

Constitution of Kathmandu Holdings Limited

New Zealand Company Number 2334209

Australian Registered Body Number 139 836 918

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CONSTITUTION OF KATHMANDU HOLDINGS LIMITED

1 PRELIMINARY

1.1 Defined terms

In this constitution the following expressions have the following meanings:

Act means the Companies Act 1993;

Board means the Directors of the Company from time to time;

Company means Kathmandu Holdings Limited;

constitution means this constitution as it may be amended 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;

Independent Director has the meaning given to that term by the Listing Rules;

Listing Rules means the Listing Rules applying to the NZX Main Board (or any successor to that market) as altered from time to time by NZX;

NZX means NZX Limited, its successors and assigns and, as the context permits, includes any duly authorised delegate of NZX;

Share means a share in the Company; and

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

1.2 Further definitions

Subject to clause 1.1, expressions:

- (a) which are defined in the Listing Rules (whether or not expressed with an initial capital letter) have the meanings given by the Listing Rules; AND
- (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.

1.3 Construction

In this constitution:

- (a) headings appear as a matter of convenience and do not affect the interpretation of this constitution;



- (b) the singular includes the plural and vice versa, and words importing one gender include the other genders;
- (c) a reference to a call or an amount called in respect of a Share includes an amount that, by the terms of issue of a Share or otherwise, is payable at one or more fixed times;
- (d) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form;
- (e) 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;
- (f) a reference to a Rule or the Listing Rules includes that Rule or the Listing Rules as from time to time amended or substituted;
- (g) a reference to *permitted by the Act* or *permitted by the Listing Rules* means not prohibited by the Act or not prohibited by the Listing Rules; and
- (h) the Schedules form part of this constitution.

1.4 **Enforcement**

- (a) Each Shareholder submits to the non-exclusive jurisdiction of the courts of New Zealand with respect to any proceedings that may be brought at any time relating to this constitution.
- (b) If at any time any provision of this constitution is or becomes illegal, invalid or unenforceable in any respect pursuant to the law of any jurisdiction, then that does not affect or impair:
 - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this constitution; or
 - (ii) the legality, validity or enforceability pursuant to the law of any other jurisdiction of that or any other provision of this constitution.

2 **RELATIONSHIP BETWEEN CONSTITUTION AND LISTING RULES**

2.1 **Incorporation of Listing Rules while listed by NZX**

For so long as the Company is listed by NZX:

- (a) this constitution is deemed to incorporate all provisions of the Listing Rules required under the Listing Rules to be contained or incorporated by reference in this constitution, as those provisions apply from time to time (and as modified by any ruling or waiver relevant to the Company);
- (b) shareholders must not cast a vote if prohibited from doing so by the Listing Rules; and
- (c) Directors must not cast a vote if prohibited from doing so by the Listing Rules.



2.2 Company must comply with Listing Rules while listed by NZX

For so long as the Company is listed by NZX, the Company must comply with the Listing Rules. Subject to clause 2.4, if this constitution contains any provision inconsistent with the Listing Rules, then the Listing Rules prevail.

2.3 Constitution subject to Listing Rules while Company is listed

To the extent that any provision of this constitution is expressed as being subject to the Listing Rules or requires compliance with the Listing Rules, such provision will only be subject to, or require compliance with, the Listing Rules for so long as the Company is listed.

2.4 NZX 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 contravention of the Listing Rules or this constitution that act or omission will, unless a contrary intention appears in this constitution, be deemed to be authorised by the Listing Rules and by this constitution.

2.5 Failure to comply with Listing Rules has limited effect in some cases

Any failure to comply with:

- (a) the Listing Rules; or
- (b) a provision in this constitution corresponding with a provision in the Listing Rules (whether such provision is set out in full in this constitution or incorporated in it pursuant to clause 2.1),

by the Company or shareholders 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 shall not be entitled to enforce that transaction or contract. This clause does not limit the rights of Equity Security holders against the Company or the Directors.

