

CONSTITUTION
OF
WAIAPU INVESTMENTS LIMITED

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1. **Definitions**

1.1 **Definitions.** In this Constitution, the following words shall have the meanings specified:

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| Act | the Companies Act 1993; |
| Board | 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; |
| Business Day | a day of the week other than: <ul style="list-style-type: none"> (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign’s Birthday, Labour Day, Auckland’s Anniversary Day and Waitangi Day; (b) if Waitangi Day or ANZAC Day falls on a Saturday or a Sunday, the following Monday; (c) a day in the period commencing with 25 December in any year and ending on 2 January in the following year; (d) if the first day of January in any year falls on a Friday, the following Monday; and (e) if the first day of January in any year falls on a Saturday or Sunday, the following Monday and Tuesday; |
| Company | Waiapu Investments Limited incorporated under the Act under registered number 6614353; |
| Constitution | this constitution as it may be altered from time to time in accordance with the Act; |
| Director | a person appointed as a director of the Company in accordance with this Constitution; |
| FMCA | the Financial Markets Conduct Act 2013; |
| Founder Share | the single Share on issue as at the date of adoption of this Constitution, together with a share in the Company described as a “Founder Share” in its terms of issue, and conferring the rights described in clause 3.2; |
| Interest Group | has the meaning set out in section 116 of the Act; |
| Non-Founder Share | a share in the Company described as a “Non-Founder Share” in its terms of issue and conferring the rights described in clause 3.3; |
| Ordinary Resolution | a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the question; |
| Share | a share issued, or to be issued, by the Company (including Founder Shares and Non-Founder Shares); |

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| Share Proportions | in respect of a Shareholder, the proportion (expressed as a percentage) which the number of Shares held by that Shareholder represents of the total number of Shares on issue; |
| Shareholder | a person whose name is entered in the share register of the Company as the holder for the time being of one or more Shares; |
| Special Resolution | a resolution approved by a majority of 75% of the votes of those Shareholders entitled to vote and voting on the question; |
| Transfer Rules | the internal rules to facilitate the sale, transfer or disposal of full legal and beneficial interest in the Shares set out in Schedule 3, which the Board may amend from time to time. |
| Written | 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, and “in writing” shall have the same meaning. |

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

1.3 **Construction.** In this Constitution:

- 1.3.1 headings appear as a matter of convenience and do not affect the interpretation of this Constitution;
- 1.3.2 the singular includes the plural and vice versa, and words denoting one gender include the other genders;
- 1.3.3 a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations; and
- 1.3.4 the Schedules form part of this Constitution.

2. **The relationship between this Constitution and the Act**

- 2.1 **Act.** The Act applies except to the extent the Act is negated, modified or extended by this Constitution.
- 2.2 **Effect of the Act on this Constitution.** 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 or extended in accordance with the Act, by this Constitution.

3. **Shares and Shareholders**

- 3.1 **Classes of Shares.** Founder Shares and Non-Founder Shares will confer on the relevant holders the rights provided for in clauses 3.2 and 3.3, respectively.
- 3.2 **Founder Shares.** A Founder Share confers on the relevant holder:
 - 3.2.1 the right to one vote on a poll at a meeting of Shareholders on any resolution, including any resolution to:
 - (a) appoint or remove a Director or an auditor in accordance with this Constitution;

- (b) adopt a constitution;
- (c) alter this Constitution;
- (d) approve a major transaction;
- (e) approve an amalgamation under the Act; and
- (f) put the Company into liquidation;

3.2.2 the right to an equal share in any dividends authorised by the Board; and

3.2.3 the right to an equal share in the distribution of the Company's surplus assets.

3.3 **Non-Founder Shares.** A Non-Founder Share confers on the relevant holder:

3.3.1 the right to vote on a proposal that affects the rights attaching to the Non-Founder Shares;

3.3.2 the right to an equal share in any dividends authorised by the Board; and

3.3.3 a right to an equal share in the distribution of the Company's surplus assets.

A Non-Founder Share does not otherwise confer on the relevant holder a right to vote in relation to any resolution of the Company.

3.4 **Statement of rights to be given to Shareholders.** Where the Act requires, the Company must issue a statement of Shareholder rights complying with the Act to any Shareholder who asks for one.

3.5 **Company must obtain approval before altering Shareholders' rights.** The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a Special Resolution of each Interest Group in accordance with the Act.

3.6 **Shareholders' powers.** Subject to the terms of this Constitution, a power reserved to Shareholders may be exercised by an Ordinary Resolution.

4. **Issue of Shares**

4.1 **Consolidation or subdivision.** The Board may:

4.1.1 consolidate and divide Shares or any class of Shares in proportion to those Shares or the Shares in that class; or

4.1.2 subdivide Shares or any class of Shares in proportion to those Shares or the Shares in that class.

4.2 **Board to issue Shares.** Subject to the Act and this Constitution (including clause 4.4), the Board may issue Shares, equity securities or convertible securities, or grant any option or right to subscribe or convert any instrument into Shares or other equity securities, or create any new class of equity securities at any time, to any person, and in any number it thinks fit. For the purposes of section 117 of the Act and clause 3.5 above, the issue of Shares ranking equally with, or in priority to, existing Shares, whether as to voting rights or distributions, shall not be an "action that affects the rights attached to Shares".

4.3 **Sections not to apply.** The provisions of sections 45(1) and 45(2) of the Act shall not apply to any issue or proposed issue of Shares by the Company.

