

## CONSTITUTION

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## THIRD AGE HEALTH SERVICES LIMITED

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## **1 DEFINITIONS AND INTERPRETATION**

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1.1 The following definitions apply in this Constitution, unless inconsistent with the context or otherwise specified:

"**Act**" means the Companies Act 1993;

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

"**Company**" means Third Age Health Services Limited;

"**this Constitution**" means this constitution (including the Schedules) as it may be altered from time to time in accordance with the Act and the Rules;

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

"**NZX**" means NZX Limited, its successors and assigns and any duly authorised delegates;

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

"**Shares**" means shares in the Company, and "**Share**" shall be construed accordingly; and

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

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

1.3 **General provisions of interpretation:** In the construction and interpretation of this Constitution unless inconsistent with the context or otherwise specified:

- (a) references to statutes or statutory provisions include those statutes or statutory provisions as amended, extended, consolidated, re-enacted or replaced from time to time and any orders, regulations, instruments or other subordinated legislation made under them;
- (b) words importing the singular number include the plural and vice versa, references to any gender include every gender and references to persons include corporations and unincorporated bodies of persons, government or semi-government bodies or agencies or political subdivisions of them;
- (c) references to a Rule or the Rules include that Rule or the Rules as amended or substituted from time to time; and
- (d) headings are inserted for convenience only and do not affect the interpretation of this Constitution.

## **2 RELATIONSHIP BETWEEN CONSTITUTION AND RULES**

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2.1 For so long as the Company is listed:

- (a) this Constitution shall be deemed to incorporate all provisions of the Rules required under the Rules to be incorporated by reference in this Constitution, as those

provisions apply from time to time (as modified by any ruling relevant to the Company);

- (b) shareholders must not cast a vote if they are prohibited from doing so by the Rules; and
  - (c) Directors must not cast a vote if prohibited from doing so by the Rules.
- 2.2 For so long as the Company is listed, the Company must comply with the Rules. Subject to clause 2.3, if this Constitution contains any clause that is inconsistent with the Rules then the Rules shall override that clause. If any clause is expressed as being subject to the Rules or requires compliance with the Rules such provision will only be subject to, or require compliance with, the Rules for so long as the Company is listed.
- 2.3 If NZX has issued a ruling in relation to the Company authorising any act or omission that would otherwise breach the Rules or this Constitution, then that ruling shall be deemed to be an authorisation of that act or omission by the Rules and by this Constitution, unless a contrary intention appears in this Constitution.
- 2.4 A failure to comply with:
- (a) the Rules; or
  - (b) a clause of this Constitution corresponding to provision in the Rules,
- does not affect the validity or enforceability of any transaction, contract, action, decision, or vote taken at a meeting of Equity Security holders, or other matter entered into by, or affecting, the Company, except that a party to a transaction or contract who knew of non-compliance is not entitled to enforce that transaction or contract. Any such provision does not limit the rights of Equity Security holders against the Company or the Directors of the Company.

### **3 SHARES AND SHAREHOLDERS**

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#### **Company's shares**

- 3.1 No money is payable for calls or otherwise on the Shares as at the date of adoption of this Constitution.

#### **Share confers rights on shareholders**

- 3.2 Subject to the terms on which a Share is issued, a Share confers on the holder:
- (a) the right to one vote on a poll at a meeting of shareholders on any resolution, including any resolution to:
    - (i) appoint a Director in accordance with this Constitution;
    - (ii) adopt a constitution;
    - (iii) alter this Constitution;
    - (iv) approve a major transaction;
    - (v) approve an amalgamation of the Company under the Act; and
    - (vi) put the Company into liquidation;
  - (b) the right to an equal share in dividends authorised by the Board; and

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

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

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

**Statutory pre-emptive rights**

- 3.4** Section 45 of the Act does not apply to the Company.

**4 SHARE REGISTER**

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**Status of registered holder**

- 4.1 The Company may treat the registered holder of a Share as the only person entitled to:
- (a) exercise the right to vote attaching to the Share;
  - (b) receive notices;
  - (c) receive a distribution in respect of the Share; and
  - (d) exercise the other rights and powers attaching to the Share.

**Trusts not to be entered onto share register**

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

**Place of share register**

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

**Registration of separate parcels**

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

**5 CALLS ON SHARES**

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**Board may make calls**

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

**Shareholders must pay calls**

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

### **Call made when Board resolution passed**

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

### **Joint holders are jointly and severally liable**

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

### **Unpaid calls will accrue interest**

- 5.5 If an amount called is not paid in full at the time specified for payment, the person from whom the amount is due must pay to the Company interest on the amount that remains unpaid at a rate determined by the Board and calculated from the time specified for payment until the date of actual payment. Subject to the Rules, the Board may waive the payment of that interest in whole or in part.