3 SHARES AND SHAREHOLDERS

3.1 Board need not comply with statutory pre-emptive rights

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

3.2 Issue of Shares

- (a) Subject to this constitution and any rights and restrictions attached to a class of Shares or other securities, the Company may by resolution of the Board issue Shares (in different classes), options to acquire Shares, and other securities with rights of conversion to Shares on any terms, to any person, at any time and for any consideration, as the Board resolves.
- (b) Subject to this constitution and the Listing Rules, the Company may:
 - (i) issue preference shares on such terms as the Board may determine;
 - (ii) issue or redeem redeemable Shares on such terms as the Board may determine; and



- (iii) exercise an option to redeem redeemable Shares issued by the Company in relation to one or more holders of redeemable Shares,

in accordance with the Act and the Listing Rules.

3.3 Further issues of Shares do not affect rights of existing shareholders

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

3.4 Conversion, consolidation and subdivision

The Board may:

- (a) convert any issued Shares into another class of Shares on such terms as the Board may determine;
- (b) consolidate and divide Shares or any class of Shares in proportion to those Shares or the Shares in that class; and/or
- (c) subdivide Shares or any class of Shares in proportion to those Shares or the Shares in that class.

3.5 Share register may be divided

The Share register may be divided into 2 or more registers kept in different places.

3.6 Record date for shareholder voting

The Board may determine in a notice of meeting for the purpose of voting at that meeting that those registered shareholders as at 5.00 pm on a day not more than 2 working days before the meeting will be the only persons entitled to exercise the right to vote at that meeting.

3.7 Registration of separate parcels

A shareholder or a transferee may request the Company to register the Shares 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 shareholder of the securities, pay distributions and otherwise act in respect of such parcel, as if the separately identifiable parcels belonged to different persons.

3.8 Board may refuse or delay transfer

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares (subject to their terms of issue) if permitted to do so by the Act or the Listing Rules.

3.9 Compulsory sale of less than Minimum Holdings

- (a) The Company may at any time give notice to a security holder holding less than a Minimum Holding that if, at the expiration of 3 months after the date the notice is given, securities then registered in the name of the holder are less than a Minimum Holding the Company may sell those securities on market (including through a broker acting on the Company's behalf).



- (b) The Board may authorise the transfer of the securities sold by the Company under this clause 3.9 and the holder is deemed to have authorised the Company to act on behalf of the holder and to sign all necessary documents relating to the sale. The purchaser of securities sold by the Company under this clause 3.9 shall have no obligation to ensure the proceeds of the sale of those securities is applied in accordance with this clause 3.9, nor shall the title to the securities 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.
- (c) The proceeds of the sale of any securities sold under this clause must be applied as follows:
- (i) first, in payment of any reasonable sale expenses.
 - (ii) second, in satisfaction of any unpaid calls or any other amounts owing to the Company in respect of the securities.
 - (iii) 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.
- (d) A certificate signed by a Director that records that a power of sale under this clause has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.

3.10 **Board may make calls on Shares**

The Board may make calls on any shareholder for any amount 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 First Schedule governs calls on Shares.

3.11 **Forfeiture of Shares where calls or other amounts unpaid**

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

- (a) a call payable on those Shares; or
- (b) 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,

on or before the date for its payment, together with any accrued interest and any expenses incurred by the Company by reason of the non-payment.

3.12 **Company's lien**

The Company has a lien on Shares and distributions in respect of such Shares on the terms set out in the First Schedule.



3.13 **Company may acquire and hold Shares**

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

- (a) purchase or otherwise acquire Shares issued by the Company and may hold Shares as Treasury Stock; and
- (b) make an offer to one or more holders of Shares to acquire Shares issued by the Company in such number or proportions as it thinks fit,

in accordance with the Act and the Listing Rules.

3.14 **Proceedings at meetings of shareholders and interest groups**

The Second Schedule governs the proceedings at meetings of shareholders. The Second Schedule also governs the proceedings of meetings of any interest group required to be held by the Act, the Listing Rules, or this constitution, with all necessary consequential modifications.

4 **DIRECTORS**

4.1 **Board composition**

The composition of the Board must include the following:

- (a) the minimum number of Directors (other than alternate directors) is three and the maximum number of Directors (other than alternate directors) is eight;
- (b) at least two Directors must be ordinarily resident in New Zealand; and
- (c) while the Company is listed by the NZX, it shall have not less than the minimum number of Independent Directors prescribed by the Listing Rules.

4.2 **Independent Directors**

While the Company is listed by the NZX, the Company and the Board shall comply with the Listing Rules applicable to the appointment and identification of Independent Directors under clause 4.1(c).