4.4 **Pre-emptive rights on issue.**

- 4.4.1 Subject to clause 4.5, the Board may not issue any Shares or other securities in the Company (**New Shares**) to any person, unless the Company has first offered such New Shares to all Shareholders on a pro rata basis according to their Share Proportions and the Shareholders are given not less than 10 Business Days (**Offer Period**) to consider the proposed investment (**Pre-Emptive Offer**).
- 4.4.2 The Company shall give notice in writing to the Shareholders setting out the terms of issue of the New Shares, including the number of New Shares being offered, each Shareholder's pro rata entitlement to the New Shares (being its Share Proportion of the total number of New Shares proposed to be issued), the price per New Share payable by the Shareholders on subscription for such New Shares and the date on which the Offer Period expires. Each Shareholder may give written notice to the Company of the maximum number of New Shares (if any) that it agrees to purchase. If a Shareholder does not provide such notice within the Offer Period, that Shareholder shall be deemed to have provided a notice electing not to acquire any New Shares.
- 4.4.3 If one or more Shareholders does not take up all of their entitlement within the Offer Period, the Shares not taken up by such Shareholder(s) (**Available Shares**) will be offered to those Shareholders that took up all of their entitlement within the Offer Period and those Shareholders will be given not less than five Business Days to notify the Board if they wish to subscribe for some or all of the Available Shares. If there are insufficient Available Shares to satisfy those requests, the Available Shares must be divided amongst those Shareholders (who have requested to subscribe for Available Shares) on a pro rata basis according to each such Shareholder's revised Share Proportion following the initial allocation of the New Shares, except that no Shareholder will be allocated more Available Shares than the number which that Shareholder has requested and any Available Shares remaining unallocated after that proportional division (or any subsequent division) will be used to satisfy any requests for Available Shares which remain unsatisfied, on a pro rata basis in respect of the relevant Shareholders according to their revised Share Proportion.
- 4.4.4 Any Shares not taken up under the foregoing clauses of this clause 4.4 may, at any time within 120 Business Days of the date that the process under the foregoing clauses were exhausted, be offered to third parties at an issue price per New Share no lower than that offered to the Shareholders and otherwise on terms which are not more favourable to the third party than were offered to the Shareholders, other than the giving of warranties and indemnities which are common in an agreement of that type with a third party investor.
- 4.4.5 Unless the Board determines otherwise, it is a term of any Pre-Emptive Offer that each Shareholder acquiring New Shares under the Pre-emptive Offer provides evidence satisfactory to the Board at its absolute discretion that the Shareholder is:
- (a) a "wholesale investor" within the meaning of clause 3(2) of Schedule 1 of the FMCA; or
 - (b) an "eligible investor" within the meaning of clause 41 of Schedule 1 of the FMCA; or
 - (c) otherwise able to receive and accept the Pre-emptive Offer without triggering any requirement for the Company to issue a product disclosure (or similar) document under the FMCA.

4.5 **Exempted issues.** The provisions of clause 4.4 will not apply to any offer or issue of New Shares in the following circumstances:

- 4.5.1 the issue is of Shares or other securities to employees or management of the Company (including Directors) pursuant to any employee share (or similar) scheme approved by the

Board and, immediately following such issue, the total number of Shares or other securities issued to employees and management (including Directors) pursuant to this clause 4.5.1 does not exceed, on a fully-diluted basis, 5% of the Shares then on issue; or

- 4.5.2 any offer or issue of New Shares where the total number of New Shares issued, and all other Shares or other securities issued pursuant to this clause 4.5.2 during the period 12 months preceding the issue, does not exceed, on a fully-diluted basis, 20% of the total number of Shares on issue at the commencement of that period; or
- 4.5.3 all entitled persons have agreed to or concurred in the issue of the Equity Securities pursuant to section 107(2) of the Act.

5. **Share register**

- 5.1 **Status of registered holder.** The Company may treat the registered holder of a Share as the only person entitled to:
 - 5.1.1 exercise the right to vote attaching to the Share;
 - 5.1.2 receive notices;
 - 5.1.3 receive a distribution in respect of the Share; and
 - 5.1.4 exercise the other rights and powers attaching to the Share.
- 5.2 **Trusts not to be entered on Share register.** The Company must not enter any notice of a trust, on the share register, whether that trust is express, implied or constructive.
- 5.3 **Power to divide share register.** The share register may be divided into two or more registers kept in different places.

6. **Transfer of Shares**

- 6.1 **Right to transfer.** No Shareholder shall directly or indirectly sell, transfer or dispose of any legal or beneficial interest in or the control of any of its Shares (**Transfer**) except where:
 - 6.1.1 the Transfer is made within 3 calendar months of the Company allotting Non-Founder Shares in accordance with the PledgeMe Equity crowdfunding campaign to be carried out on or about the date of the adoption of this Constitution; or
 - 6.1.2 the Transfer is to:
 - (a) a grandparent, parent, child, grandchild, nephew, niece, son in law, daughter in law, uncle or aunt of that Shareholder, whether or not by step relationship; or
 - (b) a spouse, civil union partner or de facto partner of that Shareholder or of a person described in paragraph 6.1.2(a) above; or
 - (c) a trustee of any trust which, in the opinion of the Board, is exclusively or principally for the benefit of any of the persons described in paragraphs 6.1.2(a) and/or 6.1.2(b) above (including the Shareholder) or where, if the Shareholder is a trustee of a trust, the Transfer is to one or more of the beneficiaries of that trust and upon any change of trustees of that trust; or
 - 6.1.3 the Transfer is to another Shareholder; or

- 6.1.4 the Transfer complies with the Transfer Rules; or
- 6.1.5 the Company purchases or otherwise acquires Shares in accordance with clause 8; or
- 6.1.6 the Board otherwise consents to the Transfer at its sole discretion,

and the Transfer otherwise complies with the requirements set out in this Constitution.

