
CONSTITUTION OF ROSS ASSET MANAGEMENT LIMITED

Certified as the constitution of Ross Asset Management Limited.



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CONSTITUTION OF ROSS ASSET MANAGEMENT LIMITED

PART A: INTRODUCTION

INTERPRETATION

1 Defined terms

In this constitution:

1.1 The following expressions have the following meanings:

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 or, if the Company only has one Director, that Director;

the Company means Ross Asset Management 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;

Share means a share in the Company;

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 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 The Schedules form part of this constitution.

THE RELATIONSHIP BETWEEN THIS CONSTITUTION AND THE ACT

3 **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.

4 **Shareholders may alter or revoke this constitution**

The shareholders may alter or revoke this constitution by special resolution.

PART B: SHARES AND SHAREHOLDERS

SHARES

5 **Company's Shares**

At the date of its adoption of this constitution, the Company has 100 Shares. The liability of shareholders to the Company is limited to \$1.00 per Share, when called in accordance with this constitution.

6 **Share confers rights on shareholder**

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

- 6.1 the right to one vote on a poll at a meeting of shareholders on any resolution, including any resolution to:
- 6.1.1 appoint or remove a Director or an auditor in accordance with this constitution;
 - 6.1.2 adopt a constitution;
 - 6.1.3 alter this constitution;
 - 6.1.4 approve a major transaction;

6.1.5 approve an amalgamation under the Act; and

6.1.6 put the Company into liquidation;

6.2 the right to an equal share in dividends authorised by the Board; and

6.3 the right to an equal share in the distribution of the Company's surplus assets.

7 Statement of rights to be given to shareholders

Where the Act requires, the Company must issue a statement of shareholder rights complying with the Act to any shareholder who asks for one.

8 Company must obtain approval before altering shareholders' rights

The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a special resolution of each interest group in accordance with the Act.

ISSUE OF SHARES

9 Board to issue Shares

9.1 Subject to the pre-emptive rights set out in *clause 10*, the Board may issue Shares at any time, to any person, and in any number it thinks fit.

9.2 Subject to this constitution, the Board may issue Shares that rank as to voting or distribution rights, or both, equally with or prior to any existing Shares, and any such issue will not be treated as an action affecting the rights attached to existing Shares.

10 Board must comply with statutory pre-emptive rights

If the Board issues Shares that rank as to voting or distribution rights, or both, equally with or prior to the existing Shares, the Board must first offer those Shares for acquisition to existing shareholders. The Board must make the offer in a manner and on terms that would, if accepted, maintain the existing voting or distribution rights, or both, of the existing shareholders. If any Shares offered to existing shareholders in accordance with this clause are not accepted within 20 working days of the offer to existing shareholders being made, then the Board may dispose of those Shares in its absolute discretion.

SHARE REGISTER

11 Status of registered holder

The Company may treat the registered holder of a Share as the only person entitled to:

- 11.1 exercise the right to vote attaching to the Share;
- 11.2 receive notices;
- 11.3 receive a distribution in respect of the Share; and
- 11.4 exercise the other rights and powers attaching to the Share.

12 Trusts not to be entered on share register

The Company must not enter any notice of a trust, on the share register, whether that trust is express, implied or constructive.

TRANSFER OF SHARES

13 Pre-emptive rights

Any person wishing to transfer Shares must comply with the pre-emption provisions in the First Schedule unless that Schedule provides otherwise. However, this clause does not apply where the Company transfers any Shares which it has acquired and held.

14 Signed transfer to be delivered to Company

Where Shares are to be transferred, a form of transfer signed by the present holder of the Shares, or by that holder's attorney, personal representative, or by any other person who may lawfully sign on behalf of that holder, must be delivered to the Company or to an agent who maintains the Company's share register. The transferee must sign the transfer form if the registration imposes a liability to the Company on the transferee.

15 Shares transferred by entry on share register

Shares shall be transferred by entry on the Company's share register of the name of the transferee which appears on the transfer form delivered to the Company.

16 Board may refuse or delay a Share transfer in certain cases

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares if:

- 16.1 the holder of the Shares has failed to pay the Company an amount due in respect of those Shares, whether by way of consideration for the issue of the Shares or in respect of sums payable by the holder of the Shares in accordance with this constitution;
- 16.2 registration would impose a liability to the Company on the transferee and the transferee has not signed the transfer form;

16.3 the transfer is for more than one class of Shares; or

16.4 the transfer is not accompanied by such evidence as the Board may reasonably require to establish the right of the transferor to make the transfer.