4.3 **Appointment of Directors**

- (a) Any natural person who is not disqualified under the Act and, if required under the Listing Rules, who has been nominated within the time limits under (and in accordance with the other requirements of) the Listing Rules, may be appointed as a Director by an ordinary resolution of shareholders.
- (b) The Board may appoint any person who is not disqualified under the Act to be a Director to fill a vacancy or as an addition to the existing Directors. Any Director appointed under this clause (including any person who subsequent to his or her appointment as a Director becomes an executive Director) may hold office only until the next annual meeting, and is then eligible for election.
- (c) The persons holding office as directors of the Company on adoption of this constitution continue in office and are deemed to have been appointed as Directors pursuant to this constitution. Similarly the chairperson of the Board continues in office and is deemed to have been appointed as chairperson pursuant to this constitution.



4.4 **Rotation of Directors**

- (a) Each Director shall retire from office when required to do so by the Listing Rules, but, subject to the Listing Rules, shall be eligible for re-election (including at any meeting at which the Director retires).
- (b) A Director retiring at a meeting of shareholders continues to hold office:
 - (i) until he or she is re-elected; or
 - (ii) if he or she is not re-elected, until the end of the meeting of shareholders at which he or she retires (or any adjournment of that meeting).

4.5 **No shareholding qualification for Directors**

There is no shareholding qualification for Directors.

4.6 **Election of chairperson of the Board and term of office**

- (a) The Directors may elect one of their number as chairperson and, if they so determine a deputy chairperson, of the Board.
- (b) The chairperson of the Board and, if one has been elected, the deputy chairperson of the Board holds that office until he or she vacates that office or the Directors elect a chairperson or deputy chairperson (as the case may be) in his or her place.

4.7 **Office of Director vacated in certain cases**

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

- (a) dies;
- (b) is removed from office pursuant to the Act;
- (c) is an executive Director and ceases to be an employee of the Company or of a related body corporate of the Company;
- (d) becomes an insolvent under administration;
- (e) becomes of unsound mind or a person whose property is liable to be dealt with pursuant to a law about mental health; or
- (f) is absent from 3 consecutive meetings of the Board without leave being granted by a resolution of the Board and the Board resolves that the Director has vacated office;
- (g) becomes disqualified from being a director pursuant to the Act; or
- (h) retires from office and is not re-elected or deemed to have been re-elected under this constitution.

4.8 **Meetings of the Board**

The Third 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.



4.9 Written resolutions of Board permitted

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

4.10 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 email or any similar means of communication (including PDF counterparts), will satisfy the requirements of this clause.

4.11 Board delegates to comply with regulations

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

4.12 Committee proceedings

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

4.13 Directors may appoint and remove alternate Directors

Every Director may:

- (a) 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
- (b) 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.

4.14 Alternate Director has powers of appointer

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

- (a) 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 chairperson of the Board, but excluding the right to appoint an alternate Director); and
- (b) 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.

4.15 Remuneration of alternate Director

Each alternate director's remuneration (if any) must be paid by the Director who appointed the alternate Director.



4.16 **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.

5 **DIRECTORS' REMUNERATION**

5.1 **Executive Directors**

Nothing in the Listing Rules concerning the payment of remuneration to Directors in their capacity as Directors of the Company or any subsidiary shall affect the remuneration of executive Directors in their capacity as executives.

5.2 **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 without requiring the prior approval of shareholders.

5.3 **Special remuneration**

Notwithstanding anything in the Listing Rules governing the authorisation of remuneration payable to Directors in their capacity as Directors of the Company or any subsidiary by holders of Shares, but subject to the Listing Rules applicable to transactions with related parties of the Company, the Board may authorise special remuneration to any Director who is or has been engaged by the Company or a subsidiary to carry out any work or perform any services which is not in the capacity of a director of the Company or a subsidiary.

6 **INDEMNITY AND INSURANCE**

6.1 **Company may indemnify Directors and employees for certain liabilities**

The Company shall 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 such an indemnity.

6.2 **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.

7 **DISTRIBUTIONS**

7.1 **Method of payment**

Any distribution or other money payable to a shareholder may be paid by cheque sent through the post to the registered address of the shareholder or in any other manner determined by the Board and directed by the person entitled to the payment. In the case of joint holders, cheques may be sent to the registered address of the person first named on the share register.