- 6.2 **Signed transfer to be delivered to Company.** Where Shares are to be transferred, a form of transfer (in any usual or common form, or any other form approved by the Board) signed by the present holder of the Shares, or by that holder's attorney, personal representative, or by any other person who may lawfully sign on behalf of that holder, must be delivered to the Company or to an agent who maintains the Company's share register. The transferee must sign the transfer form if the registration imposes a liability to the Company on the transferee.
 - 6.3 **Shares transferred by entry on Share register.** Shares shall be transferred by entry on the Company's share register of the name of the transferee that appears on the transfer form delivered to the Company. The transferor of a Share shall remain the holder of the Share until the name of the transferee is entered in the share register.
 - 6.4 **Board may refuse or delay a Share transfer in certain cases.** The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares if:
 - 6.4.1 the holder of the Shares has failed to pay the Company an amount due in respect of those Shares, whether by way of consideration for the issue of the Shares or in respect of sums payable by the holder of the Shares in accordance with this Constitution;
 - 6.4.2 the Company has a lien on any of the Shares;
 - 6.4.3 the registration would impose a liability to the Company on the transferee and the transferee has not signed the transfer form;
 - 6.4.4 the transfer is for more than one class of Shares; or
 - 6.4.5 the transfer is not accompanied by such evidence as the Board may reasonably require to establish the right of the transferor to make the transfer.
 - 6.5 **Board must refuse a Share transfer in certain cases.** The Board must refuse the registration of any transfer of Shares if:
 - 6.5.1 it is required to do so by law; or
 - 6.5.2 the transferor has not complied, or the transfer does not comply, with this Constitution.
 - 6.6 **Transfer of securities other than Shares.** Clauses 5 and 6 shall apply to transfers of financial products of the Company other than Shares with any necessary modifications.
7. **Calls, forfeiture and liens**
- 7.1 **Board may make calls.** The Board may make calls on any Shareholder for any money that is unpaid on that Shareholder's Shares and not otherwise payable at a specified time or times under this Constitution or the terms of issue of those Shares or any contract for the issue of those Shares. Schedule 1 governs calls on Shares.

7.2 **Forfeiture of Shares where calls or other amounts unpaid.** The Board may commence procedures in accordance with Schedule 1 for forfeiture of any Shares if the holder of those Shares fails to pay:

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

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

7.3 **Company's lien.** The Company has a lien on Shares, proceeds of sale of Shares, and dividends on the terms set out in Schedule 1.

8. **Acquisition of Company's own Shares**

8.1 **Company may purchase Shares.** The Company may purchase or otherwise acquire Shares from one or more Shareholders in accordance with the provisions of the Act and hold those Shares as treasury stock. If the Company intends to transfer any Shares which it has acquired and held, such transfer will be treated as an issue of Shares and the Board must first comply with the provisions of this Constitution for the issue of Shares.

9. **Redemption of Shares**

9.1 **Company may issue and redeem Shares.** The Company may:

9.1.1 subject to compliance with applicable provisions of this Constitution, issue redeemable Shares; and

9.1.2 redeem redeemable Shares in accordance with the Act and the terms of issue of the redeemable Shares; and

9.1.3 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 terms of issue of the redeemable Shares.

10. **Distributions**

10.1 **Board may authorise distributions.** The Board may authorise a distribution by the Company in accordance with the Act.

10.2 **Board's power to authorise dividend is restricted.** The Board must not authorise a dividend:

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

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

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

10.3 **Shareholder may waive dividend.** Notwithstanding clause 10.2, a Shareholder may waive his or her entitlement to receive a dividend by giving a written notice to the Company signed by or on behalf of the Shareholder.

- 10.4 **Board may deduct from dividend amounts owed to Company.** The Board may, at its discretion, deduct from any dividend payable to any Shareholder any amount owed by the Shareholder to the Company on account of any call.

11. Meetings of Shareholders

- 11.1 **Company must hold annual meeting of Shareholders.** Subject to clause 11.2, the Board must call an annual meeting of those Shareholders who are entitled to attend meetings of Shareholders to be held:

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

11.1.2 not later than 15 months after the date of the previous annual meeting of Shareholders.

However, the Company does not have to hold its first annual meeting in the calendar year of its registration but must hold that meeting within 18 months of its registration.

- 11.2 **Nothing required to be done.** No annual meeting needs to be called and held if:

11.2.1 there is nothing required to be done at the meeting and the Board has resolved that it is in the interests of the Company to rely on subsection 120(5) of the Act (having regard to whether there is any particular issue that the Shareholders should be given an opportunity to discuss, comment on, or ask questions about); or

11.2.2 everything required to be done at the meeting is done by written resolution in lieu of the annual meeting passed in accordance with this Constitution and section 122 of the Act.

- 11.3 **Date of annual meeting.** The Company must hold the meeting on the date on which it is called by the Board to be held.

- 11.4 **Company may hold special meetings of Shareholders.** A special meeting of Shareholders entitled to vote on an issue:

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

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

- 11.5 **Written Shareholders' resolution instead of holding a meeting.** A Shareholders' resolution in writing, which complies with the requirements of the Act, is as valid as if it had been passed at a meeting of Shareholders.