17 Board must refuse a Share transfer in certain cases

The Board must refuse the registration of any transfer of Shares if:

17.1 it is required to do so by law; or

17.2 the pre-emption provisions set out in the First Schedule have not been complied with.

CALLS, FORFEITURE AND LIENS

18 Board may make calls

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.

19 Forfeiture of Shares where calls or other amounts unpaid

The Board may commence procedures in accordance with the Second Schedule for forfeiture of any Shares if the holder of those Shares fails to pay:

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

19.2 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.

20 Company's lien

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

ACQUISITION OF OWN SHARES

21 Company may acquire and hold Shares

The Company may purchase or otherwise acquire Shares and may hold those Shares in accordance with the Act. If the Company intends to transfer any Shares which it has acquired and held, such transfer will be treated as a new issue of Shares and the Board must first comply with the requirements of this constitution for issues of Shares.

22 Board may acquire Shares in the Company on a non-proportional basis

The Board may purchase or otherwise acquire Shares issued by the Company from such shareholders and in such numbers or proportions as it thinks fit, in accordance with the Act.

DISTRIBUTIONS**23 Board may authorise distributions**

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

24 Board's power to authorise dividend is restricted

The Board must not authorise a dividend:

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

24.2 that is of a greater value per Share in respect of some Shares 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 the contract for the issue of the Share. Nothing in this clause prevents the Board issuing Shares wholly or partly in lieu of dividend in accordance with the Act.

25 Shareholder may waive dividend

Notwithstanding *clause 23*, a shareholder may waive his or her entitlement to receive a dividend by giving a written notice to the Company signed by or on behalf of the shareholder.

26 Board may deduct from dividend amounts owed to Company

The Board may, at its discretion, deduct from any dividend payable to any shareholder any amount owed by the shareholder to the Company on account of any call or otherwise.

MEETINGS OF SHAREHOLDERS**27 Company must hold annual meeting of shareholders**

27.1 The Board must call an annual meeting of shareholders to be held:

27.1.1 once in each calendar year; and

27.1.2 not later than 15 months after the date of the previous annual meeting of shareholders; and

27.1.3 not later than 6 months (or such longer period as may be permitted by the Act) after the balance date of the Company.

However no annual meeting need be called and held if everything required to be done at the meeting is done by written resolution in lieu of the annual meeting passed in accordance with this constitution.

27.2 The Company does not have to hold its first annual meeting in the calendar year of its reregistration but must hold that meeting within 18 months of its reregistration.

27.3 The Company must hold the meeting on the date on which it is called by the Board to be held.

28 Company may hold special meetings of shareholders

A special meeting of shareholders entitled to vote on an issue:

28.1 may be called at any time by:

(a) the Board; or

(b) any person who is authorised by this constitution to call such a meeting; and

28.2 must be called by the Board on the written request of shareholders holding Shares carrying together not less than 5 percent of the voting rights entitled to be exercised on the issue.

29 Written shareholders' resolution instead of holding a meeting

29.1 A written resolution signed by at least 75 percent of the shareholders who would be entitled to vote on that resolution at a meeting of shareholders, and who together hold at least 75 percent of the votes entitled to be cast on that resolution, is as valid as if it had been passed at a meeting of those shareholders. Any such resolution may consist of several copies of the resolution, each signed by one or more shareholders. A copy of a resolution, which has been signed and sent by facsimile or any similar means of communication, will satisfy the requirements of this clause.

- 29.2 The Company must send a copy of the resolution to every shareholder who did not sign the resolution or on whose behalf the resolution was not signed, within five working days of the resolution being passed.

31 Proceedings at meetings of shareholders

The Third Schedule governs the proceedings at meetings of shareholders.

PART C: DIRECTORS

APPOINTMENT AND REMOVAL

30 Existing Directors to continue in office

The persons holding office as Directors of the Company, and as chairperson of the Board, on the date of the adoption of this constitution continue in office on and after that adoption until they cease to hold office as such under this Constitution.

