

**CONSTITUTION OF VULCAN
STEEL LIMITED THAT WILL
TAKE EFFECT FROM LISTING**

Constitution

of Vulcan Steel Limited



Russell Chenu
Chairman

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Constitution of Vulcan Steel Limited

1 Definitions and interpretation

1.1 **Definitions:** In this Constitution, unless the context otherwise requires:

Act means the Companies Act 1993.

ASX means ASX Limited or the financial market operated by it (as the context requires).

ASX Listing Rules means the listing rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the Official List, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

ASX Settlement means ASX Settlement Pty Limited.

ASX Settlement Operating Rules means the ASX Settlement Operating Rules of ASX Settlement.

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

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

Company means Vulcan Steel Limited.

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

Corporations Act means the *Corporations Act 2001* (Cth).

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

Distribution has the meaning set out in section 2(1) of the Act.

Equity Security means an “equity security”, as defined in the ASX Listing Rules, which has been issued, or is to be issued, by the Company, as the case may require.

Holding Lock has the meaning in section 2 of the ASX Settlement Operating Rules.

Interest Group has the meaning set out in section 116 of the Act.

Interested, in relation to a Director, has the meaning set out in section 139 of the Act.

Official List means the official list of entities that ASX has admitted and not removed.

Ordinary Resolution means a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the resolution.

person includes an individual, partnership, firm, company, body corporate, corporation, association, organisation, trust, a state or government or any agency thereof, a municipal, local or regional authority, and any other entity or organisation, whether incorporated or not (in each case whether or not having a separate legal personality).

Personal Representative means:

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

Representative means:

- (a) a person appointed as a proxy under clause 21;
- (b) a Personal Representative; or
- (c) a representative appointed by a corporation under clause 22.

Restricted Securities has the meaning given to that term in the ASX Listing Rules.

Restriction Deed means a restriction deed in the form set out in the ASX Listing Rules or otherwise approved by ASX and for the purposes of this Constitution includes a restriction notice where the Company has been granted permission by ASX under the ASX Listing Rules to issue such a notice.

Security has the meaning given in the ASX Listing Rules and includes Equity Securities and renounceable and non-renounceable rights to subscribe for securities.

Share means a share in the Company.

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

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

Share Registrar means an agent appointed by the Company to maintain the Share Register.

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

Working Day has the meaning set out in section 2 of the Act.

1.2 **Interpretation:** In this Constitution, unless the context otherwise requires:

- (a) the table of contents, headings, and descriptions relating to sections of the Act, are inserted for convenience only and shall be ignored in construing this Constitution;
- (b) the singular includes the plural and vice versa and one gender includes the other genders;
- (c) reference to any legislation or to any provision of any legislation (including regulations and orders) includes:
 - (i) that legislation or provision as from time to time amended, re-enacted or substituted;
 - (ii) any statutory instruments, regulations, rules and orders issued under that legislation or provision;
- (d) reference to an ASX Listing Rule includes that ASX Listing Rule as from time to time amended or substituted;
- (e) “written” and “in writing” include any means of reproducing words, figures and symbols in a tangible and visible form;
- (f) where any word or expression is defined in this Constitution, any other grammatical form of that word or expression has a corresponding meaning;
- (g) references to clauses and sections (other than sections of the Act) are references to clauses and sections in this Constitution, unless stated otherwise;
- (h) words and expressions defined in the Act or the ASX Listing Rules have the same meaning in this Constitution except as otherwise expressly provided in this Constitution.

1.3 **Constitution not to prevail over Act or ASX Listing Rules:** This Constitution has no effect to the extent that it contravenes the Act or ASX Listing Rules, or is inconsistent with the Act or the ASX Listing Rules, provided that if there is any conflict between:

- (a) a provision in this Constitution and a provision in the Act or ASX Listing Rules which is expressly permitted to be altered by this Constitution; or

- (b) a word or expression defined or explained in the Act or ASX Listing Rules and a word or expression defined or explained in this Constitution,

the provision, word or expression in this Constitution prevails.

- 1.4 **Powers of shareholders:** Unless otherwise specified in the Act, ASX Listing Rules or this Constitution, any power reserved to Shareholders may be exercised and any approval of Shareholders may be given by Ordinary Resolution.
- 1.5 **Confirmation of office:** All offices, elections and appointments (including of, or to, the Board and committees of the Board), registers, registrations, records, instruments, delegations, plans and generally all acts of authority that originated under any previous constitution of the Company and are subsisting and in force on the day on which this Constitution is adopted by the Shareholders shall continue and be deemed to be effective and in full force under this Constitution.

2 The Companies Act and ASX Listing Rules

- 2.1 **Companies Act:** 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, as permitted by the Act, they are negated or modified by this Constitution.
- 2.2 **Incorporation of ASX Listing Rules while listed on ASX:** If the Company is admitted to the Official List of ASX, the following clauses apply:
 - (a) notwithstanding anything contained in this Constitution, if the ASX Listing Rules prohibit an act being done, the act shall not be done;
 - (b) nothing contained in this Constitution prevents an act being done that the ASX Listing Rules require to be done;
 - (c) if the ASX Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
 - (d) if the ASX Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;
 - (e) if the ASX Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision; and
 - (f) if any provision of this Constitution is or becomes inconsistent with the ASX Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

3 Shares

- 3.1 **Rights and powers attaching to Shares:** Subject to any special rights or restrictions for the time being attached to any Share, and to the rights and restrictions set out elsewhere in this Constitution, each Share confers on the holder:
- (a) the right to one vote on a poll at a meeting of the Company on any resolution (subject to clause 19.7 in the case of Shares which are not fully paid);
 - (b) the right to an equal share in dividends authorised by the Board; and
 - (c) the right to an equal share in the distribution of surplus assets of the Company.
- 3.2 **Consolidation and subdivision of Shares:** Subject to any applicable provisions of this Constitution, the Board may:
- (a) consolidate and divide the Shares or any Class; and
 - (b) subdivide the Shares or any Class,
- in each case in proportion to those Shares or the Shares in that Class, as the case may be.
- 3.3 **Classes of Shares:** Different Classes of Shares may be issued by the Company. Without limiting the Classes which may be issued, any Share may be issued upon the basis that it:
- (a) ranks equally with, or in priority to, any existing Share;
 - (b) confers preferential rights to distributions of capital or income;
 - (c) confers special, limited or conditional voting rights;
 - (d) does not confer voting rights;
 - (e) is redeemable in accordance with section 68 of the Act; or
 - (f) is convertible.
- 3.4 **Alteration of rights:** The issue by the Company of any further Shares which rank equally with, or in priority to, any existing Shares, whether as to voting rights or distributions, shall:
- (a) be permitted (subject to clause 4); and
 - (b) not be deemed to be an action affecting the rights attached to those existing Shares.

4 Issue of new Shares and Equity Securities

- 4.1 **Issue of new Equity Securities:** The Board may issue Shares or other Equity Securities of the Company to any person and in any number it thinks fit, provided that the issue is in accordance with this Constitution and, while the Company is admitted to the Official List, the issue is made in compliance with the ASX Listing Rules. Any such issue shall not be treated as an action affecting the rights attached to the existing Shares or Equity Securities unless the terms of the issue of those Shares or Equity Securities expressly provide otherwise.
- 4.2 **Board need not comply with statutory pre-emptive rights:** The provisions of sections 45(1) and 45(2) of the Act shall not apply to any issue or proposed issue of Shares by the Company.
- 4.3 **Bonus issues:** Subject to any applicable provisions of this Constitution, the Board may resolve to apply any amount which is available for Distribution either:
- (a) in paying up in full Shares or other Equity Securities of the Company to be issued credited as fully paid to:
 - (i) the Shareholders who would be entitled to that amount if it were distributed by way of dividend, and in the same proportions; and
 - (ii) if applicable, the holders of any other Equity Securities of the Company who are entitled by the terms of issue of such Equity Securities to participate in bonus issues by the Company, whether at the time the bonus issue is made to the Shareholders, or at some later time, in accordance with their respective entitlements; or
 - (b) in paying up any amount which is unpaid on any Shares held by the Shareholders referred to in clause 4.4(a)(i),
- or partly in one way and partly in the other.