- 11.6 **Proceedings at meetings of Shareholders.** Schedule 2 governs the proceedings at meetings of Shareholders.

- 11.7 **Meetings of Interest Group.** The provisions of this clause 11 shall apply to separate meetings of the Shareholders in each Interest Group, with all necessary modifications, except that 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.

12. Directors

- 12.1 **Number of Directors.** The minimum number of Directors (other than any alternate directors) shall be three. Shareholders may change the minimum and/or the maximum number of Directors by an

Ordinary Resolution or by notice in writing to the Company signed by Shareholders holding not less than a simple majority of the Founder Shares.

12.2 Appointment or removal of Directors.

12.2.1 A Director may be appointed by Ordinary Resolution or by notice in writing to the Company signed by Shareholders holding not less than a simple majority of the Founder Shares. Two or more persons may be appointed as Directors by one resolution or notice.

12.2.2 All Directors shall be subject to removal from office as Director by Ordinary Resolution or by notice in writing to the Company signed by Shareholders holding not less than a simple majority of the Founder Shares.

12.2.3 The Board may appoint any person to be a Director either to fill a casual vacancy or as an addition to the existing Directors.

12.3 Notices of appointment or removal of Directors. Any notice of appointment or removal of a Director may be comprised in one or more written notices. The notice takes effect from the time it is served on the Company in accordance with the Act, or from such later time as the notice states that it is to take effect.

12.4 Directors' resignation procedure. A Director may resign office:

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

12.4.2 in any other manner permitted by the Act.

12.5 Alternate Directors.

12.5.1 Each Director shall have the power from time to time to nominate, by notice in writing to the Company, any person not already a Director or disqualified by the Act from being a Director to act as an alternative Director in his or her place either for a specified period (not to exceed three months) or generally during the absence from time to time of such Director and in like manner to remove any such alternate Director. Unless otherwise provided for by the terms of his or her appointment, an alternative Director shall have the same rights, powers and privileges (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 but excluding the power to appoint an alternative Director) and shall discharge all the duties of and be subject to the same provisions as the director in whose place he or she acts. An alternate Director shall not be remunerated and shall ipso facto vacate office if and when the Director in whose place he or she acts vacates office. Any notice appointing or removing an alternate Director may be given by delivering the same or by sending the same through the post to the Company and shall be effective as from the receipt thereof.

12.5.2 The appointment of an alternate director will be valid and binding when recorded in the Company's records at its registered office.

12.6 Chairperson. The Directors shall from their number select a chairperson by a resolution approved by a simple majority of Directors. Each chairperson shall hold office for one year unless all members of the Board otherwise agree.

13. **Management of the Company**

- 13.1 **Board to manage Company.** The Company's business and affairs must be managed by, or under the direction or supervision of, the Board, except to the extent that the Act or this Constitution provides otherwise.
- 13.2 **Board has powers necessary to manage Company.** The Board has all the powers necessary for managing, and for directing and supervising the management of, the Company's business and affairs, except to the extent that the Act or this Constitution provides otherwise.
- 13.3 **Special Resolutions necessary for major transactions.** The Company must not enter into a major transaction unless the transaction is:
- 13.3.1 approved by a Special Resolution; or
 - 13.3.2 contingent on approval by a Special Resolution.

14. **Proceedings of the Board**

- 14.1 **Meetings of the Board.** The provisions of the Third Schedule to the Act shall apply to proceedings of the Board.
- 14.2 **Written resolutions of Board permitted.** A written resolution signed or assented to by all of the Directors (or their alternate director(s) appointed under clause 12.3) 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.
- 14.3 **Written resolutions may be in counterparts.** Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors (or their alternate director(s) appointed under clause 12.3). A copy of a written resolution, which has been signed and is sent by facsimile or any similar means of communication, will satisfy the requirements of this clause.

15. **Directors' Duties**

- 15.1 **Directors must act in best interests of Company.** Each Director shall act in what that Director believes to be the best interests of the Company.

16. **Delegation of Powers**

- 16.1 **Restriction on Board's right to delegate its powers.** Subject to the restrictions on delegation in the Act, the Board may delegate any one or more of its powers to a committee of Directors, a Director, an employee of the Company or any other person.
- 16.2 **Board delegates to comply with regulations.** In exercising the Board's delegated powers, any committee of Directors, Director, employee or employees of the Company or any other person must comply with any regulations that the Board may impose.
- 16.3 **Committee proceedings.** The provisions of this Constitution relating to proceedings of the Board also apply to proceedings of any committee of Directors, except to the extent the Board determines otherwise.

17. **Interested Directors**

- 17.1 **Directors must disclose their interests.** As soon as a Director becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, then unless the Act

provides otherwise or all entitled persons have agreed to or concur in the Company entering into the transaction, that Director must disclose that interest in accordance with the Act.

17.2 **Failure to disclose does not affect validity of transaction.** Any failure by a Director to comply with clause 17.1 does not affect the validity of a transaction entered into by the Company or the Director. However, the transaction may be avoided under clause 17.3.

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

17.4 **Interested Director may vote.** A Director of the Company who is interested in a transaction entered into, or to be entered into, by the Company, may:

17.4.1 vote on a matter relating to the transaction;

17.4.2 attend a meeting of Directors at which a matter relating to the transaction arises, and be included among the Directors present at the meeting for the purpose of a quorum;

17.4.3 sign a document relating to the transaction on behalf of the Company; and

17.4.4 do anything else as a Director in relation to the transaction,

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

18. **Remuneration**

18.1 **Remuneration.** If approved by the Board, Directors shall be entitled to reasonable remuneration from the Company.

