

CONSTITUTION
OF
GENESIS ENERGY LIMITED

As approved at the 16 October
2019 Annual Shareholder Meeting

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CONSTITUTION
OF
GENESIS ENERGY LIMITED

1. DEFINITIONS AND INTERPRETATION

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

"**Act**" means the Companies Act 1993.

"**Alternate Director**" means a person appointed by a Director as his or her alternate under clause 30.

"**ASX**" means ASX Limited or the financial market operated by ASX Limited, as the context requires.

"**ASX Rules**" means the listing rules of ASX and any other rules of ASX which are applicable to the Company while it 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.

"**ASX Settlement**" means ASX Settlement Pty Ltd (ABN 008 504 532).

"**ASX Settlement Operating Rules**" means the operating rules of ASX Settlement or of any relevant organisation which is an alternative or successor to, or replacement of, ASX Settlement or of any applicable CS Facility Licensee.

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

"**CHESS Holding**" has the meaning given to that term in the ASX Settlement Operating Rules.

"**Class**" means a class of Financial Products having identical rights, privileges, limitations and conditions, and includes or excludes Financial Products which NZX in its discretion deems to be, or not to be, of that class.

"**Company**" means Genesis Energy Limited.

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

"**Crown**" has the meaning given to that term in section 45P of the Public Finance Act.

"**CS Facility Licensee**" means a person who holds a licence under the Australian Corporations Act 2001 (Cth) that authorises the person to operate a clearing and settlement facility.

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

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

"**Equity Security**" means an Equity Security as defined in the NZX Rules issued, or to be issued, by the Company, as the case may require.

"First Schedule" means the first schedule to this Constitution.

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

"Holding Adjustment" has the meaning given to that term in the ASX Settlement Operating Rules.

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

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

"Issuer Sponsored Holding" has the meaning given to that term in the ASX Settlement Operating Rules.

"Listed" in respect of the NZX Main Board, has the meaning in the NZX Rules and, in respect of the ASX, means admitted to the official list of the ASX.

"month" means calendar month.

"NZX Main Board" means the main board financial product market operated by NZX (or any successor to that market).

"NZX" means NZX Limited, and includes its predecessors, successors and assigns and, as the context permits, includes any duly authorised delegate of NZX (including the Tribunal).

"NZX Rules" means the Listing Rules of NZX in force from time to time, subject to any waiver or Ruling relevant to the Company granted by NZX from time to time.

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

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

"Personal Representative" means:

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

"Public Finance Act" means the Public Finance Act 1989.

"Records" means the documents required to be kept by the Company under section 189(1) of the Act.

"Representative" means:

- (a) a person appointed as a proxy under clause 25;
- (b) a Personal Representative; or

(c) a representative appointed by a corporation under clause 27.

"**Ruling**" has the meaning in the NZX Rules.

"**Share**" means a share issued, or to be issued, by the Company, as the case may require.

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

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

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

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

"**Tribunal**" has the meaning in the NZX Rules.

"**Working Day**" has the meaning set out in section 2(1) of the Act.

1.2 **Definitions in the NZX Rules:** Words and expressions in this Constitution which commence with initial capital letters and are not defined in clause 1.1 but are defined in the NZX Rules have the respective meanings given to them by the NZX Rules.

1.3 **Definitions in Act and FMC Act:** Subject to clauses 1.2 and 1.5, expressions which are defined in the Act and/or the FMC Act (whether generally or for the purposes of a particular subsection, section or sections) have the meanings given to them by the Act and/or the FMC Act. Where an expression is defined in the Act and/or the FMC Act more than once and in different contexts, its meaning will be governed by the context in which it appears in this Constitution.

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

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

- (h) a reference to a NZX Rule or the NZX Rules includes that NZX Rule or NZX Rules as from time to time amended or substituted;
- (i) a reference to an ASX Rule or the ASX Rules includes that ASX Rule or ASX Rules as from time to time amended or substituted;
- (j) a reference to "**permitted by the Act**", or "**permitted by the NZX Rules**" or "**permitted by the ASX Rules**" means not prohibited by the Act or not prohibited by the NZX Rules or not prohibited by the ASX Rules (as the case may be); and
- (k) the Schedules to this Constitution form part of this Constitution.

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

- (a) a provision in this Constitution and a provision in the Act which is expressly permitted to be altered by this Constitution; or
- (b) a word or expression defined or explained in the Act and a word or expression defined or explained in this Constitution,

the provision, word or expression in this Constitution prevails.

2. CONFIRMATION OF OFFICE

2.1 **Confirmation in Office:** All offices, elections, and appointments (including of or to the Board and committees of the Board), registers, registrations, records, instruments, delegations, plans and generally all acts of authority that originated under any previous constitution of the Company and are subsisting and in force on the day on which this Constitution is adopted by the Shareholders shall continue and be deemed to be effective and in full force under this Constitution.

3. GENERAL - LISTING RULES

3.1 **Companies Act 1993:** The Company, the Board, each Director and each Shareholder have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this Constitution.

3.2 **Compliance with NZX Rules:** Notwithstanding anything else in this Constitution, for so long as the Company is Listed on the NZX Main Board:

- (a) those provisions of the NZX Rules which are required to be contained or incorporated by reference in this Constitution, as they may apply from time to time and may be modified by any Ruling relevant to the Company, will be deemed to be incorporated in this Constitution and have the same effect as if they were set out in full with any necessary modification;
- (b) the Company must comply with the NZX Rules (as modified by, and subject to, any waiver or Ruling);
- (c) subject to clause 3.5, if this Constitution contains any provision inconsistent with the NZX Rules, then the relevant NZX Rules prevail;
- (d) Shareholders must not cast a vote if prohibited from doing so by the NZX Rules; and
- (e) Directors must not cast a vote if prohibited from doing so by the NZX Rules.

- 3.3 **Compliance with ASX Rules:** Subject to clause 4.2 but notwithstanding anything else in this Constitution, for so long as the Company is admitted to the official list of the ASX (or any successor to that market):
- (a) the Company must comply with the ASX Rules (as modified by, and subject to, any waiver or ruling);
 - (b) notwithstanding anything contained in this Constitution, if the ASX Rules prohibit an act being done, the act shall not be done;
 - (c) nothing in this Constitution prevents an act being done that the ASX Rules require to be done;
 - (d) 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);
 - (e) 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;
 - (f) 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;
 - (g) 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;
 - (h) Shareholders must not cast a vote if prohibited from doing so by the ASX Rules; and
 - (i) Directors must not cast a vote if prohibited from doing so by the ASX Rules.
- 3.4 **Effect of failure to comply with NZX Rules:** Failure to comply with:
- (a) any of the NZX Rules; or
 - (b) a clause of this Constitution corresponding with a provision of the NZX Rules (whether such provision is set out in full in this Constitution or incorporated in it pursuant to clause 3.2),
- 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. This clause does not limit the rights of Equity Security holders against the Company or the Directors. .
- 3.5 **Effect of Ruling or waiver:** If any ruling or waiver is granted by NZX or the ASX in respect of any act or omission which, in the absence of that ruling or waiver, would be in breach of this Constitution, that act or omission will, unless a contrary intention appears in this Constitution, be deemed to be authorised by this Constitution.
- 3.6 **Cessation:** Clauses 1.2, 3.2, 3.3, 3.4 and 3.5 apply only for so long as the Company is party to a listing agreement with NZX or ASX (as the case may be). If the Company ceases to be party to a listing agreement with NZX or ASX (as the case may be) those clauses shall cease to have effect in so far as they relate to the Company's listing on the NZX Main Board or ASX official list (as the case may be).

4. COMPLIANCE WITH PUBLIC FINANCE ACT

- 4.1 **Compliance with Public Finance Act:** The Company must comply with all of its obligations under Part 5A of the Public Finance Act. The First Schedule applies for so long as the Company is a company listed in Schedule 5 of the Public Finance Act.
- 4.2 **Schedule to prevail:** To the extent that any provision of the First Schedule is inconsistent with, or conflicts with, any provision in the body of this Constitution, the provision in the First Schedule shall prevail.

5. SHARES

- 5.1 **Consolidation and subdivision:** The Board may:

- (a) consolidate and divide the Shares or any Class; and
- (b) subdivide the Shares or any Class;

in each case in proportion to those Shares or the Shares in that Class, as the case may be.

6. ISSUE OF NEW SHARES AND EQUITY SECURITIES

- 6.1 **Powers of Board to issue:** The Board may issue Equity Securities that rank as to voting or distribution rights or both, equally with or prior to any existing Equity Securities in the Company to any person and in any number it thinks fit provided that the issue is in accordance with this Constitution, Part 5A of the Public Finance Act and (for so long as the Company is Listed) the provisions of the NZX Rules. Any such issue shall not be treated as an action affecting the rights attached to the existing Equity Securities unless the terms of the issue of those Equity Securities expressly provide otherwise.
- 6.2 **Board need not comply with statutory pre-emptive rights:** The provisions of sections 45(1) and 45(2) of the Act shall not apply to any issue or proposed issue of Shares by the Company. If the Board issues Equity Securities that rank as to voting or distribution rights, or both, equally with or prior to the Equity Securities already issued by the Company, the Board need not first offer those Equity Securities for acquisition to existing holders.
- 6.3 **Bonus issues:** Subject to the NZX Rules, the Board may resolve to apply any amount which is available for Distribution 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 such 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 later time, in accordance with their respective entitlements; or
 - (b) in paying up any amount which is unpaid on any Shares held by the Shareholders referred to in clause 6.3(a)(i),

or partly in one way and partly in the other.

7. ALTERATION OF RIGHTS OF EQUITY SECURITY HOLDERS

- 7.1 **Procedure in respect of Shares:** The Company shall, before taking action affecting the rights attached to any Shares, comply with the provisions of sections 116 and 117 of the Act.

8. ACQUISITION AND REDEMPTION OF EQUITY SECURITIES

8.1 **Powers to acquire, hold and redeem Equity Securities:** The Company may:

- (a) purchase or otherwise acquire Shares or other Equity Securities from one or more of the holders;
- (b) hold as treasury stock any Shares or other Equity Securities so purchased or acquired;
- (c) issue or redeem any redeemable Shares or other Equity Securities held by one or more of the holders;
- (d) exercise an option to redeem redeemable Shares issued by the Company in relation to one or more holders of redeemable Shares, and
- (e) make an offer to one or more holders of Shares to acquire Shares issued by the Company in such number or proportions as it thinks fit,

in accordance with the provisions, and subject to the restrictions, of the Act, this Constitution, the NZX Rules and Part 5A of the Public Finance Act.