5 Acquisition and redemption of Equity Securities

- 5.1 **Power to acquire, hold and redeem Equity Securities:** The Company may:
- (a) purchase or otherwise acquire Shares or other Equity Securities from one or more of the shareholders;
 - (b) hold any Shares or other Equity Securities so purchased or acquired; and
 - (c) issue any redeemable Shares or other Equity Securities or redeem any redeemable Shares or other Equity Securities held by one or more holders;
- in accordance with the provisions, and subject to the restrictions, of the Act, this Constitution, and the ASX Listing Rules.

6 Equitable interests in Shares

- 6.1 **No notice of trusts:** Except as required by law, no notice of a trust, whether express, implied, or constructive, may be entered on the Share Register, or any other register of Equity Securities.
- 6.2 **No recognition of equitable interests:** Except as required by law or by this Constitution, no person shall be recognised by the Company as holding any Share upon trust and the Company shall not be bound by, nor be compelled to recognise (even after notice), any equitable, contingent, future or partial interest in any Share, or any interest in any fraction or part of a Share or (except as provided by this Constitution or by law) any other rights in respect of any Share, except an absolute right of the registered holder to the entire Share.

7 Calls on Shares

- 7.1 **Board may make calls:** The Board may, from time to time, make such calls as it thinks fit upon the Shareholders in respect of any amounts unpaid on any Shares held by them which are not made payable at fixed times under this Constitution, by the terms of issue of those Shares, or any contract for the issue of those Shares.
- 7.2 **Shareholders must pay calls:** Every Shareholder, on receiving at least five Working Days' notice specifying the time or times and the place of payment, must pay, in accordance with that notice, the amount called to be paid in respect of any Shares that Shareholder holds. The Board may require a call to be paid by instalments. The Board may revoke or postpone any call.
- 7.3 **Time of call:** A call is deemed to be made at the time when the resolution of the Board making the call is passed.
- 7.4 **Fixed instalments deemed calls:** An amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date is deemed for the purposes of this Constitution to be a call duly made and payable on the date on which the amount is payable. 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.
- 7.5 **Notice of call:** At least five Working Days' notice of any call shall be given to the holder of the Share in respect of which the call is made, specifying the time and place of payment.
- 7.6 **Differential calls:** The Board may, on the issue of Shares, differentiate between the Shareholders as to the amounts to be paid in respect of the Shares and the times of payment of such amounts.
- 7.7 **Manner of payment:** A Shareholder by whom a call is payable shall pay the amount of the call to the Company at the time and place specified by the Board.

- 7.8 **Joint Shareholders:** Joint Shareholders are jointly and severally liable to pay all calls in respect of Shares registered in their names.
- 7.9 **Default interest:** If a call in respect of a Share is not paid on or before the due date, the Shareholder by whom the call is payable shall pay interest on the call from the due date to the date of actual payment at such rate as the Board determines, unless the Board waives payment of interest wholly or in part.
- 7.10 **Proceedings for recovery of call:** In any proceedings for recovery of a call:
- (a) it is sufficient to prove that:
 - (i) the name of the relevant Shareholder is entered in the Share Register as the holder, or one of the holders, of the Shares to which the call relates; and
 - (ii) except in relation to any amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date, the resolution making the call is recorded in the records of the Company and notice of the call has been duly given,and proof of the matters mentioned in this clause is conclusive evidence of the debt; and
 - (b) it is not necessary to prove the appointment or qualification of any member of the Board which made the call nor any other matter.
- 7.11 **Payment in advance of calls:** The Board may, on behalf of the Company, accept and receive from any Shareholder in advance any amount uncalled and unpaid upon any Shares held by that Shareholder and may, until the date on which the amount becomes payable pursuant to a call, pay interest on the amount at such rate as the Board and the Shareholder agree.

8 Forfeiture of Shares

- 8.1 **Notice requiring payment of call:** If a Shareholder fails to pay any call or instalment of a call on the due date, the Company may at any time thereafter by written notice to that Shareholder require payment of the amount unpaid together with any accrued interest and all expenses incurred by the Company by reason of such non-payment.
- 8.2 **Contents of notice:** The notice shall specify a further date (not earlier than 10 Working Days after the date of service of the notice) on or before which the payment is to be made, and shall state that, if payment is not made by the specified date, the Share in respect of which the call or instalment of a call is due is liable to be forfeited.
- 8.3 **Forfeiture for non-payment:** If payment is not made by the date specified in the notice then, at any time thereafter before the payment required by the notice has been made, any Share in respect of which the notice has been given may be forfeited by a

resolution of the Board to that effect. The forfeiture shall include all Distributions declared in respect of the forfeited Share and not paid before the forfeiture.

- 8.4 **Notice of forfeiture:** When a Share has been forfeited, the Company shall give notice of the resolution to the Shareholder in whose name the Share stood immediately prior to the forfeiture, and shall enter in the Share Register details of the forfeiture.
- 8.5 **Cancellation of forfeiture:** A forfeiture may be cancelled at any time before the sale of the forfeited Share, on such terms as the Board thinks fit.
- 8.6 **Effect of forfeiture:** The holder of a Share which has been forfeited ceases to be a Shareholder in respect of the forfeited Share notwithstanding any other provision in this Constitution, but remains liable to the Company for all money payable in respect of the forfeited Share.

9 Lien on Shares

- 9.1 **Lien on Shares:** The Company has a first and paramount lien upon each Share, the proceeds of sale of the Share, and all Distributions made in respect of the Share, for:
- (a) all unpaid calls, instalments, premiums or other amounts, and any interest payable on such amounts, relating to the specific Share;
 - (b) without limiting clause 9.1(a), sale expenses owing to the Company in respect of any such Share; and
 - (c) any amount which the Company may be called upon to pay under any legislation in respect of the specific Share, whether or not the due date for payment thereof has passed.
- 9.2 **Waiver of lien:** Unless otherwise agreed between the Company and the relevant Shareholder, the registration of a transfer of a Share shall operate as a waiver of any lien which the Company may have on that Share, except as provided in clause 12.1 or 12.2(b).

10 Sale of Shares subject to forfeiture or lien

- 10.1 **Company may sell Shares:** The Company may sell any forfeited Share, or any Share on which the Company has a lien, in such manner as the Board thinks fit, but the Company shall not sell any Share:
- (a) unless the amount in respect of which a lien exists is due and payable;
 - (b) until the expiry of 10 Working Days after written notice demanding payment of the amount owing has been given to the person entitled to receive notice of meetings of Shareholders in respect of the Share.

