
CONSTITUTION OF MHV WATER LIMITED

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CONSTITUTION OF MHV WATER LIMITED

PART A: INTRODUCTION

INTERPRETATION

1 Defined Terms

In this constitution:

1.1 The following expressions have the following meanings:

the Act means the Companies Act 1993;

associated person is a person who is an “Associate” under the Takeovers Code as applying from time to time under the Takeovers Act 1993;

the Board means Directors who number not less than the required quorum acting together as the board of directors of the Company or, if the Company only has one Director, that Director;

the Company means MHV Water Limited;

Co-op Act means the Co-operative Companies Act 1996;

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

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

Director Qualification means that to qualify to hold office as a Director appointed by the shareholders the appointed person must be a:

- (a) Qualifying Shareholder; or
- (b) holder of not less than 25% of the voting shares in a company which is a Qualifying Shareholder; or
- (c) person who is an active participant in a farming operation located in a Scheme Area and is a trustee or beneficiary of a trust which is a Qualifying Shareholder; or

- (d) person who is an active participant in a farming operation located in a Scheme Area and is a trustee or beneficiary of a trust which holds not less than 25% of the voting shares in company that is a Qualifying Shareholder; or
- (e) person who is an active participant in a farming operation located in a Scheme Area and is the General Partner, or a director of company that acts as a General Partner, of a limited partnership that is a Qualifying Shareholder; or
- (f) person who is an active participant in a farming operation located in a Scheme Area and holds at least a 25% ownership interest (either directly or indirectly) in a limited partnership or other ownership structure/vehicle that is a Qualifying Shareholder.

Land Owner means a person holding any interest in land in a Scheme Area and whose land is supplied with water by the Company for the purposes of irrigation;

Ordinary resolution means a resolution approved by a simple majority of the votes of those holders of Shares entitled to vote and voting on the question;

Protocols means any protocols, policies or other requirements relating to the operation of the irrigation schemes operated by the Company including the allocation, use or application of water for irrigation or other purposes;

Qualifying Shares means shares issued to a Land Owner who has entered into an agreement to take Services from the Company and until varied by the Board means one share for every 0.01 litres per second of water contracted under a Supply Contract under which water is supplied for irrigation to a shareholder;

Qualifying Shareholder means a person who holds Qualifying Shares;

Relevant Interest means a relevant interest in any shares as defined in the Securities Markets Act 1988 provided that in determining a relevant interest all Shares on issue in the Company will be including notwithstanding that some shares may not have an entitlement to vote either generally or on a particular resolution;

Scheme means the irrigation infrastructure under which water is supplied to Land Owners for irrigation within such area in Mid-Canterbury as is notified from time to time by the Company to shareholders;

Scheme Area means each area as specified by the Board within which the Company is offering irrigation water and access to water distribution infrastructure;

Services means the provision of water by the Company to a shareholder or an applicant for shares, for the purposes of irrigation as specified in the Supply Contract and subject to the Supply Standards:

Share means a share in the Company;

Supply Contract means the contract entered into (or to be entered into by a new shareholder) under which the terms and conditions for the supply of water by the Company to a Land Owner are set out;

Supply Standards are the standards established by the Board for the supply of water to Land Owners including but without restricting the same the following matters:

- (a) the right of the Company to vary the supply when water is not sufficiently available;
- (b) compliance with resource consent conditions;
- (c) compliance with all acts, regulations and by laws;
- (d) compliance with standards of best practice for the taking and utilisation of water;
- (e) the minimum area for which a Supply Contract will be entered into;
- (f) to restrict the use of water supplied under a Supply Contract to only the land described in such contract,

as notified from time to time by the Board to all Shareholders;

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

- 1.2 Subject to *clause 1.1*, expressions which are defined in the Act (whether generally, or for the purposes of one or more particular provisions) have the meanings given to them by the Act. Where an expression is defined in the Act more than once and in different contexts, its meaning will be governed by the context in which it appears in this constitution.

2 Construction

In this constitution:

- 2.1 Headings appear as a matter of convenience and do not affect the interpretation of this constitution;
- 2.2 The singular includes the plural and vice versa, and words importing one gender include the other genders;
- 2.3 A reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;
- 2.4 The Schedules form part of this constitution.

THE RELATIONSHIP BETWEEN THE CONSTITUTION AND THE ACT

3 Effect of the Act on this Constitution

- 3.1 The Company, the Board, each Director, and each shareholder have the rights, powers, duties, and obligations set out in the Act except to the extent that they are negated or modified, by the Act, or this constitution.
- 3.2 The Company, while registered under the Co-op Act shall have the rights powers duties and obligations set out in the Co-op Act and this constitution.

4 Shareholders may alter or revoke this Constitution/Protocols

- 4.1 The shareholders may alter or revoke this constitution by special resolution.
- 4.2 The Company may from time to time introduce Protocols which shall be binding on the Company and all shareholders. Those Protocols may include the terms and conditions under which those Protocols may be varied, revoked or replaced by the Company or by a resolution of shareholders.

PART B: SHARES AND SHAREHOLDERS

SHARES

5 Co-operative Company

- 5.1 The Company is authorised, and each shareholder of the Company authorises the Company, to register as a co-operative company under Section 6 of the Co-op Act.
- 5.2 The Company may carry out all or any of the co-operative activities set out in Section 3 of the Co-op Act either directly or indirectly, and the principal activity of the Company shall be such co-operative activities.

6 Share confers rights on shareholder

6.1 Subject to the terms and conditions on which a Share is issued, as determined by the Board, and subject to the provisions of clause 6.4 hereof, including those set out in this constitution, a Share confers on the holder the right to such votes as are attached to each class of shares on a poll at a meeting of shareholders on any resolution, including any resolution to:

6.1.1 appoint or remove a Director or an auditor in accordance with this constitution;

6.1.2 adopt a constitution;

6.1.3 alter this constitution;

6.1.4 approve a major transaction;

6.1.5 approve an amalgamation under the Act; and

6.1.6 put the Company into liquidation;

6.2 a right to a rebate or dividends in respect of that share or class of shares according to the rights attached to the relevant class of share under this constitution or in accordance with the terms of issue of any shares;

6.3 the right to share in the distribution of assets of the Company according to the rights attached to each class of shares.

6.4 Voting Restrictions

Notwithstanding the provisions of Clause 6.1 the holding of shares in the Company shall be subject to the following restrictions:

6.4.1 No shareholder shall have the right to exercise any voting rights in respect of a particular vote if the shareholder has not purchased Services from the Company during the one year preceding the date on which the vote is to be determined except if the specific terms of issue of the shares give the right to vote;

6.4.2 No shareholder who together with associated persons holds a relevant interest in more than 10% of the total shares on issue may exercise any voting rights on any shares in excess of the said percentage and as set out in Clause 16 of the Second Schedule.

- 6.4.3 No Qualifying Shareholder who has a lien on any shares for moneys that have fallen due for payment and remain unpaid shall have a vote in respect of the shares held by that shareholder.

6.5 Board may specify Scheme Areas

Subject to the Protocols, the Board has the right to determine the following matters:

- 6.5.1 That within the Scheme there shall be specified Scheme Areas with the shareholders who take water under a Supply Contract within that Scheme Area having rights, privileges, covenants and conditions applying to those shareholders.
- 6.5.2 To change from time to time the Scheme Areas.
- 6.5.3 To levy charges under the Supply Contracts that are different between the Scheme Areas.
- 6.5.4 To determine that a class of shares will be issued or classified in respect of any Scheme Area and have differing rights for each Scheme Area.

7 Statement of rights to be given to shareholders

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

8 Alteration to Shareholder Rights – Special Resolution Required

- 8.1 The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a special resolution of each interest group in accordance with the Act.
- 8.2 Subject to this constitution, the Board may issue Shares that rank as to voting or
- 8.3 distribution rights, or both, equally with or prior to any existing Shares, and any such issue will not be treated as an action affecting the rights attached to existing Shares.

9 Consolidation and subdivision

The Board may:

- 9.1 consolidate and divide Shares or any class of Shares in proportion to those Shares or the Shares in that class; or
- 9.2 subdivide Shares or any class of Shares in proportion to those Shares or the Shares in that class; or

9.3 create different classes of shares that:

- 9.3.1 have access to water from specified areas or from parts of the Scheme as determined by the Board; and/or
- 9.3.2 have different levels of reliability in the supply of water; and/or
- 9.3.3 hold different rights to storage, nutrients or any other benefit available from the Company.

9.4 Create different classes of shares that have different voting rights.

ISSUE OF EQUITY SECURITIES

10 Board to issue Shares

10.1 The Board may issue Shares, at any time, to any person and in any number it thinks fit provided:

- 10.1.1 the issue is expressly authorised by this constitution; or
- 10.1.2 the issue is of Qualifying Shares issued in accordance with clause 11; or
- 10.1.3 the issue is to enhance or enable the extension or better use of the Scheme;
- 10.1.4 in the case of any other Shares of any class their issue has been approved by an ordinary resolution; or
- 10.1.5 in the case of Shares of any class, those Shares are issued in accordance with:
 - (a) the terms of conversion of securities convertible into Shares; or
 - (b) the terms of any option to acquire Shares; or
 - (c) the terms of any Shares;

which have been issued in accordance with this clause; or

- 10.1.6 the issue is made in accordance with *clauses 12 to 16*;

10.1.7 The new shares are issued in accordance with any policies or requirements as determined by the Board.

10.2 If the Board issues Shares that rank as to voting or distribution rights, or both, equally with or prior to existing Shares, the Board need not first offer those Shares to existing shareholders for acquisition.