18.2 **Expenses.** A Director shall be entitled to be reimbursed by the Company for all reasonable expenses incurred in the course of performing duties or exercising powers as a Director of the Company.

19. **Change of Company name**

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

20. **Indemnity and insurance for Directors and employees**

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

20.2 **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 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.

21. **Execution of contracts**

21.1 **Manner of execution.** A contract or other enforceable obligation may be entered into by the Company as follows:

- 21.1.1 an obligation that, 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:
- (a) two or more Directors; or
 - (b) any Director, or any other person authorised by the Board, whose signature must be witnessed; or
 - (c) one or more attorneys appointed by the Company in accordance with this Constitution;
- 21.1.2 an obligation that, 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
- 21.1.3 an obligation that, 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.

21.2 **Company may appoint attorneys.** The Company may, by an instrument in writing executed in accordance with clause 21.1, appoint one or more persons as its attorney or attorneys either generally or in relation to a specified matter or matters. An act of an attorney in accordance with the instrument binds the Company.

22. Liquidation

22.1 **Distribution of surplus assets in kind.** If the Company is liquidated the liquidator may, with the approval of Shareholders, but subject to any other sanction required by the Act:

- 22.1.1 divide among the Shareholders in kind the whole or any part of the surplus assets of the Company and for that purpose the liquidator may:
- (a) fix such values for surplus assets as the liquidator considers to be appropriate; and
 - (b) determine how the division will be carried out as between Shareholders or different classes of Shareholder; and
- 22.1.2 vest the whole or any part of any such surplus assets in trustees upon such trusts for the benefit such of those Shareholders as the liquidator thinks fit,

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

23. Removal of Company from register

23.1 **Directors may remove Company from register.** If the Company:

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

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

Schedule 1

Calls, forfeiture and liens

1. **Interpretation**
 - 1.1 **Clause references.** Unless stated otherwise, references in this Schedule to clauses are references to clauses in this Schedule.
2. **Calls on Shares**
 - 2.1 **Shareholders must pay calls.** Every Shareholder on receiving at least 48 hours' 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.
 - 2.2 **Call made when board resolution passed.** A call is regarded as having been made at the time when the Board resolution authorising the call was passed.
 - 2.3 **Joint holders are jointly and severally liable.** The joint holders of a Share are jointly and severally liable to pay all calls for that Share.
 - 2.4 **Unpaid calls will accrue interest.** If an amount called is not paid in full at the time specified for payment, the person from whom the amount is due must pay the Company interest on the amount that remains unpaid at a rate determined by the Board and calculated from the time specified for payment until the day of actual payment. The Board may waive some or all of the payment of that interest.
 - 2.5 **Amounts payable under terms of issue treated as calls.** Any amount that becomes payable on issue or at any specified date under this Constitution or under the terms of issue of a Share or under a contract for the issue of a Share, will be regarded as being a call duly made and payable on the specified date. If the payment is not made, the relevant provisions of this Constitution will apply as if the amount had become payable by virtue of a call made in accordance with this Constitution.
 - 2.6 **Board may differentiate between holders as to calls.** On the issue of Shares, the Board may differentiate between the holders of Shares as to the amount of calls to be paid and the times of payment.
 - 2.7 **Board may accept payment in advance for calls.** Where a Shareholder is willing to advance some or all of the money unpaid and uncalled on any Share or Shares of that Shareholder, the Board may accept the amount advanced on the Company's behalf. The Board may pay interest on that amount at a rate agreed between the Board and that Shareholder for the period between the date that the amount is accepted and the date that the amount becomes payable pursuant to a call or the date specified for its payment.
3. **Forfeiture of Shares**
 - 3.1 **Directors may by notice require forfeiture of Shares if calls unpaid.** The Directors may during the time that a call, instalment, or other amount remains unpaid on a Share, serve a notice on the Shareholder requiring payment of the unpaid call, instalment, or other amount, together with any accrued interest.
 - 3.2 **Notice of forfeiture must satisfy certain requirements.** The notice served on a Shareholder under clause 3.1 must specify a date not earlier than 10 Business Days after the date the notice is served by which the payment is to be made. The notice must also state that in the event of non-payment by the appointed time, the Shares to which the call, instalment, or other amount relates, will be liable to be forfeited by the Shareholder.