- 10.2 **Proceeds of sale:** The net proceeds (after deduction of any expenses) of the sale of a forfeited Share or of any Share sold for the purpose of enforcing a lien shall be applied in or towards satisfaction of any unpaid calls, interest or other payments and amounts owing in respect of which any lien exists (as the case may require). Any balance remaining shall be paid to the holder of the Share at the time of its forfeiture or, in the case of a Share sold for the purpose of enforcing a lien, the holder immediately prior to the sale or, if applicable in either case, to the Personal Representative of the holder.
- 10.3 **Evidence:** A certificate by a Director that any power of sale has arisen and is exercisable by the Company under this Constitution, or that a Share has been forfeited on the date stated in the certificate, shall be conclusive evidence of those facts.
- 10.4 **Sale procedure:** For giving effect to any sale after forfeiture of any Share or for enforcing a lien over any Share, the Board may:
- (a) authorise any person to transfer any Share to the purchaser;
 - (b) 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 on the Share Register; and
 - (c) receive the consideration, if any, given for the Share.

The purchaser shall not be bound to see to the application of the purchase money (if any), and the title of the purchaser shall not be affected by any irregularity or invalidity in relation to the forfeiture, sale or disposal of that Share. The remedy of any person having a cause of action in relation to the sale is in damages only and solely against the Company.

11 Transfer of Shares

- 11.1 **Right to transfer:** Subject to any restrictions under law, contained in this Constitution, the ASX Listing Rules or the ASX Settlement Operating Rules, a Shareholder or Personal Representative may transfer any Share:
- (a) as provided by the operating rules of an applicable clearing and settlement facility as defined in the Corporations Act or any other method of transfer which is required or permitted by the Corporations Act and ASX;
 - (b) under a system of transfer approved under section 376 to 378 of the Financial Markets Conduct Act 2013 or pursuant to a “designated settlement system” within the meaning set out in section 156M of the Reserve Bank of New Zealand Act 1989, in each case which is applicable to the Company;
 - (c) under any other share transfer system which operates in relation to the trading of securities on any stock exchange outside New Zealand on which Shares are listed and which is applicable to the Company; or

(d) by an instrument of transfer which complies with this Constitution.

Subject to clauses 11.6 and 11.7, the Company and the Directors must not in any way prevent, delay or interfere with the generation of a proper ASX Settlement transfer or the registration of a paper-based transfer in registrable form of any Securities.

11.2 **Method of transfer:** A Share which is disposed of in a transaction which complies with the requirements of a system of transfer referred to in clause 11.1(a), 11.1(b) or 11.1(c) may be transferred in accordance with the requirements of that system. Where an instrument of transfer would have complied with the provisions of the Financial Markets Conduct Act 2013 if it had been executed by the transferor in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or its Share Registrar.

11.3 **Forms of transfers:** An instrument of transfer to which the provisions of clause 11.2 are not applicable shall:

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

11.4 **Delivery to Company:** Every instrument of transfer shall be delivered to the Share Registrar, together with such evidence (if any) as the Company or the Share Registrar reasonably requires to establish an entitlement of the transferor to transfer the Shares.

11.5 **Board may refuse to register and Holding Locks:** The Board may, in its absolute discretion, decline to register any transfer of Shares or may ask ASX Settlement to apply a Holding Lock to prevent a proper ASX Settlement transfer, where:

- (a) the Company has a lien on any of the Shares;
- (b) the Company is served with a court order that restricts the holder's capacity to transfer the Shares;
- (c) registration of the transfer may break an Australian law and ASX has agreed in writing to the application of a Holding Lock that satisfies the requirements of the ASX Listing Rules or that the entity may refuse to register a transfer;
- (d) if the transfer is paper-based, a law relating to stamp duty prohibits the Company from registering it;
- (e) the transfer does not comply with the terms of an employee incentive scheme or employee incentive plan of the Company;

- (f) the holder has agreed in writing to the application of a Holding Lock (the application of the Holding Lock must not breach an ASX Settlement Operating Rule);
- (g) the Company is otherwise permitted or required to do so by the ASX Listing Rules;
- (h) if the transfer is paper-based, registration of the transfer will result in a holding which at the time of transfer is lodged is less than a Marketable Parcel (as defined in clause 11.10); or
- (i) the transfer is in breach of the ASX Listing Rules or a Restriction Deed,

provided that the Board resolves to exercise its powers under this clause 11.5 (including resolving to ask ASX Settlement to apply a Holding Lock on Shares) within five Working Days after receipt of the relevant transfer and notice of the Board resolution is sent to the transferor and to the transferee within the same five Working Day period, together with reasons for the refusal to register the transfer.

- 11.6 **When transfer effective:** Except as provided by any applicable ASX Settlement Operating Rules, a transferor of a Share remains the holder of the Share until the transfer is registered and the name of the transferee is entered in the Share Register in respect of the Share.
- 11.7 **Company to retain instrument of transfer:** The Company must retain every instrument of transfer which is registered for the period required by any applicable law.
- 11.8 **Multiple registers:** The Share Register may, by resolution of the Board, be divided into two or more registers, which may be kept in different places.
- 11.9 **Restricted Securities:** Despite any other provision in this Constitution, for so long as the Company has any Restricted Securities on issue:
- (a) a holder of Restricted Securities must not dispose of, or agree or offer to dispose of, Restricted Securities during the escrow period applicable to those Restricted Securities except as permitted by the ASX Listing Rules;
 - (b) if the Restricted Securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the Restricted Securities are to be kept on the entity's issuer sponsored subregister and are to have a Holding Lock applied for the duration of the escrow period applicable to those securities;
 - (c) the Company must refuse to acknowledge any disposal (including, without limitation, registering a transfer) of Restricted Securities during the escrow period applicable to those securities except as permitted by the ASX Listing Rules;

- (d) a holder of Restricted Securities will not be entitled to participate in any return of capital on those securities during the escrow period applicable to those securities except as permitted by the ASX Listing Rules; and
- (e) if a holder of Restricted Securities breaches a Restriction Deed or a provision of this Constitution restricting the disposal of those securities, the holder of the Restricted Securities is not entitled to any dividend or distribution, or to exercise any voting rights, in respect of the Restricted Securities for so long as the breach continues.

11.10 Unmarketable parcels:

- (a) In this clause 11.10:
 - (i) **Marketable Parcel** of the relevant Securities has the meaning given by the ASX Listing Rules;
 - (ii) **Minority Member** means the holder of less than a Marketable Parcel of the relevant Securities;
 - (iii) **Notice** means the written notice given to Minority Members in accordance with clause 11.10(b);
 - (iv) **Notice Date** means the date of the Notice sent by the Company to a Minority Member advising that the Company intends to sell that Minority Member's Securities on that member's behalf under clause 11.10(b);
 - (v) **Purchaser** means the person or persons (including a member or members) to whom the relevant Securities are disposed or sold in accordance with clause 11.10(b); and
 - (vi) **Sale Consideration** means the proceeds of any sale or other disposal of the relevant Securities of a Minority Member under this clause 11.10.
- (b) Subject to the ASX Listing Rules, the Company is entitled to sell Securities of a Minority Member on the following conditions:
 - (i) the Company must give to the Minority Member a Notice that the Company intends to invoke the power of sale contained in this clause 11.10;
 - (ii) the Minority Member must be given at least six weeks from the Notice Date in which to advise the Company that the member wishes to retain the Minority Member's Security holding;
 - (iii) if the Minority Member advises the Company under clause 11.10(b)(ii) that the Minority Member wishes to retain the Minority

Member's Security holding, the provisions of this clause 11.10 will not apply and the Company must not sell it; and