10.3 Notwithstanding the provision in clause 10.1 the Board has the right to offer shares within a Specified Scheme Area to such persons as the Board deems appropriate and who are or will become transacting shareholders and attach to those shares specified rights as determined by the Board.

11 Board may issue Shares

The Board may issue Shares as provided for by the Co-op Act and for such purpose:

11.1 The Shares shall have a nominal value of \$1.00 each.

11.2 The issue price of all Shares shall be at the nominal value notwithstanding that shares may be issued for an additional amount which shall be treated as a premium.

11.3 Qualifying Shares shall only be issued to and held by a Land Owner who has entered into a Supply Contract to take, acquire, use or purchase Services from the Company.

12 Board may issue Redeemable Preference Shares

The Board may from time to time issue redeemable shares on the terms and conditions determined by the Board and may redeem any shares so issued in accordance with the provisions of Section 68 of the Companies Act 1993.

13 Board may issue new Shares on pro rata basis

The Board may issue Shares if:

13.1 those Shares are offered to holders of existing Shares on a basis which, if the offer were accepted by all such holders, would maintain the existing proportionate rights of each existing holder (relative to other holders of Shares) to voting and distribution rights, whether that offer is renounceable or not; or

13.2 those Shares are issued to holders of existing Shares as fully paid securities on a basis which maintains the existing proportionate rights of each existing holder (relative to other holders of Shares) to voting and distribution rights.

Notwithstanding *clauses 13.1 and 13.2*, the Board is entitled:

- 13.3 to issue any Shares in respect of which an offer is not accepted, or which because of fractional entitlements are not otherwise offered, to such persons and in such manner as the Board considers equitable and in the interests of the Company, provided that the price and terms and conditions of the issue of such Shares are not materially more favourable to the persons to whom they are issued than the terms of the original offer; and
 - 13.4 to offer and issue Shares to the holders of existing securities in accordance with specific rights attached to those existing securities to participate in issues of Shares, notwithstanding that the effect may be that existing proportionate rights to voting and distribution rights are not maintained; and
 - 13.5 to not offer or issue Shares to holders of existing Shares the terms of which expressly exclude the right to participate in the relevant offer or issue.
 - 13.6 to restrict an issue of fully paid up securities to those Shareholders who were Shareholders during the time when the reserves or other moneys to be capitalised into shares were accumulated by the Company.
- 14 Board may issue new equity securities to a Landowner who is or will become a Qualifying Shareholder**
- The Board may issue Shares if:
- 14.1 the issue is made to a person or other entity that is either:
 - 14.1.1 entering into a new Supply Contract with the Company; or
 - 14.1.2 is purchasing an interest in land from a Land Owner and at the same time an existing Shareholder, being the vendor of that interest in land, is surrendering the same number of Shares for which that new owner is applying and the new owner is entering into a Supply Contract with the Company.
 - 14.2 The Shares being offered are and will remain non-voting Shares and are issued to fund capital expenditure relating to the Scheme with such Shares being either dividend or non dividend bearing Shares.
 - 14.3 The shares being offered are for a fixed amount and those shares are redeemable by the Company and only have voting rights (subject to the restrictions as to voting in this constitution) in the event of the Company is in default for more than 90 business days under the terms of issue of those shares.

15 No issue

If any issue of Shares would cause the registration of the Company under the Co-op Act to be suspended then such issue shall not proceed except after being authorised by shareholders by special resolution.

16 Dividend and Rebate Rights attached to shares

The Board may determine in respect of any issue of Shares to attach rights to dividends and/or rebates to such Shares. Any rebates paid on Shares and any other Shares entitled to rebates shall be paid and distributed in such manner as the Board thinks fit.

SHARE REGISTER

17 Status of registered holder

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

17.1 exercise the right to vote attaching to the Share;

17.2 receive notices;

17.3 receive a distribution in respect of the Share; and

17.4 exercise the other rights and powers attaching to the Share.

18 Trusts not to be entered on share register

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

19 Nomination of Person entitled to vote

By notice given to the Company any holder of shares may nominate any person who is residing and farming in the Scheme Area and has a direct or indirect financial interest under a Supply Contract to exercise all voting rights of that holder until notice of revocation of that nomination is given to the Company. Upon a transfer of the Shares of that holder such nomination shall cease to have effect.

SHARE CERTIFICATES

20 Issue of share certificates on new issue or transfer

If required to do so by the Act or any relevant legislation the Company will issue share certification to shareholders. While the exemption to issue share certificates is in force no share certificates shall be issued.

21 Board may issue replacement share certificate

The Board:

- 21.1 may issue a replacement share certificate for any share certificate that is worn out or defaced; and
- 21.2 must issue a share certificate for a share certificate that has been lost or destroyed, subject to satisfactory proof of that fact, payment of the reasonable expenses of the Company and, if so required by the Board, an appropriate indemnity being given to the Company.

22 Board may cancel share certificate

The Board may cancel share certificates of the Company upon:

- 22.1 the consolidation or subdivision of any Shares; or
- 22.2 any change to the amount paid up or credited as paid up on any Shares; or
- 22.3 any change of name of the Company, and must issue share certificates reflecting such change if the Company is required by the Act or any relevant legislation to issue share certificates after the issue or transfer of Shares.

TRANSFER OF SHARES

23 Signed transfer to be delivered to Company

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

24 Sale by Land Owner

In the event that a Land Owner has sold an interest in land and as a result the Services are no longer provided to that Shareholder under a Supply Contract then the following provisions apply:

- 24.1 the Board may forthwith cause the Company to surrender the Shares held by that Land Owner at the nominal value of those shares and cancel the Supply Contract

with that Shareholder reserving any right to claim moneys due under that Supply Contract or continue to make any claims outstanding under that Supply Contract; or

- 24.2 the Company may agree to the transfer of the Shares held by that Shareholder to a purchaser of the interest in land held by that transferor shareholder subject to that transferee purchaser entering into a Supply Contract with the Company and agreeing to be bound by the Supply Standards.

25 Shares transferred by entry on share register

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

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

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

- 26.1 the holder of the Shares has failed to pay the Company an amount due in respect of those Shares, whether by way of consideration for the issue of the Shares or in respect of sums payable by the holder of the Shares in accordance with this constitution or under a Supply Contract;
- 26.2 registration would impose a liability to the Company on the transferee and the transferee has not signed the transfer form;
- 26.3 the transfer is for more than one class of Shares; or
- 26.4 the transfer is not accompanied by such evidence as the Board may reasonably require to establish the right of the transferor to make the transfer;
- 26.5 if the transfer of Qualifying Shares is not to a Land Owner who intends to take Services from the Company and simultaneously to that transfer enters, or prior to that transfer has entered, into a Supply Contract for the taking of Services.
- 26.6 If the transfer is in the opinion of the Board not in the best interests of the Company and gives reasons for so declining that transfer.
- 26.7 If the transfer could result in the proposed transferee and associated persons of the proposed transferee holding a relevant interest in 10% or more of the total shares on issue in the Company.
- 26.8 The transfer is not in accordance with any policy determined by the Board and applying to all shareholders or a specified class of shares.

27 Board must refuse a Share transfer in certain cases

The Board must refuse the registration of any transfer of Shares if it is required to do so by law.

CALLS, FORFEITURE AND LIENS

28 Board may make calls

The Board may make calls on any shareholder for any money that is unpaid on that shareholder's Shares and not otherwise payable at a specified time or times under this constitution or the terms of issue of those Shares or any contract for the issue of those Shares. The Second Schedule governs calls on Shares.

29 Forfeiture of Shares where calls or other amounts unpaid

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

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

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

30 Company's lien

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

ACQUISITION OF OWN SHARES, REDEMPTIONS AND FINANCIAL ASSISTANCE

31 Company may acquire and hold Shares

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

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

Subject to this constitution, the Board may purchase or otherwise acquire Shares from such shareholders and in such numbers or proportions as it thinks fit, in accordance with the Act.

33 Acquisition of Shares is restricted

The Company must not acquire Shares unless:

- 33.1 the acquisition is effected in compliance with section 60(1)(a) (read together with section 60(2)) of the Act; or
- 33.2 the precise terms and conditions of the specific proposal for the acquisition is approved by ordinary resolution of holders of all Shares; or
- 33.3 the acquisition is required by a shareholder of the Company pursuant to sections 110 or 118 of the Act; or
- 33.4 that acquisition is the surrender of shares having a nominal value pursuant to the provisions of the Co-op Act.

34 Company may redeem and surrender Shares

Subject to this constitution:

- 34.1 The Company may redeem Shares:
 - (a) at the option of the Company if permitted by their terms of issue; or
 - (b) at the option of the holder of the Shares if permitted by their terms of issue; or
 - (c) on a date for redemption specified by a special resolution which alters this constitution by adding such a date, or (to the extent permitted by law), on a date for redemption specified as such in the terms of issue of such Shares,

for a consideration that is specified, calculated by reference to a formula, or required to be fixed by a suitably qualified person who is not associated with or interested in the Company, in accordance with the Act.
- 34.2 The Company may exercise an option to redeem Shares issued by the Company in relation to one or more holders of Shares, in accordance with the Act.
- 34.3 The Board shall accept the surrender of any Shares in the Company having a nominal value in the circumstances and in accordance with section 20(2) and 20(3) of the Co-op Act and if otherwise so required to under the Co-op Act.
- 34.4 The Board may, in its absolute discretion, accept the surrender of any Shares in the Company having a nominal value in the circumstances and in accordance with section 20(1) of the Co-op Act and if otherwise so permitted to under the Co-op Act.

