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**COMPANY CONSTITUTION**  
***MEDICAL KIWI LIMITED***

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## CONSTITUTION OF MEDICAL KIWI LIMITED

This document should be read together with the Companies Act 1993.

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## 1. INTERPRETATION:

In this Constitution:

1.1 The following expressions have the following meanings:

“The Act” means	The Companies Act 1993
“Associated Person”	has the meaning given to that expression in the Securities Act 1978
“The Board” means	directors who number not less than the required quorum acting together as the board of directors of the Company or, if the Company only has one Director, that Director
“The Company” means	Medical Kiwi Limited
“Constitution” means	this Constitution as it may be altered from time to time in accordance with the Act
“Director” means	a person appointed as a director of the Company in accordance with this Constitution
“Equity Securities” means	shares, securities convertible into shares, and options to acquire shares
“Ordinary Resolution” means	a resolution approved by a simple majority of the votes of those holders of Equity Securities entitled to vote and voting on the question
“Share” means	a share in the Company
“Written” or “in writing”	In relation to words, figures and symbols includes all modes of presenting or reproducing those words, figures and symbols in a tangible and visible form

- 1.2 Subject to clause 1.1, expressions which are defined in the Act (whether generally, or for the purposes of one or more particular provisions) have the meanings given to them by the Act. When 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 Headings appear as a matter of convenience and do not affect the interpretation of this Constitution.
- 1.4 The singular includes the plural and vice versa, and words indicating one gender include the other genders.
- 1.5 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.
- 1.6 The Schedules form part of this Constitution.

**2. COMPANY MUST OBTAIN APPROVAL BEFORE ALTERING SHAREHOLDERS' RIGHTS**

2.1 The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a special resolution of each interest group in accordance with the Act.

2.2 Subject to this Constitution, the Board may issue Shares that rank as to voting or distribution rights, or both, equally with or prior to any existing Shares, and any such issue will not be treated as an action affecting the rights attached to existing Shares.

**3. CONSOLIDATION AND SUBDIVISION**

The Board may with prior shareholder approval by special resolution:

3.1 Consolidate and divide Shares or any class of Shares in proportion to those Shares or the Shares in that class; or

3.2 Subdivide Shares or any class of Shares in proportion to those Shares or the Shares in that class.

**4. BOARD TO ISSUE EQUITY SECURITIES**

The Board may issue Equity Securities, at any time, to any person, and in any number it thinks fit. Section 45 of the Act does not apply to the Company.

**5. SHARE REGISTER MAY BE DIVIDED**

The share register may be divided into 2 or more registers kept in different places.

**6. 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:

6.1 permitted to do so by the Act; or

6.2 where the proposed transfer would not, in the opinion of the Board acting reasonably, be in the best interests of the company; or

6.3 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.

**7. BOARD MUST REFUSE A SHARE TRANSFER IN CERTAIN CASES**

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

**8. COMPULSORY TRANSFER OF SHARES**

When as a result of any transfer or transfers of Shares a shareholder becomes the holder of 90% or more of the Shares that carry the right to vote, the compulsory transfer provisions set out in the First Schedule will apply. However, if at that time the Company is subject to a takeovers code under the Takeovers Act 1993 the takeovers code will apply instead.

**9. BOARD MAY MAKE CALLS**

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

forfeit and otherwise deal with Shares where a call remains unpaid on those Shares, and the Company's right to a lien on those Shares.

#### **10. COMPANY MAY ACQUIRE AND HOLD SHARES**

- 10.1 Subject to this Constitution, the Company may purchase or otherwise acquire Shares and may hold those Shares in accordance with the Act. If the Company intends to transfer any Shares that it has acquired and held, such transfer will be treated as a new issue of Shares and the Board must first comply with the requirements of this Constitution for issues of Shares.
- 10.2 Subject to this Constitution, the Board may purchase or otherwise acquire Shares issued by the Company from such shareholders and in such numbers or proportions as it thinks fit, in accordance with the Act.
- 10.3 The Company must not acquire Shares unless:
  - 10.3.1 the acquisition is effected in compliance with section 60(1)(a) (read together with section 60(2)) of the Act; or
  - 10.3.2 the precise terms and conditions of the specific proposal for the acquisition is approved by ordinary resolution of the holders of Equity Securities whose rights or entitlements could be affected by the acquisition;
  - 10.3.3 the acquisition is required by a shareholder of the Company pursuant to sections 110 or 118 of the Act.