9. EQUITABLE INTERESTS IN SHARES

9.1 **No notice of trusts:** No notice of a trust, whether express, implied, or constructive, may be entered on the Share Register.

9.2 **No recognition of equitable interests:** Except as required by law or by this Constitution, no person shall be recognised by the Company as holding any Share upon trust and the Company shall not be bound by, nor be compelled to recognise (even after notice), any equitable, contingent, future or partial interest in any Share, or any interest in any fraction or part of a Share or (except as provided by this Constitution or by law) any other rights in respect of any Share, except an absolute right of the registered holder to the entire Share.

10. CALLS ON SHARES

10.1 **Board may make calls:** The Board may, from time to time, make such calls as it thinks fit upon the Shareholders in respect of any amounts unpaid on any Shares held by them which are not made payable at fixed times under this Constitution, by the terms of issue of those Shares, or any contract for the issue of those Shares.

10.2 **Shareholders must pay calls:** Every Shareholder on receiving at least 10 Working Days' notice specifying the time or times and the place of payment must pay, in accordance with that notice, the amount called to be paid in respect of any Shares that Shareholder holds. The Board may require a call to be paid by instalments. The Board may revoke or postpone any call.

10.3 **Time of call:** A call is deemed to be made at the time when the resolution of the Board authorising the call was passed.

10.4 **Fixed instalments deemed calls:** An amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date is deemed for the purposes of this Constitution to be a call duly made and payable on the date on which the amount is payable. If the payment is not made, the relevant provisions of this Constitution will apply as if the amount had become payable by virtue of a call made in accordance with this Constitution.

10.5 **Notice of call:** At least 10 Working Days' notice of any call shall be given to the holder of the Share in respect of which the call is made, specifying the time and place of payment.

10.6 **Differential calls:** The Board may, on the issue of Shares, differentiate between the Shareholders as to the amounts to be paid in respect of the Shares and the times of payment of such amounts.

- 10.7 **Manner of payment:** A Shareholder by whom a call is payable shall pay the amount of the call to the Company at the time and place specified by the Board.
- 10.8 **Joint Shareholders:** Joint Shareholders are jointly and severally liable to pay all calls in respect of Shares registered in their names.
- 10.9 **Default interest:** If a call in respect of a Share is not paid on or before the due date, the Shareholder by whom the call is payable shall pay interest on the call from the due date to the date of actual payment at such rate as the Board determines, unless the Board waives payment of interest wholly or in part.
- 10.10 **Proceedings for recovery of call:** In any proceedings for recovery of a call:
- (a) it is sufficient to prove that:
- (i) the name of the relevant Shareholder is entered in the Share Register as the holder, or one of the holders, of the Shares to which the call relates; and
- (iii) except in relation to any amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date, the resolution making the call is entered in the Records and notice of the call has been duly given,
- and proof of the matters mentioned in this clause is conclusive evidence of the debt; and
- (b) it is not necessary to prove the appointment or qualification of any member of the Board which made the call nor any other matter.
- 10.11 **Payment in advance of calls:** The Board may, on behalf of the Company, accept and receive from any Shareholder in advance any amount uncalled and unpaid upon any Shares held by that Shareholder and may, until the date on which the amount becomes payable pursuant to a call, pay interest on the amount at such rate as the Board and the Shareholder agree.
- 10.12 **Repayment of calls paid in advance:** The Board may at any time repay to any Shareholder the whole or any portion of any money paid in advance of a call upon giving that holder at least 48 hours' notice in writing and as from the date of such repayment interest (if any) shall cease to accrue on the money so repaid.
- 10.13 **No right to interest on calls paid in advance:** A Shareholder is not entitled as of right to any payment of interest on any amount paid in advance of a call and the Board may decline to pay any interest. Any amount so paid in advance must not be taken into account in ascertaining the amount of any Distribution payable upon the Shares concerned.
- 11. FORFEITURE OF SHARES**
- 11.1 **Notice requiring payment of call:** If a Shareholder fails to pay any call or instalment of a call on the due date, the Company may at any time thereafter by written notice to that Shareholder require payment of the amount unpaid together with any accrued interest and all expenses incurred by the Company by reason of such non-payment.
- 11.2 **Contents of notice:** The notice shall specify a further date (not earlier than 10 Working Days after the date of service of the notice) on or before which the payment is to be made, and shall state that, if payment is not made by the specified date, the Share in respect of which the call or instalment of a call is due, is liable to be forfeited.
- 11.3 **Forfeiture for non-payment:** If payment is not made by the date specified in the notice then, at any time thereafter before the payment required by the notice has been made, any Share in respect of which the notice has been given may be forfeited by a resolution

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

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

12. LIEN ON SHARES

- 12.1 **Lien on Shares:** The Company has a first and paramount lien upon each Share, the proceeds of sale of the Share, and all Distributions made in respect of the Share, for:
- (a) all unpaid calls, instalments, premiums or other amounts, and any interest payable on such amounts, relating to that Share;
 - (b) sale expenses owing to the Company in respect of any such Share; and
 - (c) any amount which the Company may be called upon to pay under any legislation in respect of the Share, whether or not the due date for payment thereof has passed.
- 12.2 **Waiver of lien:** Unless otherwise agreed between the Company and the relevant Shareholder, the registration of a transfer of a Share shall operate as a waiver of any lien which the Company may have on that Share, except as provided in clause 15.2.

13. SALE OF SHARES SUBJECT TO FORFEITURE OR LIEN

- 13.1 **Company may sell Shares:** The Company may sell any forfeited Share, or any Share on which the Company has a lien, in such manner as the Board thinks fit, but the Company shall not sell any Share:
- (a) unless the amount in respect of which any lien exists is due and payable; and
 - (b) until the expiry of 10 Working Days after written notice demanding payment of the amount has been given to the person entitled to receive notice of meetings of Shareholders in respect of the Share.
- 13.2 **Proceeds of sale:** The net proceeds (after deduction of any expenses) of the sale of a forfeited Share or of any Share sold for the purpose of enforcing a lien shall be applied in or towards satisfaction of any unpaid calls, interest or other amount in respect of which any lien exists (as the case may require). The residue, if any, shall be paid to the holder of the Share at the time of its forfeiture or, in the case of a Share sold for the purpose of enforcing a lien, the holder immediately prior to the sale or, if applicable in either case, to the Personal Representative of the holder.
- 13.3 **Evidence:** A certificate by a Director that any power of sale has arisen and is exercisable by the Company under this Constitution, or that a Share has been forfeited on the date stated in the certificate, shall be conclusive evidence of those facts.
- 13.4 **Sale procedure:** For giving effect to any sale after forfeiture of any Share or for enforcing a lien over any Share, the Board may:
- (a) authorise any person to transfer any Share to the purchaser;
 - (b) execute a transfer of the Share in favour of the person to whom the Share is sold

or disposed of, and register that person as the holder of the Share on the Share Register; and

- (c) receive the consideration, if any, given for the Share.

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

14. TRANSFER OF SHARES

14.1 **Right to transfer:** Subject to any restrictions contained in this Constitution, a Shareholder or Personal Representative may transfer any Share:

- (a) under a system of transfer approved under the FMC Act or pursuant to a "designated settlement system" within the meaning set out in section 156M of the Reserve Bank of New Zealand Act 1989, which is applicable to the Company;
- (b) under any other share transfer system which operates in relation to the trading of securities on any stock exchange outside New Zealand on which Shares are listed and which is applicable to the Company; or
- (c) by an instrument of transfer which complies with this Constitution.

14.2 **Method of transfer:** A Share which is disposed of in a transaction which complies with the requirements of a system of transfer authorised under clause 14.1(a) or 14.1(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 Share Registrar.

14.3 **Other forms of transfer:** An instrument of transfer of Shares to which the provisions of clause 14.2 are not applicable shall:

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

14.4 **Delivery to Company:** An instrument transferring Shares must be delivered to the Company or to the Share Registrar, together with such evidence (if any) as the Company or the Share Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Shares.

14.5 **Board may refuse or delay registration of transfer:** Subject to the Act, the Board may, in its absolute discretion, refuse or delay the registration of a transfer of any Share:

- (a) if permitted to do so by the Act, the NZX Rules, the ASX Rules or clause 10 of the First Schedule;
- (b) for so long as the Board or the Company is in the process of exercising any of their respective powers set out in the First Schedule with respect to those Shares;
- (c) if the Company has a lien on the Share;
- (d) if the transferor fails to produce such evidence as the Company or the Share

Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Share; or

- (e) if registration of the transfer (together with registration of any further transfer or transfers then held by the Company and awaiting registration) would result in less than a Minimum Holding of Shares of the relevant Class standing in the name of the transferee or a transferor.
- 14.6 **Board must refuse or delay registration of transfer:** The Board must refuse or delay the registration of any transfer of Shares where the Board has actual knowledge, or believes, that registration of the transfer would, or would be likely to, contravene Part 5A of the Public Finance Act.
- 14.7 **Registration not to affect other powers:** The registration of any transfer of Shares shall not prejudice or affect in any way the powers exercisable by the Board under the First Schedule or otherwise.
- 14.8 **When transfer effective:** A transferor of a Share is deemed to remain the holder of the Share until the name of the transferee is entered in the Share Register in respect of the Share.
- 14.9 **Company to retain transfer:** If the Company registers an instrument of transfer it shall retain the instrument.
- 14.10 **Multiple registers:** The Share Register may, by resolution of the Board, be divided into two or more registers, which may be kept in different places, and may be kept by one or more Share Registrars.
- 14.11 **Registration of separate parcels:** A Shareholder or a transferee may request the Company to register the Shares held by that person in two or more separately identifiable parcels. Where the Company agrees to such a request, the Company may, so far as it considers convenient, communicate with the Shareholder, pay dividends and otherwise act in respect of such parcel, as if the separately identifiable parcels belonged to different persons.
- 14.12 **Compulsory disposal when holding less than Minimum Holding:**
- (a) The Board may at any time give notice to a Shareholder holding less than a Minimum Holding of Shares that if, at the expiration of three months after the date the notice is given, the Shares then registered in the name of the Shareholder are less than a Minimum Holding of Shares, the Company may sell those Shares.
 - (b) The Board may authorise the transfer of the Shares sold by the Company under this clause 14.12, and the Shareholder is deemed to have authorised the Company to act on behalf of the Shareholder and to sign all necessary documents relating to the sale.
 - (c) For the purposes of the sale and of Rule 5.12 of the ASX Settlement Operating Rules, where the Company has given a notice that complies with Rule 5.12.2 of the ASX Settlement Operating Rules, the Company may, after the expiration of the time specified in the notice, initiate a Holding Adjustment to move the relevant Shares from that CHESS Holding to an Issuer Sponsored Holding or to take any other action the Company considers necessary or desirable to effect the sale.
 - (d) The purchaser of Shares sold by the Company under this clause 14.12 shall have no obligation to ensure the proceeds of the sale of those Shares is applied in accordance with this clause 14.12, nor shall the title to the Shares be affected by any irregularity or invalidity in the procedures under this Constitution relating to the sale. The remedy of any person aggrieved by the sale is in damages only and against the Company exclusively.