- (iv) subject to clause 11.10(b)(iii), at the expiry of the minimum six week period, the Company is entitled to sell any Security holding of the Minority Member which is, at the date of sale, less than a Marketable Parcel.
- (c) For the purposes of the sale of Securities under this clause 11.10 each Minority Member:
- (i) appoints the Company as the Minority Member's agent to sell all of the Minority Member's relevant Securities;
 - (ii) acknowledges that the Company may sell the Minority Member's holding along with the holdings of other Minority Members contemporaneously or at a similar time, in which case each Minority Member will be entitled to its pro rata share of the total Sale Consideration obtained on behalf of all Minority Members; and
 - (iii) appoints the Company and each of its directors jointly and severally as the Minority Member's attorneys in that Minority Member's name and on that Minority Member's behalf to affect all transfer documents, deeds or other documents or instruments necessary to transfer the relevant Securities from the Minority Member to the Purchaser.
- (d) The Company must bear all costs of and incidental to the sale of Securities under this clause 11.10.
- (e) Subject to this clause 11.10, with respect to the receipt and payment of the Sale Consideration:
- (i) the Sale Consideration must be received by the Company and paid by the Company to the Minority Member or as that Minority Member may direct;
 - (ii) the Sale Consideration received by the Company must be paid into a bank account opened and maintained by the Company for that purpose only;
 - (iii) the Company must hold the Sale Consideration in trust for the Minority Members whose Securities are sold under this clause 11.10 pending distribution of the Sale Consideration;
 - (iv) the Company must as soon as practicable after the sale of Securities of Minority Members, and to the extent that it may reasonably do so, distribute the Sale Consideration; and

- (v) any Sale Consideration payable to a Minority Member under this provision which is unclaimed for one year after receipt by the Company may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed or otherwise disposed of according to law. No money payable under this provision by the Company to Minority Members bears interest against the Company.
 - (f) The Sale Consideration must not be sent to a Minority Member until the Company receives any certificate relating to the Securities which have been sold (or the Company is satisfied that the certificate has been lost or destroyed).
 - (g) This clause 11.10 may be invoked only once in any 12 month period.
 - (h) The power to sell in this clause 11.10 lapses following the announcement of a takeover offer in respect of all or substantially all of the Company's shares, or a scheme of arrangement to similar effect, and notwithstanding clause 11.10(g), the procedure provided in this clause 11.10 may be started, or started again, after the close of any such takeover offer.
- 11.11 **Participation in share transfer systems:** The Company may participate in any share transfer system approved under the Financial Markets Conduct Act 2013 and under any share transfer system which operates in relation to trading in securities on any stock exchange on which the Company's Shares are traded and, in so participating, it shall comply with the requirements of the relevant share transfer system. The Board may register any transfer of Shares presented for registration in accordance with the requirements of any such system and will not be obliged to enquire as to the due execution of any transfer effected by reason of such system.
- 11.12 **Transfer of Securities other than Shares:** This clause 11 shall apply to transfers of Securities of the Company other than Shares with any necessary modifications.

12 Transmission of Shares

- 12.1 **Transmission on death of Shareholder:** If a Shareholder dies, the survivor, if the deceased was a joint Shareholder, or the Shareholder's Personal Representative shall be the only persons recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder. Nothing in this clause 12.1 shall release the estate of a deceased joint Shareholder from any liability in respect of any Share, or constitute a release of any lien which the Company may have in respect of any Share.
- 12.2 **Rights of Personal Representatives:** A Personal Representative of a Shareholder is entitled to:
- (a) exercise all rights (including without limitation the rights to receive Distributions, to attend meetings and to vote in person or by Representative),

and is subject to all limitations, attached to the Shares held by that Shareholder; and

- (b) be registered as holder of those Shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the Personal Representative pursuant to this clause 12.2(b).

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

13 Distributions

13.1 **Power to authorise:** The Board, if satisfied on reasonable grounds that the Company will immediately after the Distribution satisfy the solvency test, may, subject to the Act and this Constitution, authorise Distributions by the Company at times, and of amounts, and to any Shareholders, as it thinks fit and may do everything which is necessary or expedient to give effect to any such Distribution.

13.2 **Form of Distribution:** Subject to the rights of holders of any Shares in a Class, the Board may make a Distribution in such form as it thinks fit, but except as provided in clause 13.3 shall not differentiate between Shareholders as to the form in which a Distribution is made without the prior approval of the Shareholders.

13.3 **Currency of payment:** The Board may, in its discretion, differentiate between Shareholders as to the currency in which any Distribution is to be paid. In exercising its discretion, the Board may have regard to the registered address of a Shareholder, the register on which a Shareholder's Shares are registered and any other matters as the Board considers appropriate. If the Board determines to pay a Distribution in a currency other than New Zealand currency, the amount payable shall be converted from New Zealand currency in such manner, at such time, and at such exchange rate, as determined by the Board.

13.4 **Entitlement to dividends:** The Board shall not authorise a dividend:

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

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

- 13.5 **Deduction of money:** The Board may deduct from a Distribution payable to a Shareholder any amount which is due and payable by the Shareholder to the Company on account of calls or otherwise in relation to any Shares held by that Shareholder. The Board must deduct from any dividend or other Distribution payable to any Shareholder any amount it is required by law to deduct, including withholding and other taxes.
- 13.6 **Method of payment:** A Distribution payable in cash may be paid in such manner as the Board thinks fit to the entitled Shareholders or, in the case of joint Shareholders, to the Shareholder named first in the Share Register, or to such other person and in such manner as the Shareholder or joint Shareholders may in writing direct. Any one of two or more joint Shareholders may give a receipt for any payment in respect of the Shares held by them as joint Shareholders.
- 13.7 **No interest on Distributions:** The Company is not liable to pay interest in respect of any Distribution.
- 13.8 **Payment of small Distribution amounts:** Where the net amount of a Distribution payable to a Shareholder is less than such minimum amount as may be determined from time to time by the Board for the purposes of this clause, the Company may, with the prior approval of that Shareholder, defer payment of the Distribution to that Shareholder until the earlier of:
- (a) such time as that Shareholder has an aggregate entitlement to net Distributions of not less than such minimum amount; and
 - (b) the date upon which that Shareholder ceases to hold any Shares.
- 13.9 **Unclaimed Distributions:** Dividends or other monetary Distributions unclaimed for more than one year after having been authorised, may be used for the benefit of the Company until claimed. The Company shall be entitled to mingle the Distribution with other money of the Company and shall not be required to hold it or to regard it as being impressed with any trust. All dividends or other monetary Distributions unclaimed for more than five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Board shall nevertheless, at any time after such forfeiture, but subject to compliance with the solvency test, annul the forfeiture and agree to pay a claimant who produces satisfactory evidence of entitlement.

14 Exercise of powers of Shareholders

- 14.1 **Powers exercisable by Ordinary Resolution:** Unless otherwise specified in the Act or this Constitution, a power or right of approval reserved to Shareholders may be exercised by Ordinary Resolution.

15 Meetings of Shareholders

15.1 **Methods of holding meetings:** A meeting of Shareholders may be held by a number of Shareholders, who constitute a quorum:

- (a) being assembled together at the place, date and time appointed for the meeting; or
- (b) participating in the meeting by means of audio, audio and visual, or electronic communication; or
- (c) by a combination of both of the methods described in paragraphs (a) and (b) above.

For the avoidance of doubt, 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.

15.2 **Participation by electronic means:** A Shareholder, or the Shareholder's 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, or Shareholder's 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 or Representative and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means).

15.3 **Annual meetings:** The Company shall hold annual meetings of shareholders in accordance with section 120 of the Act.

15.4 **Special meetings:** A special meeting of Shareholders entitled to vote on an issue:

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

15.5 **Time and place of meetings:** Each meeting of Shareholders shall be held at such time and place as the Board appoints.