7.2 **Currency of payment**

The Board may, in its discretion, differentiate between shareholders as to the currency in which distributions are to be paid. In exercising that discretion the Board may have regard to the registered address of a shareholder, the share register on which a shareholder's shares are registered or any other matter the Board considers appropriate. In any case where a distribution is to be paid in a currency other than New Zealand currency, the amount payable will be converted from New Zealand currency in a manner, at a time and at an exchange rate determined by the Board.

7.3 **Deductions**

The Board may deduct from distributions payable to any shareholder in respect of any Shares any:

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

7.4 **Entitlement date**

Distributions or other payments to shareholders of the Company will be payable to the persons who are the registered as holders of those Shares on an entitlement date fixed by the Board.

7.5 **Unclaimed distributions**

Distributions or other monetary payments, and any other moneys payable to any shareholder or former shareholder in respect of Shares, unclaimed for one year after having been authorised may be used for the benefit of the Company until claimed. All distributions or other monetary payments, and any other moneys payable to any shareholder or former shareholder in respect of Shares, unclaimed for five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Company shall, nevertheless, annul the forfeiture and pay a claimant which produces evidence of entitlement.

8 **LIQUIDATION**

8.1 **Distribution of surplus**

Subject to the rights of the shareholders of the Company and to clauses 8.2 and 8.3, upon the liquidation of the Company the surplus assets of the Company (if any) must be distributed among the shareholders in proportion to their shareholding. If any shareholders shares are not fully paid up the liquidator of the Company may require those shares to be fully paid up before the shareholder receives any distribution of the surplus assets of the Company in respect of those shares.

8.2 **Distribution in kind**

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



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

8.3 **Trusts**

With the approval of the shareholders of the Company by ordinary resolution, the liquidator may vest the whole or any part of any surplus assets of the Company in trustees upon trust for the benefit of shareholders of the Company. The liquidator may determine the terms of the trust.

9 **EXECUTION OF DEEDS**

9.1 **Manner of execution of deeds**

An obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by a Director, or any other person authorised by the Board, whose signature must be witnessed, or as otherwise permitted by the Act.



FIRST SCHEDULE: CALLS, FORFEITURE AND LIENS

1 INTERPRETATION

1.1 Construction

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

2 CALLS ON SHARES

2.1 Shareholders must pay calls

- (a) Every shareholder on receiving at least 10 working days' (or any other period of notice required by the Listing Rules or any terms of issue of the relevant Shares) 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.
- (b) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any shareholder does not invalidate the call.
- (c) The Board may revoke or postpone a call at any time prior to the date on which payment of that call is due, or require a call to be paid by instalments.

2.2 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.

2.3 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.

2.4 Unpaid calls will accrue interest

- (a) 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:
 - (i) 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 (with such interest accruing daily and capitalised at any interval that the Board resolves); and
 - (ii) all costs and expenses that the Company incurs due to the failure to pay or the late payment.
- (b) Subject to the Listing Rules, the Board may waive some or all of the payment of that interest.



2.5 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.

2.6 Board may differentiate between shareholders as to calls

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.

2.7 Board may accept payment in advance for calls

- (a) 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.
- (b) The Board may at any time repay to any shareholder the whole or any portion of any money so advanced upon giving that holder notice in writing and as from the date of such repayment interest (if any) shall cease to accrue on the money so repaid.
- (c) 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 distribution payable upon the Shares concerned.

3 FORFEITURE OF SHARES

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

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

3.2 Notice of forfeiture must satisfy certain requirements

The notice served on a shareholder under clause 3.1 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 or other amount relates will be liable to be forfeited by the shareholder.

3.3 Failure to comply with notice may lead to forfeiture

Where a valid notice under clause 3.1 is served on a shareholder and the shareholder fails to comply with the notice, then the Board 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.



3.4 Board may deal with forfeited Share

A forfeited Share may be sold, cancelled 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 or other amount which remains unpaid on the Share is paid.

3.5 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.

3.6 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.

3.7 Company may sell forfeited Share

The Company may receive the 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. Any residue after satisfaction of unpaid calls, instalments, premiums or other amounts and interest, and expenses, shall be paid to the previous holder, or to his or her executors, administrators or assigns.