- (e) The proceeds of sale of any Shares sold under this clause 14.12 must be applied as follows:
- (i) first, in payment of any reasonable sale expenses;
 - (ii) second, in satisfaction of any unpaid calls or any other amounts owing to the Company in respect of the Shares; and
 - (iii) the residue, if any, must be paid to the person who was the Shareholder immediately before the sale or his or her executors, administrators or assigns.
- (f) A certificate, signed by a Director that records that a power of sale under this clause has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.

14.13 **Financial Products other than Shares:** The provisions of this clause 14 shall apply, with any necessary modifications, to Financial Products of the Company other than Shares except to the extent (if any) provided otherwise by the terms of issue of such Financial Products, by the NZX Rules, the ASX Rules, or by law. Without limiting the foregoing, every person to whom unissued Equity Securities are offered pursuant to an offer complying with NZX Rule 4.3.1(a), may transfer their Rights thereunder to any person or persons to whom the Equity Securities, when issued, could be transferred but the Directors have the same right to decline to accept any such transfer as they would have if the transfer were a transfer of Shares, and the provisions of this Constitution as to the transfer of Shares, with all necessary modifications, apply to transfers of Rights to unissued Equity Securities.

15. TRANSMISSION OF SHARES

15.1 **Transmission on death of Shareholder:** If a Shareholder dies the survivor, if the deceased was a joint Shareholder, or the Personal Representative, shall be the only persons recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder but nothing in this clause shall release the estate of a deceased joint Shareholder from any liability in respect of any Share or constitute a release of any lien which the Company may have in respect of any Share.

15.2 **Rights of Personal Representatives:** A Personal Representative of a Shareholder:

- (a) is entitled to exercise all rights (including without limitation the rights to receive Distributions, to attend meetings and to vote in person or by Representative), and is subject to all limitations, attached to the Shares held by that Shareholder; and
- (b) is entitled to be registered as holder of those Shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the Personal Representative pursuant to this sub-clause.

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

16. DISTRIBUTIONS

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

16.2 **Form of Distribution:** Subject to the rights of holders of any Shares in a Class, the Board may make a Distribution in such form as it thinks fit, but except as provided in

clause 16.3 shall not differentiate between Shareholders as to the form in which a Distribution is made without the prior approval of the Shareholders.

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

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

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

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

16.5 **Deduction of money:** The Board may deduct from a Distribution payable to a Shareholder any amount which is due and payable by the Shareholder to the Company on account of calls or otherwise in relation to any Shares held by that Shareholder. The Board must deduct from any dividend or other distribution payable to any Shareholder any amount it is required by law to deduct, including withholding and other taxes.

16.6 **Method of payment:** A Distribution payable in cash may be paid in such manner as the Board thinks fit to the entitled Shareholders or, in the case of joint Shareholders, to the Shareholder named first in the Share Register, or to such other person and in such manner as the Shareholder or joint Shareholders may in writing direct.

16.7 **No interest on Distributions:** The Company is not liable to pay interest in respect of any Distribution.

16.8 **Payment of small Distribution amounts:** Where the net amount of a Distribution payable to a Shareholder is less than such minimum amount as may be determined from time to time by the Board for the purposes of this clause, the Company may, with the prior approval of that Shareholder, defer payment of the Distribution to that Shareholder until the earlier of:

- (a) such time as that Shareholder has an aggregate entitlement to net Distributions of not less than such minimum amount; and
- (b) the date upon which that Shareholder ceases to hold any Shares.

16.9 **Unclaimed Distributions:** Dividends or other monetary Distributions unclaimed for more than one year after having been authorised, may be used for the benefit of the Company until claimed. The Company shall be entitled to mingle the Distribution with other money of the Company and shall not be required to hold it or to regard it as being impressed with any trust. All dividends or other monetary Distributions unclaimed for more than five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Board shall nevertheless, at any time after such forfeiture, but subject to compliance with the solvency test, annul the forfeiture and agree to pay a claimant who produces satisfactory evidence of entitlement.

17. EXERCISE OF POWERS OF SHAREHOLDERS

17.1 **Alternative forms of meeting:** A meeting of Shareholders may be held by a number of Shareholders, who constitute a quorum:

- (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; or
- (c) by a combination of both of the methods described in clauses 17.1(a) and 17.1(b).

The Company is not required to hold meetings of Shareholders in the manner specified in clauses 17.1(b) or (c). Meetings will be held in that manner only if the notice of meeting so specifies or the Board otherwise decides that the Company should do so. To avoid doubt, if a meeting is held in the manner specified in clauses 17.1(b) or (c), a Shareholder participating in a meeting by means of audio, audio and visual, and/or electronic communication is present at the meeting and part of the quorum.

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

18. MEETINGS OF SHAREHOLDERS

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

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

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

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

18.4 **Meetings of Interest Groups:** A meeting of the Shareholders constituting an Interest Group may be called by the Board at any time. All the provisions of this Constitution relating to meetings of Shareholders shall apply, with all necessary modifications, to meetings of Interest Groups, except that:

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

19. NOTICE OF MEETINGS OF SHAREHOLDERS

19.1 **Written notice:** Written notice (or such other notice as permitted by law) of the time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting, to every Director, and to the auditor of the Company, not less than 10 Working Days before the meeting, but with the consent of all Shareholders entitled to

attend and vote at a meeting, it may be convened by such shorter notice, and in such manner, as those Shareholders agree.

- 19.2 **Contents of notice:** A notice of meeting shall:
- (a) state the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it;
 - (b) state the text of any Special Resolution to be submitted to the meeting;
 - (c) state that a Shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of the Shareholder and that a proxy need not be a Shareholder; and
 - (d) for so long as the Company is listed, comply with the requirements of the NZX Rules.
- 19.3 **Form of resolutions:** So far as reasonably practicable, the resolutions to be proposed at a meeting shall be framed in a way which facilitates the giving of two way voting instructions to proxies.
- 19.4 **Waiver of notice irregularity:** An irregularity in a notice of a meeting is waived if all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Shareholders agree to the waiver.
- 19.5 **Accidental omission of notice:** The accidental omission to send notice of a meeting to, or the failure to receive notice of a meeting by, any person entitled to receive notice, does not invalidate the proceedings at the meeting.
- 19.6 **Notice of adjourned meeting:** If a meeting of Shareholders is adjourned for less than 30 days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clause 19.1.
- 20. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**
- 20.1 **Requirement for quorum:** Subject to clause 20.3, no business may be transacted at a meeting of Shareholders if a quorum is not present.
- 20.2 **Quorum:** Subject to clause 20.3, a quorum for a meeting of Shareholders is five persons present at the meeting and each having the right to vote at that meeting, (whether present as a Shareholder or as a Representative) or participating by means of audio, audio and visual, and/or electronic communication.
- 20.3 **Lack of quorum:** If a quorum is not present within 30 minutes after the time appointed for the meeting:
- (a) in the case of a meeting called by the Board on the written request of Shareholders entitled to exercise that right, the meeting is dissolved;
 - (b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the Board may appoint and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Shareholders or their Representatives present are a quorum.
- 20.4 **Regulation of procedure:** Subject to the provisions of the Act, and except as otherwise provided in this Constitution, the chairperson may regulate the procedure at meetings of Shareholders.
- 20.5 **Adjournment of meeting:** The chairperson may, with the consent of a meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business may be transacted at an adjourned

meeting other than the business left unfinished at the relevant meeting.

- 20.6 **Adjournment or dissolution of disorderly meeting:** If a meeting becomes so unruly, disorderly or inordinately protracted, that in the opinion of the chairperson the business of the meeting cannot be conducted in a proper and orderly manner, the chairperson, notwithstanding any provision to the contrary contained in this Constitution and without the consent of the meeting, may, in his or her sole and absolute discretion and without giving any reason therefor, either adjourn or dissolve the meeting.
- 20.7 **Completion of unfinished business if meeting dissolved:** If a meeting is dissolved by the chairperson pursuant to clause 20.6, the unfinished business of the meeting shall be dealt with as follows:
- (a) in respect of a resolution concerning the approval or authorisation of a Distribution, the Board may, in the exercise of the powers conferred on it by the Act or this Constitution, authorise such Distribution;
 - (b) in respect of a resolution concerning the remuneration of the auditors, the meeting shall be deemed to have resolved that the Board be authorised to fix the remuneration of the auditors;
 - (c) the chairperson may direct that any other item of uncompleted business, which in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion, in accordance with clause 24.4.

21. CHAIRPERSON OF MEETINGS OF SHAREHOLDERS

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

22. VOTING AT MEETINGS OF SHAREHOLDERS

- 22.1 **Voting at meeting in one place:** In the case of a meeting of Shareholders held under clause 17.1(a), unless a poll is demanded in accordance with clause 24.1, the chairperson of the meeting shall determine whether voting will be by voice or by show of hands.
- 22.2 **Voting at audio/visual meeting:** In the case of a meeting of Shareholders held under clause 17.1(b) or (c), unless a poll is demanded in accordance with clause 24.1, voting at the meeting will be by any method permitted by the chairperson of the meeting.
- 22.3 **Postal votes:** Unless the Board determines otherwise, Shareholders may not exercise the right to vote at a meeting by casting postal votes. If the Board determines that postal voting will be permitted at a meeting, the provisions of clause 7 of the first schedule to the Act shall apply, with such modifications (if any) as the Board thinks fit.
- 22.4 **Entitlement to vote:** A Shareholder may exercise the right to vote either in person or by Representative.