### **Amounts payable under terms of issue treated as calls**

- 5.6 Any amount that becomes payable on issue or at any specified date under this Constitution, the terms of issue of a Share or a contract for the issue of a Share, will be regarded as being a call duly made and payable on the specified date except that, for the avoidance of doubt, the notice in clause 5.2 shall not be required. If the amount is not paid in full, the relevant provisions of this Constitution will apply as if the amount had become payable by virtue of a call made in accordance with this Constitution.

### **Board may differentiate between holders as to calls**

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

### **Board may accept payment in advance for calls**

- 5.8 Where a shareholder is willing to advance some or all of the money unpaid and uncalled on any Share or Shares of that shareholder, the Board may accept on the Company's behalf the amount advanced. The Board may pay interest on that amount at a rate agreed between the Board and the shareholder for the period between the date that the amount is accepted and the date that the amount becomes payable pursuant to a call or the date specified for its payment.
- 5.9 The Board may at any time repay to any shareholder the whole or any portion of any money so advanced upon giving that holder at least 10 working days' notice in writing and as from the date of such repayment interest (if any) shall cease to accrue on the money so repaid.
- 5.10 A shareholder is not entitled as of right to any payment of interest on any amount so paid in advance and the Board may decline to pay any interest. Any amount so paid in advance must not be taken into account in ascertaining the amount of any dividend or other distribution payable upon the Shares concerned.

## **6 FORFEITURE OF SHARES**

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### **Board may require forfeiture**

- 6.1 The Board may, at any time during which a call, an instalment of a call, or other amount remains unpaid on a Share give a notice to the shareholder requiring payment of the unpaid call, instalment or other amount, together with accrued interest and any expenses incurred by the Company by reason of non-payment.

### **Notice of forfeiture must include certain function**

- 6.2 The notice given to a shareholder under clause 6.1 must specify a date not earlier than 10 working days after the date the notice is served by which the payment is to be made. The notice must also state that, in the event of non-payment by the appointed time, the Shares to which the call, instalment or other amount relate, will be liable to be forfeited by the shareholder.

### **Failure to comply with notice may lead to forfeiture**

- 6.3 Where a valid notice under clause 6.1 is given to a shareholder and the shareholder fails to comply with the notice, the Board may resolve that any Share for which that notice was given, and all distributions authorised and not paid before the notice was given, be forfeited.

### **Board may deal with forfeited Share**

- 6.4 A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment, or other amount which remains unpaid on the Share is paid.

### **Shareholder whose Shares are forfeited loses rights**

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

### **Director's certificate is conclusive**

- 6.6 A certificate signed by a Director that a Share has been duly forfeited on a stated date shall, in the absence of manifest error or fraud, be conclusive evidence of the facts stated in the certificate against any person claiming an entitlement to that Share.

### **Company may sell forfeited Share**

- 6.7 The Company may receive consideration, if any, given for a forfeited Share following a sale or disposition, and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and register that person as the holder of the Share. That person shall not be bound to see the application of the purchase money, if any, nor shall the title to the Share be affected by any irregularity or invalidity in the procedures under this Constitution in respect of the forfeiture, sale or disposal of that Share. Any amount remaining after satisfaction of unpaid calls, instalments, premiums or other amounts and interest, and expenses, shall be paid to the previous holder or to his or her executors, administrators, or assigns.

## **7 LIEN ON SHARES**

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- 7.1 The Company shall have a first and paramount lien, ranking in priority over all other equities, on all Shares registered in the name of a shareholder (whether solely or jointly with others), the proceeds of sale of such Shares, and all dividends authorised in respect of such Shares for:
- (a) unpaid calls and instalments payable in respect of any such Shares;
  - (b) interest on any such calls or instalments; and
  - (c) any amounts that the Company may be called on to pay under any statute, regulation, ordinance or other law in respect of such Shares, whether the period for payment has arrived or not.

### **Waiver of lien**

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

### **Company may sell Share on which it has a lien**

- 7.3 The Company may sell a Share on which it has a lien in such manner as the Board thinks fit, where:
- (a) the lien on the Share is for a sum which is presently payable; and
  - (b) the registered holder of the Share, or the person entitled to it on his or her death or bankruptcy, has failed to pay that sum within 10 working days after the Company has given him or her written notice demanding payment of that sum.

