

Constitution

of

Tower Limited

**THIS CONSTITUTION INCORPORATES THE CHANGES APPROVED BY
SHAREHOLDERS AT THE ANNUAL MEETING ON 21 FEBRUARY 2024**

Constitution

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1.0 **INTERPRETATION**

Definitions

1.1 In this Constitution, unless the context otherwise requires:

"**Act**" means the Companies Act 1993 as amended from time to time.

"**Appraisal Report**" means an appraisal report complying with Rule 7.10.

"**ASX**" means ASX Limited ABN 98 008 624 691, or the market that it operates, as the context requires.

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

"**Board**" in relation to the Company means those directors who number not less than the quorum specified in Regulation 9.4 of this Constitution acting together as a board of directors.

"**Business Day**" has the meaning given to it in the Listing Rules.

"**Class**" has the meaning given to it in the Listing Rules.

"**the Company**" means Tower Limited.

"**Constitution**" means this Constitution as the same may be amended from time to time.

"**Convert**", "**Conversion**" and "**Convertible**" have the meaning given to those terms in the Listing Rules.

"**Equity Security**" has the meaning given to it in the Listing Rules.

"**Financial Product**" has the meaning given to it in the Listing Rules.

"**FMC Act**" means the Financial Markets Conduct Act 2013.

"**Listed**" has the meaning given to it in the Listing Rules.

"**Listing Rules**" means the NZX Listing Rules as amended from time to time by NZX.

"**Minimum Holding**" has the meaning given to it in the Listing Rules.

"**NZX**" means NZX Limited or its predecessors, successors and assigns and, as the context permits, includes any authorised delegate of NZX (including the Tribunal (as defined under the Listing Rules)).

"**Option**" has the meaning given to it in the Listing Rules.

"**Ordinary Resolution**" has the meaning given to it in the Listing Rules.

"**Quoted**" has the meaning given to it in the Listing Rules.

"**Related Company**" has the meaning given to it in section 2(3) of the Act.

"**Right**" has the meaning given to it in the Listing Rules.

"Ruling" means any decision or determination by NZX or ASX (as applicable) as to the meaning or interpretation or application of the Listing Rules and includes any ruling, waiver, or revocation of a waiver given by NZX (under Rule 9.5, Rule 9.6, or Rule 9.7) or ASX (as applicable).

"Special Resolution" means a resolution approved by a majority of seventy five percent (75%) of votes of those shareholders entitled to vote and voting on the question.

"Subsidiary" has the meaning given to it in the Listing Rules.

"Treasury Stock" has the meaning given to that term in the Listing Rules.

"Vote" has the meaning given to that term in the Listing Rules.

1.2 In this Constitution:

- (a) A reference to a share means a share in the Company.
- (b) Any headings appear as a matter of convenience and shall not affect the construction of the Constitution.
- (c) References to any statute, statutory regulations or other statutory instrument shall be deemed to be references to the statute, statutory regulations or instrument as from time to time amended or re-enacted, or as the context permits, provisions substituted therefor and for the time being in force.
- (d) The singular includes the plural and vice versa and words importing any gender include the other genders.
- (e) The words "written" and "writing" include electronic communications and any other means of communication resulting in permanent visible reproduction.
- (f) Unless stated otherwise, references to monetary amounts are to New Zealand currency and references to time are to New Zealand time.
- (g) References to any ASX Rule or Listing Rule shall be deemed to be references to the ASX Rule or Listing Rule as from time to time amended or substituted.
- (h) Words or expressions defined in the Act or the Listing Rules have the same meaning in this Constitution except as otherwise expressly provided in this Constitution. In the event of any conflict between a word or expression defined in the Act and in the Listing Rules, the meaning in the Listing Rules will prevail unless this will result in a failure to comply with the requirements of the Act or any other legislation or regulatory requirement, in which case the meaning in the Act will prevail.

Compliance with the Listing Rules

1.3 Subject to any enactment or rule of law, and to any Ruling, the Company shall at all times comply with the Listing Rules, provided that this Regulation 1.3 shall apply only as long as the Company is Listed. If any provision of this Constitution is or becomes inconsistent with the Listing Rules, the Listing Rules shall prevail, subject to Regulation 1.4.

Effect of NZX Rulings

1.4 If NZX has granted a Ruling in relation to the Company authorising an act or omission which would otherwise be in breach of this Constitution, the act or omission will be deemed to be authorised by this Constitution, unless a contrary intention appears in this Constitution.

Enforceability of Transactions breaching the Listing Rules

1.5

- (a) A failure to comply with the Listing Rules or a provision of the Constitution corresponding with a provision of the Listing Rules does not affect the validity or enforceability of any transaction, contract, action, decision or vote taken at a meeting of Equity Security holders, or other matter entered into by, or affecting, the Company, except that a party to a transaction or contract who knew of the non-compliance is not entitled to enforce that transaction or contract.
- (b) Regulation 1.5(a) does not limit the rights of Equity Security holders against the Company or the directors of the Company.

1.6 This Constitution has no effect to the extent that it contravenes, or is inconsistent with, the Act.

Incorporation of Listing Rules

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

Compliance with ASX Rules

1.8 For so long as the Company is admitted to the official list of ASX:

- (a) Notwithstanding anything contained in this Constitution, if the ASX Rules prohibit an act being done, the act shall not be done.
- (b) Nothing contained in this Constitution prevents an act being done that the ASX Rules require to be done.
- (c) If the ASX Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
- (d) If the ASX Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision.
- (e) If the ASX Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision.
- (f) If any provision of this Constitution is or becomes inconsistent with the ASX Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

2.0 SHARES

Rights and Powers Attaching to Shares

2.1 A share in the Company confers on the holder:

- (a) The right to one vote on a poll at a meeting of the Company on any resolution, including any resolution to:
 - (i) Appoint or remove a director or auditor;
 - (ii) Alter the Constitution;
 - (iii) Approve a major transaction;
 - (iv) Approve an amalgamation of the Company under section 221 of the Act;
 - (v) Put the Company into liquidation.
- (b) The right to an equal share in dividends authorised by the Board;

- (c) The right to an equal share in the distribution of the surplus assets of the Company.

Subject to section 53 of the Act, the rights specified in this Regulation 2.1 may be negated, altered, or added to by the terms on which the share is issued under section 41(b) or section 42 or section 44 or section 107(2) of the Act, as the case may be.