31 Shareholders may appoint Directors

Any person who is not disqualified under the Act may be appointed as a Director or the chairperson of the Board by:

31.1 a written notice to the Company signed by shareholders holding Shares which carry more than 50 percent of the total votes attaching to the Shares;
or

31.2 an ordinary resolution of the shareholders; or

31.3 a notice in writing to the Company in accordance with *clause 32.1*.

A director may be appointed chairperson of directors by a notice in writing under *clause 31.1* or an ordinary resolution of the shareholders under *clause 31.2*.

32 Jillian Elizabeth Ross may appoint director

- 32.1 For so long as Jillian Elizabeth Ross is a shareholder she may at any time by notice in writing to the Company expressed in that notice to be given under this *clause 32.1* appoint one person who is not disqualified under the Act as a director and may in the same way at any time remove any director so appointed from office.

- 32.2 For the avoidance of doubt (a) the fact that Jillian Elizabeth Ross may have signed any notice under *clause 31.1* or *33.1* or signed any resolution under *clause 31.2* or *33.2* shall not be deemed to have effected any appointment or removal of any person whom Jillian Elizabeth Ross is entitled to appoint or remove under *clause 32.1*, and (b) nothing in *clause 32.1* shall in any way restrict Jillian Elizabeth Ross

from signing any notice under *clause 31.1* or *clause 33.1* or signing any resolution under *clause 31.2* or *33.2*.

33 Shareholders may remove Directors

Any Director (not being a director appointed pursuant to *clause 32.1*) or the chairperson of the Board may be removed from office by:

33.1 a written notice to the Company signed by shareholders holding Shares which carry more than 50 percent of the total votes attaching to the Shares;
or

33.2 an ordinary resolution passed at a meeting called for the purpose of, or for purposes that include, removal of the Director.

34 Notices of appointment or removal of Directors

Any notice of appointment or removal of a Director under *clause 31.1*, *32.1* or *33.1* may be comprised in one or more written notices. The notice takes effect from the time it is served on the Company in accordance with the Act, or from such later time as the notice states that it is to take effect.

35 Board may fill casual vacancy on the Board

The Board may appoint any person to be a Director to fill a casual vacancy, but subject to the maximum number of Directors provided for under this constitution.

36 Shareholding qualification for Directors

There is no shareholding qualification for Directors.

CHAIRPERSON

37 Directors to elect chairperson of the Board

Subject always to the right of shareholders to appoint the chairperson of the Board, the Directors must (if there is more than one Director) elect one of their number as chairperson of the Board.

38 Chairperson to hold office on certain terms

The chairperson of the Board holds that office until he or she vacates office or the Directors elect a chairperson in his or her place or the shareholders remove him or her from office.

VACATION OF OFFICE

39 Office of Director vacated in certain cases

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

39.1 dies; or

39.2 has attained the age of 70 years, provided that he or she shall not be required to vacate office until the conclusion of the next annual meeting of shareholders or the date of a written resolution in lieu of the annual meeting passed in accordance with this constitution; or

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

39.4 resigns that office in accordance with this constitution; or

39.5 is removed from office in accordance with this constitution.

40 Directors' resignation procedure

A Director may resign office 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 a later time specified in the notice.

MANAGEMENT OF THE COMPANY

41 Board to manage Company

The Company's business and affairs must be managed by, and under the direction or supervision of, the Board, except to the extent that the Act or this constitution provides otherwise.

42 Board has powers necessary to manage Company

The Board has all the powers necessary for managing, and for directing and supervising the management of, the Company's business and affairs, except to the extent that the Act or this constitution provides otherwise.

43 Special resolutions necessary for major transactions

The Company must not enter into a major transaction unless the transaction is:

43.1 approved by a special resolution of shareholders; or

43.2 contingent on approval by a special resolution of shareholders.

PROCEEDINGS OF THE BOARD

44 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.

45 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.

46 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.

DIRECTORS' DUTIES

47 Directors may act in interests of holding company

If at any time the Company is a wholly-owned subsidiary of a body corporate then, when exercising powers or performing duties as a Director, any Director may act in a manner which he or she believes is in the best interests of the Company's holding company even though it may not be in the best interests of the Company.