### **The Company may transfer Share and apply proceeds**

- 7.4 The Company may receive consideration given for a Share sold under clause 7.3, and may execute a transfer of the Share in favour of the person to whom the Share is sold, and register that person as the holder of the Share discharged from all calls due prior to the purchase. The purchaser shall not be bound to see to the application of the purchase money, and his or her title to the Share shall not be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 7.5 The Company must apply the sale proceeds in payment of the sum presently payable on the lien and expenses, and the balance, if any, shall (subject to a like lien for sums not presently payable that existed on the Share before the sale) be paid to the person entitled to the Shares immediately before the date of sale or to his or her executors, administrators, or assigns.

## **8 CONSOLIDATION AND SUBDIVISION OF SHARES**

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The Board may:

- (a) consolidate and divide the Shares or Shares of any class; or
- (b) subdivide the Shares or Shares of any class,

in each case in proportion to the Shares or Shares of that class and provided that the relevant action has been approved by an ordinary resolution.

## **9 ACQUISITION OF OWN SHARES**

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Subject to this Constitution and the Rules, the Company may:

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

in accordance with the Act and the Rules.

## **10 REDEMPTION OF SHARES**

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Subject to this Constitution and the Rules, the Company may:

- (a) issue or redeem redeemable Shares; and

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

in accordance with the Act and the Rules.

## **11 TRANSFERS OF SHARES**

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### **Board may refuse or delay a Share transfer in certain cases**

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

## **12 COMPULSORY SALE OF LESS THAN MINIMUM HOLDINGS**

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### **Compulsory Sale**

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

### **Board may authorise transfer**

- 12.2 The Board may authorise the transfer of the securities sold by the Company under this clause 12, and the holder is deemed to have authorised the Company to act on behalf of the holder and to sign all necessary documents relating to the sale. The purchaser of securities sold by the Company under this clause 12 shall have no obligation to ensure the proceeds of the sale of those securities is applied in accordance with this clause 12, nor shall the title to the securities be affected by any irregularity or invalidity in the procedures under this Constitution relating to the sale. The remedy of any person aggrieved by the sale is in damages only and against the Company exclusively.

### **Application of proceeds**

- 12.3 The proceeds of the sale of any securities sold under this clause must be applied as follows:
  - (a) first, in payment of any reasonable sale expenses.
  - (b) second, in satisfaction of any unpaid calls or any other amounts owing to the Company in respect of the securities.
  - (c) the residue, if any, must be paid to the person who was the holder immediately before the sale or his or her executors, administrators or assigns.

### **Reliance on certificate**

- 12.4 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.

## **13 DISTRIBUTIONS**

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### **Board may authorise distributions**

- 13.1 The Board may authorise a distribution by the Company in accordance with the Act and the Rules.

### **Deductions from distributions**

- 13.2 The Board may, at its discretion, deduct from any dividend or other distribution payable to a shareholder any amount owed by the shareholder to the Company on account of any call. The Board must deduct from any dividend or other distribution payable to a shareholder any amount it is required by law to deduct, including withholding or other taxes.

### **Distribution not to bear interest**

- 13.3 A distribution shall not bear interest against the Company.

### **Unclaimed distributions**

- 13.4 Any distribution by the Company that has not been claimed within one year after it has become payable may be invested or otherwise made use of by the Board for the benefit of the Company until it is claimed. The Company may mingle the amount of any such distribution with any other money of the Company or spend such amount, and shall not be required to hold or regard it as being impressed with any trust for any potential claimant but, subject to compliance with the solvency test, shall pay the distribution to the person producing evidence of entitlement.

## **14 MEETINGS OF SHAREHOLDERS**

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### **Proceedings at meetings of shareholders**

- 14.1 Schedule 1 to this Constitution governs the proceedings at meetings of shareholders. Schedule 1 also governs the proceedings of meetings of any interest group required to be held by the Act, the Rules, or this Constitution, with all necessary modifications.

### **Record date for shareholder voting**

- 14.2 The Board may determine in a notice of meeting for the purpose of voting at that meeting that those registered shareholders as at 5 p.m. on a day not more than two working days before the meeting will be the only persons entitled to exercise the right to vote at that meeting.