#### **11. FINANCIAL ASSISTANCE IS RESTRICTED**

The Company must not give financial assistance for the purpose of, or in connection with, the acquisition of shares issued or to be issued by the Company unless:

- 11.1 the financial assistance is offered or given so that all holders of equity securities of the Company are treated, or given the opportunity to be treated, on the same basis; or
- 11.2 the financial assistance is given in accordance with section 80 of the Act and the assistance is not given to any Director or associated person of a Director, unless that assistance is given solely in that person's capacity as a trustee of a bona fide employee share scheme, superannuation scheme, or the like, in which that Director or associated person has no beneficial interest; or
- 11.3 the proposal to give that assistance is approved by ordinary resolution of holders of Equity Securities whose rights or entitlements could be affected by the financial assistance .

#### **12. COMPANY MAY ISSUE AND REDEEM REDEEMABLE SHARES**

Subject to compliance with applicable provisions of this Constitution, the Company may:

- 12.1 issue redeemable Shares; and
- 12.2 redeem redeemable Shares in accordance with the Act and the terms of issue of the redeemable Shares; and
- 12.3 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.

#### **13. DISTRIBUTIONS DO NOT BEAR INTEREST**

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

**14. UNCLAIMED DISTRIBUTIONS**

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

**15. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

The First Schedule to the Act (in this clause, “the Schedule”) governs the proceedings at meetings of shareholders, but with the following modifications:

- 15.1 The right to choose a chairperson of the meeting set out in clause 1(2) of the Schedule is vested initially in the Directors present and may only be exercised by the shareholders present if 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.
- 15.2 A quorum for a meeting of shareholders is present if those shareholders present in person or by proxy hold between them at least 51% or more of the votes which are entitled to be cast at the meeting.
- 15.3 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.
- 15.4 Where:
  - 15.4.1 the shareholder has died or become incapacitated; or
  - 15.4.2 the proxy, or the authority under which the proxy was executed, has been revoked; or
  - 15.4.3 the Share in respect of which the notice of proxy is given has been transferred,and 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.
- 15.5 The representative of a corporate shareholder is entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder.
- 15.6 A shareholder may not exercise the right to vote at a meeting by casting a postal vote.
- 15.7 Except as provided in the Schedule, in this clause and in any Shareholders Agreement, a meeting of shareholders may regulate its own procedure through the chairperson.

**16. NUMBER OF DIRECTORS**

The minimum number of Directors shall be 2 and the maximum number of Directors shall be 12. The shareholders may change the minimum and/or the maximum number of Directors by ordinary resolution.

**17. SHAREHOLDERS MAY APPOINT DIRECTORS**

21.1 Any person who is not disqualified under the Act may be appointed as a Director by ordinary resolution of shareholders.

21.2 The persons holding office as Directors of the Company on adoption of this Constitution are deemed to have been appointed as Directors pursuant to this Constitution.

**18. SHAREHOLDERS MAY REMOVE DIRECTORS**

Any Director may be removed from office by ordinary resolution passed at a meeting called for the purpose of, or for purposes that include, removal of the Director.

**19. BOARD MAY FILL CASUAL VACANCY ON THE BOARD**

The Board may appoint any person to be a Director to fill a casual vacancy or as an additional Director, but subject to the maximum number of Directors provided for under this Constitution.

**20. NO SHAREHOLDING QUALIFICATION FOR DIRECTORS**

There is no shareholding qualification for Directors.

**21. DIRECTORS TO ELECT CHAIRPERSON OF THE BOARD**

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

**22. CHAIRPERSON TO HOLD OFFICE ON CERTAIN TERMS**

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

**23. MEETINGS OF THE BOARD**

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

**24. 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.

**25. 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.



**26. INTERESTED DIRECTOR MAY VOTE**

Under section 144 of the Act, a Director of the Company who is interested in a transaction entered into, or to be entered into, by the Company may vote on a matter relating to the transaction and otherwise act in his or her capacity as a Director in relation to the transaction as if he or she were not interested in the transaction.