- 22.5 **Number of votes:** Subject to clause 23.1 and to any rights or restrictions for the time being attached to any Share:
- (a) where voting is by show of hands or by voice every person present (whether as a Shareholder or as a Representative) has one vote; and
 - (b) on a poll every Shareholder present in person or by Representative has:
 - (i) in respect of each fully paid Share held by that Shareholder, one vote;
 - (ii) in respect of each Share held by that Shareholder which is not fully paid, a fraction of the vote or votes which would be exercisable if that Share were fully paid equivalent to the proportion which the amount paid (excluding amounts credited as paid) on that Share bears to the total amount paid and payable thereon (excluding amounts credited as paid and amounts paid in advance of calls).
- 22.6 **Vote of overseas protected persons:** A Shareholder who is not living in New Zealand, and who is of unsound mind or in respect of whom an order has been made by any court having appropriate jurisdiction, may vote in respect of any Shares held by that Shareholder, by his or her committee, manager, or other person of a similar nature appointed by that court, voting in person or by proxy.
- 22.7 **Declaration by chairperson:** A declaration by the chairperson of a meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 24.1.
- 22.8 **Chairperson's casting vote:** The chairperson of a meeting of Shareholders is not entitled to a casting vote.
- 22.9 **Joint Shareholders:** Where two or more persons are registered as joint Shareholders, the vote of the person named first in the Share Register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

23. RESTRICTIONS ON VOTING

- 23.1 **No vote when amount owing on Share:** A Shareholder is not entitled to vote at any meeting of Shareholders (including a meeting of an Interest Group) in respect of any Share if any amount is due and payable on that Share by the Shareholder to the Company.

24. POLLS

- 24.1 **Right to demand poll:** At a meeting of Shareholders a poll may be demanded by:
- (a) the chairperson; or
 - (b) not less than five Shareholders having the right to vote at the meeting; or
 - (c) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting; or
 - (d) a Shareholder or Shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right.
- 24.2 **When poll may be demanded:** A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.
- 24.3 **When poll taken:** A poll demanded on the election of a chairperson of a meeting or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time as the chairperson directs and any business, other

than that upon which a poll is demanded, may proceed pending the taking of the poll.

- 24.4 **Poll procedure:** A poll shall be taken in such manner as the chairperson directs and the result of the poll is deemed to be a resolution of the meeting at which the poll is demanded.
- 24.5 **Counting of Votes on Poll:** 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 Representative and voting in respect of those Shares.
- 24.6 **Scrutineers:** The auditor (including employees and agents of the auditor) shall be scrutineers unless they are unable or unwilling to act, or the chairperson of the meeting directs otherwise, in which case the scrutineers shall be such person nominated by the chairperson.
- 24.7 **Declaration of result:** The chairperson of the meeting may declare the result of a poll either at or after the meeting and, when the outcome of the poll is known, may do so regardless of whether all votes have been counted. 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.

25. PROXIES

- 25.1 **Right to appoint:** A Shareholder may appoint a proxy to vote on behalf of the Shareholder at a meeting of Shareholders. The proxy is entitled to attend and be heard at the meeting, and to demand or join in demanding a poll, as if the proxy were the Shareholder.
- 25.2 **Multiple proxies:** A Shareholder may appoint more than one proxy for a particular meeting, provided that more than one proxy is not appointed to exercise the rights attached to a particular Share held by the Shareholder.
- 25.3 **Notice of appointment:** A proxy must be appointed by written notice signed by or, in the case of an electronic notice, sent by the appointing Shareholder, or by appointing the proxy online as per the Company's instructions in a notice of meeting, and the notice must state whether the appointment is for a particular meeting or for a specified term.
- 25.4 **Proxy form to be sent with notice of meeting:** The Company shall send (either by mail or electronically) a form of notice of appointment of proxy to every Shareholder entitled to attend and vote at a meeting, with the notice convening the meeting.
- 25.5 **Receipt of proxy form:** No proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by or on behalf of the Company at any place specified for that purpose in the notice of meeting. The notice of meeting may provide for different matters for different kinds of proxies (for example, a different specified time for the receipt of a proxy by electronic means). In any case, the time or times specified may not be more than 48 hours before the start of the meeting.
- 25.6 **Validity of proxy vote:** A vote given in accordance with the terms of a notice of appointment of a proxy is valid notwithstanding the previous death or mental disorder of the principal, or the revocation of the appointment or of the authority under which the notice of appointment was executed, or the transfer of the Share in respect of which the proxy is appointed, if no written notification of such death, mental disorder, revocation, or transfer is received by the Company at its registered office, or by the Share Registrar, before the commencement of the meeting or adjourned meeting for which the proxy is appointed.

26. ELECTRONIC PARTICIPATION, APPOINTMENTS AND VOTING

26.1 **Shareholder Participation by Electronic Means:** A Shareholder, or the Shareholder's proxy or Representative, may, to the extent permitted by the Act and the NZX 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).

To avoid doubt, participation in a meeting includes participation in any manner specified in Schedule 1 of the Act or this Constitution.

26.2 **Appointments and voting by electronic means:** The Board may permit, in relation to a particular meeting of Shareholders or generally in relation to meetings of Shareholders:

- (a) the appointment of Representatives to be made by electronic means;
- (b) postal votes to be cast by electronic means; and
- (c) to the extent permitted by the Act and if applicable the NZX Rules, Shareholders to vote by signifying their assent or dissent by electronic means (including, for the avoidance of doubt, voting on a personal computer or other electronic device, with such vote being transmitted to the meeting), instead of the Shareholder voting by another method permitted by the Act or this Constitution.

27. CORPORATE REPRESENTATIVE

27.1 **Appointment of representative:** A corporation which is a Shareholder may appoint a person to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.

28. SHAREHOLDER PROPOSALS AND MANAGEMENT REVIEW

28.1 **Shareholder proposals:** A Shareholder may give written notice to the Board of a matter which the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote. The provisions of clause 9 of the first schedule to the Act apply to any notice given pursuant to this clause.

28.2 **Management review by Shareholders:** The chairperson of a meeting of Shareholders shall allow a reasonable opportunity for Shareholders at the meeting to question, discuss, or comment on the management of the Company. The Shareholders may pass a resolution relating to the management of the Company at that meeting but no such resolution is binding on the Board.

29. DIRECTORS

29.1 **Composition:** The Company shall comply with the minimum Board composition requirements of the NZX Rules.

29.2 **No shareholding qualification:** There is no shareholding qualification for Directors.

29.3 **Appointment by Ordinary Resolution:** Subject to clause 29.1 and the NZX Rules any natural person who is not disqualified under the Act and, if required under the NZX Rules, who has been nominated within the time limits under the NZX Rules, may be appointed as a Director at any time by an Ordinary Resolution.

- 29.4 **Appointment by Board:** Subject to clause 29.1 and the NZX Rules, the Board may at any time appoint any natural person who is not disqualified under the Act to be a Director. Any Director appointed under this clause may hold office only until the next annual meeting (at which he or she must retire), and is then eligible for election, at that meeting.
- 29.5 **Existing Directors to continue:** The persons holding office as Directors on the date of adoption of this Constitution, in accordance with clause 2, continue in office and are deemed to have been appointed as Directors pursuant to this Constitution.
- 29.6 **Removal of Directors:** Any Director may be removed from office by an Ordinary Resolution passed at a meeting called for the purpose of, or for purposes that include, removal of the Director. The Director removed will cease to be a Director at the conclusion of that meeting or any adjournment of that meeting.
- 29.7 **Rotation of Directors:** Each director shall retire from office when required to do so by the NZX Rules but, subject to the NZX Rules, shall be eligible for re-election (including at any meeting at which the Director retires).
- 29.8 **Duration of office of retiring Director:** A Director retiring at a meeting of Shareholders continues to hold office until:
- (a) he or she is re-elected at that meeting; or
 - (b) if he or she is not re-elected at that meeting, or does not offer himself or herself up for re-election, the end of that meeting or any adjournment of that meeting.
- 29.9 **Appointment by single resolution:** Each resolution to appoint, elect or re-elect a Director must be for the appointment, election or re-election of one Director only.
- 29.10 **Vacation of office:** A Director ceases to be a Director if he or she:
- (a) is removed from office pursuant to clause 29.6; or
 - (b) dies, or becomes mentally disordered or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988; or
 - (c) resigns by written notice delivered to the Company at its address for service or at its registered office (such notice to be effective at the time when it is so received unless a later time is specified in the notice); or
 - (d) becomes disqualified from being a Director pursuant to the Act; or
 - (e) becomes bankrupt or makes an arrangement or composition with his or her creditors generally; or
 - (f) has for more than six months been absent without approval of the Board from meetings of the Board held during that period.
- 29.11 **Timing of appointment:** If a person who is not already a Director is appointed or elected as a Director at a meeting of Shareholders, that person shall take office as a Director immediately after the conclusion of the meeting or after any adjournment of the meeting, whichever is earlier.
- 29.12 **Election of Chairperson and Deputy Chairperson:** The Directors may elect one of their number as:
- (a) chairperson of the Board and determine a period for which the chairperson may hold office, provided that that Director must be (for such time as the Company is a company listed in Schedule 5 of the Public Finance Act) a person approved for this purpose by the Minister of Finance; and
 - (b) deputy chairperson of the Board and determine a period for which the deputy

chairperson may hold office.

29.13 **Duration of office of Chairperson and Deputy Chairperson:** The chairperson and deputy chairperson of the Board holds that office until:

- (a) the expiry of any period determined by the Board; or
- (b) he or she vacates that office; or
- (c) the Directors elect a chairperson or deputy chairperson (as the case may be) in his or her place in accordance with clause 29.12.

30. ALTERNATE DIRECTORS

30.1 **Power to appoint:** Every Director may appoint any person, who is not a Director and is not disqualified by the Act or this Constitution from being a Director, and whose appointment has been approved in writing by a majority of the other Directors, to act as an Alternate Director in his or her place either for a specified period, or generally during the absence or inability to act from time to time of such Director, by giving written notice to that effect to the Company. No Director may appoint a deputy or agent otherwise than by way of appointment of an Alternate Director.