34.5 The Board may, in its absolute discretion, in the circumstances and in accordance with section 21 of the Co-op Act and otherwise if so permitted to under the Co-op Act, or this Constitution require any shareholder to surrender all or any Shares in the Company having a nominal value held by that shareholder including, without limitation, where:

34.5.1 the shareholder has ceased to hold an interest in land within the Scheme area and is no longer taking Services from the Company under a Supply Contract; or

34.5.2 the shareholder has failed to comply in a material respect with requirements relating to transactions with the Company contained in any Supply Contract between the Company and the shareholder or the Supply Standards issued by the Company after being given at least 15 business days notice by the Company of the default under that Supply Contract or Supply Standards with that default not being remedied within that 15 day period. Any further default of materially the same nature shall give to the Company the right to exercise its rights under this clause without further notice to the shareholder in default; or

34.5.3 the shareholder and its associated persons are in breach of clause 6.4 and the Board has determined that any shares held by that shareholder and associated persons of that shareholder are to be surrendered.

34.5.4 The shareholder and associated persons are in breach of any policy determined by the Board and applicable to all shareholders or any class of shareholders.

34.6 The consideration for the surrender of any shares in the Company having a nominal value shall be the nominal value of those Shares.

34.7 The Company shall be permitted to not cancel any Shares in the Company having a nominal value and surrendered and to hold any such Shares surrendered subject to the provisions of Section 24 of the Co-op Act.

35 Redemptions are restricted

The Company must not redeem securities of the Company (but may surrender shares) unless:

35.1 those Shares were issued in compliance with *clause 10* or *clause 13*, and the Company is bound or entitled to redeem those Shares pursuant to the terms of their issue; or

- 35.2 those Shares are redeemed in compliance with section 69(1)(a) of the Act; or
- 35.3 those equity securities are debt securities which may be converted into Shares, and, before that conversion, they are redeemed in cash; or
- 35.4 the redemption of those Shares is approved by ordinary resolution of holders of Shares whose rights or entitlements could be affected by the redemption.

36 Financial assistance is restricted

- 36.1 The Company must not give financial assistance for the purpose of, or in connection with, the acquisition of shares issued or to be issued by the Company unless:
 - 36.1.1 the financial assistance is offered or given so that all holders of equity securities of the Company are treated, or given the opportunity to be treated, on the same basis; or
 - 36.1.2 the financial assistance is given in accordance with section 80 of the Act; or
 - 36.1.3 the proposal to give that assistance is approved by ordinary resolution of holders of Shares whose rights or entitlements could be affected by the financial assistance.
- 36.2 The Company may give any person who is issued with Shares the right to pay the nominal amount of those Shares over such period as the Board considers appropriate.

DISTRIBUTIONS

37 Board may authorise distributions

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

38 Board's power to authorise rebates and dividends

- 38.1 The Board may pay rebates on the Qualifying Shares in accordance with Section 30 of the Co-op Act and calculated by reference to the number or value or volume of, or the profit derived by the Company from, transactions by the shareholders with the Company. The Company may retain any rebates payable to shareholders and apply those rebates as a set off against charges or payments payable by a shareholder including payment for future Services provided to that shareholder by the Company.
- 38.2 Where the Company has issued shares entitled to a dividend the Board must not authorise a dividend:

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

38.2.2 that is of a greater value per Share in respect of some Shares than it is in respect of other Shares of that class,

unless the amount of the dividend in respect of a Share of that class is in proportion to the amount paid to the Company in satisfaction of the liability of the shareholder under this constitution or under the terms of issue of the Share or under the contract for the issue of the Share. Nothing in this clause prevents the Board issuing Shares wholly or partly in lieu of dividend in accordance with the Act.

38.3 For the purpose of clauses 39 to 42 the word “dividend” shall include rebates.

39 Shareholder may waive dividend

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

40 Board may deduct from distribution amounts owed to Company

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

41 Distributions do not bear interest

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

42 Unclaimed distributions

All dividends and other distributions unclaimed for one year after the due date for payment may be invested or otherwise made use of by the Board for the benefit of the Company until claimed. The Company shall be entitled to mingle the distribution with other money of the Company and shall not be required to hold it or to regard it as being impressed with any trust but, subject to compliance with the solvency test, shall pay the distribution to the person producing evidence of entitlement.

MEETINGS OF SHAREHOLDERS

43 Company must hold annual meeting of shareholders

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

43.1.1 once in each calendar year; and

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

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

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

44 Company may hold special meetings of shareholders

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

44.1 may be called at any time by the Board; and

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

45 Proceedings at meetings of shareholders

45.1 The Second Schedule governs the proceedings at meetings of shareholders.

45.2 Subject to the provisions of clause 6.4 at any meeting of shareholders only the holder of Qualifying Shares who has purchased Services in the one year preceding the date on which the vote is to be determined shall have a right to vote unless any other class of shares is given the right to vote by the terms of issue thereof. On a poll and on a postal vote each holder of Qualifying Shares shall have one vote for each Share held and on a show of hands each holder of Qualifying Shares shall have one vote. The right to vote is qualified by and subject to the provisions contained in clause 6.4 of this Constitution and clause 16 of the Second Schedule.

PART C: DIRECTORS

APPOINTMENT AND REMOVAL

46 Number of Directors

That the maximum number of directors be as follows:

46.1 In the period up to and including the annual meeting of the Company held for the 2017/2018 financial year of the Company there shall be up to 8 appointed Directors and 1 additional independent director.

46.2 From the conclusion of the annual meeting for the 2017/2018 financial year of the Company there shall be up to 7 elected directors and 1 additional independent director.

46.3 From the conclusion of the annual meeting for the 2018/2019 financial year of the Company there shall be up to 6 elected directors and up to 2 additional independent directors.

The number of directors whom are subject to election by the shareholders as set out in 46.1 to 46.3 above shall be subject to the provisions on appointment contained in clause 47. Any independent director shall be appointed and may be removed as set out in clause 48.

47 Appointment of Directors

47.1 The Directors shall be appointed as follows as from the 2018 annual meeting with no election being held at the 2017 annual meeting of the Company:

47.1.1 For the election of directors at the 2018 annual meeting:

- 47.1.1.1 Three directors who were directors of the Company as at 31 March 2017 shall continue in office.
- 47.1.1.2 Two directors who were directors of VIL as at 31 March 2017 shall continue in office
- 47.1.1.3 Subject to clause 47.3, two persons who are Qualifying Directors shall be elected as directors of the Company including any existing directors who qualify and are re-elected.
- 47.1.1.4 One person may be appointed by the Directors as an independent director.

47.1.2 For the election of Directors at the 2019 annual meeting:

- 47.1.2.1 One director who was a director of the Company as at 31 March 2017 shall continue in office.
- 47.1.2.2 One director who was a director of VIL as at 31 March 2017 shall continue in office.

- 47.1.2.3 Subject to clause 47.3, four persons who are Qualifying Directors shall be elected as directors of the Company including any existing directors who qualify and are re-elected.
- 47.1.2.4 Up to two persons may be appointed by the Directors as independent directors.
- 47.1.3 As from the 2020 annual meeting of the Company:
 - 47.1.3.1 Subject to clause 47.3, up to 6 directors shall be appointed by the shareholders including any directors who qualify and are re-elected.
 - 47.1.3.2 Up to 2 persons may be appointed by the Directors as independent directors.
 - 47.1.3.3 At least:
 - (i) two of the directors appointed must meet the Director Qualification by reason of holding MN and/or MG Class Shares in the Company;
 - (ii) one of the directors appointed must meet the Director Qualification by reason of a holding of MV Class Shares in the Company.
- 47.2 All of the Directors except for the independent directors must comply with and meet the Director Qualification.
- 47.3 The provisions of clauses 47.1.1 to 47.1.3 shall not preclude an existing director offering himself or herself for re-election as a director.
- 47.4 The directors shall determine who shall resign at the annual meeting of the Company in each of 2018, 2019 and 2020 and if the Directors cannot agree the directors who are to resign shall be determined by lot.
- 47.5 Notwithstanding the foregoing provisions at each annual election of directors a poll shall be held for the election of directors unless the shareholders present at that meeting in person or by proxy unanimously vote to not hold a poll. On that poll being held the scrutineers shall determine the votes cast by shareholders for the purposes of voting on the candidates for election as directors. In the event that, as a result of voting, the requirements of clause 47.1.3.3 have not been met then:

47.5.1 If at least two persons meeting the Director Qualification by holding MN and/or MG Class Shares are not elected as directors then the highest polling candidates meeting that requirement shall be appointed as directors and the lowest polling candidate of those elected shall not be appointed as a director.

47.5.2 If at least one person meeting the Director Qualification by holding MV Class Shares is not elected then the highest polling candidate meeting that requirement shall be appointed as a director and the lowest polling candidate of those elected shall not be appointed as a director.

47.5.3 The provisions of subclauses 47.5.1 and 47.5.2 above shall be construed and applied so that the provisions of clause 47.1.3.3 are met and complied with.