15.6 **Meetings of Interest Groups:** A meeting of the Shareholders constituting an Interest Group may be called by the Board at any time or by Shareholders in accordance with clause 15.4(b). All the provisions of this Constitution relating to meetings of

Shareholders shall apply, with all necessary modifications, to meetings of Interest Groups, except that:

- (a) the necessary quorum for a meeting is one Shareholder having the right to vote at the meeting, present in person or by Representative;
- (b) any Shareholder in the relevant Interest Group, present in person or by Representative, may demand a poll; and
- (c) if the Board so elects, one meeting may be held of Shareholders constituting more than one Interest Group, so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of the Shareholders in each Interest Group.

16 Notice of meetings of Shareholders

- 16.1 **Written notice:** Written notice of the time, date and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting, to every Director, and to the auditor of the Company, not less than 10 Working Days before the meeting.
- 16.2 **Rights of Equity Security holders and Directors:** Equity Security holders of all Classes shall be entitled to attend meetings of Shareholders and to receive copies of all notices, reports and financial statements issued generally to holders of Securities carrying votes. Each Director who is not also a Shareholder shall have the same rights.
- 16.3 **Contents of notice:** A notice of meeting shall state:
- (a) the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it;
 - (b) the text of any Special Resolution to be submitted to the meeting;
 - (c) in the case of Special Resolutions required by sections 106(1)(a) or 106(1)(b) of the Act, the right of a Shareholder under section 110 of the Act; and
 - (d) that a Shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of the Shareholder and that a proxy need not be a Shareholder.
- 16.4 **Waiver of notice irregularity:** An irregularity in a notice of a meeting is waived if all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Shareholders agree to the waiver.
- 16.5 **Accidental omission of notice:** The accidental omission to give notice of a meeting to, or the non-receipt or late receipt of notice of a meeting by, any person entitled to receive notice, does not invalidate the proceedings at the meeting.

- 16.6 **Notice of adjourned meeting:** If a meeting of Shareholders is adjourned for less than 30 days it is not necessary to give notice of the time, date and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clause 16.1.

17 Proceedings at meetings of Shareholders

- 17.1 **Requirement for quorum:** Subject to clause 17.3, no business may be transacted at a meeting of Shareholders if a quorum is not present.
- 17.2 **Quorum:** Subject to clause 17.3, a quorum for a meeting of Shareholders is five Shareholders having the right to vote at the meeting, present in person or by Representative, including any such persons participating by means of audio, audio and visual, and/or electronic communication.
- 17.3 **Lack of quorum:** If a quorum is not present within 30 minutes after the time appointed for the meeting:
- (a) in the case of a meeting called by the Board on the written request of Shareholders entitled to exercise that right, the meeting is dissolved;
 - (b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the Board may appoint and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Shareholders or their Representatives present are a quorum.
- 17.4 **Regulation of procedure:** Subject to the provisions of the Act, and except as otherwise provided in this Constitution, the chairperson may regulate the procedure at meetings of Shareholders.
- 17.5 **Cancellation or postponement of a meeting:** The Board may change the venue for, postpone or cancel a general meeting, if it considers that the meeting has become unnecessary, or the venue would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently. This clause 17.5 does not apply to a meeting convened by the Directors on the request of Shareholders or to a meeting convened by a court.
- 17.6 **Adjournment of meeting:** The chairperson may adjourn the meeting from time to time and from place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the relevant meeting.
- 17.7 **Adjournment or dissolution of disorderly meeting:** If a meeting becomes so unruly, disorderly or inordinately protracted, that in the opinion of the chairperson the business of the meeting cannot be conducted in a proper and orderly manner, the chairperson, notwithstanding any provision to the contrary contained in this Constitution and without the consent of the meeting, may, in his or her sole and

absolute discretion and without giving any reason therefor, either adjourn or dissolve the meeting.

- 17.8 **Completion of unfinished business if meeting dissolved:** If a meeting is dissolved by the chairperson pursuant to clause 17.6, the unfinished business of the meeting shall be dealt with as follows:
- (a) in respect of a resolution concerning the approval or authorisation of a Distribution, the Board may, in the exercise of the powers conferred on it by the Act or this Constitution, authorise such Distribution;
 - (b) in respect of a resolution concerning the remuneration of the auditors, the meeting shall be deemed to have resolved that the Board be authorised to fix the remuneration of the auditors; and
 - (c) the chairperson may direct that any other item of uncompleted business, which in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion, in accordance with clause 20.4.

18 Chairperson of meetings of Shareholders

- 18.1 **Chairperson:** Subject to clause 18.2, if the Directors have elected a chairperson of the Board, and the chairperson is present at a meeting of Shareholders, the chairperson shall chair the meeting.
- 18.2 **Directors may appoint chairperson:** If no chairperson of the Board has been elected or if, at any meeting of Shareholders, the chairperson of the Board is not present within 15 minutes after the time appointed for the commencement of the meeting, or considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting, the Directors present may elect one of their number to chair the meeting or that part of the meeting which relates to the particular business, as the case may require.
- 18.3 **Shareholders may appoint chairperson:** If at any meeting of Shareholders no Director is willing to act as chairperson or no Director is present within 15 minutes after the time appointed for the commencement of the meeting, the Shareholders present may choose one of their number to chair the meeting.

19 Voting at meetings of Shareholders

- 19.1 **Voting at meeting in one place:** In the case of a meeting of Shareholders held under clause 15.1(a), unless a poll is demanded in accordance with clause 20.1, the chairperson of the meeting shall determine whether voting will be by voice or by show of hands.

- 19.2 **Voting at audio/visual meeting:** In the case of a meeting of Shareholders held under clause 15.1(b) or (c), unless a poll is demanded in accordance with clause 20.1, voting at the meeting will be by any method permitted by the chairperson of the meeting.
- 19.3 **Postal votes:** Unless the Board determines otherwise, Shareholders may not exercise the right to vote at a meeting by casting postal votes. If the Board determines that postal voting will be permitted at a meeting, the provisions of clause 7 of the first schedule to the Act shall apply, with such modifications (if any) as the Board thinks fit.
- 19.4 **Entitlement to vote:** A Shareholder may exercise the right to vote either in person or by Representative.
- 19.5 **Appointments and voting by electronic means:** The Board may permit, in relation to a particular meeting of Shareholders or generally in relation to meetings of Shareholders:
- (a) the appointment of Representatives to be made by electronic means;
 - (b) postal votes to be cast by electronic means; and
 - (c) to the extent permitted by the Act, votes to be cast on resolutions at meetings of Shareholders (or of other groups) by electronic means (including, for the avoidance of doubt, voting on a personal computer, with such vote being transmitted to the meeting).
- 19.6 **Procedures:** The procedures in relation to electronic appointment or electronic voting shall be those required by law (if any) in conjunction with any other procedure determined by the Board. If the Board permits electronic appointment of proxies or Representatives or electronic voting in accordance with clause 19.4, such electronic appointments may be made or electronic votes cast notwithstanding any other provision of this Constitution.
- 19.7 **Number of votes:** Subject to clause 19.12 and to any rights or restrictions for the time being attached to any Share:
- (a) where voting is by show of hands or by voice, every Shareholder present in person or by Representative has one vote; and
 - (b) on a poll, every Shareholder present in person or by Representative has:
 - (i) in respect of each fully paid Share held by that Shareholder, one vote; and
 - (ii) in respect of each Share held by that Shareholder which is not fully paid, the fraction of the vote which would be exercisable if that Share was fully paid that is proportionate to the payment which has been made (excluding amounts credited and amounts paid in advance of a call).

