to representative. The representative shall be entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder.

MINUTES

46 Board must keep minutes of proceedings

The Board must ensure that minutes are kept of all proceedings at meetings of shareholders and that a record is kept of all written resolutions of shareholders. Minutes which have been signed correct by the chair of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

OTHER PROCEEDINGS

47 Meeting may regulate other proceedings

Except as provided in this Schedule, a meeting of shareholders may regulate its own procedure through the chair.

FOURTH SCHEDULE: PROCEEDINGS OF THE BOARD

NOTICE OF MEETING

1 Director's power to convene meetings

A Director, or any other person at the request of a Director, may convene a meeting of the Board by giving notice in accordance with this Schedule.

2 Notice to be sent to Director's address

The notice of meeting must be a written notice sent to the address or facsimile number, or an electronic mail message sent to the electronic mail address, which the Director provides to the Company for that purpose, or if an address or facsimile number, or electronic mail address, is not provided, then a written notice to his or her last place of employment or residence or facsimile number known to the Company.

3 Notice to contain certain details

The notice of meeting must include the date, time and place of the meeting and an indication of the matters to be discussed in sufficient detail to enable a reasonable Director to appreciate the general import of the matters.

4 Period of notice required to be given to Directors

At least seven days' notice of a meeting of the Board must be given unless the chair (or, in the chair's absence from New Zealand, any other Director) 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, so long as at least 24 hour's notice is given.

5 Absent Directors

If a Director, who is for the time being absent from New Zealand, supplies the Company with a facsimile number or address or electronic mail address to which notices are to be sent during his or her absence, then notice must be given to that Director. Otherwise notice need not be given to any Director for the time being absent from New Zealand. However, if he or she has an alternate Director who is in New Zealand, then notice must be given to that person.

6 Directors may waive irregularities in notice

Any irregularity in the notice of a meeting, or failure to comply with *clauses 1 to 5* 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 Directors entitled to receive notice of the meeting agree to the waiver.

MEETING AND QUORUM

7 Methods of holding meetings

A meeting of the Board may be held either:

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

8 Quorum for Board meeting

The quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. The shareholders may change the number of Directors required for a quorum by ordinary resolution. No business may be transacted at a meeting of the Board unless a quorum is present.

9 Meeting adjourned if no quorum

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the chair will adjourn the meeting to a specified day, time and place, the day being within the next two days. If no such adjournment is made the meeting will be adjourned automatically until the same day in the following week 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.

CHAIR

10 Chair to chair meetings

The chair or, in the absence of the chair, the deputy chair of the Board will chair all meetings of the Board. If no chair or deputy chair is elected, or if at a meeting of the Board the chair or deputy chair is not present within 15 minutes after the time appointed for the commencement of the meeting, then the Directors present may elect one of their number to be chair of the meeting.

VOTING

11 Voting on resolutions

Each Director has one vote. 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 must not vote where that voting by that Director is restricted by the Rules or this constitution. A Director present at a meeting of the Board may abstain from voting on a resolution, and any Director who abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Act.

12 Chair does not have a casting vote

The Chair of the Board does not have a casting vote.

MINUTES

13 Board must keep minutes of proceedings

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

OTHER PROCEEDINGS

14 Board may regulate other proceedings

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