47.6 The Board shall construe the provisions of clause 47.5 widely so as to achieve the objective of there being at all times at least:

47.6.1 One director who meets the Director Qualification and has an interest in MV Class Shares.

47.6.2 Two directors who meet the Director Qualification and who each have an interest in either MN or MG Shares.

48 Independent Directors

48.1 In accordance with the provisions of clauses 47.1.1.4, 47.1.2.4 and 47.1.3.2 the Board may appoint up to the specified number of independent directors provided the persons so appointed have the experience and qualifications to be of special value to the Company to act as a director of the Company and those persons so appointed do not need to meet the Director Qualification. The Board shall have the following powers in respect of those appointments:

48.1.1 to determine the period for which they hold office which period shall be reviewed at least every three years;

48.1.2 the right to remove any person so appointed by a majority vote of the directors appointed who are Qualifying Directors;

48.1.3 any other terms and conditions of holding office.

49 Removal of Directors

49.1 Any Directors appointed by the shareholders pursuant to clause 47.1.1 to 47.1.3 (excluding Directors appointed by the Board under clause 48) may be removed from office by an ordinary resolution passed by the holders of the Qualifying Shares voting as a class at a meeting called for the purpose of, or for purposes that include, removal of the Director.

49.2 If any Directors (excluding directors appointed under clause 48) cease to meet the Director Qualification the Board may:

49.2.1 remove that Director from office; or

49.2.2 require that Director to retire from office at the next annual meeting of the Company.

50 Rotation of Directors

50.1 From and after the election of Directors at the annual meeting of the Company for the 2019/2020 financial year the following shall apply at each annual meeting of the Company:

50.1.1 Two directors elected by the shareholders shall retire from office and if any of those persons are available and eligible for re-election those persons may be subject to re-election.

50.1.2 If any director wishes to retire and does not offer himself or herself for re-election that director shall be included under clause 50.1.1 as a director required to retire from office.

50.1.3 If the directors retiring under clause 50.1.2 are less than 2 in number then the directors longest in office since their last election shall be the directors to retire and if there is more than 1 director appointed on the same day they shall determine by lot who shall retire and be available for re-election.

50.1.4 The provisions of the above clause are to be applied so that all directors elected to office shall remain as a director for three years before being required to stand for re-election.

50.2 A Director retiring at an Annual Meeting continues to hold office until:

50.2.1 he or she is re-elected; or

- 50.2.2 if he or she is not re-elected, until the shareholders at any meeting at which he or she retires (or any adjournment of that meeting) elect someone in his or her place; or
- 50.2.3 if the meeting does not elect someone in his or her place, until the end of the meeting or any adjournment of the meeting.
- 50.3 A retiring Director who is not disqualified under the Act is eligible for re-election.
- 50.4 A Director may retire at any time by giving notice to the Board and specifying the date of retirement.
- 50.5 The provisions of clause 46 and clauses 47.1.1.3, 47.1.2.3 and 47.1.3.1 shall only apply to a Director appointed by the holders of the Qualifying Shares in accordance with clause 47.2, and clause 50. Any Director appointed under clauses 47.1.1.4, 47.1.2.4 and 48 shall not be required to retire from office by rotation and shall not be counted in the number of Directors for that purpose.
- 50.6 Subject to the provisions of clause 46 and clauses 47.1.1.3, 47.1.2.3 and 47.1.3.1 the holders of the Qualifying Shares, may by ordinary resolution fill the office vacated by a Director who is retiring in accordance with this clause by electing a person who is not disqualified under the Act to that office at the annual meeting at which the outgoing Director retires. If no new Director is elected and if the retiring Director (not being disqualified under the Act) is offering himself or herself for re-election, the retiring Director shall be regarded as having been re-elected unless it is expressly resolved by ordinary resolution not to fill the vacated office or a resolution for the re-election of that Director is lost.
- 50.7 No person, other than a Director retiring pursuant to clause 50 will be eligible for election to the office of director at any annual meeting unless:
- 50.7.1 he or she meets the Director Qualification;
- 50.7.2 there has, at least 20 working days before the meeting, been served on the Company a notice in writing, signed by a shareholder qualified to attend and vote at the meeting for which the notice is given, of his or her intention to propose that person for election and a notice in writing signed by the person of his or her willingness to be elected.
- 50.8 Notice of each and every eligible candidate for the office of Director must either be included in the notice of the meeting at which the election is to take place or be sent by the Company to all persons entitled to receive notice of the meeting at least 5

working days prior to the meeting. Failure to send such notice to any such person will not invalidate the nomination but the meeting, as far as the election of Directors is concerned, must be adjourned until such notices have been sent. However, the accidental omission to give such notice to, or the non-receipt of notice of a meeting by, any person does not invalidate the election of a Director at that meeting.

50.9 Nominations: No person (other than a Director retiring at the meeting and a Director appointed by the Board) shall be elected as a Director at an annual meeting of Shareholders unless that person has been nominated by a Shareholder entitled to vote at the meeting. The closing date for nominations shall not be more than 2 months, before the date of the annual meeting at which the election is to take place (the 'Closing Date'). The Company shall advise all Shareholders at least 10 Business Days prior to the Closing Date advising of the Closing Date for Director nominations. There shall be no restriction on the persons who may be nominated as Directors nor shall there be any precondition to the nomination of a Director other than compliance with provisions contained in clause 49.8 of this constitution. Notice of every nomination received by the Company before the Closing Date for nominations shall be given by the Company to all persons entitled to attend the meeting together with, or as part of, the relevant notice of meeting.

51 Board may fill casual vacancy on the Board

The Board may appoint any person to be a Director to fill a casual vacancy. Any person appointed to fill a casual vacancy must retire at the next annual meeting of the Company after the date of appointment. If eligible that person may reoffer him or herself for re-election at that annual meeting.

CHAIRPERSON

52 Directors to elect chairperson of the Board

The Directors must elect one of their number as chairperson of the Board.

53 Chairperson to hold office on certain terms

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

VACATION OF OFFICE

54 Office of Director vacated in certain cases

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

54.1 dies; or

54.2 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.

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

54.4 retires from office under *clauses 50.2 to 50.4* and is not re-elected; or

54.5 resigns that office in accordance with this constitution; or

54.6 is removed from office in accordance with this constitution; or

54.7 ceases to meet the Director Qualification but subject to the provisions of clause 49.

55 Directors' resignation procedure

A Director may resign office:

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

55.2 in any other manner permitted by the Act.

MANAGEMENT OF THE COMPANY

56 Board to manage Company

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

57 Board has powers necessary to manage Company

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

58 Special resolutions necessary for major transactions

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

58.1 approved by a special resolution of shareholders; or

58.2 contingent on approval by a special resolution of shareholders.

PROCEEDINGS OF THE BOARD

59 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.

60 Written resolutions of Board permitted

A written resolution signed or assented to by at least 75% in number then entitled to receive notice of a meeting of the Board of the Directors is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Within 5 working days of a resolution being passed in accordance with this clause, the Company must send a copy of the resolution to every Director who did not sign the resolution or on whose behalf the resolution was not signed.

61 Written resolutions may be in counterparts

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

DELEGATION OF POWERS

62 Restriction on Board's right to delegate its powers

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

63 Board delegates to comply with regulations

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

64 Committee proceedings

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

INTERESTED DIRECTORS

65 Directors must disclose their interests

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

66 Failure to disclose does not affect validity of transaction

Any failure by a Director to comply with *clause 65* does not affect the validity of a transaction entered into by the Company or the Director. However, the transaction may be avoided under *clause 67*.

67 Company may avoid transaction if Director interested

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

68 Interested Director may vote

A Director of the Company who is interested in a transaction entered into, or to be entered into, by the Company may unless a majority of the Directors request that Director who has an interest to refrain from voting or taking part in any discussions relating to that transaction:

- 68.1 vote on a matter relating to the transaction;
- 68.2 attend a meeting of Directors at which a matter relating to the transaction arises, and be included among the Directors present at the meeting for the purpose of a quorum;
- 68.3 sign a document relating to the transaction on behalf of the Company; and
- 68.4 do anything else as a Director in relation to the transaction,

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

REMUNERATION

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

- 69.1 The Board may authorise:

69.1.1 the payment of remuneration or the provision of other benefits by the Company to a Director for services as a Director;

69.1.2 the entering into of a contract to do any of the things set out in this clause;

only if the relevant action has been approved by an ordinary resolution. Each resolution must express Directors' remuneration as either:

69.1.3 an annual monetary sum payable among all Directors (other than an executive Director); or

69.1.4 an annual monetary sum payable to any person holding office as a Director.

69.2 If remuneration is expressed in accordance with *clause 68.1.4* and if there is an increase in the number of Directors holding office, the Board may, without the authorisation of an ordinary resolution, increase the total remuneration by the amount required to enable the Company to pay the additional Director or Directors remuneration not exceeding the average amount then being paid to each of the other non-executive Directors (other than the chairperson).

69.3 No resolution which increases the amount fixed under a previous resolution is to be passed at a meeting of shareholders of the Company unless notice of the amount of the proposed increase has been given in the notice of meeting.

69.4 The Board may authorise:

69.4.1 the making of loans by the Company to a Director;

69.4.2 the giving of guarantees by the Company for debts incurred by a Director;
and

69.4.3 the entering into of a contract to do any of the things set out in this clause;

69.4.4 the engaging of a Director as a consultant and paying consultancy fees to that Director.

69.5 Any Director who has entered into a Supply Contract or has a relevant interest (as defined by Section 146 of the Companies Act 1993) shall not be precluded from voting on any matter at any Board meeting but shall be required to comply with Clause 67.