## **15 APPOINTMENT AND REMOVAL OF DIRECTORS AND VACATION OF OFFICE**

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### **Number of Directors**

- 15.1 The minimum number of Directors shall be three and the maximum number of Directors shall be eight. The shareholders may change the maximum number of Directors by ordinary resolution. The Company shall comply with the minimum Board composition requirements of the Rules.

### **Shareholders may appoint Directors**

- 15.2 Any person who is not disqualified under the Act and, if required under the Rules, who has been nominated within the time limits under the Rules, may be appointed as a Director by an ordinary resolution of shareholders. The persons holding office as directors of the Company on the adoption of this Constitution continue in office and are deemed to have been appointed as Directors pursuant to this Constitution.

### **Board may fill casual vacancies**

- 15.3 The Board may appoint any person who is not disqualified under the Act to be a Director to fill a casual vacancy or as an additional Director. Any Director appointed under this clause (including any person who subsequent to his or her appointment as a Director becomes an executive Director) may hold office only until the next annual meeting, and is then eligible for election.

### **Voting on Director appointment**

- 15.4 Each resolution to appoint, elect or re-elect a Director must be for the appointment, election or re-election of one Director only. Nothing in this clause 15.4 shall prevent voting on the election of a Director at a meeting where the number of candidates for the office of Director exceeds the vacancies available under clause 15.1, provided that, if an ordinary resolution has been passed in respect of more candidates than may be appointed under clause 15.1, then only the number of Directors, equal to the number of vacancies to be filled, will be elected and the Directors to be appointed will be those candidates who received the highest number of votes.

### **Rotation of Directors**

- 15.5 Each Director shall retire from office when required to do so by the Rules, but, subject to the Rules, shall be eligible for re-election (including at any meeting at which the Director retires).
- 15.6 A Director retiring at a meeting of security holders continues to hold office:
- (a) until he or she is re-elected;
  - (b) if he or she is not re-elected, until the meeting of security holders at which he or she retires (or any adjournment of that meeting) elect someone in his or her place; or
  - (c) if the meeting of security holders does not elect someone in his or her place, until the end of the meeting or any adjournment of the meeting.
- 15.7 The security holders may by ordinary resolution fill the office vacated by a Director who is retiring in accordance with clause 15.5 by electing a person who is not disqualified under the Act to that office at the meeting at which the outgoing Director retires. If no new Director is elected and if the retiring Director (not being disqualified under the Act) is offering himself or herself for re-election, the retiring Director shall be deemed to be re-elected unless it is expressly resolved by ordinary resolution not to fill the vacated office or a resolution for the re-election of that Director is put to the meeting and lost.

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

- 15.8 The office of Director is vacated if the person holding that office:
- (a) dies;
  - (b) becomes disqualified from being a director pursuant to the Act; or
  - (c) retires from office and is not re-elected or deemed to have been re-elected under this Constitution.

### **Reimbursement of expenses**

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

## **16 PROCEEDINGS OF THE BOARD**

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### **Meetings of the Board**

- 16.1 Schedule 2 to this Constitution governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. The Third Schedule to the Act does not apply to proceedings of the Board.

### **Written resolutions of Board permitted**

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

### **Written resolutions may be in counterparts**

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

## **17 DELEGATION OF POWERS**

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### **Restriction on Board's right to delegate its powers**

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

### **Board delegates to comply with regulations**

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

### **Committee proceedings**

- 17.3 The provisions of this Constitution relating to proceedings of the Board also apply to proceedings of any committee of Directors, except to the extent the Board decides otherwise.

## **18 ALTERNATE DIRECTORS**

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### **Directors may appoint and remove alternate Directors**

- 18.1 Every Director may:
- (a) appoint any person who is not a Director and is not disqualified by the Act or this Constitution from being a Director, and whose appointment has been approved in writing by a majority of the other Directors, to act as an alternate Director in his or her place either for a specified period, or generally during the absence or inability to act from time to time of such Director; and
  - (b) remove his or her alternate Director from that office,
- by giving written notice to that effect to the Company. A majority of the other Directors may similarly remove an alternate of a Director from that office.

### **Alternate Director has powers of appointer**

- 18.2 While acting in the place of the Director who appointed him or her, an alternate Director:
- (a) has, and may exercise and discharge, all the powers, rights, duties and privileges of that Director (including the right to receive notice of, be counted as part of the quorum of, participate in, and vote at a meeting of the Board and to sign any

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

- (b) is subject to the same terms and conditions of appointment as that Director, except that he or she is not entitled to receive remuneration other than such proportion (if any) of the remuneration otherwise payable to his or her appointer as the appointer may direct by notice in writing to the Company.