Terms of Issue

2.2

- (a) Without limiting the classes of shares that may be issued, shares in the Company may be issued on terms that they:
- (i) are convertible; or
 - (ii) are redeemable; or
 - (iii) confer preferential rights to distributions of capital which may be made subject to the power of the directors to make distributions; or
 - (iv) confer preferential rights to distributions of income which may be made subject to the power of the directors to make distributions; or
 - (v) confer special, limited or conditional voting rights; or
 - (vi) do not confer voting rights; or
 - (vii) possess any combination of two or more of the foregoing characteristics.
- (b) The issue of further shares ranking equally with, or in priority to, existing shares, whether as to voting rights or distributions or both is expressly permitted for the purposes of section 117(3) of the Act. Accordingly, any such issue of shares shall not be an action affecting the rights attached to existing shares as contemplated by section 117 of the Act.
- (c) The taking of action by the Company affecting the rights attached to shares in the Company is not invalid by reason only that the action was not approved in accordance with section 117 of the Act.

Board to Issue Shares

- 2.3 The Board may issue shares at any time, to any person, in any number, in such classes and on such terms as it thinks fit, subject to the Listing Rules and the ASX Rules, and the provisions of the Act and this Constitution.

Acquisition of Company's own Shares

- 2.4 The Company is permitted to hold its own shares.
- 2.5 The Company may in accordance with the provisions, and subject to the restrictions, of the Act, this Constitution and, while the Company is Listed, the Listing Rules:
- (a) make an offer to one or more holders of shares to acquire shares in such numbers or proportions as it thinks fit;
 - (b) purchase or otherwise acquire shares issued by it from one or more shareholders;
 - (c) purchase or otherwise acquire other Equity Securities from one or more holders;
 - (d) hold any shares or other Equity Securities so purchased or acquired as Treasury Stock; and

(e) redeem any redeemable shares or other Equity Securities held by one or more holders,

either:

(f) at its option; or

(g) at the option of the holder of the shares or other Equity Securities if permitted by the terms of issue; or

(h) on a date specified in this Constitution or the terms of issue of the shares or other Equity Securities,

in each case for a consideration that is either 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 as provided in section 68 of the Act.

Consolidation and subdivision

2.6 Subject to any applicable provisions of the Listing Rules or other applicable laws, the Board may:

(a) consolidate and divide shares or shares of any Class in proportion to those shares or the shares in that Class; or

(b) subdivide the shares or shares of any Class in proportion to those shares or the shares in that Class.

Bonus issues

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

(a) in paying up in full shares or other Financial Products of the Company to be issued credited as fully paid to:

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

(ii) if applicable, the holders of any other Financial Products of the Company who are entitled by the terms of issue of those Financial Products to participate in bonus issues by the Company, whether at the time the bonus issue is made to the shareholders, or at some time later, in accordance with their respective entitlements; or

(b) in paying up any amount which is unpaid on any shares held by the shareholders referred to in paragraph (a)(i); or

(c) partly as set out in paragraph (a)(i) and partly as set out in paragraph (a)(ii).

Issue of Options and Convertible Financial Products

2.8 Before the Board issues any Financial Products that are Convertible into shares in the Company or any Options to acquire shares in the Company, the Board must:

(a) Decide the consideration for which the Convertible Financial Products or Options, and, in either case, the shares will be issued and the terms on which they will be issued; and

(b) If the shares are to be issued other than for cash, determine the reasonable present cash value of the consideration for the issue; and

- (c) Resolve that, in its opinion, the consideration for and terms of the issue of the Convertible Financial Products or Options, and, in either case, the shares are fair and reasonable to the Company and to all existing shareholders; and
- (d) If the shares are to be issued other than for cash, resolve that, in its opinion, the present cash value of the consideration to be provided is not less than the amount to be credited for the issue of the shares; and
- (e) If the Financial Products are Convertible into Equity Securities, subject to this Constitution and the Listing Rules and the ASX Rules, offer the same to the holders of the shares already on issue in the same manner as provided for in Rule 4.3.1 for issues of new shares (except, for the avoidance of doubt, those offered under Regulation 2.19).

2.9 The directors who vote in favour of a resolution required by Regulation 2.8 must sign a certificate:

- (a) Stating the consideration for, and the terms of, the issue of the Convertible Financial Products or Options, and, in either case, the shares; and
- (b) Describing the consideration in sufficient detail to identify it; and
- (c) Where a present cash value has been determined in accordance with Regulation 2.8(b), stating that value and the basis for assessing it; and
- (d) Stating that, in their opinion, the consideration for and terms of issue of the Convertible Financial Products or Options, and, in either case, the shares are fair and reasonable to the Company and to all existing shareholders; and
- (e) If the shares are to be issued other than for cash, stating that, in their opinion, the present cash value of the consideration to be provided is not less than the amount to be credited for the issue of the shares.

2.10 Except as provided in Regulation 2.8(e), the issue of any shares pursuant to the exercise of the rights to the same granted by the terms of issue of any Convertible Financial Products or Options shall not be subject to pre-emptive rights, and the provisions of section 45 of the Act shall not apply with respect to such shares.

Pre-emptive Rights - New Issues

2.11 Any shares issued or proposed to be issued by the Company that rank or would rank as to voting or distribution rights, or both, equally with or prior to shares already issued by the Company, need not be offered for acquisition to the holders of the shares already issued in a manner and on terms that would, if accepted, maintain the existing voting or distribution rights, or both, of those holders, and section 45 of the Act shall not apply.

Call on Shares

Shareholders may pay calls

2.12

- (a) Every shareholder on receiving at least 10 Business Days notice specifying the time or times and the place of payment must pay, in accordance with that notice, the amount called to be paid, and that is unpaid in respect of any Equity Security that shareholder holds. Subject to the Listing Rules, the Board may revoke or postpone a call, or require a call to be paid by instalments.

Call made when Board resolution passed

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

Joint holders are jointly and severally liable

- (c) The joint holders of an Equity Security are jointly and severally liable to pay all calls for that Equity Security.

Unpaid calls will accrue interest

- (d) 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 date of actual payment. Subject to this Constitution, the Board may waive some or all of the payment of that interest.