**27. BOARD'S POWER TO AUTHORISE REMUNERATION AND OTHER BENEFITS LIMITED**

The Board may authorise payments or actions under section 161 of the Act only if the relevant payment or action has been approved by ordinary resolution or with the prior written agreement or concurrence of all entitled persons. This clause does not apply to the payment of remuneration or the provision of other benefits to an executive Director in his or her capacity as an executive or to any other Director in respect of any professional services provided by that Director to the Company.

**28. DIRECTORS MAY APPOINT AND REMOVE ALTERNATE DIRECTORS**

Every Director may:

28.1 appoint any person who is not disqualified by the Act from being a Director and whose appointment has been approved in writing by a majority of the other Directors, to act as an alternate Director in his or her place; and

28.2 remove that person from that office,

by giving written notice to that effect to the Company.

**29. ALTERNATE DIRECTOR**

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

29.1.1 has, and may exercise and discharge, all the powers, rights, duties and privileges of that Director (including the right to receive notice of, be counted as part of the quorum of, participate in, and vote at a meeting of the Board and to sign any document, including a written resolution, and to act as chairperson of the Board, but excluding the right to appoint an alternate Director).

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

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

**30. 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.

**31. 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.

**32. MANNER OF EXECUTION OF DEEDS**

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:

- 32.1 two or more Directors; or
- 32.2 a Director or any other person authorised by the Board, whose signature must be witnessed; or
- 32.3 one or more attorneys appointed by the Company in accordance with this Constitution.

**33. DISTRIBUTION OF SURPLUS ASSETS IN KIND**

If the Company is liquidated the liquidator shall, at the direction of shareholders by ordinary resolution, but subject to any other sanction required by the Act:

- 33.1 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:
  - 33.1.1 fix such values for surplus assets as the liquidator considers to be appropriate, and
  - 33.1.2 determine how the division will be carried out as between shareholders or different classes of shareholder; and
- 33.2 vest the whole or any part of any such surplus 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.

**DATED**

\_\_\_\_\_  
Cataldo Miccio – Director

\_\_\_\_\_  
Peter James Win – Director

## FIRST SCHEDULE

### COMPULSORY ACQUISITION AND BUYOUT

#### 1. INTERPRETATION

1.1 In this Schedule:

“Compulsory sale” means	a requirement that the outstanding shareholders must sell their Shares as specified in clause 2
“Control” means	having, directly or indirectly, effective control of the voting right in respect of a voting share and <b>controller</b> has a corresponding meaning
“Controlling shareholder” means	a person who has become the holder or controller of 90 percent or more of the voting shares whether by reason of acceptances of a take-over offer or otherwise
“Election” means	the election referred to in clause 8
“Outstanding shareholders” means	the shareholders who hold the Shares other than those held or controlled by the controlling shareholder
“Outstanding shares” means	the Shares held by the outstanding shareholders or, where the context requires, any one or more of them
“Person”	includes two or more persons acting jointly or in concert
“Take-over offer” means	an offer to purchase or an invitation to shareholders to offer to sell all the Shares other than those already held or controlled by the person making the offer or invitation
“Voluntary sale” means	a right for the outstanding shareholders to require the controlling shareholder to purchase their Shares
“Voting shares” means	Shares that carry the right to vote at a shareholders’ meeting (other than a right to vote that arises only where the Company is in default in respect of the Shares or in the case of a proposal to liquidate the Company)

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

#### 2. RIGHT OF CONTROLLING SHAREHOLDER

If a person becomes a controlling shareholder, he or she may acquire all the outstanding shares in accordance with this Schedule.

**3. RIGHT OF OUTSTANDING SHAREHOLDERS**

If a person becomes a controlling shareholder, each of the outstanding shareholders may require the controlling shareholder to purchase his or her or its Shares.

**4. CONTROLLING SHAREHOLDER MUST GIVE BUYOUT NOTICE**

A controlling shareholder must, within 20 working days after first becoming a controlling shareholder, serve a buyout notice on the outstanding shareholders.