- 3.3 **Failure to comply with notice may lead to forfeiture.** Where a valid notice under clause 3.1 is served on a Shareholder and the Shareholder fails to comply with the notice, then the Board:
- 3.3.1 may resolve that any Share for which that notice was given and all distributions authorised and not paid before the notice was served be forfeited; and
 - 3.3.2 may cancel any share certificate relating to any Share that has been forfeited pursuant to any such resolution.
- 3.4 **Board may deal with forfeited Share.** The Board must first offer forfeited Shares to existing Shareholders, other than the Shareholder holding the forfeited Shares at the time of forfeiture, as if they were new shares about to be issued by the Company. Subject to this requirement, a forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment or other amount that remains unpaid on the Share is paid.
- 3.5 **Shareholder whose Shares are forfeited loses rights.** A person whose Shares have been forfeited immediately ceases to be a Shareholder in respect of those Shares notwithstanding any other provision of this Constitution, and remains liable to pay the unpaid amount he or she owes the Company, but that liability shall cease if the Company receives payment in full of all money owing for those Shares.
- 3.6 **Director's statutory declaration is conclusive.** A statutory declaration given by a Director that a Share has been duly forfeited on a stated date shall be conclusive evidence of the facts stated in that declaration against any person claiming an entitlement to that Share.
- 3.7 **Company may sell forfeited Share.** The Company may receive consideration, if any, given for a forfeited Share following a sale or disposition, and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and register that person as the holder of the Share. That person shall not be bound to see to the application of the purchase money, if any, nor shall the title to the Share be affected by any irregularity or invalidity in the procedures under this Constitution in respect of the forfeiture, sale or disposal of that Share.
4. **Liens**
- 4.1 **Company's lien.** The Company shall have a lien, ranking in priority over all other equities, on:
- 4.1.1 all Shares registered in the name of a Shareholder (whether solely or jointly with others);
 - 4.1.2 the proceeds of sale of such Shares; and
 - 4.1.3 all dividends authorised in respect of such Shares,
- for:
- 4.1.4 unpaid calls and instalments payable in respect of any such Shares;
 - 4.1.5 interest on any such calls or instalments;
 - 4.1.6 sale expenses owing to the Company in respect of any such Shares; and
 - 4.1.7 any amounts that the Company may be called on to pay under any statute, regulation, ordinance or other law in respect of the Shares of a Shareholder, whether the period for payment has arrived or not.

- 4.2 **Waiver of lien.** Registration of a transfer of Shares on which the Company has any lien will operate as a waiver of the lien, unless the Company first gives notice to the contrary to the transferee.
- 4.3 **Company may sell Share on which it has a lien.** The Company may sell a Share on which it has a lien in such manner as the Board thinks fit, where:
- 4.3.1 the lien on the Share is for a sum that is presently payable; and
- 4.3.2 the registered holder of the Share, or the person entitled to it on his or her death or bankruptcy, has failed to pay that sum within 10 Business Days after the Company has served him or her with written notice demanding payment of that sum.
- 4.4 **Company may transfer Share.** The Company may receive consideration given for a Share sold under clause 4.3, 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 Shares shall not be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 4.5 **Application of proceeds.** The Company must apply the sale proceeds in payment of the sum presently payable on the lien, and the balance, if any, shall (subject to a like lien for sums not presently payable that existed upon the Share before the sale) be paid to the person entitled to the Shares at the date of sale.

Schedule 2

Proceedings at meetings of Shareholders

1. **Interpretation**
 - 1.1 Unless stated otherwise, references in this Schedule to clauses are references to clauses in this Schedule.
 - 1.2 Unless stated otherwise, a reference in this Schedule to a Shareholder is a reference to a Shareholder who is entitled to attend meetings of Shareholders.
 - 1.3 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. **Notice**
 - 2.1 **Written notice must be given to Shareholders, Directors and auditors.** Written notice of the time and place of a meeting of Shareholders and the method of holding such meeting (as set out in clause 3.1) 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 Business Days before the meeting.
 - 2.2 **Notice must state nature of business.** The notice must state:
 - 2.2.1 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;
 - 2.2.2 the text of any Special Resolution to be submitted to the meeting;
 - 2.2.3 the text of any resolution for the purposes of section 207I or 207J of the Act to be submitted to the meeting; and
 - 2.2.4 in the case of a Special Resolution required by section 106(1)(a) or (b) of the Act, the right of a shareholder under section 110 of the Act.
 - 2.3 **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.
 - 2.4 **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 any person fails to receive notice of a meeting, the failure to send the notice will not invalidate the proceedings at that meeting.
 - 2.5 **Notice of an adjournment.** If a meeting is adjourned for:
 - 2.5.1 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; or
 - 2.5.2 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.

3. Meeting and quorum

3.1 **Methods of holding meetings.** A meeting of Shareholders may be held by a quorum or by Shareholders:

3.1.1 being assembled together at the place, date and time appointed for the meeting;

3.1.2 participating in the meeting by means of audio, audio and visual, or electronic communication; or

3.1.3 by a combination of both of the methods described in 3.1.1 and 3.1.2.

The Company is not required to hold meetings of Shareholders in the manner specified in clause 3.1.2 and 3.1.3. 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.

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

3.3 **Quorum for Shareholders' meeting.**

3.3.1 Subject to clause 3.3.2, a quorum for a meeting of Shareholders is present if Shareholders together holding more than 75% of the Founder Shares are present.

3.3.2 A quorum for a meeting of an Interest Group is present if Shareholders together holding more than 50% of the Shares held by that Interest Group are present.

3.4 **Meetings to be adjourned if no quorum.** If a quorum is not present within 30 minutes of the time appointed for a meeting, the meeting shall stand adjourned to 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 of the time appointed for the meeting, and each Shareholder has received notice of the meeting and the absent Shareholder(s) have not provided the remaining Shareholder(s) with any reasonable excuse for their non-attendance, the Shareholder(s) present shall constitute a quorum.

3.5 **Audio, audio and visual and electronic communication.** 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.

4. Chairperson

4.1 **Chairperson of Board to be chairperson of meeting.** If the chairperson of the Board 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.

4.2 **Directors may elect chairperson if chairperson of Board not available.** 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 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 be.

4.3 **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.