Amounts payable under the terms of issue treated as calls

- (e) Any amount that becomes payable on issue or at any specified date under this Constitution or under the terms of any Equity Security or under a contract for the issue of any Equity Security, 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.

Board may differentiate between shareholders as to calls

- (f) On the issue of any Equity Security, the Board may differentiate between shareholders as to the amount of calls to be paid and the times of payment.

Board may accept payment in advance for calls

- (g) Where a shareholder is willing to advance some or all of the money unpaid and uncalled on any Equity Security 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.
 - (i) The Board may at any time repay to any shareholder the whole or any portion of any money so advanced upon giving that holder at least 14 days notice in writing and as from the date of such repayment interest (if any) shall cease to accrue on the money so repaid.
 - (ii) A shareholder is not entitled as of right to any payment of interest on any amount so paid in advance and the Board may decline to pay any interest. Any amount so paid in advance is not to be treated as paid for the purpose of ascertaining the amount of any dividend or other distribution payable upon the Equity Security concerned.

Liens on Shares

2.13 Unless inconsistent with Rule 6.6, the Company shall have a lien in respect of each share for all money:

- (a) presently payable on that share;
- (b) payable under any legislation in respect of the specific share.

2.14 The lien of the Company, if any, on a share shall extend to all dividends, or distributions from time to time declared in respect of such share. Any dividends or distributions may be applied in reduction or satisfaction of any amount presently payable to the Company in respect of which the lien exists.

2.15

- (a) The Company may sell, in a manner decided by the Board, any share on which the Company has a lien if:

- (i) an amount is presently payable in respect of the share; and
 - (ii) the Company demands the amount in writing, and payment is not made within 14 days after the demand.
- (b) To give effect to a sale the Board may authorise a person to execute a transfer of the shares sold to the purchaser. The purchaser shall be registered as the holder of the shares comprised in the transfer. The purchaser shall not be bound to see to the application of the purchase money. The title of the purchaser to the shares shall not be affected by any irregularity or invalidity affecting the sale or the payment of the proceeds.

2.16 The Company shall apply the proceeds received from the sale first to the reasonable expenses of the sale and, secondly to the amount which is presently payable to the Company when the proceeds are received. Any remaining balance after payments owing and expenses must be paid to the previous owner or to the executors, administrators or assigns of the previous owner.

Forfeiture of Shares

2.17

- (a) If a shareholder fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on such shareholder requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
- (b) The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
- (c) If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.
- (d) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.
- (e) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding remain liable to pay to the Company all money which at the date of forfeiture, was payable by him or her to the Company in respect of the shares, but such persons liability shall cease if and when the Company receives payment in full of all such money in respect of the shares.
- (f) A statutory declaration in writing that the declarant is a director of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share.
- (g) The Company may receive the consideration, if any, given for a forfeited share on any sale or disposition thereof and may execute a transfer of the shares in favour of the person to whom the share is sold or disposed of and the person shall thereupon be registered as the holder of the share, and shall not be bound to see the application of the purchase money, if any, nor shall that person's title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the share.
- (h) If the Equity Securities are forfeited and sold, any balance remaining after payments owing and expenses must be paid to the previous owner, or to the executors, administrators, or assigns of the previous owner.

- (i) Equity Securities may not be liable to forfeiture due to the failure of persons entitled to those Equity Securities (by transmission or otherwise) to submit evidence proving their title within a specified time.

Power to sell where less than Minimum Holdings

Notice to Shareholder holding less than Minimum Holding

2.18

- (a) Where the Quoted shares registered in the name of a shareholder are less than a Minimum Holding the Board may at any time give written notice of that fact and of the provisions of Regulation 2.18(b) to the shareholder.

Power of Sale

- (b) Where notice has been given under Regulation 2.18(a) the Company may, at any time after the expiration of three months from the date of the notice if the shares then registered in the name of the shareholder are less than a Minimum Holding, sell the shares by means of a transaction on NZX or in some other manner approved by NZX, and account to the shareholder for the proceeds of sale after deduction of reasonable sale expenses.

Provisions Relating to Sale

- (c) To give effect to any sale under Regulation 2.18(b) the Board may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall not be bound to see to the application of the purchase money, nor shall his or her title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale. The remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

Application of Proceeds of Sale

- (d) The proceeds of sale of any shares sold under this Regulation 2.18 shall be applied as follows:
 - (i) First, in payment of any expenses incurred in regard to the sale;
 - (ii) Secondly, and subject to the Listing Rules, in satisfaction of any unpaid calls, instalments or premiums, interest thereon, expenses, and any other money in respect of which a lien existed;
 - (iii) The residue (if any) shall be paid to, or in accordance with a direction of, the person who was the holder of the shares immediately before the sale or the executors or administrators or assigns of that person.

Employee Share and Option Plans

2.19

- (a) Subject to the ASX Rules, the Listing Rules and this Constitution, the Board may establish and maintain employee share (including convertible Financial Product) and option plans ('employee incentive schemes') for the purpose of rewarding or providing incentives for employees of the Company or any Subsidiary (including employees who are directors of the Company or any Subsidiary).
- (b) The directors may in their absolute discretion:
 - (i) prescribe the terms and conditions of any employee incentive scheme including any rules in relation to it;
 - (ii) from time to time vary the terms and conditions of any employee incentive scheme;

- (iii) determine which employees are entitled to participate in any employee incentive scheme;
- (iv) terminate or suspend any employee incentive scheme.

3.0 TRANSFER OF SHARES

Transferability of Shares

3.1

- (a) Subject to the terms of this Constitution, a share in the Company is transferable.
- (b) A share is transferred by entry in the share register in accordance with section 84 of the Act.
- (c) The personal representative of a deceased shareholder may transfer a share even though the personal representative is not a shareholder at the time of transfer.

3.2

- (a) Subject to the Listing Rules and any restrictions contained in this Constitution, a shareholder or personal representative may transfer any share under a system of transfer approved under the FMC Act which is applicable to the Company.
- (b) Under any other securities transfer system which operates in relation to the trading of Financial Products on any stock exchange outside New Zealand on which Equity Securities are listed and which is applicable to the Company.
- (c) A share which is disposed of in a transaction which complies with the requirements of a system of transfer authorised under Regulation 3.2(a) or 3.2(b) may be transferred in accordance with the requirements of that system. Where an instrument of transfer executed by a transferor outside New Zealand would have complied with the provisions of the FMC Act if it had been executed in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or the Company's share registrar.