48 Directors may act in interests of holding company with agreement of other shareholders

If at any time the Company is a subsidiary (but not a wholly-owned subsidiary) of a body corporate then, when exercising powers or performing duties as a Director, any Director may act in a manner which he or she believes is in the best interests of the Company's holding company even though it may not be in the best interests of the Company. However, this clause will apply only if the shareholders other than the Company's holding company have agreed that it will apply.

DELEGATION OF POWERS

49 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.

50 Board delegates to comply with regulations

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

51 Committee proceedings

The provisions of this constitution relating to proceedings of the Board also apply to proceedings of any committee of Directors, except to the extent the Board determines otherwise.

INTERESTED DIRECTORS**52 Directors must disclose their interests**

As soon as a Director becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, then unless the Act provides otherwise or all entitled persons have agreed to or concur in the Company entering into the transaction, that Director must disclose that interest in accordance with the Act.

53 Failure to disclose does not affect validity of transaction

Any failure by a Director to comply with *clause 53* does not affect the validity of a transaction entered into by the Company or the Director. However, the transaction may be avoided under *clause 54*.

54 Company may avoid transaction if Director interested

Where the Company enters into a transaction in which a Director is interested, the Company, if it is permitted to do so by the Act, may avoid that transaction in accordance with the Act. However, if all entitled persons have agreed to or concur in the Company entering into such a transaction then this clause will not apply.

55 Interested Director may vote

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

55.1 vote on a matter relating to the transaction;

55.2 attend a meeting of Directors at which a matter relating to the transaction arises, and be included among the Directors present at the meeting for the purpose of a quorum;

55.3 sign a document relating to the transaction on behalf of the Company; and

55.4 do anything else as a Director in relation to the transaction,

as if he or she were not interested in the transaction.

REMUNERATION

56 Board's power to authorise remuneration and other benefits is limited

The Board may authorise:

- 56.1 the payment of remuneration or the provision of other benefits by the Company to a Director for services as a Director or in any other capacity;
- 56.2 the payment by the Company to a Director of compensation for loss of office;
- 56.3 the making of loans by the Company to a Director;
- 56.4 the giving of guarantees by the Company for debts incurred by a Director; and
- 56.5 the entering into of a contract to do any of the things set out in this clause, only if the relevant action has been approved by a special resolution or with the prior written agreement or concurrence of all entitled persons. This clause does not apply to the payment of remuneration or the provision of other benefits to an executive Director in his or her capacity as an executive or to any other Director in respect of any professional services provided by that Director to the Company.

57 Expenses

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.

ALTERNATE DIRECTORS

58 Directors may appoint and remove alternate Directors

Every Director may:

- 58.1 appoint any person who is not disqualified by the Act 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; and
- 58.2 remove that person from that office,

by giving written notice to that effect to the Company.

59 Alternate Director has powers of appointor

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

59.1 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, participate in, and vote at a meeting of the Board and to sign any document, including a written resolution, and to act as chairperson of the Board, but excluding the right to appoint an alternate Director).

59.2 is also subject to the same terms and conditions of appointment as that Director, except in respect of remuneration.

60 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.

MANAGING DIRECTOR**61 Board may appoint Managing Director**

The Board may appoint one or more Directors to the office of Managing Director for such period and on such 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.

62 Remuneration of Managing Director subject to restrictions on Directors' remuneration

A Managing Director will receive in addition to remuneration and benefits for services as a Director such remuneration and benefits as the Board may determine in accordance with *clause 56*.

63 Powers conferred on Managing Director

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

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

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

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

64 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

CHANGE OF COMPANY NAME

65 A Director may apply to change Company name

A Director may apply to the Registrar of Companies to change the name of the Company if:

65.1 the Board has approved the Director doing so; and

65.2 shareholders have approved the change of name by an ordinary resolution.

INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

66 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 liability or costs for which a director or employee may be indemnified under the Act. The Board may determine the terms and conditions of any such indemnity.

67 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 for which a company may effect insurance for a director or employee under the Act. The Board may determine the amounts and the terms and conditions of any such insurance.

EXECUTION OF CONTRACTS

68 Manner of execution

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

68.1 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 -

68.1.1 two or more Directors; or

68.1.2 if there is only one Director, that Director, whose signature must be witnessed; or

68.1.3 a Director, or any other person or class of person authorised by the Board for the purposes of this clause, whose signature must be witnessed; or

68.1.4 one or more attorneys appointed by the Company in accordance with this constitution;

68.2 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

68.3 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.