**5. BUYOUT NOTICE MUST SET OUT CERTAIN MATTERS**

The buyout notice must:

- 5.1 state that the controlling shareholder holds or controls 90 percent or more of the voting shares in the Company; and
- 5.2 state either:
  - 5.2.1 that the outstanding shareholders must sell their Shares to the controlling shareholder; or
  - 5.2.2 that the outstanding shareholders may require the controlling shareholder to purchase their Shares; and
- 5.3 specify the consideration to be paid for the outstanding shares; and
- 5.4 inform the outstanding shareholders of their rights under this Schedule; and
- 5.5 specify the controlling shareholder's address; and
- 5.6 be accompanied by a transfer form in respect of the Shares of the outstanding shareholder of whom it is served; and
- 5.7 specify the date it was sent to the outstanding shareholder.

**6. CALCULATION OF CONSIDERATION FOR OUTSTANDING SHARES**

- 6.1 If the controlling shareholder becomes controlling shareholder by reason of acceptances of a take-over offer (or acceptance by the controlling shareholder of offers made pursuant to it), then so long as acceptances were received in respect of more than 50 percent of the Shares in that class that were the subject of the take-over offer, the consideration payable for any Shares in any class will be the same as the consideration paid under the terms of the take-over offer for Shares in the same class. If the offer provided alternative considerations, then the consideration payable under this clause will be the consideration payable under the take-over offer if an accepting offeree (or a person making an offer pursuant to the invitation) failed to choose an alternative or, if no provision to that effect was included in the offer, will be the alternative containing the greatest cash component.
- 6.2 If the consideration cannot be established by the controlling shareholder under clause 6.1, then:
  - 6.2.1 the consideration specified in the buyout notice must be a cash sum certified as fair and reasonable by an independent adviser to the controlling shareholder; and
  - 6.2.2 the consideration specified in the buyout notice will be the consideration payable for the outstanding Shares unless, within 10 working days after sending the buyout notice, the controlling shareholder receives written objections to that specified

consideration from outstanding shareholders who hold between them not less than two percent of a class of Shares or 10 percent of the outstanding shares of a class, whichever is the lesser.

- 6.3 If such objections are received, the controlling shareholder must immediately refer the determination of a fair and reasonable price for the Shares of that class to an expert to be agreed on by the controlling shareholder and the Company or, failing agreement, to be appointed by the then Chairperson of the Nelson Branch of the New Zealand Institute of Chartered Accountants. The appointed expert must be an expert on the valuation of company securities.
- 6.4 If the appointed expert fails to act, or fails to act without undue delay, or is or becomes incapable of acting, or dies, then the Company must give notice to the controlling shareholder requiring a replacement expert to be appointed. In such a case the appointment process in this clause is to be used. If necessary, this provision for the appointment of a replacement expert may be used on more than one occasion.
- 6.5 In accepting the appointment the expert confirms that he or she will be independent of, and act fairly and impartially as between the parties, and that the appointment does not give rise to any conflict of interest or circumstance which is likely to lead to a presumption of bias. The expert will notify the parties immediately if any conflict of interest or circumstance arises which is likely to lead to a presumption of bias.
- 6.6 The expert is to act as an expert and not as an arbitrator. In so acting, the expert may rely on his or her own knowledge, skill and experience in relation to the valuation of company securities and make his or her own enquiries without reference to the parties.
- 6.7 Subject to this clause and any written agreement of the parties to the contrary, the expert will adopt procedures and a timetable suitable to the circumstances of the case, avoiding unnecessary delay and expense, so as to provide an expeditious cost-effective and fair means of determining a fair and reasonable price for the Shares of that class.
- 6.8 The expert must give his or her determination in writing with reasons as soon as practicable (but within 20 working days of his or her appointment or within any other period that the Company and the controlling shareholder agree on).
- 6.9 The expert may decide how the reasonable costs, fees and other expenses (including the solicitor/client costs) of the parties and the expert in relation to the determination are to be borne. If the expert makes no decision as to costs, the Company and the controlling shareholder shall each bear their own costs and equally share the fees and expenses of the expert.
- 6.10 Unless the expert directs otherwise in the determination, a sum directed to be paid in the determination carries interest as from the date of reference to expert determination and at the same rate as a judgement debt. The amount (if any) which becomes payable by one party to another as a result of the expert's determination shall become due and payable within 5 working days of the publication of the determination.
- 6.11 The expert may correct any errors in computation, any clerical or typographical errors, or any errors of similar nature contained in the determination.
- 6.12 The fact that the question of the consideration to be provided for the Shares of any class has been referred for determination under this clause does not alter

the obligations of the controlling shareholder to pay the consideration specified in the buyout notice in accordance with this Schedule. However, if the consideration fixed in accordance with this clause:

- 6.12.1 exceeds the consideration specified in the buyout notice, the controlling shareholder must immediately pay the balance owing to the outstanding shareholders, or to the Company, in the same manner as the consideration specified in the buyout notices paid; or
- 6.12.2 is less than the price specified in the buyout notice, the controlling shareholder may recover the excess paid from the outstanding shareholder or, if that amount is held by the Company, from the Company.

**7. OUTSTANDING SHAREHOLDER MAY ELECT TO RETURN TRANSFER FORM**

Within 15 working days after the date on which the buyout notice is sent, the outstanding shareholder to whom it is sent may elect to return the transfer form that accompanies it duly executed by or on behalf of the outstanding shareholder, to the controlling shareholder at the address specified in the buyout notice, together with the certificates (if any) for the outstanding Shares or a declaration of loss in respect of any share certificates that have been lost.

**8. CONTROLLING SHAREHOLDER MUST PAY WITHIN 5 WORKING DAYS**

If the outstanding shareholder to whom a buyout notice is sent exercises the election, the controlling shareholder must send the consideration specified in the election notice to the outstanding shareholder within 5 working days after receipt of the document sent by the outstanding shareholder under the election as required by the buyout notice.

**9. CONTROLLING SHAREHOLDER MUST PAY TO COMPANY IF ELECTION NOT EXERCISED**

If any outstanding shareholders fail to exercise the election then, in the case of a compulsory sale, the controlling shareholder must, within 5 working days after the expiry of the election period, deliver to the Company the consideration specified in the buyout notice in respect of the outstanding Shares for which elections are not made, and must send to the Company a transfer form or transfer forms in respect of the outstanding Shares executed on behalf of the outstanding shareholders who have not exercised the election. The transfer form or forms must be executed by the controlling shareholder or his or her agent on behalf of the outstanding shareholders to which it refers. The consideration paid to the Company must be held by the Company in trust for the outstanding shareholders until it is claimed. The Company must pay any consideration received by it into an interest bearing account with a registered bank.

**10. COMPANY TO REGISTER CONTROLLING SHAREHOLDER AS HOLDER**

Upon presentation to the Company of:

- 10.1 the executed form or forms and related documents received by the controlling shareholder in valid exercise of the election; and
- 10.2 evidence to the reasonable satisfaction of the Company that the consideration has been sent to the outstanding shareholders in accordance with clause 8; and
- 10.3 in the case of a compulsory sale, receipt of the executed transfer form or transfer forms and the consideration under clause 9 in respect of the outstanding shares for which no elections have been made,

the Board must, notwithstanding any other provision in this constitution, register the controlling shareholder (or its nominee, if any) as the holder of the outstanding Shares (in the case of a compulsory sale), or the outstanding Shares that have been the subject of valid exercises of elections (in the case of a voluntary sale).

**11. OUTSTANDING SHAREHOLDER MAY NOMINATE COMPANY AS PURCHASER**

In the case of a compulsory sale, the outstanding shareholder may nominate the Company as purchaser of the outstanding shares if the Company may lawfully purchase those Shares, and such purchase does not disadvantage the outstanding shareholders.

**12. OUTSTANDING SHAREHOLDER MAY GIVE BUYOUT NOTICE**

If a controlling shareholder fails to comply with clause 5, any outstanding shareholder may serve a notice on that controlling shareholder requiring that controlling shareholder to do so. If the controlling shareholder has not complied with clause 5 within 10 working days after service of the notice, the outstanding shareholder may give a buyout notice under clause 5 complying with clause 5.2.2 and this Schedule will apply with any necessary modifications.