3.3 Every instrument of transfer of shares not falling within the provisions of Regulation 3.2 shall comply with the following provisions:

- (a) the form of the instrument of transfer shall be any usual or common form or any other form which the Board may approve;
- (b) the instrument of transfer shall be signed or executed by or on behalf of the transferor; and
- (c) where the shares the subject of such transfer are not fully paid up or registration as holder of the shares otherwise imposes a liability on the transferee, the instrument of transfer shall be signed or executed by or on behalf of the transferee.

3.4

- (a) The form of transfer must be delivered to:
 - (i) the Company; or
 - (ii) an agent of the Company designated by the Board who maintains the share register under section 87(3) of the Act,

together with such evidence (if any) as the Company or the agent reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the shares.

- (b) The share register may be divided into two or more registers kept in different places.

Registration of Transfers

- 3.5 On receipt of a form of transfer, the Company must forthwith enter or cause to be entered the name of the transferee on the share register as holder of the shares, unless:
- (a) the Board resolves within 30 working days (as defined under the Act) of receipt of the transfer to refuse or delay the registration of the transfer, and the resolution sets out in full the reasons for doing so; and
 - (b) notice of the resolution, including those reasons, is sent to the transferor and to the transferee within 5 working days (as defined under the Act) of the approval of the resolution by the Board; and
 - (c) the refusal or delay in the registration is permitted by Regulation 3.6.

Permitted Transfer Restrictions

- 3.6 The Board may refuse or delay the registration of a transfer of shares if:
- (a) The Company has a lien on the shares; or
 - (b) The registration of the transfer, together with the completion of any further transfer or transfers then held by the Company and awaiting registration, would result in the proposed transferee or a transferor having a holding below a Minimum Holding; or
 - (c) The transfer would be contrary to any permitted restriction on transfer referred to in Regulation 2.18; or
 - (d) Such action is expressly permitted by any legislation or the Listing Rules and the ASX Rules.
- 3.7 Restricted securities under the ASX Rules may not be disposed of during the escrow period which applies to the restricted securities, except as permitted by the ASX Rules or ASX and the Company will refuse to acknowledge a disposal (including registering a transfer) of restricted securities during the escrow period except as permitted by the ASX Rules.

Registration of Shareholding in Parcels

- 3.8 Separate parcels - The share registrar of the Company, on request by a shareholder or proposed transferee, may register a shareholding in separate parcels identified by a distinguishing word, number or other parcel differentiator. Where a shareholder's shareholding is so registered, the Company may communicate separately with the shareholder in respect of each parcel, pay dividends and otherwise act, so far as the directors consider convenient, as if the separate parcels belonged to different shareholders.

4.0 DISTRIBUTIONS

- 4.1 The Board, may, if it is satisfied on reasonable grounds that the Company will, immediately after the distribution, satisfy the solvency test, subject to section 53 of the Act and this Constitution, authorise a distribution by the Company at a time, and of an amount, and to any shareholders it thinks fit.
- 4.2 The directors who vote in favour of a distribution must sign a certificate stating that, in their opinion, the Company will, immediately after the distribution, satisfy the solvency test and the grounds for that opinion.

Dividends

- 4.3
- (a) The Board must not authorise a dividend in respect of some but not all the shares in a class or that is of a greater value per share in respect of some shares of a class than it is in respect of other shares of that class, unless the amount of the dividend is in proportion to the amount paid,

other than in advance of calls, to the Company in satisfaction of the liability of the shareholder under this Constitution or under the terms of issue of the share or is required, for a multi-rate PIE, as a result of section HM 48 of the Income Tax Act 2007.

- (b) A shareholder's entitlement to receive a dividend may be waived by notice in writing to the Company signed by or on behalf of a shareholder.

Method of payment

- 4.4 A distribution payable in cash may be paid in such manner as the Board thinks fit to the entitled shareholder or, in the case of joint shareholders, to the shareholder named first in the share register, or to such other person and in such manner as the shareholder or joint shareholders may in writing direct. Any one of two or more joint shareholders may give a receipt for any payment in respect of the shares held by them as joint shareholders.

Disentitlement to dividends and distributions

- 4.5 A shareholder holding restricted securities under the ASX Rules that is in breach of the ASX Rules or any restriction agreement in respect of the restricted securities is not entitled to receive dividends or distributions.

Unclaimed Distributions

4.6

- (a) A distribution unclaimed for one year after having become payable 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 regard it as being impressed with any trust.
- (b) A distribution unclaimed for five years after having become payable shall at the expiry of such period be forfeited by the Board for the benefit of the Company, provided always that the Board may at any time after such forfeiture annul the same and pay such distribution to the person producing evidence of entitlement. Any other moneys payable to any shareholder or former shareholder shall be disposed of in accordance with the Unclaimed Money Act 1971.

5.0 MEETINGS OF SHAREHOLDERS

The provisions of the First Schedule of the Act shall apply, except where modified by this Regulation 5.

Annual Meetings

- 5.1 The Board must call an annual meeting of shareholders to be held:
- (a) not later than 6 months after the balance date of the Company; and
- (b) not later than 15 months after the previous annual meeting.

Special Meetings

- 5.2 All meetings other than the annual meeting shall be called special meetings.

Convening Special Meetings

- 5.3 A special meeting of shareholders entitled to vote on an issue:
- (a) may be called at any time by the Board; and
- (b) 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.

Chairperson

5.4

- (a) If the directors have elected a chairperson of the Board, and the chairperson of the Board is present at a meeting of shareholders, he or she must chair the meeting.
- (b) 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, the shareholders present may choose any other director to be chairperson of the meeting.
- (c) If no director is present within 15 minutes of the time appointed for the commencement of the meeting, or no director is willing to act as chairperson, the shareholders present may choose one of their number to be chairperson of the meeting.