4.4 **Chairperson's power to adjourn meeting.** The chairperson of a meeting at which a quorum is present:

4.4.1 may adjourn the meeting with the consent of the Shareholders entitled to attend and vote at that meeting; and

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

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

5. Voting

5.1 **Voting by show of hands or voice vote at meeting.** In the case of a meeting of Shareholders held under clause 3.1.1, unless a poll is demanded, voting at the meeting will be by a show of hands or by voice vote, as the chairperson may determine.

5.2 **Voting at meetings held under 3.1.2 or 3.1.3.** In the case of a meeting of Shareholders held under clause 3.1.2 or 3.1.3, unless a poll is demanded, voting at the meeting will be by any method permitted by the chairperson of the meeting.

5.3 **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.

5.4 **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.

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

5.6 **Chairperson's declaration of result.** Unless a poll is demanded, a declaration by the chairperson of the meeting that a resolution on a show of hands or voice vote or by such manner as the chairperson may have decided under clause 5.2 is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

6. Polls

6.1 **Poll may be demanded by chairperson or Shareholders.** At a meeting of Shareholders, a poll may be demanded, either before or after a vote by show of hands or voice vote, by:

6.1.1 the chairperson of the meeting, at his or her absolute discretion;

6.1.2 at least five Shareholders having the right to vote at the meeting;

6.1.3 a Shareholder or Shareholders representing not less than 10 percent of the total voting rights of all Shareholders having the right to vote at the meeting; or

6.1.4 Shareholder or Shareholders holding Shares that confer a right to vote at the meeting and on which the total amount paid up is at least 10 percent of the total amount paid up on all the Shares that confer that right.

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

- 6.3 **Counting votes cast in a poll.** If a poll is taken, votes must be counted according to the votes attached to the Shares of each Shareholder present in person or by proxy and voting.
- 6.4 **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.
- 6.5 **Proxy allowed to demand a poll.** The instrument appointing a proxy to vote at a meeting confers authority to demand, or join in demanding a poll, and a demand by a person as proxy for a Shareholder has the same effect as a demand by the Shareholder.
- 6.6 **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.
- 6.7 **Dissolved meetings — unfinished business.** If the chairperson proposes to dissolve a meeting pursuant to clause 6.6, and there is any item of unfinished business of the meeting that 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.
7. **Shareholder proposals**
- 7.1 **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.
- 7.2 **Board to give notice of proposal at Company's expense.** If the Board receives the notice at least 20 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, at the expense of the Company, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
- 7.3 **Board to give notice of proposal at Shareholder's expense.** If the Board receives the notice at least 5 Business Days and not more than 20 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
- 7.4 **Board may give notice of proposal on short notice.** If the notice is received by the Board less than 5 Business Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board may, if reasonably practicable, and at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
- 7.5 **Proposing Shareholder may include statement.** If the Directors intend that Shareholders may vote on the proposal by proxy or by postal vote, they must give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.
- 7.6 **Board may exclude statement in some cases.** The Board is not required to include in or with the notice given by the Board a statement prepared by a Shareholder that the Directors consider to be defamatory, frivolous or vexatious.

- 7.7 **Shareholder to give security for costs for proposal with short notice.** Where the costs of giving notice of the Shareholder proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder must, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.
8. **Proxies**
- 8.1 **Proxies permitted.** A Shareholder may exercise the right to vote by being present in person or represented by proxy.
- 8.2 **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.
- 8.3 **Appointment of proxy must be in writing and specify restrictions.** A proxy must be appointed by a notice in writing that is signed by the Shareholder, or in the case of an electronic notice, sent by the Shareholder and the notice must state whether the appointment is for a particular meeting or a specified term. A proxy need not be a Shareholder of the Company.
- 8.4 **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.
- 8.5 **Notice of proxy to be produced at least 48 hours before meeting.** No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.
- 8.6 **Vote by proxy valid where Company not notified before meeting of disqualified proxy.** Where:
- 8.6.1 the Shareholder has died or become incapacitated; or
- 8.6.2 the proxy, or the authority under which the proxy was executed, has been revoked; or
- 8.6.3 the Share in respect of which the notice of proxy is given has been transferred,
- before a meeting at which a proxy exercises a vote in terms of a notice of proxy but the Company does not receive written notice of that death, incapacity, revocation, or transfer before the start of the meeting, the vote of the proxy is valid.
9. **Postal Votes**
- 9.1 **Postal votes not permitted.** A Shareholder may not exercise the right to vote at a meeting by casting a postal vote.
10. **Corporate Representatives**
- 10.1 **Corporations may act by representative.** A body corporate that 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.
11. **Minutes**
- 11.1 **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 that have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

12. **Other proceedings**

- 12.1 **Meeting may regulate other proceedings.** Except as provided in this Schedule, a meeting of Shareholders may regulate its own procedure through the chairperson.

13. **Shareholder participation by electronic means.**

- 13.1 For the purposes of this Schedule, a Shareholder may participate in a meeting by means of audio, audio and visual, or electronic communication if:

13.1.1 the Board approves those means; and

13.1.2 the Shareholder 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 and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means).

- 13.2 To avoid doubt, participation in a meeting includes participation in any manner specified in this Schedule or permitted by this Constitution.

Schedule 3

Transfer Rules

1. **Interpretation**
 - 1.1 **Clause references.** Unless stated otherwise, references in this Schedule to clauses are references to clauses in this Schedule.