30.2 **Rights of Alternate Director:** Unless otherwise specified by the terms of his or her appointment, an Alternate Director:

- (a) is entitled, in the absence or unavailability of the Director who appointed him or her (the "**Appointor**"), to exercise the same rights, powers and privileges (other than the power to appoint an Alternate Director or to act as chairperson or deputy chairperson at a meeting of the Directors solely by virtue of being appointed an Alternate Director by the Appointor who is the chairperson or deputy chairperson) as the Appointor (including the right to receive notice of, and be counted as part of the quorum of, and participate in a meeting of, the Board, and to sign any document, including a written resolution; and
- (b) when acting as an Alternate Director is subject to the same duties and obligations as the Appointor.

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

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

- (a) if the Appointor ceases to be a Director, provided that a Director retiring by rotation and being re-elected is not to be treated as having ceased to be a Director for the purposes of this sub-clause;
- (b) if the Appointor revokes the appointment by written notice to the Company; or
- (c) on the occurrence of any event which would disqualify the Alternate Director if he or she were a Director; or
- (d) if a majority of the other Directors resolve to revoke the Alternate Director's appointment.

31. REMUNERATION AND OTHER BENEFITS OF DIRECTORS

31.1 **Restriction on authorisation:** The Board may, subject to the NZX Rules, exercise the power conferred by section 161 of the Act to authorise payments and other benefits to and for Directors.

- 31.2 **Payment of expenses:** Directors are entitled to be paid for all travelling, accommodation and other expenses properly incurred by them in attending meetings of the Board, or any committee of the Board, or meetings of Shareholders, or in connection with the business of the Company.
- 31.3 **Special remuneration:** Without limiting clause 31.1, the Board may authorise the Company to pay special remuneration to any Director who is, or has been, engaged by the Company to carry out work in a capacity other than that of Director.

32. INDEMNITY AND INSURANCE

- 32.1 **Company may indemnify Directors and employees for certain liabilities:** The Company:

- (a) shall indemnify a Director; and
- (b) may, with the prior approval of the Board, indemnify a director of a related company or an employee of the Company or a related company,

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

- 32.2 **Company may effect insurance for Directors and employees:** The Company may, with the prior approval of the Board, effect insurance for a Director or employee of the Company or a director or employee of 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.

- 32.3 **Definitions:** In this clause 32:

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

33. POWERS OF DIRECTORS

- 33.1 **Management of Company:** The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.

- 33.2 **Exercise of powers by Board:** The Board may exercise all the powers of the Company which are not required, either by the Act or this Constitution, to be exercised by the Shareholders.

- 33.3 **Delegation of powers:** The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in the second schedule to the Act.

- 33.4 **Appointment of attorney:** The Company may exercise the power conferred by section 181 of the Act to appoint a person as its attorney, either generally or in relation to a specified matter. Any such power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

- 33.5 **Ratification by Shareholders:** Subject to the provisions of section 177 of the Act (relating to ratification of directors' actions) the Shareholders, or any other person in whom a power is vested by this Constitution or the Act, may ratify the purported exercise of that power by a Director or the Board in the same manner as the power may be exercised. The purported exercise of a power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that power.

34. INTERESTS OF DIRECTORS

- 34.1 **Disclosure of Interests:** A Director shall comply with the provisions of section 140 of the Act (relating to disclosure of interest of directors) but failure to comply with that section does not affect the operation of clause 34.2.
- 34.2 **No voting:** Subject to clause 34.3, a Director shall not vote on a Board resolution in respect of any matter in which that Director is Interested, nor shall the Director be counted in the quorum for the consideration of that matter.
- 34.3 **Exception to no voting:** Notwithstanding clause 34.2, a Director may vote in respect of and be counted in the quorum for the Board for the consideration of a matter in which that Director is interested if that matter is one in respect of which Directors are expressly required to sign a certificate or relates to the grant of indemnity under section 162 of the Act.
- 34.4 **Personal involvement of Directors:** Notwithstanding any rule of law or equity to the contrary, but subject to the NZX Rules and to sections 107(3) and 141 of the Act (relating to avoidance of transactions in which a Director is Interested) and section 36(4) of the Financial Reporting Act 2013 (prohibiting a director from acting as auditor of a company), a Director may:
- (a) contract with the Company in any capacity;
 - (b) be a party to any transaction with the Company;
 - (c) have any direct or indirect personal involvement or Interest in any transaction or arrangement to which the Company is a party or in which it is otherwise directly or indirectly interested or involved;
 - (d) become a director or other officer of, or otherwise interested in, any corporation promoted by the Company or in which the Company may be directly or indirectly interested as a shareholder or otherwise; and
 - (e) retain any remuneration, profit or benefits in relation to any of the foregoing, and no contract or arrangement of any kind referred to in this clause may be avoided by reason of a Director's Interest.

35. PROCEEDINGS OF BOARD

- 35.1 **Third schedule of Act not to apply:** The provisions of the third schedule to the Act (relating to proceedings of a board) do not apply to the Company, except to the extent expressly incorporated in this Constitution.
- 35.2 **Alternative forms of meeting:** A meeting of the Board may be held either:
- (a) by a number of the Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
 - (b) by means of audio, audio and visual, or electronic, communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
 - (c) by a combination of the methods described in sub-clauses (a) and (b) above.
- 35.3 **Procedure:** Except as provided in this Constitution, the Board may regulate its own procedure.
- 35.4 **Convening of meetings:** A Director, or an employee of the Company at the request of a Director, may convene a meeting of the Board by giving notice in accordance with clause 35.5.
- 35.5 **Notice of meeting:** The following provisions apply in relation to meetings of the Board (except where otherwise agreed by all Directors in relation to any particular meeting or

meetings):

- (a) Not less than five clear days' notice of a meeting shall be sent to each Director, unless:
 - (i) the Director waives that right; or
 - (ii) the chairperson (or, in the chairperson's absence from New Zealand, the deputy chairperson if they are available and if not, 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. Any such shorter notice may be given by telephone communication to each Director at the telephone number provided to the Company by each Director provided that written notice shall be given to the Directors within the shorter notice period where it is practicable to do so.
- (b) Notice to a Director of a meeting may be:
 - (i) given to the Director in person by telephone or other oral communication;
 - (ii) delivered to the Director;
 - (iii) posted to the address given by the Director to the Company for such purpose;
 - (iv) sent by email to the email address given by the Director to the Company for such purpose; or
 - (v) sent by electronic means in accordance with any request made by the Director from time to time for such purpose.
- (c) A notice of meeting shall:
 - (i) specify the date, time and place of the meeting;
 - (ii) in the case of a meeting by means of audio, or audio and visual, and/or electronic communication, specify the manner in which each Director may participate in the proceedings of the meeting; and
 - (iii) give an indication of the matters to be discussed, in sufficient detail to enable a reasonable Director to appreciate the general import of the matters, unless this is already known to all the Directors or is impracticable in any particular circumstances.
- (d) A notice of meeting given to a Director pursuant to this clause is deemed to be given:
 - (i) in the case of oral communication, at the time of notification;
 - (ii) in the case of delivery, by handing the notice to the Director or by delivery of the notice to the address of the Director;
 - (iii) in the case of posting, three days after it is posted;
 - (iv) in the case of email or other electronic means, at the time of transmission.
- (e) If all reasonable efforts have been made to give notice of a meeting to a Director in accordance with this clause 35.5 but the Director cannot be contacted, notice of the meeting shall be deemed to have been duly given to that Director.

- 35.6 **Waiver of notice irregularity:** An irregularity in the giving of notice of a meeting is waived if each of the Directors either attends the meeting without protest as to the irregularity or agrees (whether before, during, or after the meeting) to the waiver.
- 35.7 **Quorum:** A quorum for consideration of any matter at a meeting of the Board is three Directors present and entitled to vote on the matter (or such other number as the Board may from time to time determine, provided that such number is not less than three). No matter may be considered at a meeting of the Board if a quorum for the purposes of the matter is not present.
- 35.8 **Meeting adjourned if no quorum:** If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the chairperson may adjourn the meeting to a specified day, time and place, being within the next two Working Days. If the chairperson does not so adjourn the meeting, the meeting will be adjourned automatically until the same day in the following week at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Directors present will constitute a quorum. Notice of the adjourned meeting must be given to the Directors at least 24 hours prior to the date of the adjourned meeting.
- 35.9 **Insufficient number of Directors:** The Directors may act notwithstanding any vacancy in their body, but if and so long as the number of Directors holding office is less than the minimum number (if any) fixed by clause 29.1, the continuing Directors may act only for the purposes of increasing the number of Directors to that number or calling a meeting of the Shareholders.
- 35.10 **Election of chairperson:** The chairperson, or failing the chairperson the deputy chairperson, shall chair all meetings of the Directors. If at any time there is no such chairperson or deputy chairperson, or if at any meeting the chairperson or deputy chairperson is not present within 10 minutes after the time appointed for holding the meeting, or is present but not entitled to vote on a particular matter, the Directors present may choose one of their number to be chairperson of that meeting, or for consideration of that particular matter, as the case may be.
- 35.11 **Voting:** Every Director has one vote. In the case of an equality of votes, the chairperson does not have a casting vote. A resolution of the Board is passed if it is agreed to without dissent by all Directors present and entitled to vote on the resolution, or if a majority of the votes cast on it are in favour of the resolution. A Director must not vote where that Director is not permitted to vote by the NZX Rules or this Constitution. A Director present at a meeting of the Board may abstain from voting on a resolution, and any Director who abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Act.
- 35.12 **Written resolution:** A resolution in writing, signed or assented to by a majority of the Directors entitled to vote on the resolution is as valid and effective as if passed at a meeting of the Board duly convened and held provided those Directors would constitute a quorum for consideration of the resolution at a meeting of the Board and that those Directors have made all efforts they consider reasonable to contact the other Directors for the purposes of determining whether they will sign or assent to the resolution. Any such resolution may consist of several documents (including facsimile or other similar means of communication including electronic communication such as by email) in similar form, each signed or assented to by one or more Directors (whose assent may be given by electronic communication, including email). A copy of any such resolution shall be entered in the Records. The Company shall, within five working days after any resolution is passed in accordance with this clause, send a copy of the resolution to each Director who has not signed or assented to the resolution.
- 35.13 **Committees:** A committee of Directors shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this Constitution relating to proceedings of Directors apply, with appropriate modification, to meetings of a committee of Directors.
- 35.14 **Validity of actions:** The acts of a person as a Director are valid even though the person's appointment was defective or the person is not qualified for appointment.