Notice of Meetings

5.5

- (a) Written notice of the time and place of a meeting of shareholders must be sent to every shareholder and Equity Security holder entitled to receive notice of the meeting and to every director and an auditor of the Company not less than 10 working days (as defined under the Act) before the meeting, or, while the Company is Listed, 20 Business Days before the meeting or such other period as may be required by the Rules or recommended by the NZX Corporate Governance Code.
- (b) The notice must state:
 - (i) the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it; and
 - (ii) the text of any resolution to be submitted to the meeting; and
 - (iii) the text of any resolution for the purposes of section 207I or 207J of the Act to be submitted to the meeting; and
 - (iv) in the case of special resolutions required by section 106(1)(a) or (b) of the Act, the right of a shareholder under section 110 of the Act; and
 - (v) be accompanied by an Appraisal Report if required by the Listing Rules;
- (c) An irregularity in a notice of a meeting is waived if all the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such shareholders agree to the waiver.
- (d) If a meeting of shareholders is adjourned for less than 30 days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned.
- (e) The Company shall send a proxy form complying with Regulation 5.11 to every shareholder and Equity Security holder entitled to attend and vote at a meeting of the Company with the notice convening the meeting. In every such notice, there shall appear with reasonable prominence a statement that a shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of him or her and that a proxy need not be a shareholder of the Company.

Entitlement to Notice of Meetings

5.6

- (a) The shareholders and Equity Security holders who are entitled to receive notice of a meeting are:
 - (i) If the Board fixes a date for the purpose, those shareholders and Equity Security holders whose names are registered in the share register on that date;
 - (ii) If the Board does not fix a date for the purpose, those shareholders and Equity Security holders whose names are registered in the share register at the close of business on the day immediately preceding the day on which the notice is given.
- (b) A date must not be fixed under Regulation 5.6(a) that precedes by more than 30 working days or less than 10 working days (as defined under the Act) the date on which the meeting is to be held.

Methods of Holding Meetings

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

- (a) being assembled together at the time and place appointed for the meeting; or
- (b) participating in the meeting by means of audio, audio and visual, or electronic communication, to the extent permitted by the Act, the Listing Rules and ASX Rules; or
- (c) by a combination of both of the methods described in Regulations 5.7(a) and (b) above.

Quorum

5.8

- (a) Subject to Regulation 5.8(c), no business may be transacted at a meeting of shareholders if a quorum is not present.
- (b) A quorum for a meeting of shareholders is present if shareholders who have the right to vote at the meeting or their proxies, attorneys or representatives (in the case of a body corporate) are present whose number is not less than ten (10).
- (c) If a quorum is not present within 30 minutes after the time appointed for the meeting:
 - (i) In the case of a meeting under section 121(b) of the Act, the meeting is dissolved;
 - (ii) In the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place or to such other date, time and place as the directors may appoint, and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders or their proxies present are a quorum.
- (d) To avoid doubt, a shareholder participating in a meeting by means of audio, audio visual or electronic communication is present at the meeting and part of the quorum.

Voting

5.9

- (a) In the case of a meeting of shareholders held under Regulation 5.7(a), unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting:
 - (i) Voting by voice; or

- (ii) Voting by show of hands.
- (b) In the case of a meeting of shareholders held under Regulations 5.7(b) or 5.7(c), unless a poll is demanded, voting at the meeting shall be by any method permitted by the chairperson of the meeting.
- (c) To the extent permitted by the Act, the Listing Rules and the ASX Rules, the Company may allow shareholders to vote by signifying their assent or dissent by electronic means (including for the avoidance of doubt, voting on a personal computer, with such vote being transmitted to the meeting), instead of the shareholder voting by another method permitted by the Act or this Constitution.
- (d) A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with sub-clause (e) of this Regulation.
- (e) At a meeting of shareholders a poll may be demanded by:
 - (i) not less than five shareholders having the right to vote at the meeting; or
 - (ii) a shareholder or shareholders representing not less than 10% of the total voting rights of all shareholders having the right to vote at the meeting; or
 - (iii) a shareholder or shareholders holding shares in the Company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all shares that confer that right; or
 - (iv) the chairperson of the meeting, who must do so as required by the Listing Rules.
- (f) A poll may be demanded either before or after the vote is taken on a resolution.
- (g) If a poll is taken, votes must be counted according to the votes attached to the shares of each shareholder present in person or by proxy and voting.
- (h) For the purposes of this Regulation, the instrument appointing a proxy to vote at a meeting of the Company 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.

Different Polls to be Taken at Different Times

- (i) A poll demanded on the election of a chairperson of a meeting or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs, and 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.

Proxy Allowed to Demand a Poll

- (j) The instrument appointing a proxy to vote at a meeting of the Company 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.

Disentitlement to vote and voting restrictions

5.10

- (a) Where a breach of the ASX Rules relating to restricted securities continues or while a breach subsists of a restriction agreement entered into by the Company under the ASX Rules in relation to shares which are restricted securities, the restricted securities do not confer on the holder any voting rights. However, those restricted securities shall not be treated or taken to be a separate class of share for any purpose.

- (b) Notwithstanding anything to the contrary in this Constitution or the Listing Rules, the ASX Rules or the Act, a person is not entitled to cast a vote in favour of a resolution when that person is disqualified from doing so by virtue of the voting restrictions specified in the Listing Rules or ASX Rules.
- (c) On a resolution for the issue of Financial Products under Rule 4.2.1, a person is not disqualified from voting if the new Financial Products are to be offered on the same basis to all holders of Financial Products of the same Class.
- (d) Regulation 5.10(b) shall not prevent a person disqualified from voting under that Regulation, who has been appointed as a proxy or voting representative by another person who is not disqualified from voting under that Regulation, from voting in respect of the Financial Products held by that other person in accordance with the express instructions of that other person.
- (e) The Company shall use reasonable endeavours to ascertain, no later than 5 Business Days before any meeting to consider a resolution referred to in Regulation 5.10(b) the identity of holders of Financial Products who are disqualified from voting on that resolution and, if requested by NZX, must supply a list of such holders to NZX.
- (f) No resolution of, or proceeding at, a meeting of Financial Product holders will be void on the basis of a breach of Regulation 5.10(b).

Proxies

5.11

- (a) A shareholder may exercise the right to vote either by being present in person or by proxy.
- (b) A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were a shareholder. A proxy need not be a shareholder of the Company.
- (c) A proxy must be appointed by notice in writing signed by or, in the case of an electronic notice, sent by the shareholder and the notice must state whether the appointment is for a particular meeting or a specified term.
- (d) A shareholder may appoint more than 1 proxy for a particular meeting, provided that more than 1 proxy is not appointed to exercise the rights attached to a particular share held by the shareholder.