2. **Transfer Notice.**
 - 2.1 If any Shareholder (**Seller**) wishes to sell, transfer or otherwise dispose of the legal or beneficial ownership of, or the control of, any of its Shares (**Sale Shares**) otherwise than as permitted under clauses 6.1.1, 6.1.2, 6.1.3, 6.1.5 and 6.1.6 of the Constitution, that Shareholder shall give a written notice (a **Transfer Notice**) to the Company specifying the precise nature of the proposed disposal of the Sale Shares (including the number of Shares involved) and the price the Seller wishes to receive for each of the Sale Shares.
 - 2.2 By giving a Transfer Notice the Seller appoints the Company as the Seller's agent for the sale of the Sale Shares to the other Shareholders (each a **Remaining Shareholder**).
 - 2.3 Having given a Transfer Notice, the Seller may not withdraw from the sale process which the provisions under this Schedule contemplate unless he or she first obtains the written consent of the Board.

3. **Notice to the Remaining Shareholders.** Within 5 Business Days of receiving a Transfer Notice, the Company must give to the Remaining Shareholders a written notice (a **Sale Notice**):
 - 3.1 offering the Remaining Shareholders all of the Sale Shares, and specifying the precise nature of the proposed disposal of the Sale Shares (including the number of Shares involved) and the price the Seller wishes to receive for each of the Sale Shares as set out in the Transfer Notice;
 - 3.2 specifying a date that is not later than 20 Business Days after giving of the Transfer Notice (**Acceptance Date**) after which any offer not accepted will be treated as having been declined;
 - 3.3 requesting each Remaining Shareholder to advise the Company by the Acceptance Date whether he or she accepts the offer of the Sale Shares on the terms (including as to price) specified in the Sale Notice in respect of all or part of the Sale Shares; and
 - 3.4 specifying any other terms and conditions of sale of the Sale Shares (which shall be described sufficiently precisely to enable an acceptance of the offer in the Sale Notice to constitute a binding contract) including, without limitations, that the acceptance of the offer of the Sale Shares by the Remaining Shareholders will be on a "first come, first served" basis and that the offer will expire when there are sufficient acceptances on this basis.

4. **Acceptance of Transfer Notice.** Each Remaining Shareholder may, not later than the Acceptance Date, give notice to the Company that that Shareholder wishes to acquire all or part of the Sale Shares on the terms specified in the Sale Notice. An acceptance that does not specify the number of Sale Shares accepted will be deemed to be an acceptance of the total number of the Sale Shares.

5. **Terms of sale.** A Remaining Shareholder who gives notice to the Company in accordance with clause 4 that it wishes to acquire all or part of the Sale Shares (a **Buyer**) shall be entitled and bound (subject to clause 7) to acquire such Shares. If more than one Shareholder gives notice to the Seller that it wishes to acquire the Sale Shares, those Shareholders shall be entitled and bound to acquire the Sale Shares on a "first come, first served" basis, which the Company may determine at its absolute discretion. The purchase of the Sale Shares shall be effected at the price, and on the terms and conditions, specified in the Sale Notice, and, subject to anything to the contrary in the Sale Notice, on the following terms:

- 5.1 the purchase of the Sale Shares shall be settled on the date 5 Business Days after the receipt of the notice(s) from one or more Buyers under clause 4 accepting to acquire all of the Sale Shares or, if clause 7 applies, 5 Business Days after the last of the consents referred to in clause 7 is obtained;
- 5.2 if there is more than one Buyer, the purchase of the Sale Shares by all Buyers shall be settled simultaneously;
- 5.3 the Seller shall transfer to each Buyer good title to the Sale Shares free of any charge or encumbrance; and
- 5.4 on settlement of the purchase of the Sale Shares:
- 5.4.1 each Buyer shall pay the purchase price to the Seller in cleared funds; and
- 5.4.2 the Seller shall deliver to each Buyer a transfer of the Sale Shares in a form reasonably acceptable to that Buyer,
- and the Board shall take all necessary steps to cause the Buyer(s) to be registered as holders of the Sale Shares.
6. **Company's power where Seller defaults transferring Shares.** If the Seller defaults in transferring any Sale Share, any of the Directors, other than a Director who is (or is appointed by) the Seller, may execute a transfer of any Sale Share to the Buyer and receive the purchase price on behalf of the Seller. On receipt of the purchase price, the Board must hold the purchase price in trust for the Seller and account to the Seller for it (subject to any lien in favour of the Company). The Board must cause the name of each Buyer to be entered in the register of Shareholders as holder of the Sale Share. The receipt of the purchase price by the Company constitutes a complete discharge to each Buyer(s) for the purchase price. After the name of each Buyer has been entered on the register as Shareholders in respect of the Sale Share, no person may question the validity of the transfer.
7. **Consents.** Each Buyer, the Seller and the Company shall use their reasonable endeavours, with all due speed and diligence, to obtain all necessary consents to the sale and purchase of the Sale Shares, including any consent required from any governmental and regulatory agency or authority or pursuant to any contract that has been entered into by the Company. If any necessary consent is:
- 7.1 not granted within 20 Business Days after the Acceptance Date; or
- 7.2 finally granted on terms and conditions that are not reasonably acceptable to the party affected thereby,
- the Seller or any Buyer may, by notice to the other, terminate the obligation to buy and sell the Sale Shares created by clauses 4 and 5.
8. **Clause to apply again.** If a notice is given to the Company pursuant to clause 4, but the obligation to buy and sell the Sale Shares is terminated pursuant to clause 7, clauses 1 to 7 shall again apply.
9. **Procure registration.** The Shareholders shall procure that any transfer of Shares sold in accordance with the procedures set out in this Schedule is accepted for registration by the Directors.