70 Expenses

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

71 Payments upon cessation of office

The Company may make a payment to a Director or former Director, or his or her dependants, by way of a lump sum or pension, upon or in connection with the retirement or cessation of office of that Director, only if:

- 71.1 the total amount of the payment (or the base for the pension) does not exceed the total remuneration of the Director in his or her capacity as a Director in any three years chosen by the Company; or
- 71.2 the payment is authorised by an ordinary resolution.

Nothing in this clause affects any amount paid to an executive Director upon or in connection with the termination of his or her employment with the Company, or the payment of any amount attributable to the contribution (or any related normal subsidy) made by a Director to a superannuation scheme.

ALTERNATE DIRECTORS

72 Directors may appoint and remove alternate Directors

Every Director may:

- 72.1 appoint any person who is not disqualified by the Act from being a Director, and whose appointment has been approved in writing by a majority of the other Directors to act as an alternate Director in his or her place; and
 - 72.2 remove that person from that office,
- by giving written notice to that effect to the Company.

73 Alternate Director has powers of appointor

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

- 73.1 has, and may exercise and discharge, all the powers, rights, duties and privileges of that Director (including the right to receive notice of, be counted as part of the quorum of, participate in, and vote at a meeting of the Board and to sign any

document, including a written resolution, and to act as chairperson of the Board, but excluding the right to appoint an alternate Director).

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

74 Termination of appointment of alternate Director

The appointment of an alternate Director terminates automatically if the Director who appointed him or her ceases to be a Director.

MANAGING DIRECTOR

75 Board may appoint Managing Director

The Board may appoint a person to the office of Managing Director for such period and on such terms as the Board thinks fit. Subject to the terms of any agreement entered into between the Board and the Director concerned, the Board may revoke the appointment.

76 Remuneration of Managing Director

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

77 Powers conferred on Managing Director

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

- 77.1 confer on a Managing Director any of the powers exercisable by the Board; and
- 77.2 without affecting the powers of the Managing Director to act as a member of the Board, impose such terms and conditions and such restrictions as the Board thinks fit; and
- 77.3 alter or revoke any of the powers it confers under this clause.

78 Managing Director has no power to appoint alternate Managing Director

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

PART D: GENERAL

CHANGE OF COMPANY NAME

79 A Director may apply to change Company name

A Director may apply to the Registrar of Companies to change the name of the Company if the Board has approved the Directors doing so.

INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

80 Company may indemnify directors and employees for certain liabilities

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

81 Company may effect insurance for directors and employees

The Company may, with the prior approval of the Board, effect insurance for a director or employee of the Company or a related company for any liability or costs for which a company may effect insurance for a director or employee under the Act. The Board may determine the amounts and the terms and conditions of any such insurance.

EXECUTION OF CONTRACTS

82 Manner of execution

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

- 82.1 an obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by –

82.1.1 two or more Directors; or

82.1.2 a Director, or any other person authorised by the Board whose signature must be witnessed; or

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

- 82.2 an obligation which, if entered into by a natural person, is by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and
- 82.3 an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company in writing or orally by a person acting under the Company's express or implied authority.

83 Company may appoint attorneys

The Company may, by an instrument in writing executed in accordance with *clause 81.1*, appoint one or more persons as its attorney or attorneys either generally or in relation to a specified matter or matters. An act of an attorney in accordance with the instrument binds the Company.

LIQUIDATION

84 Distribution of assets in kind

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

- 84.1 divide among the shareholders in kind the whole or any part of the assets of the Company and for that purpose the liquidator may:
- 84.1.1 fix such values for assets as the liquidator considers to be appropriate, and
 - 84.1.2 subject to the Protocols determine how the division will be carried out as between shareholders or different classes of shareholder; and
 - 84.1.3 determine that shareholders holding a class of shares that relate to a particular Scheme Area will receive a distribution according to the net realisation of assets within that Scheme Area; and
 - 84.1.4 make a distribution as set out in the Protocols.
- 84.2 vest the whole or any part of any such assets in trustees upon such trusts for the benefit such of those shareholders as the liquidator thinks fit,

but so that no shareholder is compelled to accept any shares or other securities on which there is any liability.

REMOVAL OF COMPANY FROM REGISTER

85 Directors may remove Company from register

If the Company:

- 85.1 has ceased to carry on business, discharged in full its liabilities to all known creditors, and distributed its surplus assets in accordance with the Act; or
- 85.2 has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court for an order putting the Company into liquidation,

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

FIRST SCHEDULE: CALLS, FORFEITURE AND LIENS

INTERPRETATION

1 Clause references

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

CALLS ON SHARES

2 Shareholders must pay calls

Every shareholder on receiving at least 10 working days' written notice specifying the time or times and the place of payment must pay, in accordance with that notice, the amount called to be paid in respect of any Shares that he or she holds. The Board may revoke or postpone a call, or require a call to be paid by instalments.

3 Call made when Board resolution passed

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

4 Joint holders are jointly and severally liable

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

5 Unpaid calls will accrue interest

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

6 Amounts payable under terms of issue treated as calls

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

7 Board may differentiate between holders as to calls

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

8 Board may accept payment in advance for calls

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

FORFEITURE OF SHARES

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

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

10 Notice of forfeiture must satisfy certain requirements

The notice served on a shareholder under *clause 9* must specify a date not earlier than 10 working days after the date the notice is served by which the payment is to be made. The notice must also state that in the event of non-payment by the appointed time, the Shares to which the call, instalment, or other amount relates, will be liable to be forfeited by the shareholder.

11 Failure to comply with notice may lead to forfeiture

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

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

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

12 Board may deal with forfeited Share

The Board must first offer any forfeited Shares to existing shareholders, other than the shareholder holding the forfeited Shares at the time of forfeiture, as if they were new shares about to be issued by the Company. Subject to this requirement, a forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment or other amount which remains unpaid on the Share is paid.

13 Shareholder whose Shares are forfeited loses rights

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

14 Director's statutory declaration is conclusive

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

15 Company may sell forfeited Share

The Company may receive consideration, if any, given for a forfeited Share following a sale or disposition, and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and register that person as the holder of the Share. That person shall not be bound to see to the application of the purchase money, if any, nor shall the title to the Share be affected by any irregularity or invalidity in the procedures under this constitution in respect of the forfeiture, sale or disposal of that Share.

LIENS

16 Company's lien

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

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

16.2 the proceeds of sale of such Shares; and

16.3 all dividends authorised in respect of such Shares,

16.4 all resales payable in respect of such Shares;

for:

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

16.6 interest on any such calls or instalments;

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

16.8 any moneys owing under a Supply Contract;

16.9 any money, debts or other liabilities owing or due and payable to the Company on any account whatsoever and whether solely or jointly with any other person;

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

17 Waiver of lien

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

18 Company may sell Share on which it has a lien

The Company may sell a Share on which it has a lien or surrender such Shares for the nominal value of those Shares in such manner as the Board thinks fit, where:

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

18.2 the registered holder of the Share, or the person entitled to it on his or her death or bankruptcy, has failed to pay that sum within 10 working days after the Company has served him or her with written notice demanding payment of that sum;

18.3 the Shareholder has breached a Supply Contract and the continuity of that contract could place at risk the continued ability or right of the Company to provide water to other Shareholders.

19 The Company may transfer Share and apply proceeds

19.1 The Company may receive the consideration given for a Share sold or surrendered under *clause 18*, and may execute a transfer of the Share in favour of the person to whom the Share is sold or to the Company if surrendered, and register that person as the holder of the Share discharged from all calls due prior to the purchase. The purchaser shall not be bound to see to the application of the purchase money, and his or her title to the Shares shall not be affected by any irregularity or invalidity in the proceedings relating to the sale.

19.2 The Company must apply the sale proceeds in payment of the sum presently payable on the lien, and the balance, if any, shall (subject to a like lien for sums not presently payable that existed upon the Share before the sale) be paid to the person entitled to the Shares at the date of sale.

SECOND SCHEDULE: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

INTERPRETATION

1 Construction

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

NOTICE

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

Written notice of the time and place of a meeting of shareholders must be sent to every shareholder entitled to receive notice of the meeting and to every Director and any auditor of the Company not less than 10 working days before the meeting. All notices, reports, accounts and other documents required to be sent to a shareholder shall be sent in the manner provided for in the Act (including without limitation, by electronic means as provided for in sections 391(3A) to 391(3C) of the Act.

3 Notice must state nature of business

The notice must state:

- 3.1 the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgement in relation to it; and
- 3.2 the text of any special resolution to be submitted to the meeting.

4 Irregularities in notice may be waived

Any irregularity in a notice of a meeting is waived if all the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity or if all such shareholders agree to the waiver.

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

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

6 Notice of an adjournment

- 6.1 If a meeting is adjourned for less than 30 days no notice of the time and place of the adjourned meeting need be given other than by announcement at the meeting from which the adjournment took place.
- 6.2 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in the same way as notice was given of the meeting from which the adjournment took place.

MEETING AND QUORUM

7 Methods of holding meetings

A meeting of shareholders may be held either:

- 7.1 by a number of shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- 7.2 by means of an audio, or audio and visual, or electronic communication to the extent permitted by the Act; or
- 7.3 by a combination of both the methods described in clauses 7.1 and 7.2 above.

The Company is not required to hold meetings of shareholders in the manner specified in clauses 7.2 or 7.3. Meetings will be held in the manner specified in clause 7.2 or 7.3 only if the notice of meeting so specifies or the Board otherwise decides that the Company should do so. 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.