Form of Proxy

- (e) A notice appointing a proxy shall be in such form as the Board may approve from time to time and notify to shareholders and comply with the requirements of the Listing Rules.

Validity on Death or Insanity

- (f) A vote given in accordance with the terms of a notice of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy is given or the transfer of the share in respect of which the proxy is given, if no intimation in writing of such death, insanity, revocation, or transfer has been received by the Company at the registered office of the Company before the commencement of the meeting or adjourned meeting at which the proxy is used or has been handed to the Chairperson of the meeting before the vote is given.

Notice of Proxy to be produced 48 Hours Before Meeting

- (g) No proxy is effective in relation to a meeting unless the proxy form is received by or on behalf of the Company at any place or in any manner specified for the purpose in the notice of meeting not later than 48 hours before the start of the meeting. If the written notice appointing a proxy is signed under power of attorney, a signed certificate of non-revocation of the power of attorney must accompany that notice.

Postal Votes

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

Minutes

5.13

- (a) The Board must ensure that minutes are kept of all proceedings at meetings of shareholders.
- (b) Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

Shareholder Proposals

5.14

- (a) 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.
- (b) If the notice is received by the Board not less than 20 working days (as defined under the Act) 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.
- (c) If the notice is received by the Board not less than 5 working days (as defined under the Act) and not more than 20 working days (as defined under the Act) 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.
- (d) If the notice is received by the Board less than 5 working days (as defined under the Act) before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, if practicable, and at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- (e) If the directors intend that shareholders may vote on the proposal by proxy 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.
- (f) The Board is not required to include in or with the notice given by the Board:
 - (i) any part of a statement prepared by a shareholder which the directors consider to be defamatory (within the meaning of the Defamation Act 1992), frivolous or vexatious; or
 - (ii) any part of a proposal or resolution prepared by a shareholder that the directors consider to be defamatory (within the meaning of the Defamation Act 1992).
- (g) 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.

Corporations May Act by Representatives

- 5.15 A body corporate which is a shareholder may appoint a representative to attend a meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy.

Votes of Joint Holders and Personal Representatives

5.16

- (a) Where 2 or more persons are registered as the holder 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.
- (b) Where 2 or more persons are entitled under section 93 or 94 of the Act to be registered as holder of shares of a deceased or bankrupt shareholder, the right of one of them to vote shall be determined by the order in which their names appear in the register of shareholders.

Voting Rights if Calls Unpaid

- 5.17 Where there are shares of the same Class, some of which are fully paid and some of which are not fully paid, each share which is not fully paid shall carry only a proportion of the vote which would be exercisable if the share were fully paid, equivalent to the portion of the total issue price of that share which has been paid (disregarding any amounts credited and payments in advance).

Appointment of Attorney

- 5.18 Any shareholder may at any time and from time to time by power of attorney appoint any person to be that shareholder's attorney to attend meetings of the Company and on behalf of the shareholder to vote and generally to act for the shareholder in the capacity as such as fully and effectually to all intents and purposes as such shareholder could do if present in person or by proxy or representative.

Powers to Adjourn Meetings

5.19

- (a) The chairperson of any meeting at which a quorum is present may, at his or her sole discretion (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place.
- (b) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting, but otherwise it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Powers to Dissolve Meetings

5.20

- (a) If any meeting shall become so unruly, disorderly or inordinately protracted, that in the opinion of the chairperson the business of the meeting cannot be conducted in a proper and orderly manner, the chairperson, notwithstanding any provision to the contrary contained in this Constitution and without the consent of the meeting, may in his or her sole and absolute discretion and without giving any reason therefor, either adjourn or dissolve the meeting.
- (b) If any meeting is dissolved by the chairperson pursuant to Regulation 5.20(a) the unfinished business of the meeting shall be dealt with as follows subject to all applicable laws:

- (i) in respect of any resolution not voted upon by the meeting concerning a distribution, the Board in the exercise of the powers conferred on it by this Constitution may make such distribution;
- (ii) in respect of any resolution not voted upon by the meeting concerning the remuneration of the auditor, the meeting shall be deemed to have resolved that the Board be authorised to fix the remuneration of the auditor;
- (iii) the chairperson may direct that any item of business which is uncompleted at the meeting and which in his or her opinion requires to be voted upon be put to the vote by a poll without further discussion in accordance with Regulation 5.9; and
- (iv) in respect of any resolution not voted upon by the meeting concerning a matter which requires approval under the Listing Rules or ASX Rules, such resolutions will be put to the vote by a poll without further discussion in accordance with Regulation 5.9.

Shareholder Participation by Electronic Means

5.21 For the purposes of this Constitution, a shareholder, or the shareholder's proxy or representative, may, to the extent permitted by the Act, the Listing Rules and the ASX Rules, participate in a meeting by means of audio, audio and visual, or electronic communication if:

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

5.22 To avoid doubt, participation in a meeting includes participation in any manner specified in the Act or permitted in this Constitution.

6.0 DIRECTORS' DUTIES

6.1 A director of the Company, when exercising powers or performing duties, must act in good faith and in what the director believes to be the best interests of the Company.

7.0 SELF INTEREST TRANSACTIONS

Actions by Interested Directors

7.1 A director of the Company who is interested in any matter, may:

- (a) not vote on a board resolution for, or be counted in a quorum for the consideration of, that matter; but may
- (b) attend the meeting; and
- (c) sign a document relating to the matter on behalf of the Company; and
- (d) do any other thing in his or her capacity as a director in relation to the matter,

as if the director were not interested in the matter. Notwithstanding the preceding restrictions, a director may vote on a Board resolution for, and be counted in the quorum for the consideration of, a matter in which that director has an interest if the matter is one, in respect of which, directors are expressly required under the Act to sign a certificate, or one which relates to the grant of an indemnity pursuant to section 162 of the Act.

Use of Company Information

- 7.2 A director of the Company who has information in his or her capacity as a director or employee of the Company, being information that would not otherwise be available to him or her, must not disclose that information to any person, or make use of or act on the information, except:
- (a) for the purposes of the Company; or
 - (b) as required by law; or
 - (c) in accordance with Regulations 7.3 or 7.4 of this Constitution; or
 - (d) in complying with section 140 of the Act.