- 19.8 **Declaration by chairperson:** A declaration by the chairperson of a meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 20.1.
- 19.9 **Chairperson's casting vote:** The chairperson of a meeting of Shareholders is not entitled to a casting vote.
- 19.10 **Joint Shareholders:** Where two or more persons are registered as joint Shareholders, 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.
- 19.11 **No vote when amount owing on Share:** A Shareholder is not entitled to vote at any meeting of Shareholders (including a meeting of an Interest Group) in respect of any Share if any amount is due and payable on that Share by the Shareholder to the Company.

20 Polls

- 20.1 **Right to demand poll:** At a meeting of Shareholders a poll may be demanded by:
- (a) the chairperson; or
 - (b) not less than five Shareholders having the right to vote at the meeting; or
 - (c) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting; or
 - (d) a Shareholder or Shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right.
- 20.2 **When poll may be demanded:** A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.
- 20.3 **When poll taken:** A poll demanded on the election of a chairperson of a meeting or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time as the chairperson directs and any business, other than that upon which a poll is demanded, may proceed pending the taking of the poll.
- 20.4 **Poll procedure:** A poll shall be taken in such manner as the chairperson directs and the result of the poll is deemed to be a resolution of the meeting at which the poll is demanded.
- 20.5 **Votes:** On a poll:
- (a) votes may be given by each Shareholder present either in person or by Representative;

- (b) votes shall be counted according to the votes attached to the Shares of each Shareholder present in person or by Representative and voting in respect of those Shares; and
 - (c) a Shareholder need not cast all the votes to which the Shareholder is entitled and need not exercise in the same way all of the votes which the Shareholder casts.
- 20.6 **Scrutineers:** The auditors shall be scrutineers unless they are unable or unwilling to act, or the chairperson of the meeting directs otherwise, in which case the scrutineers shall be appointed by the chairperson.
- 20.7 **Declaration of result:** The chairperson is entitled to declare the result of a poll upon receipt of a certificate from the scrutineers stating that sufficient votes to determine the result of the resolution have been counted and setting out the basis of that determination.

21 Proxies

- 21.1 **Right to appoint:** A Shareholder may appoint a proxy to vote on behalf of the Shareholder at a meeting of Shareholders. The proxy is entitled to attend and be heard at the meeting, and to demand or join in demanding a poll, as if the proxy were the Shareholder.
- 21.2 **Multiple proxies:** A Shareholder may appoint more than one proxy for a particular meeting, provided that more than one proxy is not appointed to exercise the rights attached to a particular Share held by the Shareholder.
- 21.3 **Notice of appointment:** A proxy shall be appointed by written notice signed by the appointing Shareholder and the notice shall state whether the appointment is for a particular meeting or for a specified term. The notice shall, so far as the subject matter and form of the resolutions to be proposed at the relevant meeting reasonably permits, provide for a binary voting choice (for or against) on all resolutions to enable the Shareholder to instruct the proxy as to the casting of the vote.
- 21.4 **Proxy form to be sent with notice of meeting:** The Company shall send (either by mail or electronically) a form of notice of appointment of proxy to every Shareholder entitled to attend and vote at a meeting, with the notice convening the meeting.
- 21.5 **Receipt of proxy form:** No appointment of a proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by or on behalf of the Company at any place specified for the purpose in the notice of appointment or notice of meeting, not later than 48 hours before the start of the meeting.
- 21.6 **Validity of proxy vote:** A vote given in accordance with the terms of a notice of appointment of a proxy is valid notwithstanding the previous death or mental disorder of the principal, the revocation of the appointment or of the authority under which the notice of appointment was executed, or the transfer of the Share in respect of

which the proxy is appointed, if no written notification of such death, mental disorder, revocation, or transfer is received by the Company at its registered office, or by the Share Registrar, before the commencement of the meeting or adjourned meeting for which the proxy is appointed.

22 Corporate representative

- 22.1 **Appointment of representative:** A corporation which is a Shareholder may appoint a person to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy, and that person shall have the same rights and powers as if the representative were a proxy.

23 Shareholder proposal and management review

- 23.1 **Shareholder proposals:** A Shareholder may give written notice to the Board of a matter which 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.
- 23.2 **Management review by Shareholders:** The chairperson of a meeting of Shareholders shall allow a reasonable opportunity for Shareholders at the meeting to question, discuss, or comment on the management of the Company. The Shareholders may pass a resolution relating to the management of the Company at that meeting but no such resolution is binding on the Board.

24 Directors

- 24.1 **Number of Directors:** The number of Directors shall not at any time be less than three and subject to this limitation the number of Directors to hold office shall be fixed from time to time by the Board.
- 24.2 **Appointment and removal by Shareholders:** A person may be appointed as a Director by an Ordinary Resolution. All Directors shall be subject to removal from office as director by Ordinary Resolution.
- 24.3 **Appointment by Board:** The Board may at any time appoint a person to be a Director. A Director so appointed holds office only until the next annual meeting of the Company but is eligible for re-election at that meeting.
- 24.4 **Existing Directors to continue:** The persons holding office as Directors on the date of adoption of this Constitution shall continue in office and are deemed to have been appointed pursuant to this Constitution.
- 24.5 **No shareholding disqualification:** There is no shareholding qualification for Directors.
- 24.6 **Directors' tenure of office:**

- (a) Subject to clause 24.8, a Director must not hold office without re-election:
 - (i) following the third annual meeting after that Director's appointment or last re-election; or
 - (ii) for more than three years,
 whichever is longer.
- (b) There must be an election of Directors at each annual general meeting of the Company.

24.7 Retirement by rotation:

- (a) While the Company is admitted to the Official List, at least one Director must retire from office at each annual meeting.
- (b) Subject to clause 24.8, if no Director is required to retire at an annual meeting under clause 24.6, then the Director to retire under clause 24.7(a) will be the Director who has been longest in office since that Director's appointment or last re-election.
- (c) As between those who became Directors on the same day, those to retire will, unless they otherwise agree among themselves, be determined by lot.
- (d) A retiring Director continues to hold office as a Director throughout the meeting at which that Director retires and at any adjournment.

24.8 Managing Director: Clauses 24.6 and 24.7 do not apply to any managing Director appointed under clause 26. If there is more than one managing Director, only the first appointed does not have to comply with the requirement to retire from office or seek re-election in accordance with clauses 24.6 and 24.7 and ASX Listing Rule 14.

24.9 Retiring Director eligible for re-election: A Director who retires from office or whose office is vacated under this Constitution will be eligible for election or re-election to the Board at the meeting at which that Director retires from office.

24.10 Appointment of Director by single resolution: Each resolution to appoint, elect or re-elect a Director must be for the appointment, election or re-election of one Director only. Nothing in this clause prevents the election of two or more Directors by ballot or poll.

24.11 Vacation of office: A Director shall cease to hold office as a Director if the Director:

- (a) is removed from office by an Ordinary Resolution;
- (b) dies, or becomes mentally disordered or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988;

- (c) resigns by written notice delivered to the Company at its address for service or at its registered office (such notice to be effective at the time when it is so received unless a later time is specified in the notice);
- (d) becomes disqualified from being a Director pursuant to the Act;
- (e) becomes bankrupt or makes an arrangement or composition with his or her creditors generally;
- (f) is prohibited from being a Director pursuant to the ASX Listing Rules, or is removed from (or otherwise vacates) office pursuant to this Constitution or the Act; or
- (g) has for more than six months been absent without approval of the Board from meetings of the Board held during that period.