8 Business to be transacted only if a quorum is present

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

9 Quorum for shareholders' meeting

A quorum for a meeting of shareholders is present if 10 or more shareholders holding Qualifying Shares are present in person or by proxy or if less than 10 shareholders are so present at least 5 shareholders holding Qualifying Shares able to exercise votes on 10% or more of the voting shares on issue are present.

10 Meeting convened at shareholders' request dissolved if no quorum

If a quorum is not present within 30 minutes after the time appointed for the meeting convened on the written request of shareholders holding Shares together carrying at least 5 percent of the voting rights entitled to be exercised, the meeting will be dissolved automatically.

11 Other meetings to be adjourned if no quorum

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a meeting convened under *clause 44.2* of this constitution), the meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time, and place as the Directors may appoint. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders present will constitute a quorum.

CHAIRPERSON

12 Chairperson of Board to be chairperson of meeting

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

13 Directors may elect chairperson if chairperson of Board not available

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

14 As a last resort shareholders may elect chairperson

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

15 Chairperson's power to adjourn meeting

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

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

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

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

VOTING

16 Voting restriction

16.1 The following restrictions shall apply to voting in addition to the restrictions under clause 16.3:

- (a) At any meeting of shareholders on a poll each qualifying shareholder shall have five votes for every six Class M Shares held provided that no shareholder and the associated persons of that shareholder holding a relevant interest in any Qualifying Shares shall be entitled to exercise more than 10% of the votes cast at that meeting with that calculation including all of the shares represented at that meeting holding voting rights.
- (b) If a resolution at a meeting of shareholders is determined by a show of hands, or by voice then each holder of Qualifying Shares present in person or by proxy (including being present by virtue of audio, audio and visual communication or electronic communication if approved by the Board) shall have one vote.

16.2 For the purposes of the application of the provisions for voting by shareholders the following shall apply:

- (a) A shareholder holds a relevant interest in Shares where that person holds a '*relevant interest*' as defined in the Financial Markets Conduct Act 2013 in any Shares.
- (b) *Restricted Holding* are shares that the Board declares a restricted holding pursuant to Clause 16.4 of this Schedule.
- (c) *Restricted Securities* are shares within a Restricted Holding that the Board determines are Restricted Securities.
- (d) If any person, other than the Chairman of the meeting, is appointed by more than 4 shareholders to act as a proxy then that person shall be restricted as to voting and shall only be entitled to cast a maximum of 4 votes on a poll and one on a show of hands. Any other votes exercised by that proxy holder shall be invalid and if a dispute arises the auditors shall determine which votes shall be permitted. If the Chairman of the meeting is appointed as the proxy holder, and is directed how to vote by the shareholder, then the aforesaid restriction on voting shall not apply to the Chairman provided the votes are cast as so directed.

- (e) A shareholder who transfers any part of the Shares held to an associated person will be subject to the provisions that the shares of that shareholder and any associated person (including any subsequent transferees who are associated persons) may be restricted as set out in this Clause 16.
- (f) *Potential Votes* means the total number of Shares held by any person or group of persons who are associated persons of each other who have the right to vote including that number of Shares held by those persons which would have the right to vote but for the exceptions and restrictions resulting from any of those Shares being declared a Restricted Holding under clause 16.4 of this Schedule.
- (g) For the purposes of determining the Shares having the right to vote under clause 16.3 the following principles shall be applied:
 - (i) the total number of Shares having the right to vote shall be ascertained (called '*Total Voting Securities*');
 - (ii) the number of such Shares having the right to vote and held by a person or group of persons who are associated persons of each other or otherwise fall within subclause 16.2(d), or where the relevant Shares have been declared a Restricted Holding under clause 16.4 of this Schedule, shall be ascertained and any such Shares in excess of 10% of the Total Voting Securities shall not have the right to vote.
 - (iii) after excluding the Shares not having a right to vote under subclause (b) the calculation of Total Voting Securities shall not be recalculated to deduct the said number of Shares excluded from voting.

16.3 *Maximum Voting Rights:* No person or group of persons who are associated persons of each other may exercise, or control the exercise of, more than 10% of the maximum number of votes that may be exercised at a meeting of the shareholders (or, at a Class meeting of shareholders, 10% of the maximum number of votes that may be exercised for that class of Shares). For the purposes of this clause and for the right to vote under clause 16.1, a person shall be deemed to control the exercise of votes attributable to any Shares if:

- (a) any of those Shares have been declared a Restricted Holding under clause 16.4 of this Schedule; or
- (b) an associated person of that person may exercise or control the exercise of the votes attributable to those Shares; or

- (c) the grandparent, parent, child or grandchild (whether natural or adopted), spouse, de facto spouse or sibling of that person may exercise or control the exercise of the votes attributable to those Shares; or
- (d) that person has a relevant interest in those Shares; or
- (e) that person is appointed as the proxy by the holder of the relevant Shares.

16.4 Declaration of Restricted Holding

- (a) For the purpose of giving effect to clause 16.3 in relation to Shares, the Board may declare any Shares exceeding the 10% threshold specified in clause 16.3 to constitute a Restricted Holding, if the Board is satisfied that a shareholder and associated persons may exercise or control the exercise of the votes attributable to those Shares. The Board shall determine, on such basis as it sees fit, the particular shares which shall comprise such Restricted Holding.
- (b) If the Board declares Shares to constitute a Restricted Holding, the Board may:
 - (i) declare the Shares in that Restricted Holding to be Restricted Securities; and
 - (ii) if such Shares are held by more than one person, determine, on such basis as the Board sees fit, the number of such shares held by each such person which are Restricted Securities and the votes each such shareholder may exercise.

16.5 No Vote on Restricted Securities: For so long as any Shares are Restricted Securities, they shall carry no vote.

16.6 Cessation: The Board may at any time determine that any Shares have ceased to form part of a Restricted Holding, or have ceased to be Restricted Securities.

16.7 Provision of information: The Board may at any time give written notice to any shareholder requiring that shareholder to provide to the Board, if so required by the Board in the form of a statutory declaration, such information as the Board may specify which the Board considers necessary or desirable to establish:

- (a) whether the foregoing provisions of this Schedule may apply to Shares held by that shareholder; or

- (b) who are associated persons of that Shareholder for the purposes of clause 16.2(b) of this Schedule

or otherwise to enable the Board properly to administer the foregoing provisions.

16.8 Failure to provide information: If any shareholder fails to provide, to the satisfaction of the Board, the information requested by the Board pursuant to clause 16.7 within 10 Business Days after the Board gives notice under clause 16.7, the Board may, by notice to that shareholder, determine that no votes shall be exercised in respect of the Shares held by that shareholder until such time as that information is provided to the satisfaction of the Board.

16.9 Declaration conclusive: Any declaration or determination made by the Board under clause 16.4 shall be final and conclusive for all purposes and not open to challenge.

17 Voting by show of hands or voice vote at meeting

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

18 Voting by voice if audio-conference meeting

In the case of a meeting of shareholders held under *clause 7.2 or 7.3*, unless a poll is demanded, voting at the meeting will be by the shareholders signifying individually their assent or dissent by voice or by such other manner as the chairperson may decide.

19 Voting by Electronic Means

To the extent permitted by the Act, the Company may allow shareholders to vote by confirming their assent or dissent by electronic means (including, for the avoidance of doubt, voting on a personal computer, with such vote being transmitted to the meeting), instead of the shareholder voting by another permitted by the Act or this constitution.

20 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.

21 Shareholder loses certain voting rights if calls unpaid

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

22 Chairperson not allowed casting vote

In the case of an equality of votes, whether on a show of hands, voice vote or on a poll, the chairperson of the meeting is not entitled to a casting vote.

23 Chairperson's declaration of result

Unless a poll is demanded, a declaration by the chairperson of the meeting that a resolution on a show of hands or voice vote or by such manner as the chairperson may have decided under *clause 18* is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

POLLS

24 Poll may be demanded by chairperson or shareholders

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

24.1 the chairperson, at his or her absolute discretion;

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

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

24.4 shareholder or shareholders holding Qualifying 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 Qualifying Shares that confer that right.

25 Time at which polls to be taken

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

26 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.

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

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

28 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.

29 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.

30 Dissolved meetings - unfinished business

If the chairperson proposes to dissolve a meeting pursuant to *clause 29*, and there is any item of unfinished business of the meeting which in his or her opinion requires to be voted upon, then that item shall be dealt with by the chairperson directing it to be put to the vote by a poll without further discussion.

SHAREHOLDER PROPOSALS

31 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.

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

If the Board receives the notice at least 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, at the expense of the Company, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

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

If the Board receives the notice at least 5 working days and not more than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

34 Board may give notice of proposal on short notice

If the notice is received by the Board less than 5 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board may, if reasonably practicable, and at the expense of the shareholder, give

notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

35 Proposing shareholder may include statement

If the Directors intend that shareholders may vote on the proposal by proxy or by postal vote, they must give the proposing shareholder the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.

36 Board may exclude statement in some cases

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

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

Where the costs of giving notice of the shareholder proposal and the text of any proposed resolution are required to be met by the proposing shareholder, the proposing shareholder must, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

PROXIES

38 Proxies permitted

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

39 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.