Disclosure - Nominee Director of Appointor

- 7.3 A director of the Company may, unless prohibited by the Board, disclose information to a person whose interests the director represents or a person in accordance with whose directions or instructions the director may be required or is accustomed to act in relation to the director's powers and duties and, if the director discloses the information, the name of the person to whom it is disclosed must be entered in the interests register.

Disclosure & Use of Information Generally

- 7.4 A director of the Company may disclose, make use of, or act on the information if:
- (a) particulars of the disclosure, use, or the act in question are entered in the interests register; and
 - (b) the director is first authorised to do so by the Board; and
 - (c) the disclosure, use, or act in question will not, or will not be likely to, prejudice the Company.

8.0 APPOINTMENT AND REMOVAL OF DIRECTORS

Minimum Number & Residence

- 8.1
- (a) The minimum number of directors (other than alternate directors) is that required by the Listing Rules. The maximum number of directors (other than alternate directors) is 8. The shareholders may increase the maximum number of directors by an Ordinary Resolution. Subject to these limitations the number of directors to hold office may be fixed from time to time by the Board.
 - (b) The Company must have at least 2 directors who are ordinarily resident in New Zealand.
 - (c) The Company must have at least 2 directors who are Independent Directors (as defined under the Listing Rules).

Existing Directors to continue in office

- (d) The directors of the Company (both executive and non-executive) in office at the date of adoption of this Constitution shall be deemed to have been appointed directors of the Company pursuant to this Constitution and shall continue in office until they vacate office pursuant to this Constitution.

Appointment

- 8.2 All directors of the Company must be appointed as follows:
- (a) by the Board in accordance with Regulation 8.5(a);

- (b) nomination in accordance with Regulation 8.6 and appointment by Ordinary Resolution at the annual meeting or a special meeting of Equity Security holders; or
- (c) as an alternate director in accordance with Regulation 8.5(c).

Rotation

Director Retirements

8.3

- (a) If:
 - (i) a director retires at a meeting of shareholders and is not re-elected or deemed to be re-elected at that meeting, the director shall remain in office until, and his or her retirement shall take effect at, the conclusion of the meeting;
 - (ii) a director is removed from office at a meeting of shareholders by Ordinary Resolution, the director shall remain in office until, and his or her removal shall take effect at, the conclusion of the meeting; and
 - (iii) a person who is not already a director is appointed or elected as a director at a meeting of shareholders, that person shall take office as a director immediately after the conclusion of the meeting.

Rotation of Directors

- (b) A director of the Company must not hold office (without re-election) past the third annual meeting following the director's appointment or 3 years, whichever is longer. However, a director appointed by the Board must not hold office (without re-election) past the next annual meeting following the director's appointment.

Vacation of Office

8.4 The office of director of the Company is vacated if the person holding that office:

- (a) resigns by signing a written notice of resignation and delivering it to the address for service of the Company. The notice is effective when it is received at that address or at a later time specified in the notice; or
- (b) is removed from office in accordance with an Ordinary Resolution under Rule 2.8.1; or
- (c) becomes disqualified from being a director pursuant to section 151 of the Act, Regulation 8.5(c)(i), or the Insurance (Prudential Supervision) Act 2010; or
- (d) dies; or
- (e) if being an executive director, ceases for any reason to be in salaried employment of the Company or any of its Subsidiaries unless the Board decides otherwise; or
- (f) is absent from meetings of the Board continuously for the space of four months without special leave of absence from the Board.

Appointment of Directors by Board

Casual Vacancies

8.5

- (a) Where a director ceases to hold office by virtue of the vacation of office pursuant to Regulation 8.4 or where for any reason the maximum number of directors authorised by Regulation 8.1(a)

have not been elected, the continuing directors shall have power at any time thereafter to appoint any other qualified person to hold office as a director. However, a director appointed by the Board must not hold office (without re-election) past the next annual meeting following the director's appointment.

- (b) Directors may continue to act where there is a vacancy in their body, but where for any reason the minimum number of directors authorised by Regulation 8.1(a) do not hold office, the continuing directors may act to remedy the shortfall in directors using the power under Regulation 8.5(a), or to summon a meeting of the Company's Equity Security holders, but for no other purpose.

Alternates

- (c) No director may appoint an alternate director to act for him or her except with the consent of a majority of his or her co-directors. The alternate appointment may be revoked by the appointing director or a majority of the Board. A director may not act as alternate for another director. No director may appoint a deputy or agent otherwise than as an alternate director. The following provisions shall apply to the appointment of an alternate director:
 - (i) Without limiting Rule 2.8.1, the office of the alternate director shall be vacated if the director who nominated the alternate director shall no longer hold office, or if the appointment of the alternate is revoked by a majority of the directors or by the nominating director.
 - (ii) A nominating director and his or her alternate director shall be counted as one director for the purposes of Regulation 8.4 and Regulation 9.4.
 - (iii) An alternate director may be paid expenses, and shall be entitled to be indemnified by the Company to the same extent, with any necessary modifications, as if he or she were a director but he or she shall not be entitled to receive from the Company, in respect of his or her appointment as alternate director, remuneration other than such proportion (if any) of the remuneration otherwise payable to his or her appointor as such appointor may by notice in writing to the Company from time to time direct.

Director nominations and appointment

- 8.6 A shareholder may propose a person for appointment as a director by giving written notice of the proposal to the Board in accordance with the Listing Rules and any process put in place by the Board to give effect to those Listing Rules.

9.0 DIRECTORS' MEETINGS

Chairperson

9.1

- (a) The directors may elect one of their number as chairperson of the Board to hold office until he or she dies or resigns or until the directors elect a chairperson in his or her place.
- (b) If no chairperson is elected, or if at a meeting of the Board the chairperson is not present within 10 minutes after the time appointed for the meeting, the directors present may choose one of their number to be chairperson of the meeting.

Notice of Meeting

9.2

- (a) A director or, if requested by a director to do so, an employee of the Company, or any Subsidiary, may convene a meeting of the Board by giving notice in accordance with this Regulation 9.2.