24.12 Timing of retirement and appointment: If:

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

25 Alternate Directors

25.1 Power to appoint: Each Director may from time to time by written notice to the Company appoint any person, who is not already a Director and who is approved by a majority of the other Directors, to be that Director's alternate (an **Alternate Director**). No Director may appoint a deputy or agent except by way of appointment of an Alternate Director under this clause 25.

25.2 Rights of Alternate Director: Unless otherwise specified by the Alternate Director's terms of appointment, an Alternate Director:

- (a) is entitled, in the absence or unavailability of the Director who appointed him or her (the **Appointor**), to exercise the same rights, powers and privileges (other than the power to appoint an Alternate Director or to act as chairperson or deputy chairperson at a meeting of the Directors solely by virtue of being appointed an Alternate Director by the Appointor who is the

chairperson or deputy chairperson) as the Appointor (including the right to receive notice of, and 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

- (b) when acting as an Alternate Director is subject to the same duties and obligations as the Appointor.

25.3 **Remuneration and expenses:** An Alternate Director is not entitled to any remuneration from the Company in his or her capacity as an Alternate Director but is entitled to be reimbursed by the Company for all expenses incurred in attending meetings of the Directors and in the discharge of his or her duties, to the same extent as if he or she were a Director.

25.4 **Cessation of appointment:** An Alternate Director ceases to be an Alternate Director:

- (a) if the Appointor ceases to be a Director or revokes the appointment by written notice to the Company;
- (b) on the occurrence of any event which, if the Alternate Director were a Director, would disqualify the Alternate Director from being a Director; or
- (c) if a majority of the Board resolve to revoke the Alternate Director's appointment.

26 Managing Directors

26.1 **Appointment and removal:** The Board may from time to time appoint one or more Directors to the office of managing director for such period, and on such terms, as the Board determines and, subject to the terms of any agreement entered into in any particular case, may revoke such appointment.

26.2 **Resignation:** A managing director shall be subject to the same provisions as regards resignation, rotation, removal and disqualification as the other Directors. If a managing director ceases to hold office as a Director from any cause, he or she shall automatically cease to hold the office of managing director.

26.3 **Remuneration:** A managing director is entitled to receive such remuneration for his or her services as an employee as the Board may determine.

26.4 **No alternate managing director:** The power to appoint Alternate Directors conferred on Directors by this Constitution does not confer on any managing director the power to appoint an alternate managing director.

27 Remuneration and other benefits of Directors

- 27.1 **Restriction on authorisation:** The Board may, subject to the ASX Listing Rules, exercise the power conferred by section 161 of the Act to authorise payments and other benefits to and for Directors.
- 27.2 **Payment of expenses:** Directors are entitled to be paid for all travelling, accommodation and other expenses properly incurred by them in attending meetings of the Board, or any committee of the Board, or meetings of Shareholders, or in connection with the business of the Company.
- 27.3 **Special remuneration:** Without limiting clause 27.1, the Board may authorise the Company to pay special remuneration to any Director who is, or has been, engaged by the Company to carry out work or perform any services in a capacity other than that of Director.

28 Indemnity and insurance

- 28.1 **Indemnity of Directors:** Subject to clause 28.3, every Director is entitled to be and shall be indemnified by the Company:
- (a) for any costs incurred by him or her in any proceeding that relates to liability for any act or omission in his or her capacity as a Director or a director of a subsidiary of the Company and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and
 - (b) in respect of liability to any person other than the Company or a related company for any act or omission by him or her in his or her capacity as a Director or a director of a subsidiary of the Company, and costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability,

and this indemnity shall continue in force, despite any subsequent revocation or amendment of this clause, in relation to any liability which arises out of any act or omission by a Director prior to the date of such revocation or amendment, but shall be subject to any limitations contained in any deed or agreement from time to time granted by the Company in favour of any Director as contemplated by clause 28.4.

- 28.2 **Other indemnities:** Subject to clause 28.3, the Company may, with the prior approval of the Board (and on the terms contained in any deed or agreement from time to time granted by the Company in favour of such person conferring the indemnity), indemnify a director of a related company, or an employee of the Company or a related company:
- (a) for any costs incurred by him or her in any proceeding that relates to liability for any act or omission by him or her in such capacity and in which judgment

is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and

- (b) in respect of liability to any person other than the Company or a related company for any act or omission by him or her in such capacity, and costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability.

28.3 **Exceptions:** An indemnity conferred by clause 28.1(b), or given pursuant to clause 28.2(b), shall not apply in respect of:

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

An indemnity conferred by clause 28.1, or given pursuant to clause 28.2, shall not apply in respect of any other liability or costs in respect of which an indemnity is prohibited by any law.

28.4 **Express indemnity:** Without limiting the indemnity conferred by clause 28.1 the Company may, with the prior approval of the Board, by deed or agreement grant in favour of any Director an express indemnity to the same effect as, or which coverage may overlap with, that conferred by clause 28.1, but subject (insofar as any such indemnity relates to a matter contemplated by clause 28.1(b)) to the exceptions in clause 28.3.

28.5 **Insurance:** The Company may, with the prior approval of the Board, effect insurance for a Director or employee of the Company or a director or employee of a related company, in respect of:

- (a) liability, not being criminal liability, for any act or omission by him or her in such capacity; or
- (b) costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability; or
- (c) costs incurred by him or her in defending any criminal proceedings that have been brought against the Director, director of a related company or employee in relation to any act or omission in his or her capacity as a Director, director of a related company or employee and in which he or she is acquitted.

28.6 **Definitions:** In this clause 28:

- (a) “Director” includes a former Director and “director” includes a former director;
- (b) “employee” includes a former employee; and
- (c) other words given extended meanings in section 162(9) of the Act have those extended meanings.

29 Powers of Directors

- 29.1 **Management of Company:** The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.
- 29.2 **Exercise of powers by Board:** The Board may exercise all the powers of the Company which are not required either by the Act or this Constitution to be exercised by the Shareholders.
- 29.3 **Delegation of powers:** The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in the second schedule to the Act.
- 29.4 **Appointment of attorney:** The Company may exercise the power conferred by section 181 of the Act to appoint a person as its attorney, either generally or in relation to a specified matter. Any such power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.
- 29.5 **Ratification by Shareholders:** Subject to the provisions of section 177 of the Act (relating to ratification of directors’ actions) the Shareholders, or any other person in whom a power is vested by this Constitution or the Act, may ratify the purported exercise of that power by a Director or the Board in the same manner as the power may be exercised. The purported exercise of a power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that power.