40 Appointment of proxy must be in writing and specify restrictions

A proxy must be appointed by a notice in writing that is signed by the shareholder, and the notice must state whether the appointment is for a particular meeting or a specified term and if a term is not specified the proxy will continue until revoked by that shareholder giving notice to the Company or that shareholder dies or transfers the shares held by that shareholder. A proxy need not be a shareholder of the Company.

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

No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the

written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

42 Form of notice of proxy

A notice appointing a proxy shall be in the form set out in the Fourth Schedule or in a form as near to it as circumstances allow, or in such other form as the Board may direct.

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

Where:

43.1 the shareholder has died or become incapacitated; or

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

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

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

POSTAL VOTES

44 Postal votes are permitted

If the Board determines that a postal vote is to be held in respect of any resolution then a shareholder may exercise the right to vote at a meeting by casting a postal vote in accordance with the following provisions together with any other procedures determined by the Board. For the avoidance of doubt, a postal vote may be cast by electronic means as permitted by the Board.

45 Notice of meeting to state name of person authorised to receive and count postal votes

The notice of a meeting at which shareholders are entitled to cast a postal vote must state the name of the person authorised by the Board to receive and count postal votes at that meeting.

46 Directors may be regarded as authorised to receive and count postal votes

If no person has been authorised to receive and count postal votes at a meeting, or if no authorised person is named in the notice of the meeting, every Director is regarded as being authorised for that purpose.

47 Manner in which postal vote to be cast

A shareholder may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice setting out the manner in which that shareholder's Shares are to be voted to a person authorised to receive and count postal votes at that meeting. The notice must reach that person not less than 48 hours before the start of the meeting (or in respect of postal votes provided through electronic means, such other timeframe as the Board may determine).

48 Duties of person authorised to collect and count postal votes

It is the duty of a person authorised to receive and count postal votes at a meeting:

48.1 to collect together all postal votes received by him or her or by the Company; and

48.2 in relation to each resolution to be voted on at the meeting, to count:

48.2.1 the number of shareholders voting in favour of the resolution and the number of votes cast by each shareholder in favour of the resolution; and

48.2.2 the number of shareholders voting against the resolution, and the number of votes cast by each shareholder against the resolution; and

48.3 to sign a certificate stating that he or she has carried out the duties set out in *clauses 48.1, 48.2* and setting out the results of the counts required by *clause 48.3*; and

48.4 to ensure that the certificate required by *clause 48.3* is presented to the chairperson of the meeting.

49 Chairperson to take postal votes into account

If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting must:

49.1 on a vote by show of hands, count each shareholder who has submitted a postal vote for or against the resolution;

49.2 on a poll, count the votes cast by each shareholder who has submitted a postal vote for or against the resolution.

50 Chairperson must call for poll if postal votes will affect result

Where the chairperson of a meeting holds sufficient postal votes on a resolution so as to lead the chairperson to believe that if a poll were taken the result may differ from that obtained on a show of hands, then he or she must call for a poll on that resolution.

51 Certificate of postal votes to be annexed to minutes

The chairperson of a meeting must ensure that a certificate of postal votes held by him or her is annexed to the minutes of the meeting.

52 Form of postal vote

A postal vote shall be in the form set out in the Fifth Schedule or in a form as near to it as circumstances allow, or in such other form as the Board may direct.

CORPORATE REPRESENTATIVES

53 Corporations may act by representative

A body corporate which is a shareholder may appoint a representative to attend any meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy. The representative shall be entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder.

MINUTES

54 Board must keep minutes of proceedings

The Board must ensure that minutes are kept of all proceedings at meetings of shareholders and that a record is kept of all written resolutions of shareholders. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

OTHER PROCEEDINGS

55 Meeting may regulate other proceedings

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

THIRD SCHEDULE: PROCEEDINGS OF THE BOARD

NOTICE OF MEETING

1 Director's power to convene meetings

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

2 Notice to be sent to Director's address

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

3 Notice to contain certain details

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

4 Period of notice required to be given to Directors

At least two days' notice of a meeting of the Board must be given unless the chairperson (or, in the chairperson's absence from New Zealand, any other Director) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice of the meeting of the Board may be given, so long as at least two hours notice is given.

5 Absent Directors

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

6 Directors may waive irregularities in notice

Any irregularity in the notice of a meeting, or failure to comply with *clauses 1 to 5* of this Schedule is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or failure, or if all Directors entitled to receive notice of the meeting agree to the waiver.

MEETING AND QUORUM

7 Methods of holding meetings

A meeting of the Board may be held either:

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

8 Quorum for Board meeting

The quorum necessary for the transaction of business at a meeting of the Board is, for the period up to the end of the annual meeting for the 2017/2018 financial year of the Company, six directors and thereafter shall be five directors. The shareholders may change the number of Directors required for a quorum by ordinary resolution. No business may be transacted at a meeting of the Board unless a quorum is present.

9 Meeting adjourned if no quorum

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the following working day at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Directors present will constitute a quorum.

CHAIRPERSON

10 Chairperson to chair meetings

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

VOTING

11 Voting on resolutions

Each Director has one vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board may abstain from voting on a resolution, and any Director who abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Act.

12 Chairperson casting vote

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

MINUTES

13 Board must keep minutes of proceedings

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

OTHER PROCEEDINGS

14 Board may regulate other proceedings

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

FOURTH SCHEDULE: PROXY FORM

***[NAME] LIMITED**

PROXY FORM

SECTION 1: SHAREHOLDER DETAILS (please print clearly)

Full name:

Full address:

If shares are held jointly, enter details of other joint holders:

Full name:

Full address:

Full name:

Full address:

SECTION 2: APPOINTMENT OF PROXY

(Please note that if the shares are held jointly, the appointment made in this section is made on behalf of each joint holder).

I appoint

Full name:

Full address:

as my proxy to exercise my vote at the *[annual/special] meeting of shareholders of the Company to be held on *[date], and at any adjournment of that meeting. If the person I have appointed is unable to be my proxy then I appoint

Full name:

Full address:

SECTION 3: VOTING INSTRUCTIONS

(Please note that if the shares are held jointly, the voting instructions given in this section are given on behalf of each joint holder).

(Tick the box that applies)

I direct my proxy to vote in the following manner:

	For	Against
--	-----	---------

***[General Business]**

- | | | |
|----|--------------------------|--------------------------|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> |

***[Special Business]**

- | | | |
|-----------------------------------|--------------------------|--------------------------|
| *[4. <i>Identify resolution</i>] | <input type="checkbox"/> | <input type="checkbox"/> |
|-----------------------------------|--------------------------|--------------------------|

Signed by each shareholder named in Section 1

Date:

NOTES

1. *As a shareholder you may attend the meeting and vote, or you may appoint a proxy to attend the meeting. A proxy need not be a shareholder of the Company.*
2. *If you are joint holders of shares each of you must sign this proxy form. If you are a Company this proxy form must be signed on behalf of the Company by a person acting under the Company's express or implied authority.*
3. *For this proxy form to be valid, you must complete it and produce it to the Company at least 48 hours before the time for holding the meeting. You can produce it to the Company by:*
 - *Delivering it to the *[Company's registered office at [full address]/other addressee details]; or*
 - *Posting it to the *[Company's registered office at [postal address]/other*

addressee details]; or

➤ *Faxing it to the Company at its facsimile number: *[give facsimile number],*

in each case, so that it is received at least 48 hours before the time for holding the meeting.

4. *If this proxy form has been signed under a power of attorney a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must be produced to the Company with this proxy form.*
5. *If you return this form without directing the proxy how to vote on any particular matter, the proxy will vote as he or she thinks fit.*

FIFTH SCHEDULE: POSTAL VOTING FORM

***[NAME] LIMITED**

POSTAL VOTING FORM

To: *[Name of person authorised to receive and count postal votes at the meeting]

*[Full postal address]

SECTION 1: SHAREHOLDER DETAILS (please print clearly)

Full name:

Full address:

If shares are held jointly, enter details of other joint holders:

Full name:

Full address:

Full name:

Full address:

SECTION 2: VOTE

(Tick the box that applies)

I/We vote in the following manner:	For	Against
------------------------------------	-----	---------

***[General Business]**

- | | | |
|----|--------------------------|--------------------------|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> |

***[Special Business]**

- | | | |
|---------------------------|--------------------------|--------------------------|
| *[4. Identify resolution] | <input type="checkbox"/> | <input type="checkbox"/> |
|---------------------------|--------------------------|--------------------------|

Signed by the shareholders named in Section 1

Date:

NOTES

1. *As a shareholder you may attend the meeting and vote, or you may cast a postal vote. In casting a postal vote you may vote on any one or more of the matters set out in Section 2 of this form.*
2. *If you are joint holders and intend to cast a postal vote, ideally each of you should sign this form. But if for any reason that is not possible, at least one of you must sign this form. If you are a Company this form must be signed on behalf of the Company by a person acting under the Company's express or implied authority.*
3. For this postal voting form to be valid, you must complete it and send it to *[name of person authorised to receive and count postal votes] at *[full postal address] so as to ensure that it reaches *[him/her] by *[time] on *[day and date]. If it has been signed under a power of attorney please send 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 with this form.

SIXTH SCHEDULE: LIMITATIONS ON RELEVANT INTERESTS

INTERPRETATION

1 Definitions

In this Schedule, if not inconsistent with the context:

affected share means any share above the 10% control limit which is treated as such pursuant to *clause 7*;

control limit is defined in clause 5.1 of this Schedule.