69 Company may appoint attorneys

The Company may, by an instrument in writing executed in accordance with *clause 68*, 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

70 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:

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

70.1.1 fix such values for assets as the liquidator considers to be appropriate, and

70.1.2 determine how the division will be carried out as between shareholders or different classes of shareholder;

and

70.2 vest the whole or any part of any such assets in trustees upon such trusts for the benefit 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.

REMOVAL OF COMPANY FROM REGISTER

71 Directors may remove Company from register

If the Company:

71.1 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

71.2 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: PRE-EMPTIVE RIGHTS**INTERPRETATION****1 Defined terms**

In this Schedule:

additional shares means those Shares forming all or part of a shareholder's share entitlement which that shareholder does not accept under *clause 6.3*, but which another shareholder may wish to purchase in addition to that other shareholder's share entitlement;

change of control, in relation to a corporate shareholder of the Company, means a change in the legal or beneficial ownership of any of the shares in the shareholder or of any holding company of the shareholder which results in any other person holding or ultimately controlling, directly or indirectly, shares in the shareholder which, when added to the shares (if any) already so held or ultimately controlled by that person:

- (a) amount to at least 50 percent of the issued or paid up capital of the shareholder;
- (b) enable that other person directly or indirectly to control at least 50 percent of the voting power at a meeting of the shareholder or to appoint the majority of the directors of the shareholder; or
- (c) enable that other person effectively to control the shareholder by any other means;

proposing transferor means a shareholder, or the trustee in bankruptcy, liquidator or personal representative of a shareholder, who wishes to transfer any Share;

share entitlement, in relation to a shareholder, means a proportion of the offered Shares which corresponds as nearly as possible to the proportion that the shareholder's Shares bear to the total number of Shares excluding Shares held by the proposing transferor;

settlement date means the 20th working day after the closing date for acceptance of the proposing transferor's offer or, if the fair value of the Shares is fixed by arbitration, the 20th working day after the date on which the fair value was fixed;

transfer notice means a written notice of the proposing transferor's desire to transfer any Share;

transferee means a person purchasing any Share in accordance with the provisions of this Schedule.

2 Construction

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

OPERATION OF PRE-EMPTIVE RIGHTS

3 Transfer of Shares subject to pre-emptive rights

Subject to the exceptions in *clause 4*, the proposing transferor must not offer to transfer any Share, or to take any step to solicit or accept an offer to purchase any Share, until the pre-emptive rights conferred by this Schedule have been exhausted.

4 Exceptions

The provisions of this Schedule do not apply to the transfer of any Share by a shareholder to:

- 4.1 any person, if the proposed transferee or the instrument of transfer is approved in writing by all the other shareholders.
- 4.2 a wholly-owned subsidiary of that shareholder, where that shareholder is a company;
- 4.3 any spouse, child, adopted child, grandchild, stepchild, son-in-law, or daughter-in-law of that shareholder, or to a trustee of any trust which is, in the Board's opinion, exclusively or principally for the benefit of any of those persons.
- 4.4 the Company.

The Board will not exercise its powers under this constitution to refuse or delay the registration of such a transfer.

PROCEDURES FOR THE TRANSFER OF SHARES

5 Transfer notice

- 5.1 A proposing transferor must first give the Company a transfer notice specifying the Shares on offer and a price which he or she considers to be the fair value of the Shares.

- 5.2 By giving a transfer notice the proposing transferor appoints the Company as the proposing transferor's agent for the sale of the Shares to the other shareholders of the Company or to any other person or persons nominated by the Company. The purchase price will be the fair value specified in the transfer notice or, at the option of the person or persons acquiring the Shares, the fair value of the offered Shares to be fixed in accordance with *clause 7*.
- 5.3 Having given a transfer notice, the proposing transferor may not withdraw from the sale process which these pre-emptive rights provisions contemplate unless:
- 5.3.1 *clause 8* applies; or
- 5.3.2 the proposing transferor first obtains the written consent of all the other shareholders.
- 5.4 The proposing transferor is not obliged to (but may) sell or transfer less than the full number of offered Shares specified in the transfer notice.