35.15 **Minutes:** The Board shall ensure that minutes are kept of all proceedings at meetings of the Shareholders and of the Board. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

36. METHOD OF CONTRACTING

36.1 **Deeds:** A deed which is to be entered into by the Company may be signed on behalf of the Company, by:

- (a) two or more Directors; or
- (b) any Director, together with any other person authorised by the Board whose signature must be witnessed; or
- (c) one or more attorneys appointed by the Company.

36.2 **Other written contracts:** An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by a person acting under the express or implied authority of the Company.

36.3 **Other obligations:** Any other obligation or contract may be entered into on behalf of the Company in writing or orally by a person acting under the express or implied authority of the Company.

37. INSPECTION OF RECORDS

37.1 **Inspection by Directors:** Subject to section 191(2) of the Act (which relates to the power of a court to limit inspection), all accounting and other records of the Company shall be open to the inspection of any Director.

37.2 **Inspection by Shareholders:** No Shareholder who is not also a Director is entitled to inspect any accounting or other records of the Company except as expressly authorised by law or permitted by the Board. Subject to the provisions of section 216 of the Act (which permits inspection of certain records by Shareholders) the Board may from time to time determine whether, to what extent, at what times and places, and under what conditions, the accounting or other records of the Company or any of them are open to the inspection of Shareholders (who are not also Directors).

38. NOTICES

38.1 **Accidental omissions:** The failure to send an annual report, notice, or other document to a Shareholder or other Equity Security holder in accordance with the Act or this Constitution does not invalidate the proceedings at a meeting of Shareholders if the failure to do so was accidental.

38.2 **Joint Shareholders:** A notice may be given by the Company to the joint holders of an Equity Security by giving the notice to the joint holder named first in the register in respect of that Equity Security.

38.3 **Shareholder deceased or bankrupt:** If a Shareholder dies or is adjudicated bankrupt, notice may be given in any manner in which notice might have been given if the death or bankruptcy had not occurred, or by giving notice in the manner provided in section 391 of the Act to the Personal Representative of the Shareholder at the address supplied to the Company for that purpose.

38.4 **Waiver by Shareholders:** Subject to section 212(2) of the Act, a Shareholder may from time to time, by notice to the Company, waive the right to receive all or any documents from the Company and may at any time thereafter revoke the waiver in the same manner. While any waiver is in effect, the Company need not send to the Shareholder the documents to which the waiver relates.

39. LIQUIDATION

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

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

FIRST SCHEDULE**OWNERSHIP RESTRICTIONS****INTERPRETATION**

1. **Definitions:** In this Schedule, unless the context otherwise requires:

"**Affected Shares**" means any Shares in respect of which the Board has determined under clause 13, in its discretion, that a person has a Relevant Interest in contravention of clause 5.

"**Affected Shareholder**" has the meaning given to that term in clauses 23 and 24.

"**Approved Nominee**" means a person to whom the exemption contained in section 45U of the Public Finance Act applies and who is in compliance with all requirements of that section.

"**Associated Persons**" are:

- (a) persons who are relatives within the meaning of the Income Tax Act 2007;
- (b) persons who are partners to whom the Partnership Act 1908 applies;
- (c) bodies corporate that consist substantially of the same members or shareholders or that are under the control of the same persons;
- (d) a body corporate and a person who has the power, directly or indirectly, to exercise, or control the exercise of, the rights to vote attached to 25% or more of the voting securities of the body corporate; or
- (e) a body corporate and a person who is a director of the body corporate.

"**Breach Shares**" has the meaning given to that term in clauses 23 and 24.

"**Cancellation Notice**" has the meaning given to that term in clause 23.

"**Class**" means a class of Shares (whether Quoted or not) having attached to them identical rights, privileges, limitations and conditions.

"**IPO**" has the meaning given to that term in clause 23.

"**Maximum Specified Percentage**" means the percentages set out in section 45S of the Public Finance Act.

"**Minimum Crown Percentage**" means the percentage set out in section 45R of the Public Finance Act.

"**Non-Notifying Holder**" has the meaning given to that term in clause 12.

"**Notifying Holder**" has the meaning given to that term in clause 6.

"**Other Holder**" has the meaning given to that term in clause 8.

"**Possible Interest Holder**" has the meaning given to that term in clause 8.

"**Relevant Interest**" has the meaning given to that term in section 45P of the Public Finance Act.

"**Share**" means a share in the Company or any other security (as that term is defined in section 45P of the Public Finance Act) of the Company which confers a Voting Right.

"**Voting Right**" has the meaning given to that term in section 45P of the Public Finance Act.

2. **Construction:** In this Schedule, unless the context requires otherwise:
- (a) capitalised terms which are not otherwise defined in this Schedule have the meanings given to them in the Constitution of which this Schedule forms part; and
 - (b) a reference to a clause is reference to a clause in this Schedule.

COMPLIANCE WITH PART 5A OF THE PUBLIC FINANCE ACT

3. **Part 5A of the Public Finance Act:** None of the Company, the Board or any registered holder of Shares may act in a manner that contravenes Part 5A of the Public Finance Act.

LIMITATION ON ISSUES, ACQUISITIONS AND REDEMPTIONS OF SHARES

4. **Limitation:** The Company must not issue, acquire or redeem any Shares if:
- (a) such issue, acquisition or redemption, would result in the Crown holding less than the Minimum Crown Percentage of a Class of Shares; or
 - (b) the Company has actual knowledge that such issue, acquisition or redemption will result in any person other than the Crown having a Relevant Interest in Shares that comprise more than the Maximum Specified Percentage of a Class of Shares unless the person is an Approved Nominee and has a Relevant Interest in the relevant Shares in accordance with the requirements of section 45U of the Public Finance Act.

LIMITATION ON OWNERSHIP BY PERSONS OTHER THAN THE CROWN

5. **Limitation on ownership:** No person, other than the Crown, may have a Relevant Interest in Shares that comprises more than the Maximum Specified Percentage of a Class of Shares unless the person is an Approved Nominee and has a Relevant Interest in the relevant Shares in accordance with the requirements of section 45U of the Public Finance Act.
6. **Notification of contravention of limitation on ownership:** If a registered holder of Shares (a "**Notifying Holder**"):
- (a) has or acquires a Relevant Interest in Shares in contravention of clause 5; or
 - (b) knows or believes that a person who has a Relevant Interest in Shares held by the Notifying Holder has, or may have, a Relevant Interest in Shares in contravention of clause 5,

the Notifying Holder must notify the Company in writing of such contravention, or possible contravention, immediately it becomes aware of the same and in that notice must, to the extent known to the Notifying Holder, advise the Company of:

- (c) where paragraph (a) of this clause applies:
 - (i) the number and Class of Shares in which the Notifying Holder has a Relevant Interest in contravention of clause 5; and
 - (ii) the name(s) and address(es) of the registered holder(s) of any Shares in which the Notifying Holder has a Relevant interest, where the Notifying Holder is not the registered holder of those Shares, and the name and address of any other person who has a Relevant Interest in any such Shares; and
- (d) where paragraph (b) of this clause applies:
 - (i) the name and address of the person who has, or may have, a Relevant Interest in Shares in contravention of clause 5;

- (ii) the number and Class of the Shares held by the Notifying Holder in which that person has a Relevant Interest; and
- (iii) the names of any other persons who are registered as the holders of Shares in which that person also has a Relevant Interest and the nature of any such Relevant Interest, if and to the extent known by the Notifying Holder.

The Company must provide to the Crown a copy of any notice provided to it under this clause as soon as is practicable.

7. Automatic suspension of rights where contravention of limitation on ownership:

If a person has a Relevant Interest in any Shares in contravention of clause 5 (irrespective of whether or not the registered holder of any such Shares has acted (knowingly or otherwise) in contravention of clause 5):

- (a) no vote may be cast (whether by voice, show of hands, on a poll or in any other manner) in respect of any of the Shares in which that person has a Relevant Interest in contravention of clause 5 (being, for the avoidance of doubt, the Shares in a Class of Shares in which the person has a Relevant Interest in excess of the Maximum Specified Percentage) on any matter arising for determination at any meeting of the holders of the relevant Class of Shares, or any meeting at which the holders of the relevant Class of Shares are entitled to vote (and any such vote cast at any such meeting will be disregarded); and
- (b) the registered holder of the Shares in which that person has a Relevant Interest in contravention of clause 5 will not be entitled to receive, in respect of the Shares in a Class of Shares in which the person has a Relevant Interest in excess of the Maximum Specified Percentage, any dividend or other distribution authorised by the Board in respect of the Class of Shares of which those Shares form part.

8. Power to require declaration of holding: If the Board has actual knowledge, or believes, that a person:

- (a) has or may have a Relevant Interest in Shares in contravention of clause 5; or
- (b) will have, or is likely to have, following the registration of a transfer of Shares that has been lodged with or presented to the Company for registration (including under a share or other security transfer system approved under the FMC Act or pursuant to a "designated settlement system" within the meaning set out in section 156M of the Reserve Bank of New Zealand Act 1989), a Relevant Interest in Shares in contravention of clause 5,

(each, a "**Possible Interest Holder**"),

the Company must require each Possible Interest Holder that is a registered holder of Shares and any other person that is registered as a holder of Shares in which the Board knows or believes that a Possible Interest Holder has, or may have, a Relevant Interest (an "**Other Holder**") to lodge with the Company within 14 days of the date on which such notice is given by the Company, a statutory declaration by that Possible Interest Holder or Other Holder (or such other documentary evidence as may be required by the Board) as to the following matters (to the extent known to the Possible Interest Holder or Other Holder, as the case may be):

- (c) the number and Class of Shares in which the Possible Interest Holder has a Relevant Interest;
- (d) the name and address of any other person who has a Relevant Interest in the Shares in (c) above in contravention of clause 5, the number and Class of Shares concerned and the nature of that Relevant Interest;
- (e) the names and addresses of the registered holders of any Shares in which the Possible Interest Holder has a Relevant Interest, where the Possible Interest Holder is not the registered holder of those Shares, and the name and address of any other person who has a Relevant Interest in any such Shares;
- (f) the name and address of any other person who has, or may have, a Relevant Interest in Shares in contravention of clause 5, the number and Class of

Shares concerned and the nature of that Relevant Interest, and the names of the registered holders of those Shares; and

- (g) such other information as the Board may require for the purposes of determining whether there has been a contravention of clause 5.