**SECOND SCHEDULE**

**CALLS, FORFEITURE AND LIENS**

**1. CLAUSE REFERENCES**

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

**2. 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.

**3. CALL MADE WHEN BOARD RESOLUTION PASSED**

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

**4. JOINT HOLDERS ARE JOINTLY AND SEVERALLY LIABLE**

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

**5. UNPAID CALLS WILL ACCRUE INTEREST**

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

**6. AMOUNTS PAYABLE UNDER TERMS OF ISSUE TREATED AS CALLS**

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

**7. BOARD MAY DIFFERENTIATE BETWEEN HOLDERS AS TO CALLS**

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

**8. BOARD MAY ACCEPT PAYMENT IN ADVANCE FOR CALLS**

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



**9. DIRECTORS MAY BY NOTICE REQUIRE FORFEITURE OF SHARES IF CALLS UNPAID**

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

**10. NOTICE OF FORFEITURE MUST SATISFY CERTAIN REQUIREMENTS**

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

**11. FAILURE TO COMPLY WITH NOTICE MAY LEAD TO FORFEITURE**

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

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

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

**12. 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.

**13. SHAREHOLDER WHOSE SHARES ARE FORFEITED LOSES RIGHTS**

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

**14. DIRECTOR'S STATUTORY DECLARATION IS CONCLUSIVE**

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

**15. COMPANY MAY SELL FORFEITED SHARE**

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

**16. COMPANY'S LIEN**

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

- 16.1 all Shares registered in the name of a shareholder (whether solely or jointly with others);
  - 16.2 the proceeds of sale of such Shares; and
  - 16.3 all dividends authorised in respect of such Shares;
- for:
- 16.4 unpaid calls and instalments payable in respect of any such Shares;
  - 16.5 interest on any such calls or instalments;
  - 16.6 sale expenses owing to the Company in respect of any such Shares; and
  - 16.7 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.

**17. WAIVER OF LIEN**

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

**18. COMPANY MAY SELL SHARE ON WHICH IT HAS A LIEN**

The Company may sell a Share on which it has a lien in such manner as the Board thinks fit, where:

- 18.1 the lien on the Share is for a sum which is presently payable; and
- 18.2 the registered holder of the Share, or the person entitled to it on his or her death or bankruptcy, has failed to pay that sum within 10 working days after the Company has served him or her with written notice demanding payment of that sum.

**19. THE COMPANY MAY TRANSFER SHARE AND APPLY PROCEEDS**

- 19.1 The Company may receive consideration given for a Share sold under clause 18, 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.
- 19.2 The Company must apply the sale proceeds in payment of the sum presently payable on the lien, and the balance, if any, shall (subject to a like lien for sums not presently payable that existed upon the Share before the sale) be paid to the person entitled to the Shares at the date of sale.

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

**3. NOTICE TO CONTAIN CERTAIN DETAILS**

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

**4. PERIOD OF NOTICE REQUIRED TO BE GIVEN TO DIRECTORS**

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

**5. ABSENT DIRECTORS**

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

**6. DIRECTORS MAY WAIVE IRREGULARITIES IN NOTICE**

Any irregularity in the notice of a meeting, or failure to comply with clauses 1 to 5 in 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 either:

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

**8. QUORUM FOR BOARD MEETING**

The quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. The shareholders may change the number of Directors required for a quorum by ordinary resolution. No business may be transacted at a meeting of the Board unless a quorum is present.

**9. MEETING ADJOURNED IF NO QUORUM**

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

**10. CHAIRPERSON TO CHAIR MEETINGS**

The chairperson of the Board will chair all meetings of the Board at which he or she is present. If the office of chairperson of the Board is vacant, or if at a meeting of the Board the chairperson of the Board is not present within 5 minutes from the time appointed for the meeting, then the Directors present may elect one of their number to chair the meeting.

**11. VOTING ON RESOLUTIONS**

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

**12. CHAIRPERSON HAS CASTING VOTE**

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

**12. BOARD MUST KEEP MINUTES OF PROCEEDINGS**

The Board must ensure that minutes are kept of proceedings at meetings of the Board. Minutes that 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.

**13. WRITTEN RESOLUTIONS OF BOARD PERMITTED**

- 13.1 A written resolution signed or assented to by a majority of the Directors then entitled to receive notice of a meeting of the Board and who together would constitute a quorum at a meeting is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Within 5 working days of a resolution being passed in accordance with this clause, the Company

must send a copy of the resolution to every Director who did not sign the resolution or on whose behalf the resolution was not signed.

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

**14. BOARD MAY REGULATE OTHER PROCEEDINGS**

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