30 Interested Directors

- 30.1 **Disclosure of Interests:** A Director shall comply with the provisions of section 140 of the Act (relating to disclosure of interest of directors) but failure to comply with that section does not affect the operation of clause 30.3.
- 30.2 **Interested Directors may vote:** Except to the extent otherwise determined by a majority of Directors who are not Interested in such matter, a Director may vote on a Board resolution for, and be counted in a quorum for the consideration of, any matter in which that Director is Interested.
- 30.3 **Personal involvement of Directors:** Notwithstanding any rule of law or equity to the contrary, but subject, if applicable, to the ASX Listing Rules and to sections 107(3) and

141 of the Act (relating to avoidance of transactions in which a Director is Interested) and section 36(4) of the Financial Reporting Act 2013 (prohibiting a director from acting as auditor of a company), a Director may:

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

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

31 Proceedings of Board

- 31.1 **Third schedule of Act not to apply:** The provisions of the third schedule to the Act (relating to proceedings of a board) do not apply to the Company, except to the extent expressly incorporated in this Constitution.
- 31.2 **Procedure:** Except as provided in this Constitution, the Board may regulate its own procedure.
- 31.3 **Methods of holding meeting:** A meeting of the Board may be held either:
- (a) by a number of the Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting;
 - (b) by means of audio, audio and visual, or electronic communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
 - (c) by a combination of the methods described in paragraphs (a) and (b) above.
- 31.4 **Convening of Meeting:** A Director, or an employee of the Company at the request of a Director, may convene a meeting of the Board by giving notice in accordance with clause 31.5.
- 31.5 **Notice of meeting:** The following provisions apply in relation to meetings of the Board (except where otherwise agreed by all Directors in relation to any particular meeting or meetings):

- (a) Not less than two clear days' notice of a meeting shall be sent to each Director, unless:
 - (i) the Director waives that right; or
 - (ii) in the opinion of the chairperson or of Directors who would together constitute a quorum at the meeting, the meeting is necessary as a matter of urgency, in which event such notice as is practicable in the circumstances shall be given.
- (b) Notice to a Director of a meeting may be given in any of the following ways:
 - (i) by telephone to the telephone number given by the Director to the Company for the purposes of receiving notices, in which case the notice will be deemed to be given when the call is answered;
 - (ii) by delivery of the notice to the Director, in which case the notice will be deemed to be given when handed to the Director or delivered at the address of the Director;
 - (iii) by posting the notice to the address given by the Director for the purpose of receiving notices, in which case the notice will be deemed to be given three days after it is posted;
 - (iv) by sending by electronic means in accordance with any request made by the Director from time to time for such purpose, in which case the notice will be deemed to be given at the time of transmission; or
 - (v) by such other method as may be approved by the chairperson from time to time.
- (c) A notice of meeting shall:
 - (i) specify the date, time and place of the meeting;
 - (ii) in the case of a meeting by means of audio, or audio and visual, or electronic communication, specify the manner in which each Director may participate in the proceedings of the meeting; and
 - (iii) give an indication of the matters to be discussed, in sufficient detail to enable a reasonable Director to appreciate the general import of the matters, unless this is already known to all the Directors or is impracticable in any particular circumstances.
- (d) If all reasonable efforts have been made to give notice of a meeting to a Director in accordance with this clause 31.5 but the Director cannot be contacted, notice of the meeting shall be deemed to have been duly given to that Director.

- 31.6 **Waiver of notice irregularity:** An irregularity in the giving of notice of a meeting is waived if each of the Directors either attends the meeting without protest as to the irregularity or agrees (whether before, during or after the meeting) to the waiver.
- 31.7 **Quorum:** Unless otherwise determined by the Board, a quorum for consideration of any matter at a meeting of the Board is a majority of Directors entitled to vote on the matter. No matter may be considered at a meeting of the Board if a quorum for the purposes of the matter is not present.
- 31.8 **Lack of quorum:** If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the following day at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Directors present will constitute a quorum.
- 31.9 **Insufficient number of Directors:** The Directors may continue to act where there is a vacancy in their body, but where the number of Directors has fallen below the minimum set by clause 24.1, the continuing Directors may act to remedy the shortfall in Directors or to summon a meeting of the Company's Shareholders, but for no other purpose.
- 31.10 **Chairperson:** The Directors may from time to time elect one of their number as chairperson of the Board and determine the period for which the chairperson is to hold office. The chairperson shall chair all meetings of the Directors. If at any time there is no chairperson or if at any meeting of the Board the chairperson is not present within 10 minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be chairperson of the meeting.
- 31.11 **Voting:** Every Director has one vote. In the case of any equality of votes, the chairperson does not have a casting vote. A resolution of the Board is passed if it is agreed to without dissent by all Directors present and entitled to vote on the resolution, or if a majority of the votes cast on it are in favour of the resolution. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless that Director expressly dissents from or votes against, or expressly abstains from voting on, the resolution at the meeting.
- 31.12 **Written resolution:** A resolution in writing, signed or assented to by a majority of the Directors entitled to vote on that resolution, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including any electronic means of communication) in similar form, each signed or assented to by one or more Directors (whose assent may be given by electronic communication including email). A copy of any such resolution must be entered in or kept with the records of Board proceedings.

- 31.13 **Committees:** A committee of Directors shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this Constitution relating to proceedings of Directors apply, with appropriate modification, to meetings of a committee of Directors.
- 31.14 **Validity of actions:** All acts done by any meeting of the Board or of a committee of Directors or by any person acting as a Director are valid notwithstanding:
- (a) any defect in the appointment of any Director or person acting as Director;
 - (b) that they or any of them were disqualified; or
 - (c) any irregularity in a notice of meeting.
- 31.15 **Minutes:** The Board shall ensure that minutes are kept of all proceedings at meetings of the Shareholders and of the Board. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.
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32 Method of contracting

- 32.1 **Deeds:** A deed which is to be entered into by the Company may be signed on behalf of the Company, by:
- (a) two or more Directors;
 - (b) any Director or another person authorised by the Board, whose signature must be witnessed; or
 - (c) one or more attorneys appointed by the Company.
- 32.2 **Other written contracts:** An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by a person acting under the express or implied authority of the Company.
- 32.3 **Other obligations:** Any other obligation or contract may be entered into on behalf of the Company in writing or orally by a person acting under the express or implied authority of the Company.
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33 Inspection of records

- 33.1 **Inspection by Directors:** Subject to section 191(2) of the Act (which relates to the power of a court to limit inspection), all accounting and other records of the Company shall be open to the inspection of any Director.
- 33.2 **Inspection by Shareholders:** Except as provided in the Act or unless the Board determines otherwise in any particular case, no holder of Securities shall be entitled to:

- (a) inspect any records, books, papers, correspondence or documents of the Company; or
- (b) require or receive any information concerning the Company's business, trading or customers, or any trade secret or secret process of or used by the Company.

34 Notices

- 34.1 **Method of service:** All notices, reports, accounts and other documents required to be sent to a Shareholder shall be sent in the manner provided in section 391 of the Act. Notices to any other person shall be sent in the same manner as if that person were a Shareholder.
- 34.2 **Service of notices overseas:** If the holder of a Share or other Equity Security has not given to the Company or the Share Registrar an address within New Zealand for the giving of notices, but has supplied an address outside New Zealand or an electronic address, then notices shall be sent to that physical address or sent electronically to such electronic address.
- 34.3 **Accidental omissions:** The failure to send an annual report, notice, or other document to a Shareholder or other Equity Security holder in accordance with the Act or this Constitution does not invalidate the proceedings at a meeting of Shareholders if the failure to do so was accidental.
- 34.4 **Joint Shareholders:** A notice may be given by the Company to the joint holders of an Equity Security by giving the notice to the joint holder named first in the register in respect of the Equity Security.
- 34.5 **Shareholder deceased or bankrupt:** If a Shareholder dies or is adjudicated bankrupt, notice may be given in any manner in which notice might have been given if the death or bankruptcy had not occurred, or by giving notice in the manner provided in section 391 of the Act to the Personal Representative of the Shareholder at the address supplied to the Company for that purpose.
- 34.6 **Waiver by Shareholders:** Subject to section 212(2) of the Act, a Shareholder may from time to time, by written notice to the Company, waive the right to receive all or any documents from the Company and may at any time thereafter revoke the waiver in the same manner. While any waiver is in effect, the Company need not send to the Shareholder the documents to which the waiver relates.

35 Liquidation

- 35.1 **Distribution of assets:** If the Company is liquidated the liquidator may, with the approval of Shareholders and any other sanction required by the Act:

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