4 LIEN ON SHARES

4.1 Company's lien

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

- (a) all Shares registered in the name of a shareholder; and
- (b) all distributions authorised in respect of such Shares; and
- (c) the proceeds of sale of such Shares,

for:

- (d) unpaid calls payable in respect of any such Shares; and
- (e) interest and expenses on any such calls; and
- (f) sale expenses owing to the Company in respect of any such Shares; and



- (g) 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.

4.2 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.

4.3 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:

- (a) the lien on the Share is for a sum which is presently payable; and
- (b) 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 after the Company has served that registered holder written notice demanding payment of that sum.

4.4 Company may transfer Share and apply proceeds

- (a) The Company may receive the consideration given for a Share sold under clause 4.3, 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.
- (b) 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.
- (c) 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.



SECOND SCHEDULE: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

1 INTERPRETATION

1.1 Construction

- (a) This Schedule is to be read together with Schedule 1 of the Act.
- (b) Unless stated otherwise, references to clauses are references to clauses in this Schedule.
- (c) 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.

2 NOTICE

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

Subject to the Act and the Listing Rules, 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.

2.2 Notice must state nature of business

The notice must:

- (a) 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;
- (b) state the text of any special resolution to be submitted to the meeting;
- (c) contain or be accompanied by sufficient explanation to enable a reasonable person to understand the effect of the resolutions proposed in the notice; and
- (d) for so long as the Company is listed, comply with the requirements of the Listing Rules.

2.3 Proxy form must be sent with notice

A proxy form must be sent by mail or electronically with each notice of meeting.

2.4 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.

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

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



2.6 Notice of an adjournment

- (a) 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 and any announcement required by the Listing Rules.
- (b) 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 including any announcement required by the Listing Rules.

3 MEETING AND QUORUM

3.1 Methods of holding meetings

A meeting of shareholders may be held:

- (a) by a number of shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) by means of an audio, or audio and visual, communication by which all shareholders participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
- (c) by a combination of both the methods described in clauses 3.1(a) and 3.1(b).

The Company is not required to hold meetings of shareholders in the manner specified in clauses 3.1(b) or 3.1(c). 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. 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.

3.2 Business to be transacted only if a quorum is present

Subject to clauses 3.4 and 3.5, business may be transacted at a meeting of shareholders only if a quorum is present at the time when the meeting proceeds to business.

3.3 Quorum for shareholders' meeting

A quorum for a meeting of shareholders is present if 3 or more shareholders are present having the right to vote at the meeting.

3.4 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.

3.5 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 special meeting convened under the Act or a meeting of an interest group), 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 determined by the Board. 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.

4 **CHAIRPERSON**

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

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

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

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

4.3 **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.

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

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

- (a) may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the chairperson; and
- (b) 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.

4.5 **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.

4.6 **Dissolved meetings - unfinished business**

If the chairperson proposes to dissolve a meeting pursuant to clause 4.5, 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.



5 VOTING

5.1 Voting by show of hands or voice vote at meeting

In the case of a meeting of shareholders held under clause 3.1(a), 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.

5.2 Voting by electronic means

To the extent permitted by the Act and the Listing Rules, the Board may allow shareholders to vote by signifying their assent or dissent by electronic means (including voting on a personal computer, with such vote being transmitted to the meeting), instead of the shareholder voting by another method permitted by the Act or this constitution.

5.3 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.

5.4 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 not be voted at any meeting of shareholders or an interest group.

5.5 Chairperson not allowed casting vote

In the case of an equality of votes the chairperson does not have a casting vote.

5.6 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 other manner as the chairperson may have decided under clause 5.2 is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

6 POLLS

6.1 Poll may be demanded by chairperson 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:

- (a) the chairperson, at his or her absolute discretion;
- (b) at least 5 shareholders having the right to vote at the meeting;
- (c) a shareholder or shareholders having the right to exercise at least 10 percent of the total votes entitled to be exercised on the business to be transacted at the meeting; or
- (d) 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.



6.2 Time at which poll is 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.

6.3 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.

6.4 Declaration of poll result

- (a) The chairperson of the meeting may declare the result of a poll either at or after the meeting, and when the outcome of the poll is known, may do so regardless of whether all votes have been counted.
- (b) 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.