2 ***Meaning of Relevant Interest***

2.1 For the purposes of this Schedule, a person has a *relevant interest* in a share (whether or not that person is the registered holder of it) if that person:

- (a) is a beneficial owner of that share;
- (b) has the power to exercise any right to vote attached to that share; or
- (c) has the power to control the exercise of any right to vote attached to that share;
- (d) has the power to acquire or dispose of that share;
- (e) has the power to control the acquisition or disposition of that share by another person; or
- (f) under, or by virtue of, any trust, agreement, arrangement, or understanding relating to that share (whether or not that person is a party to it):
 - (i) may at any time have the power to exercise any right to vote attached to that share; or
 - (ii) may at any time have the power to control the exercise of any right to vote attached to that share; or
 - (iii) may at any time have the power to acquire or dispose of that share; or
 - (iv) may at any time have the power to control the acquisition or disposition of that share by another person.

2.2 Where a person has a relevant interest in a share by virtue of *clause 2.1* and:

- (a) that person or its directors are accustomed or under an obligation, whether legally enforceable or not, to act in accordance with the directions, instructions, or wishes of any person in relation to:
 - (i) the exercise of the right to vote attached to the share; or
 - (ii) the control of the exercise of any right to vote attached to the share; or
 - (iii) the acquisition or disposition of the share; or
 - (iv) the exercise of the power to control the acquisition or disposition of the share by another person; or
- (b) another person has the power to exercise the right to vote attached to twenty percent or more of the shares of that person; or
- (c) another person has the power to control the exercise of the right to vote attached to twenty percent or more of the shares of that person; or
- (d) another person has the power to acquire or dispose of twenty percent or more of the shares of that person; or
- (e) another person has the power to control the acquisition or disposition of twenty percent or more of the shares of that person,

then that other person also has a relevant interest in the share.

2.3 For the purposes of this Schedule, where two or more persons act jointly or in concert in respect of the exercise of the rights attaching to a share in which any one or more of those persons has a relevant interest, then each of those persons shall be deemed to have a relevant interest in that share.

2.4 A body corporate or other body has a relevant interest in a share in which another body corporate that is related to that body corporate or other body has a relevant interest.

2.5 A person who has, or may have, a power referred to in any of *clauses 2.1 to 2.4* has a relevant interest in a share regardless of whether the power:

- (a) is expressed or implied;
- (b) is direct or indirect;

- (c) is legally enforceable or not;
 - (d) is related to a particular share or not;
 - (e) is subject to restraint or restriction or is capable of being made subject to restraint or restriction;
 - (f) is exercisable presently or in the future;
 - (g) is exercisable only on the fulfilment of a condition; or
 - (h) is exercisable alone or jointly with another person or persons.
- 2.6 A power referred to in *clause 2.1* exercisable jointly with another person or persons is deemed to be exercisable by either or any of those persons.
- 2.7 A reference to a power includes a reference to a power that arises from, or is capable of being exercised as the result of, a breach of any trust, agreement, arrangement, or understanding, or any of them, whether or not it is legally enforceable.
- 2.8 For the purposes of this Schedule, notwithstanding *clauses 2.1* to *2.7*, no account shall be taken of a relevant interest of a person in a share if:
- (a) the ordinary business of the person who has the relevant interest consists of, or includes, the lending of money or the provision of financial services, or both, and that person has the relevant interest only as security given for the purposes of a transaction entered into in the ordinary course of the business of that person; or
 - (b) that person has the relevant interest by reason only that he or she has been authorised by resolution of the directors or other governing body of a body corporate to act as its representative at a particular meeting of shareholders or class of shareholders of the Company and a copy of the resolution is deposited with the Company not less than forty eight hours before the meeting; or
 - (c) subject to the provisions of clause 16 of the Second Schedule that person has the relevant interest solely by reason of being appointed as a proxy in accordance with this Constitution to vote at a particular meeting of shareholders, or of a class of shareholders, of the Company and the instrument of that person's appointment is deposited with the Company not less than 48 hours before the meeting; or

3 Determination of Associate

- 3.1 A determination by the Board on whether a person is an associated person of another person for the purposes of *clause 8* of the constitution including

any schedule to the Constitution shall be binding on the Company and on each shareholder.

4 General Construction

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

LIMIT ON INTERESTS IN SECURITIES

5 Limitation for Voting Purposes

5.1 If any person and any associated persons of that person holds a relevant interest in more than 10% of the total number of shares on issue in the Company then the Board may require that person and associated person to comply with the provisions of clause 6 hereunder.

5.2 The provisions of *clauses 6 to 13* inclusive shall apply if the Board determines, at its sole discretion, that it is necessary to establish whether any person has a relevant interest in any shares in contravention of *clause 5.1* or holds or controls voting rights in the Company in contravention of the Control Limit.

DISCLOSURE

6 Registered holders or other persons to lodge statutory declaration

The Board may, by notice in writing, require the registered holder of any shares, or any other person that the Board considers may hold or control voting rights in the Company, or may hold a relevant interest in shares, to lodge with the Board, within 5 working days of the date on which the notice is served by the Board, a statutory declaration (or other disclosure required by the Board) giving such information as the Board may reasonably require for the purposes of determining whether to exercise its powers under this Schedule.

ENFORCEMENT OF LIMIT

7 Shares treated as affected shares

If the registered holder of any shares does not comply with *clause 6*, or the Board in its discretion considers that any declaration or disclosure required by *clause 6* or any other information reveals that any person holds or controls voting rights in the Company in contravention of the Control Limit, or holds a relevant interest in any shares in contravention of *clause 5.1*, the Board is entitled to determine without further evidence that those shares are (to the extent of such excess above the 10% control limit in clause 5.1) to be treated as affected shares and upon making that determination must immediately give a notice ("*Restricted Voting Notice*") to that effect to the registered holder of those shares.

8 Holders of affected shares cannot vote

- 8.1 A registered holder of affected shares who is given a notice under *clause 7* is not (unless the Board's determination is withdrawn) entitled to vote in respect of those affected shares at any shareholders', class or interest group meeting of the Company.
- 8.2 The votes attached to such affected shares shall vest in and may be exercised by the chairperson of any such meeting who may act entirely at his or her discretion. This shall be without prejudice to the right of any such registered holder to attend or speak at any shareholders', class or interest group meeting of the Company.

9 Company's power of surrender

- 9.1 If a Restricted Voting Notice is given and the shareholders affected by that notice directly or indirectly take steps or actions to circumvent that notice, as determined by the Board in its sole discretion, then the Board may determine that any affected shares are to be surrendered by the Company at their nominal value. If such a determination is made the Company shall then:
- (a) surrender the affected shares at their nominal value of One dollar each;
 - (b) each registered holder is deemed to have authorised the Company to act on behalf of that registered holder in relation to the surrender of the affected shares and to sign all documents which may be required in order to effect any such surrender and the Board may register a transfer of the affected shares so surrendered, whether or not the transfer has been properly completed and whether or not it is accompanied by the certificates (if any) for the affected shares;
 - (c) the proceeds of the surrender of any affected shares surrendered under this clause must be applied as follows:
 - (i) first, in payment of any reasonable sale expenses and any other costs incurred by the Company in exercising the powers conferred on the Company or the Board by this Schedule;
 - (ii) second, in satisfaction of any unpaid calls or any other amounts owing to the Company in respect of the affected shares;
 - (iii) the residue, if any, must be paid to the person who was the holder immediately before the sale or his or her executors or administrators on surrender of the certificate (if any) relating to the affected shares.

10 Withdrawal or amendment of determination

If the Board considers that any determination made under *clause 7* or *clause 9* should be withdrawn or amended, it may do so, and must give notice of the withdrawal or amendment to the registered holder of the affected shares within ten working days of having so resolved. On withdrawal, those shares shall cease to be affected shares.

11 Absence of notice does not invalidate

The Board shall not be obliged to serve any notice required under this Schedule to be served upon any person if it does not know either the identity or address of the person. The absence of service of such a notice in such circumstances, and any accidental error in or failure to give any notice to any person upon whom notice is required to be served under this Schedule shall not prevent the implementation of or invalidate any procedure under this Schedule. Section 391 of the Act shall apply to the service on persons of notices required under this clause as if references in that section to shareholders were references to those persons and references to the addresses of shareholders were references to the last addresses of those persons known to the Company.

12 Decisions final, conclusive and binding

Any resolution or determination of, or decision or declaration or exercise of any discretion or power by, the Board or by the chairman of any meeting under or pursuant to this Schedule shall be final and conclusive and any disposal or transfer made, or other things done, by or on behalf of, or on the authority of, the Board pursuant to this Schedule shall be conclusive and binding on all persons concerned and shall not be open to challenge, whether as to its validity or otherwise on any ground whatsoever.

13 Certificate conclusive

A certificate signed by a director and countersigned by a second director, that a power of sale under this Schedule has arisen and is exercisable by the Board, or that a share has been duly transferred under this Schedule on the date stated therein, shall be conclusive evidence of the facts stated therein.

14 This Schedule paramount

This *Schedule 6* shall apply notwithstanding any other provision or Schedule of this constitution which is inconsistent with or contrary to it.

15 This Schedule entrenched

Notwithstanding any other provision of this constitution or section 32 of the Act, this Schedule shall not be altered without the prior approval of shareholders given at a duly convened meeting of shareholders by a special resolution approved by the votes of those shareholders who are entitled to vote and who vote on the

resolution and who between them hold not less than seventy five percent of all of the shares in the Company which confer the right to vote on a resolution to alter this Constitution.