6 Company to notify other shareholders

Within 5 working days of receiving a transfer notice the Company must give each of the other shareholders a written notice:

- 6.1 offering that shareholder Shares according to that shareholder's share entitlement at a price equal to their fair value as specified in the transfer notice or fixed in accordance with *clause 7*;
- 6.2 specifying a closing date (being at least 20 and not more than 40 working days after the Company received the transfer notice) after which any offer not accepted will be treated as having been declined.
- 6.3 requesting that shareholder to advise the Company by the closing date:
- 6.3.1 whether that shareholder accepts the offer at the price specified in the transfer notice in respect of all or part of that shareholder's share entitlement;
- 6.3.2 whether that shareholder accepts the offer at a price equal to the fair value to be fixed in accordance with *clause 7*; and
- 6.3.3 the maximum number of additional shares (if any) that shareholder wishes to purchase.

7 Fixing fair value by arbitration

- 7.1 If a shareholder opts to have the price of the Shares fixed in accordance with this *clause 7* then, within 5 working days after the closing date for acceptance of offers, the Company must refer the determination of the fair value of the Shares to arbitration under the Arbitration Act 1908.
- 7.2 The arbitration will be conducted by one arbitrator to be agreed on by the proposing transferor and the Company or, failing agreement, to be appointed by the then Chairperson of the Wellington Branch of the Institute of Chartered Accountants of New Zealand.
- 7.3 From the date of reference to arbitration, but subject to *clause 5.3*, each transferee will be bound to purchase the Shares at the fair value as fixed by arbitration.

8 Proposing transferor's right to withdraw

If the fair value of the Shares fixed by arbitration is less than the fair value of the Shares specified in the transfer notice the proposing transferor may withdraw from the sale process by revoking the transfer notice.

9 Exhaustion of Pre-emptive Rights

If within 60 working days after receiving the transfer notice the Board has failed to find a shareholder or shareholders, (or some other person or persons whom the Board is willing to register as a shareholder or shareholders) willing to purchase all of the Shares specified in the transfer notice, then the Board must give written notice to that effect to the proposing transferor. At any time during the next 60 working days, the proposing transferor may transfer the Shares (or those still unsold) to any person or persons at a price not less than the fair value specified in the transfer notice or fixed by arbitration, whichever is the lesser.

10 Transfer of Shares

On the settlement date:

10.1 each transferee must pay to the proposing transferor the fair value of the Shares specified in the transfer notice or fixed by arbitration (whichever applies); and

10.2 the proposing transferor must transfer the Shares to each transferee.

11 Company's powers where proposing transferor defaults in transferring Shares

- 11.1 If the proposing transferor defaults in transferring any Share, any of the Directors, other than a Director appointed by the proposing transferor, may execute a transfer of any Share and receive the purchase money on behalf of the proposing transferor.

On receipt of the purchase money, the Board must hold the purchase money in trust for the proposing transferor and account to the proposing transferor for it (subject to any lien in favour of the Company). The Board must cause the name of each transferee to be entered in the register of shareholders as holder of the Shares.

- 11.2 The receipt of the Company constitutes a complete discharge to each transferee for the purchase price. After the name of each transferee has been entered on the register of shareholders in respect of the Shares, no person may question the validity of the transfer.

CHANGE OF CONTROL OF SHAREHOLDER

12 Change of control with other shareholders' approval

Clause 13 does not apply to a change of control of a shareholder if have given their written approval to the change of control.

13 Obligations of shareholder subject to change of control

Subject to *clause 12*, if a change of control of a shareholder occurs, then on becoming aware of that change of control, the shareholder which is subject to it must immediately give to the Company:

13.1 written notice of the change of control; and

13.2 an irrevocable transfer notice for all of its Shares.

14 Consequence of failure to give transfer notice

- 14.1 If a shareholder defaults in giving a transfer notice under *clause 13* then:

14.1.1 the Board must give written notice of the default to all of the other shareholders; and

14.1.2 within 10 working days of receiving the Board's notice of the default, any other shareholder, acting on behalf of the defaulting shareholder, may give an irrevocable transfer notice to the Company for all of the defaulting shareholder's Shares.

- 14.2 A shareholder giving a transfer notice to the Company on behalf of the defaulting shareholder must send a copy of it to the defaulting shareholder at the same time.