#### **Termination of appointment of alternate Director**

- 18.3 The appointment of an alternate Director terminates automatically if the Director who appointed him or her ceases to be a Director or if an event occurs which would cause him or her to vacate office if he or she were a Director. A Director retiring by rotation and being re-elected is not to be treated as having ceased to be a Director for the purposes of this clause.

### **19 INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES**

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#### **Company must indemnify directors and employees for certain liabilities**

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

#### **Company may effect insurance for directors and employees**

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

### **20 EXECUTION OF CONTRACTS**

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#### **Manner of execution**

- 20.1 A contract or other enforceable obligation may be entered into by the Company as follows:
  - (a) an obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:
    - (i) two or more Directors; or
    - (ii) a Director, or any other person authorised by the Board, whose signature must be witnessed; or
    - (iii) one or more attorneys appointed by the Company in accordance with this Constitution;
  - (b) an obligation which, if entered into by a natural person, is, by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and
  - (c) an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company in writing or orally by a person acting under the Company's express or implied authority.

#### **Company may appoint attorneys**

- 20.2 The Company may, by an instrument in writing executed in accordance with clause 20.1(a), appoint one or more persons as its attorney or attorneys either generally or in

relation to a specified matter or matters. An act of an attorney in accordance with the instrument binds the Company.

## **21 LIQUIDATION**

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If the Company is liquidated the liquidator shall, at the direction of shareholders by special resolution, but subject to 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 and for that purpose the liquidator may:
  - (i) fix such values for assets as the liquidator considers to be appropriate; and
  - (ii) determine how the division will be carried out as between shareholders or different classes of shareholder; and
- (b) vest the whole or any part of any such assets in trustees upon such trusts for the benefit of such of those shareholders as the liquidator thinks fit,

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

## SCHEDULE 1

### Proceedings at meetings of Shareholders

#### 1 Interpretation

A reference in this Schedule to a shareholder present at a meeting or entitled to vote at a meeting includes a reference to a proxy of a shareholder, a representative of a corporate shareholder, an attorney of a shareholder, and any person who may lawfully act on behalf of a shareholder.

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

Written notice of the time and place of a meeting of shareholders must be sent to every shareholder entitled to receive notice of the meeting and to every Director and any auditor of the Company not less than 10 working days before the meeting.

#### 3 Notice must state nature of business

The notice must:

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

#### 4 Irregularities in notice may be waived

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

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

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

#### 6 Notice of an adjournment

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

#### 7 Methods of holding meetings

A meeting of the shareholders may be held either:

- (a) by a number of shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting;

- (b) by means of audio, or audio and visual, communication by which all shareholders participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
- (c) by a combination of both the methods in paragraph (a) and (b) above.

The Company is not obliged to hold meetings of shareholders in the manner specified in paragraph (b) and (c) above. 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, a shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

**8 Business to be transacted only if a quorum is present**

Subject to paragraph 10 and 11, business may be transacted at a meeting of shareholders only if a quorum is present at the time when the meeting proceeds to business.

**9 Quorum for shareholders' meeting**

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

**10 Meeting convened at shareholders' request dissolved if no quorum**

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

**11 Other meetings to be adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a meeting mentioned in paragraph 10 above), the meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time and place as the Directors may appoint. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholder or shareholders present will constitute a quorum.

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

The chairperson of the Board will chair all meetings of shareholders at which he or she is present.

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

If the office of chairperson of the Board is vacant or, if at any meeting of shareholders, the chairperson of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting or is unwilling to act, the Directors present may elect one of their number to be chairperson of the meeting.

**14 As a last resort shareholders may elect chairperson**

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

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

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

- (a) may adjourn the meeting with the consent of the shareholders entitled to attend and vote at that meeting; and
- (b) must adjourn the meeting if directed by the meeting to do so.

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

16 **Restriction on voting**

A shareholder must not vote where that shareholder is not permitted to vote by the Rules.

17 **Voting by poll at meeting**

In the case of a meeting of shareholders held under paragraph 7 above voting at the meeting will be by poll in accordance with paragraph 22 and 23 below.

18 **Voting by electronic means**

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

19 **Votes of joint holders**

Where two or more persons are registered as the holders of a Share, the vote of the person named first in the share register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

20 **Shareholder loses certain voting rights if calls unpaid**

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

21 **Chairperson not allowed casting vote**

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

22 **Counting votes cast in a poll**

Votes must be counted according to the votes attached to the Shares of each shareholder present and voting.