The Company must provide to the Crown a copy of any statutory declaration or other documentary evidence provided to it under this clause as soon as is practicable.

9. Disclosure register: The Company:

- (a) must keep a register containing all information obtained by it from notices, statutory declarations and other documentary evidence provided under clauses 6 and 8; and
- (b) must provide to the Crown a copy of the whole or any part of that register on request in writing from the Crown.

10. Power to refuse to register: In addition to any other grounds the Board may have under this Constitution or otherwise for declining to register any transfer of Shares, the Board may decline to register a transfer of Shares:

- (a) if the Company has required the transferee by notice in writing under clause 8 to lodge with the Company a statutory declaration or other documentary evidence in accordance with that clause and:
- (i) that declaration or other documentary evidence has not been received by the Company from the transferee within 14 days of the date on which such notice was given by the Company; or
- (ii) that declaration or other documentary evidence has been received by the Company but has not been completed to the reasonable satisfaction of the Board or is otherwise unsatisfactory to the Board (in its discretion) or in the opinion of the Board is or may be materially incorrect or misleading; or
- (b) if the Board has actual knowledge, or believes, that the transfer of those Shares will result in a contravention of clause 5,

and the Board resolves to exercise its powers under this clause within 30 days after receipt or presentation of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee (with a copy to the Crown) within seven days of the resolution being passed by the Board.

11. Registration of transfer not to affect rights of the Board: The registration of any transfer will not prejudice or affect in any way the provisions of, or the powers exercisable by the Board or the Company under, this Schedule.

AFFECTED SHARES

12. Notification where Shares may be Affected Shares: Where:

- (a) the registered holder of any Shares:
- (i) has not or may not have, in the opinion of the Board, complied with clause 6 in all material respects; or
- (ii) has not lodged any statutory declaration or other documentary evidence required by the Company under clause 8 within the 14 day period specified in clause 8 or that declaration or documentary evidence has been received by the Company but has not been completed to the reasonable satisfaction of the Board or is otherwise unsatisfactory to the Board (in its discretion) or in the opinion of the Board is or may be materially incorrect or misleading,
- (a "Non-Notifying Holder"); or
- (b) the Board is of the opinion, in its discretion, that any declaration or documentary evidence provided to the Company under clause 8, or any other information held

by or known to the Board, reveals that any person has, or may have, a Relevant Interest in Shares in contravention of clause 5,

the Company shall promptly give notice in writing to the Non-Notifying Holder, or to each registered holder of Shares in which the Board is of the opinion that a person may have a Relevant Interest in contravention of clause 5, (with a copy to the Crown) notifying them:

- (c) that, in the opinion of the Board, Shares held by that person may be Affected Shares and the grounds for such opinion;
- (d) of the consequences should the Board determine that any such Shares are Affected Shares (including, in particular, the consequences under clause 15 should the Board also determine that any contravention of clause 5 was not inadvertent); and
- (e) that they may make representations in writing to the Company as to the matters set out in the notice within seven days of receiving the notice. The Company must provide a copy of any such representations received by it to the Crown as soon as is practicable.

13. Final determination of Affected Shares: Within:

- (a) 14 days of the date of a notice given by the Company under clause 12 (if no representations are received by the Company within the time referred to in clause 12(e)); or
- (b) 14 days of receiving any representations in writing pursuant to clause 12(d),

as the case may be, the Board must determine whether a person has a Relevant Interest in Shares in contravention of clause 5 (with the result that such Shares will be Affected Shares) and, if so, whether the contravention was inadvertent. The determination of the Board, including any determination whether to consider any representations and other evidence of a registered holder of the relevant Shares and the weight to be placed on the same, is binding on each registered holder and is not subject to challenge, appeal or review. In making its determination, the Board may take into account such evidence or other information as it deems appropriate in its discretion. The Company must promptly give notice in writing (with a copy to the Crown) to each registered holder of Shares who received a notice under clause 12 following any final determination made by the Board under this clause. That notice must state:

- (c) whether the Board has determined that Shares held by that registered holder are Affected Shares;
- (d) if so, the number of Shares in each Class of Shares held by that registered holder that the Board has determined are Affected Shares (being, for the avoidance of doubt, the Shares in the relevant Class of Shares held by that registered holder in which a person has a Relevant Interest in excess of the Maximum Specified Percentage); and
- (e) whether the Board is or is not satisfied that the contravention of clause 5 was inadvertent.

A determination of the Board under this clause that some or all of the Shares held by a registered holder are or are not Affected Shares does not prevent the Board from subsequently making a different determination as to whether any such Shares are Affected Shares.

14. Inadvertent contravention: If the Board makes a determination under clause 13 that Shares are Affected Shares but that any contravention of clause 5 was inadvertent, the registered holder(s) of those Affected Shares:

- (a) will not (unless the notice given by the Board under clause 13 is withdrawn) be entitled to exercise the votes attached to those Affected Shares (being, for the avoidance of doubt, the Shares in the relevant Class of Shares in which a person has a Relevant Interest in excess of the Maximum Specified Percentage, as determined by the Board under clause 13) at any meeting of the holders of the relevant Class of Shares or at any meeting at which the holders of the relevant Class of Shares are entitled to vote (including at any meeting of an

interest group) and any such vote cast at any such meeting is to be disregarded. This voting restriction is without prejudice to the right of any such registered holder to attend any meeting referred to in this clause;

- (b) will not (unless the notice given by the Board under clause 13 is withdrawn) be entitled to receive, in respect of those Affected Shares (being, for the avoidance of doubt, the Shares in the relevant Class of Shares in which a person has a Relevant Interest in excess of the Maximum Specified Percentage, as determined by the Board under clause 13), any dividend or other distribution authorised by the Board in respect of the Class of Shares of which the Affected Shares form part; and
- (c) must (unless the notice given by the Board under clause 13 is withdrawn), within the period required under section 45T(1)(b) of the Public Finance Act, ensure that Shares, or Relevant Interest(s) in Shares, are disposed of such that the Affected Shares cease to be Affected Shares and if the Board is not satisfied that such a disposal has been made or if made the disposal has not otherwise resulted in there no longer being a contravention of clause 5, the Company must arrange for the sale of Affected Shares on behalf of the registered holder:
 - (i) in the case of Shares that are Quoted, on the NZX Main Board (or any successor market on which the Shares are Quoted); or
 - (ii) in the case of Shares that are not Quoted, by such means as the Board determines,

such that the relevant Shares are no longer Affected Shares.

15. Contravention where Board not satisfied breach was inadvertent: If the Board makes a determination under clause 13 that Shares are Affected Shares and that any contravention of clause 5 was not inadvertent or does not have sufficient information to determine if the contravention of clause 5 was not inadvertent, the registered holder(s) of those Affected Shares:

- (a) subject to the proviso to this clause, will not (unless the notice given by the Board under clause 13 is withdrawn) be entitled to exercise the votes attached to any Shares held by it that are of the same Class as the Affected Shares at any meeting of the holders of the relevant Class of Shares or at any meeting at which the holders of the relevant Class of Shares are entitled to vote (including at any meeting of an interest group) and any such vote cast at any such meeting is to be disregarded. This voting restriction is without prejudice to the right of any such registered holder to attend any meeting referred to in this clause;
- (b) subject to the proviso to this clause, will not (unless the notice given by the Board under clause 13 is withdrawn) be entitled to receive any dividend or other distribution authorised by the Board in respect of any Shares held by it that are of the same Class as the Affected Shares; and
- (c) must (unless the notice given by the Board under clause 13 is withdrawn), within the period required under section 45T(1)(b) of the Public Finance Act, ensure that Shares, or Relevant Interest(s) in Shares, are disposed of such that the Affected Shares cease to be Affected Shares and if the Board is not satisfied that such a disposal has been made or if made the disposal has not otherwise resulted in there no longer being a contravention of clause 5, the Company must arrange for the sale of the Affected Shares on behalf of the registered holder:
 - (i) in the case of Shares that are Quoted, on the NZX Main Board (or any successor market on which the Shares are Quoted); or
 - (ii) in the case of Shares that are not Quoted, by such means as the Board determines,

such that the relevant Shares are no longer Affected Shares.

If a registered holder of Affected Shares to which this clause applies is an Approved Nominee, paragraphs (a) and (b) of this clause shall apply only in respect of Shares held

by the Approved Nominee on behalf of a person who has a Relevant Interest in Shares in contravention of clause 5.

16. Validity of resolutions etc unaffected: Notwithstanding clauses 7, 14(a) and 15(a), no resolution of, or proceeding at, a meeting of the Shareholders of the Company or at any meeting of the holders of Shares in an interest group) or the holders of any Class of Shares shall be deemed to be invalid on the grounds that:

- (a) a registered holder of Affected Shares cast a vote in breach of those clauses, provided any such vote was counted by (or on behalf of) the Company in good faith and without knowledge that it was cast in contravention of those clauses; or
- (b) a registered holder of Shares was prohibited from casting a vote or votes because the Board had determined in accordance with clause 13 that the registered holder held Affected Shares in circumstances where it is subsequently determined that the relevant Shares were not, or were not all, Affected Shares.