- 14.3 If any other shareholder gives such a transfer notice, these pre-emptive provisions will apply as if the defaulting shareholder was a proposing transferor who had given

a transfer notice in respect of all of the proposing transferor's Shares, subject to the following provisions:

- 14.3.1 The price is that which the defaulting shareholder may notify to the Company in writing at least 10 working days before the closing date specified in the written notice to shareholders given under *clause 6*. The Company must notify all other shareholders of any such price no later than 3 working days after it receives such notice.
- 14.3.2 If the defaulting shareholder does not so notify the Company of any such price, then at the option of any of the other shareholders willing to purchase the Shares, the price will be the fair value of the Shares as fixed by arbitration under *clause 7*.
- 14.3.3 If the defaulting shareholder is free to sell the Shares under *clause 9*, the other shareholders will be regarded as having approved a change of control under *clause 12*.
- 14.4 If any other shareholder, having become aware of the change of control, fails to give such a transfer notice within the time limit, that shareholder will be regarded as having approved a change of control under *clause 12*.

SECOND SCHEDULE: CALLS, FORFEITURE AND LIENS**INTERPRETATION****1 Clause references**

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 48 hours' written 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 he or she 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. 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 a Share or under a contract for the issue of a Share, 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 holders as to calls

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

8 Board may accept payment in advance for calls

Where a shareholder is willing to advance some or all of the money unpaid and uncalled on any Share or Shares 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.

FORFEITURE OF SHARES

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

The Directors may during the time that a call, instalment, or other amount remains unpaid on a Share, serve a notice on the shareholder requiring payment of the unpaid call, instalment, or other amount, together with any accrued interest.

10 Notice of forfeiture must satisfy certain requirements

The notice served on a shareholder under *clause 9* must specify a date not earlier than 10 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 Shares 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 share certificate relating to any Share which has been forfeited pursuant to any such resolution.

12 Board may deal with forfeited Share

The Board must first offer forfeited Shares to existing shareholders, other than the shareholder holding the forfeited Shares at the time of forfeiture, as if they were new shares about to be issued by the Company. Subject to this requirement, 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 he or she owes the Company, but that liability shall cease if the Company receives payment in full of all money owing for those Shares.

14 Director's statutory declaration is conclusive

A statutory declaration given by a Director that a Share has been duly forfeited on a stated date shall be conclusive evidence of the facts stated in that declaration against any person claiming an entitlement to that Share.

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 shall not be bound to see to the application of the purchase money, if any, nor shall the title to the Share be affected by any irregularity or invalidity in the procedures under this constitution in respect of the forfeiture, sale or disposal of that Share.

LIENS**16 Company's lien**

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

16.1 all Shares registered in the name of a shareholder (whether solely or jointly with others);

16.2 the proceeds of sale of such Shares; and

16.3 all dividends authorised in respect of such Shares,

for:

16.4 unpaid calls and instalments payable in respect of any such Shares;

16.5 interest on any such calls or instalments;

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 law in respect of the Shares of a 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 first gives notice to the contrary to the transferee.

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 10 working days after the Company has served him or her with written notice demanding payment of that sum.

19 The 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 the 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. The purchaser shall not be bound to see to the application of the purchase money, and his or her title to the Shares shall not be affected by any irregularity or invalidity in the proceedings relating to the sale.

19.2 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 entitled to the Shares at the date of sale.

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 10 working days before the meeting.

3 Notice must state nature of business

The notice must state:

- 3.1 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 the text of any special resolution to be submitted to the meeting.

4 Irregularities in notice may be waived

Any 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.

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

If the Company accidentally fails to send notice of a meeting to any person entitled to that notice, the failure to send the notice will not invalidate the proceedings at that meeting.

6 Notice of an adjournment

- 6.1 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.

- 6.2 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

7 **Methods of holding meetings**

A meeting of shareholders may be held either:

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

The Company is not required to hold meetings of shareholders in the manner specified in *clause 7.2*. 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.

8 **Business to be transacted only if a quorum is present**

Business may be transacted at a meeting of shareholders only if a quorum is present at the time when the meeting proceeds to business.

9 **Quorum for shareholders' meeting**

A quorum for a meeting of shareholders is present if the shareholders who are present between them are able to exercise more than 50 percent of the votes to be cast on the business to be transacted by the meeting.

10 **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 together carrying at least 5 percent of the voting rights entitled to be exercised, the meeting will be dissolved automatically.

11 **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 under *clause 28.2* of this constitution), 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.