23 **Result of a poll to be treated as resolution of the meeting**

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

24 **Chairperson may dissolve or adjourn unruly meetings**

The chairperson may adjourn or dissolve the meeting if in his or her opinion the meeting has become so unruly, disorderly or inordinately protracted, that the business of the

meeting cannot be conducted in a proper and orderly manner. The chairperson may exercise this power without the consent of the meeting and without giving reasons.

**25 Dissolved meetings – unfinished business**

If the chairperson proposes to dissolve a meeting pursuant to paragraph 24 above, and there is any item of unfinished business of the meeting which in his or her opinion requires to be voted upon, then that item shall be dealt with by the chairperson directing it to be put to the vote by a poll without further discussion.

**26 Shareholder proposals by written notice**

A shareholder may give written notice to the Board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote. The provisions of clause 9 of Schedule 1 to the Act apply to any notice given under this paragraph.

**27 Proxies permitted**

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

**28 Proxy to be treated as shareholder**

A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were the shareholder.

**29 Appointment of proxy must be in writing and specify restrictions**

- (a) A proxy must be appointed by a notice in writing that is signed by, or in the case of an electronic notice, sent by the shareholder, or by appointing the proxy online as per the Company's instructions in the notice of meeting, and the notice must state whether the appointment is for a particular meeting or a specified term. A proxy need not be a shareholder of the Company.
- (b) 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.

**30 Notice of proxy to be produced at least 24 hours before meeting**

No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company at least 24 hours before the time for holding the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

**31 Form of notice of proxy**

- (a) A notice appointing a proxy shall be in such form as the Board may direct.
- (b) Proxy forms must as a minimum (so far as the subject matter and form of resolutions reasonably permits), provide for two-way voting (for or against) on all resolutions, enabling the shareholder to instruct the proxy as to the casting of the vote, and must not be sent with any name or office (e.g. "chairperson of directors") filled in as proxy holder.
- (c) So far as reasonably practicable, resolutions must be framed in a manner which facilitates two way voting instructions for proxy holders.

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

Where:

- (a) the shareholder has died or become incapacitated;
- (b) the proxy, or the authority under which the proxy was executed, has been revoked; or
- (c) the Share in respect of which the notice of proxy is given has been transferred,

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

33 **Postal votes are permitted**

A shareholder may exercise the right to vote at a meeting by casting a postal vote. To avoid doubt, a postal vote may be cast using electronic means permitted by the Board.

34 **Corporations may act by representative**

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

35 **Board must keep minutes of proceedings**

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

36 **Shareholder participation by electronic means**

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

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

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

37 **Meeting may regulate other proceedings**

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

## **SCHEDULE 2**

### **Proceedings of the Board**

**1 Director's power to convene meetings**

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

**2 Notice to be sent to Director's address**

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

**3 Notice to contain certain details**

The notice of meeting must include the date, time and place of the meeting and an agenda identifying in reasonable detail the matters to be discussed at the meeting together with copies of any relevant papers to be discussed at the meeting.

**4 Period of notice required to be given to Directors**

At least two days' notice of a meeting of the Board must be given unless the chairperson of the Board (or, in his or her absence from New Zealand, any other Director) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice, being not less than two hours' notice, of the meeting of the Board may be given.

**5 Absent Directors**

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

**6 Directors may waive irregularities in notice**

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

**7 Methods of holding meetings**

A meeting of the Board may be held:

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

8 **Quorum for Board meeting**

The quorum necessary for the transaction of business at a meeting of the Board is a majority of Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

9 **Meeting adjourned if no quorum**

If a quorum is not present within 30 minutes from the time when the meeting should have begun or if during the meeting there is no longer a quorum, the meeting shall be adjourned for two Business Days 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 Director or Directors present will constitute a quorum.

10 **Election of Chairperson**

The Directors may elect a chairperson of their meetings and determine the period for which he or she is to hold office.

11 **Chairperson to chair meetings**

The chairperson will chair all meetings of the Board at which he or she is present. If the office of chairperson is vacant, or if at a meeting of the Board the chairperson of the Board is not present within 15 minutes from the time appointed for the meeting, then the Directors present may elect one of their number to chair the meeting.

12 **Voting on resolutions**

Each Director has one vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it. A Director must not vote where that Director is not permitted to vote by the 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.

13 **Chairperson does not have casting vote**

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

14 **Board must keep minutes of proceedings**

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

15 **Board may regulate other proceedings**

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