17. Appointment of Company as agent and attorney: For the purposes of clauses 14 and 15, the registered holder of any Affected Shares will be deemed to have appointed, and does hereby irrevocably appoint, the Company as its agent and its attorney, in each case with full authority to act on its behalf in relation to the sale of the Affected Shares and to sign all documents relating to such sale and transfer of the Affected Shares and the Board may register a transfer of the Affected Shares so sold, 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. For the purposes of the sale and of Rule 5.12 of the ASX Settlement Operating Rules, where the Company has given a notice that complies with Rule 5.12.2 of the ASX Settlement Operating Rules, the Company may, after the expiration of the time specified in the notice, initiate a Holding Adjustment to move all Shares held by the registered holder of the Affected Shares from that CHESS Holding to an Issuer Sponsored Holding or a certificated holding and effect a transfer to give effect to the sale of the relevant number of Shares held by the registered holder. The person to whom such Shares are transferred will not be bound to see to the application of the purchase money, nor will his, her or its title to the Shares be affected by any irregularity or invalidity in the proceedings relating to the sale of those Shares. The net proceeds of sale, after deduction of any brokerage, other costs of sale and other costs incurred by the Company in connection with the sale (including, for the avoidance of doubt, all costs reasonably incurred by the Company or the Board in investigating whether there had been a contravention of clause 5 and all other costs reasonably incurred by the Company or the Board in connection with that contravention), will be held on trust by the Company for and be paid (together with interest at such rate (if any) as the Board deems appropriate) to the former registered holder on surrender of the certificate (if any) for the Affected Shares and otherwise as soon as practicable after the sale has been completed.

18. Identifying Affected Shares: When:

- (a) deciding which Shares are to be identified for the purposes of any notice given by the Company under clause 12; or
- (b) making a determination as to whether Shares are Affected Shares under clause 13,

the Board is to have regard to which Relevant Interests, in its opinion, have caused the contravention of clause 5 to arise (or be capable of arising) and otherwise is to have regard to such other criteria as it may, in its discretion, consider appropriate and equitable.

- 19. Withdrawal of amendment of notice:** If the Board considers that any notice issued by the Company under clause 12 or 13 should be withdrawn (because it no longer believes that the Shares to which the notice applied may be, or are, (as the case may be) Affected Shares) or amended, it may do so, and must give notice of the withdrawal or amendment to the registered holder of the relevant Shares and give a copy of such notice to the Crown. No withdrawal or amendment of any notice issued under clause 12 or 13 will affect the operation of clauses 5, 6 or 7.
- 20. No liability:** Subject to the obligation of the Company to pay the net proceeds from the sale of Affected Shares to the former registered holder of the same, none of the Company, any Director, any officer, any employee of the Company, or the Crown is to have any liability of any nature to any person (including any registered holder of any Shares or any person who has a Relevant Interest in any Shares) for or in connection with the exercise or purported exercise of any of the powers permitted by this Schedule or otherwise in connection with the provisions of this Schedule.

RIGHTS OF THE CROWN

- 21. Rights of the Crown:** Where the Crown suspects that any person may be a Non-Notifying Holder or has, or may have, a Relevant Interest in Shares in contravention of clause 5, the Crown may, by notice in writing to the Board or the Company (as the case may be), require that:
- (a) the Company exercise its power under clause 8 to require that a statutory declaration or other evidence be delivered to the Board irrespective of whether or not the Board has the knowledge or belief referred to in that clause;
 - (b) if the Company has given a notice to a Non-Notifying Holder or other registered holder of Shares under clause 12, the Board make a determination under, and in accordance with, clause 13 as to whether or not any Shares held by that Non-Notifying Holder or other registered holder are Affected Shares; or
 - (c) the Company exercise a power of sale that has arisen under clause 14 or 15,
- and the Company and the Board, as applicable, will comply (as promptly as is reasonably practicable in the circumstances) with any such notice and keep the Crown informed as to the actions taken and expected to be taken by the Company or the Board (as the case may be) and issues arising therefrom. For the avoidance of doubt, the giving of a notice by the Crown under clause 21(b) or 21(c) does not prevent the Board from subsequently giving a notice under clause 19 withdrawing or amending the notice initially given by the Company under clause 12 or 13.

TERMS OF ISSUE OF OTHER SHARES

- 22. Terms of issue of other shares:** If the Company issues Shares then the Board must ensure that the terms of issue of those Shares include or otherwise incorporate clauses 1 to 21 (inclusive) of this Schedule, with such amendments as may be necessary to reflect the nature of the relevant Shares.

CANCELLATION OF SALE OF SHARES BY THE CROWN

- 23. Cancellation for misrepresentation:** The Crown may cancel the sale of Shares (the "**Breach Shares**") to a Shareholder (the "**Affected Shareholder**") under the initial public offering of Shares by the Crown ("**IPO**"), by giving notice in writing (the "**Cancellation Notice**") to the Company and to the Affected Shareholder at the address provided to the Crown for that purpose by the Company (being the address for the Affected Shareholder recorded on the Company's share register), if the Affected Shareholder misrepresented its entitlement to apply for, and be sold, Shares under the IPO as a New Zealand Applicant (as defined in the offer document for the IPO) on its application for Shares under the IPO. (For the purposes of clauses 23 to 28 (inclusive), the Shares held by the Affected Shareholder as at the date of the Cancellation Notice, up to the number of Shares sold to the Affected Shareholder under the IPO, will be deemed to be Breach Shares, with the result that the provisions of clauses 23 to 28 (inclusive) are to apply to them, irrespective of whether or not those Shares were acquired by the Affected

Shareholder under the IPO or after the IPO was completed unless the Affected Shareholder has previously sold, transferred or otherwise disposed of all of the Shares held by it to a person who is not an Associated Person of that Affected Shareholder before acquiring further Shares).

- 24. Subsequent disposal of Breach Shares:** If the Affected Shareholder has subsequently transferred, sold or otherwise disposed of some or all of the Breach Shares to an Associated Person of that Affected Shareholder:
- (a) the Crown's right to cancel the sale of Breach Shares under clause 23 will extend, to the extent necessary, to Shares held by that Associated Person, who will also be deemed to be an "Affected Shareholder" for the purposes of clauses 23 to 28 (inclusive), (with the result that the provisions of those clauses are to apply to it as if it were an "Affected Shareholder"); and
 - (b) Shares held by that Associated Person will be deemed to be Breach Shares if and to the extent necessary to enable the Crown to exercise its rights under clauses 23 to 28 (inclusive) in respect of the total number of Shares sold to the Affected Shareholder under the IPO (irrespective of whether the Associated Person has acquired Shares other than from that Affected Shareholder) provided that the:
 - (i) Crown has given a notice in writing to the Associated Person at the address provided to the Crown for that purpose by the Company (being the address for the Associated Person of the Affected Shareholder recorded on the share register) that the relevant shares are held by it are deemed to be "Breach Shares"; and
 - (ii) number of Shares held by the Associated Person that are deemed to be "Breach Shares" is not to exceed the number of Shares transferred to the Associated Person by the Affected Shareholder.
- 25. Effect of Cancellation Notice:** If the Crown gives a Cancellation Notice under clause 23 and, if applicable, a notice to an Associated Person of an Affected Shareholder under clause 24(b)(i), then the following provisions are to apply:
- (a) the relevant Affected Shareholder will cease to have the right to sell, transfer or otherwise dispose of the Breach Shares, or any interest in them, with effect on and from the date of the Cancellation Notice;
 - (b) on receipt of the Cancellation Notice, the Company shall:
 - (i) immediately direct the registrar of the share register to place a block on the Breach Shares to prevent the relevant Affected Shareholder from transferring the Breach Shares; and
 - (ii) as soon as reasonably practicable, sell the relevant Breach Shares on the NZX Main Board (or any successor market on which the Breach Shares are Quoted) on behalf of the relevant Affected Shareholder and pay to it the lesser of:
 - (A) the sale price for the relevant Breach Shares less the costs incurred by the Crown and the Company in connection with the cancellation of the sale, and the subsequent sale, of the Breach Shares; and
 - (B) the offer price at which Shares were allotted to investors under the IPO less the costs of the Company and the Crown in connection with the cancellation of the sale, and the subsequent sale, of the Breach Shares,
- with any excess amount being payable to the Crown.
- 26. Appointment of Company as agent and attorney:** For the purposes of clause 25, each and every Affected Shareholder will be deemed to have appointed, and does hereby irrevocably appoint, the Company as its agent and its attorney, in each case with full authority to act on its behalf in relation to the sale of Breach Shares under clause 25 and to sign all documents relating to such sale of Breach Shares and the Board shall

(subject to clause 10) register a transfer of Breach Shares so sold, whether or not the sale has been properly completed and whether or not it is accompanied by the certificates (if any) for those Breach Shares.

- 27. Title not affected by irregularity:** The purchaser's title to Breach Shares sold to it pursuant to clause 25(b)(ii) will not be affected by any irregularity or invalidity in the proceedings relating to the sale of those Breach Shares.
- 28. No liability:** Subject to the obligation of the Company to pay the net proceeds from the sale of Breach Shares to the Affected Shareholder and any deemed Affected Shareholder pursuant to clause 25(b)(ii), none of the Crown, the Company, any Director, any officer or any employee of the Company is to have any liability to an Affected Shareholder or deemed Affected Shareholder (or any person who has a Relevant Interest in the relevant Breach Shares) for or in connection with the exercise or purported exercise of any of the powers permitted by clauses 23 to 27 (inclusive) or otherwise in connection with the provisions of clauses 23 to 27 (inclusive).
- 29. Notices:**
- (a) A notice required to be given to a person under this Schedule may be given in the manner set out in section 391 of the Act, provided that where the Crown has provided the Company with an address for service (which address will be recorded in the share register) then notices to, or copies of notices that must be provided to, the Crown are to be given, or provided, to the Crown at that address.
 - (b) The Company is not obliged to give any notice required under this Schedule to any person if it does not know either the identity or address of the person.
 - (c) The absence of such a notice in such circumstances, and any accidental error in or failure to give any notice to any person to whom notice is required to be given under this Schedule will not prevent the implementation of or invalidate any procedure under this Schedule.
- 30. Decisions final, conclusive and binding:** Any resolution or determination of, or decision or declaration or exercise of any discretion or power by, the Company or the Board under or pursuant to this Schedule is to be final and conclusive; and any disposal or transfer made, or other thing done, by or on behalf of, or on the authority of, the Company or the Board pursuant to this Schedule is to be conclusive and binding on all persons concerned and is not open to challenge, appeal or review, whether as to its validity or otherwise on any ground whatsoever.
- 31. Certificate conclusive:** A certificate signed by a Director and countersigned by a second Director that a power of sale under clause 14, 15 or 25 has arisen and is exercisable by the Board, or that a Share has been duly transferred under clause 14, 15 or 25 on the date stated therein, is conclusive evidence of the facts stated therein.