6.5 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.

7 SHAREHOLDER PROPOSALS

7.1 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. The provisions of clause 9 of the first schedule to the Act apply to any notice given pursuant to this clause.

8 PROXIES

8.1 Proxies permitted

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

8.2 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.

8.3 Appointment of proxy must be in writing or approved electronic format 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.



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

No appointment of a 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.

8.5 Form of notice of proxy

- (a) A notice appointing a proxy shall be in such form as required by the Listing Rules and otherwise as the Board may direct.
- (b) Proxy forms must as a minimum (so far as the subject matter and form of resolutions reasonably permits) provide for two-way voting (for or against) on all resolutions, enabling the shareholder to instruct the proxy as to the casting of the vote, must not be sent with any name or office (e.g. "chairman of directors") filled in as proxy holder, and must contain a statement outlining who is subject to voting restrictions.
- (c) Proxy forms may in accordance with the Listing Rules provide that, if the shareholder does not name a proxy in the form or if the named proxy does not attend the meeting, a named person or office will act as the shareholders' proxy and vote in accordance with the shareholder's express direction.
- (d) So far as reasonably practicable, resolutions must be framed in a manner which facilitates two way voting instructions for proxy holders.

8.6 Vote by proxy valid where no notification before meeting of disqualified proxy

Where:

- (a) the shareholder has died or become incapacitated; or
- (b) the proxy, or the authority under which the proxy was executed, has been revoked; or
- (c) 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.

9 POSTAL VOTES

9.1 Postal votes are permitted

A shareholder may exercise the right to vote at a meeting by casting a postal vote.



10 **CORPORATE REPRESENTATIVES**

10.1 **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.

11 **MINUTES**

11.1 **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 evidence of the proceedings at the meeting unless they are shown to be inaccurate.

12 **OTHER PROCEEDINGS**

12.1 **Shareholder participation by electronic means**

For the purposes of this schedule, a shareholder, or the shareholder's proxy or representative, may participate in a meeting by means of audio, audio and visual, or electronic communication if:

- (a) the Board approves those means; and
- (b) 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 persons approval or authentication (including electronic authentication) of the information communicated by electronic means).

Participation in a meeting includes participation in any manner specified in this schedule or permitted by the constitution.

12.2 **Chairperson may regulate other proceedings**

Except as provided in Schedule 1 of the Act as modified by this Schedule, the chairperson of a meeting of shareholders may regulate the proceedings at the meeting.



THIRD SCHEDULE: PROCEEDINGS OF THE BOARD

1 INTERPRETATION

1.1 Construction

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

2 NOTICE OF MEETING

2.1 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.

2.2 Notice to be sent to Director's address

The notice of meeting must be a written notice delivered by hand to the Director, or sent to the address, 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 electronic mail address, is not provided, then a written notice to his or her last place of employment or residence or known to the Company.

2.3 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.

2.4 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, the deputy chairperson (if any), and in the deputy chairperson's absence, 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 two hour's notice is given. Any such shorter notice may be given by telephone communication to each Director at the telephone number provided to the company by each Director provided that written notice shall be given to the Directors within the shorter notice period where it is practicable to do so.

2.5 Absent Directors

If a Director, who is for the time being absent from New Zealand, supplies the Company with an 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.

2.6 Directors may waive irregularities in notice

Any irregularity in the notice of a meeting, or failure to comply with clauses 2.1 to 2.5 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.



3 MEETING AND QUORUM

3.1 Methods of holding meetings

A meeting of the Board may be held either:

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

3.2 Quorum for Board meeting

Unless otherwise determined by the Board, the quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

3.3 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 chairperson 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.

4 CHAIRPERSON

4.1 Chairperson to chair meetings

The chairperson or, in the absence of the chairperson, the deputy chairperson of the Board will chair all meetings of the Board. If no chairperson or deputy chairperson is elected, or if at a meeting of the Board the chairperson or deputy chairperson 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 chairperson of the meeting.

5 VOTING

5.1 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 Director is not permitted to vote by the Listing 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.

5.2 Chairperson does not have a casting vote

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



6 MINUTES

6.1 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 chairperson of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

7 OTHER PROCEEDINGS

7.1 Board may regulate other proceedings

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