- (b) Not less than 5 days' written notice of a meeting of the Board must be given to every director either by hand or electronic means in accordance with any request made by a director to the Company from time to time for such purpose to every director and every alternate director, and the notice must include the date, time and place of the meeting and the matters to be discussed.
- (c) An irregularity in the notice of a meeting or a failure to give notice is waived if all directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all directors agree to the waiver.

Methods of Holding Meetings

9.3 A meeting of the Board may be held either:

- (a) By a number of the directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) By the contemporaneous linking together by any means of communication (including by means of audio or audio and visual communication) of the directors participating and constituting a quorum, whether or not any one or more of the directors are absent from New Zealand and such meeting shall be deemed to be properly held provided the following conditions are met:
 - (i) all the directors including alternate directors entitled to receive notice of a meeting of the directors shall have received notice of the meeting and be entitled to be linked by any means of communication for the purposes of such meeting;
 - (ii) each of the directors taking part in the meeting by any means of communication must throughout the meeting be able to simultaneously hear each of the other directors taking part;
 - (iii) a director may not leave the meeting by disconnecting the means of communication unless he or she has previously obtained the express consent of the chairperson of the meeting, and a director shall be presumed to have been present and to have formed part of the quorum at all times during the meeting by any means of communication unless he or she has previously obtained the express consent of the chairperson of the meeting to leave the meeting.
- (c) For the avoidance of doubt a meeting of the Board may be held by a number of the directors who constitute a quorum, by a combination of the methods described in 9.3(a) and (b).

Quorum

9.4

- (a) Until otherwise determined by the Board a quorum for a meeting of the Board, other than an adjourned meeting, shall be at least one half of all the directors who, for the time being, are in office and are entitled to vote.
- (b) No business may be transacted at a meeting of the Board if a quorum is not present.
- (c) If a quorum is not present within 15 minutes of the time appointed for the commencement of the meeting, the meeting shall then stand adjourned for seven days. The quorum for an adjourned meeting of the Board shall be those present.

Voting

9.5

- (a) Every director has one vote. An alternate director shall not vote at a meeting at which the person for whom he or she is an alternate director attends.

- (b) Subject to Regulation 9.5(d), in the case of an equality of votes, the chairperson shall have a casting vote.
- (c) A resolution of the Board is passed if a majority of the votes cast on it are in favour of it.
- (d) Any director who abstains from voting shall be deemed not to have voted for or against the proposal or issue being voted on, and accordingly shall not be required to sign any director's certificates required under the Act.
- (e) This Regulation 9.5 is subject to Regulation 7.1.

Minutes

- 9.6 The Board must ensure that minutes are kept of all proceedings at meetings of the Board. Minutes that have been signed correct by the chairperson of the meeting, or by the chairperson of the next meeting, are prima facie evidence of the proceedings of the meeting.

Unanimous Resolution

9.7

- (a) A resolution in writing, signed or assented to by letter or other written form by all directors including alternate directors (when the person for whom he or she is appointed is unable to act), is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- (b) A resolution pursuant to Regulation 9.7(a) may consist of several documents (including by any electronic means) in like form each signed or assented to by one or more directors (or alternate directors, as the case may be).
- (c) A copy of any such resolution must be entered in the minute book of Board proceedings.

Other

9.8

- (a) The provisions in Regulation 9 of this Constitution replace those contained in the Third Schedule to the Act.
- (b) Except as provided in this Constitution, the Board may regulate its own procedure.

10.0 REMUNERATION AND OTHER BENEFITS

- 10.1 The Board may, subject to the Listing Rules, exercise the power conferred by section 161 of the Act to authorise remuneration and other benefits to and for directors.
- 10.2 Each director shall be entitled to be paid reasonable travelling, accommodation and other expenses incurred by the director in connection with the director's attendance at meetings or otherwise in connection with the Company's business.
- 10.3 Without limiting Regulation 10.2, but subject to any applicable Listing Rules relating to transactions with related parties, the Board may authorise the payment of special remuneration to a director who is or has been engaged by the Company or a Subsidiary of the Company, to carry out any work or perform any services which is not in the capacity of a director of the Company or a Subsidiary.

11.0 INDEMNITY AND INSURANCE

- 11.1 Except as provided in Regulations 11.2 to 11.6, the Company must not indemnify, or directly or indirectly effect insurance for, a director or employee of the Company or a Related Company in respect of:

- (a) Liability for any act or omission in his or her capacity as a director or employee; or
 - (b) Costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability.
- 11.2 The Company shall indemnify a director or employee of the Company or a Related Company for any costs incurred by him or her in any proceeding:
- (a) That relates to liability for any act or omission in his or her capacity as a director or employee; and
 - (b) In which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued.
- 11.3 The Company shall indemnify a director or employee of the Company or a Related Company in respect of:
- (a) Liability to any person other than the Company or a Related Company for any act or omission in his or her capacity as a director or employee; or
 - (b) Costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability;
- not being criminal liability or liability in respect of a breach, in the case of a director, of the duty specified in section 131 of the Act or, in the case of an employee, of any fiduciary duty owed to the Company or Related Company.
- 11.4 The Company may, with the prior approval of the Board, effect insurance for a director or employee of the Company or a Related Company in respect of:
- (a) Liability, not being criminal liability, for any act or omission in his or her capacity as a director or employee; or
 - (b) Costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability; or
 - (c) Costs incurred by that director or employee in defending any criminal proceedings:
 - (i) that have been brought against the director or employee in relation to any act or omission in his or her capacity as a director or employee; and
 - (ii) in which he or she is acquitted.
- 11.5 The directors who vote in favour of authorising the effecting of insurance under Regulation 11.4 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the Company.
- 11.6 The Board must ensure that particulars of any indemnity given to, or insurance effected for, any director or employee of the Company or a Related Company are forthwith entered in the interests register.

12.0 METHOD OF CONTRACTING

- 12.1 A contract or other enforceable obligation may be entered into by the Company as follows:
- (a) 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:
 - (i) two or more directors of the Company; or

- (ii) one or more attorneys appointed by the Company in accordance with section 181 of the Act; or
 - (iii) a director and an employee of the Company or a Subsidiary of the Company, or any two employees of the Company or a Subsidiary of the Company, where the employee is authorised to enter into obligations on behalf of the Company and to sign documents that are required by law to be by deed. The signature of authorised employees must be witnessed.
- (b) 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.
- (c) 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.