CHAIRPERSON

12 **Chairperson of Board to be chairperson of meeting**

The chairperson of the Board, if one has been elected by the Directors or appointed by shareholders under this constitution and is present at a meeting of shareholders, will chair the meeting.

13 **Directors may elect chairperson if chairperson of Board not available**

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

14 **As a last resort shareholders may elect chairperson**

If at any meeting of shareholders, no Director is willing to act as chairperson 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 chairperson of the meeting.

15 **Chairperson's power to adjourn meeting**

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

15.1 may adjourn the meeting with the consent of the shareholders entitled to attend and vote at that meeting; and

15.2 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.

VOTING

16 **Voting by show of hands or voice vote at meeting**

In the case of a meeting of shareholders held under *clause 7.1*, unless a poll is demanded, voting at the meeting will be by a show of hands or by voice vote, as the chairperson may determine.

17 **Voting by voice if audio-conference meeting**

In the case of a meeting of shareholders held under *clause 7.2*, unless a poll is demanded, voting at the meeting will be by the shareholders signifying individually their assent or dissent by voice or by such other manner as the chairperson may decide.

18 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.

19 Shareholder loses certain voting rights if calls unpaid

If a sum due to the Company in respect of a 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.

20 Chairperson 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 chairperson of the meeting is not entitled to a casting vote.

21 Chairperson's declaration of result

Unless a poll is demanded, a declaration by the chairperson of the meeting that a resolution on a show of hands or voice vote or by such manner as the chairperson may have decided under *clause 17* is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

POLLS**22 Poll may be demanded by chairperson or shareholders**

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

22.1 the chairperson, at his or her absolute discretion;

22.2 at least 5 shareholders having the right to vote at the meeting;

22.3 a shareholder or shareholders having the right to exercise at least 10 percent of the total votes to be cast on the business to be transacted at the meeting;
or

22.4 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 10 percent of the total amount paid up on all the Shares that confer that right.

23 Time at which polls to be taken

A poll demanded on the election of a chairperson 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 chairperson 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.

24 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.

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

The result of a poll declared by the chairperson 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.

26 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.

27 Chairperson may dissolve or adjourn unruly meetings

The chairperson 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 chairperson may exercise this power without the consent of the meeting and without giving reasons.

28 Dissolved meetings - unfinished business

If the chairperson proposes to dissolve a meeting pursuant to *clause 27*, 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 chairperson directing it to be put to the vote by a poll without further discussion.

SHAREHOLDER PROPOSALS

29 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.

30 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.

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

If the Board receives the notice at least 5 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.

32 Board may give notice of proposal on short notice

If the notice is received by the Board less than 5 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 may, if reasonably 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.

33 Proposing shareholder may include statement

If the Directors intend that shareholders may vote on the proposal by proxy, 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.

34 Board may exclude statement in some cases

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

35 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**36 Proxies permitted**

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

37 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.

38 Appointment of proxy must be in writing and specify restrictions

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

39 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 least 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.

40 Form of notice of proxy

A notice appointing a proxy shall be in such form as the Board may direct.

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

Where:

41.1 the shareholder has died or become incapacitated; or

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

41.3 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**42 Postal votes are not permitted**

A shareholder may not exercise the right to vote at a meeting by casting a postal vote.

CORPORATE REPRESENTATIVES

51 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. The representative shall be entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder.

MINUTES

52 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 chairperson of the meeting are prima facie evidence of the proceedings.

OTHER PROCEEDINGS

53 Meeting may regulate other proceedings

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

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 the matters to be discussed 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 two days' notice of a meeting of the Board must be given unless the chairperson (or, in the chairperson'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 a quorum of 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 one Director. 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 meeting will be adjourned automatically until the following working 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.

CHAIRPERSON

10 **Chairperson to chair meetings**

The chairperson of the Board will chair all meetings of the Board at which he or she is present. If no chairperson of the Board is elected, or if at a meeting of the Board the chairperson of the Board is not present within 5 minutes from the time appointed for the meeting, then the Directors present may elect one of their number to chair 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 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 Chairperson has casting vote

In the case of an equality of votes, the chairperson of the Board has a casting vote.

MINUTES

13 Board must keep minutes of proceedings

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

OTHER PROCEEDINGS

14 Board may regulate other proceedings

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