



STOCK EXCHANGE LISTINGS: NZX (MCY) / ASX (MCY)

## NEWS RELEASE

### **MERCURY NZ LIMITED – AMENDMENT TO CONSTITUTION**

Mercury NZ Limited's shareholders approved amendments to its constitution at its Annual Shareholders' Meeting held at Eden Park, Kingsland, Auckland on Friday, 27 September 2019.

A copy of the constitution as amended is attached.

**ENDS**

#### **For further information:**

Media – Craig Dowling 0272 105 337  
Investors – Tim Thompson 0275 173 470

### **ABOUT MERCURY NZ LIMITED**

Mercury's mission is energy freedom. Our purpose is to inspire New Zealanders to enjoy energy in more wonderful ways and our goal is to be New Zealand's leading energy brand. We focus on our customers, our people, our partners and our country; maintain a long term view of sustainability; and promote wonderful choices. Mercury is energy made wonderful.

Visit us at: [www.mercury.co.nz](http://www.mercury.co.nz)



# Constitution of Mercury NZ Limited

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## CONSTITUTION OF MERCURY NZ LIMITED

### INTERPRETATION

#### 1 **Defined terms**

##### 1.1 In this constitution the following expressions have the following meanings:

*Act* means the Companies Act 1993;

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

*ASX Rules* means the listing rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the official list of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX;

*ASX Settlement* means ASX Settlement Pty Ltd (ABN 49 008 504 532);

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

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

*Company* means Mercury NZ Limited;

*constitution* means this constitution as it may be altered from time to time in accordance with the Act;

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

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

*Director* means a person appointed as a director of the Company in accordance with this constitution;

*Holding Adjustment* has the meaning given to that term in the ASX Settlement Operating Rules;

*Issuer Sponsored Holding* has the meaning given to that term in the ASX Settlement Operating Rules;

*NZX* means NZX Limited, its successors and assigns and, as the context permits, includes any duly authorised delegate of NZX;

*NZX Rules* means the Listing Rules applying to the NZX main board (or any successor to that market) as altered from time to time by NZX, subject to any ruling or waiver relevant to the Company granted by NZX from time to time;

*Public Finance Act* means the Public Finance Act 1989;

*Secretary* means any person or persons appointed as secretary of the Company pursuant to clause 50.1, and includes a deputy secretary;

*special resolution* means a resolution approved by a majority of 75% of the votes of those shareholders entitled to vote and voting on the question;

*Share* means a share in the Company, provided that for the purposes of the Fourth Schedule *Share* shall have the meaning given to that term in the Fourth Schedule;

*shareholder* means a holder of Shares; and

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

1.2 Subject to clause 1.1, expressions:

- (a) which are defined in the NZX Rules (whether or not expressed with an initial capital letter) have the meanings given by the NZX Rules.
- (b) which are defined in the Act (whether generally or for the purposes of one or more particular provisions) or the Financial Markets Conduct Act 2013 have the meanings given to them by the Act or the Financial Markets Conduct Act 2013. Where an expression is defined in the Act or the Financial Markets Conduct Act 2013 more than once and in different contexts, its meaning will be governed by the context in which it appears in this constitution.

2 **Construction**

In this constitution:

- 2.1 headings appear as a matter of convenience and do not affect the interpretation of this constitution;
- 2.2 the singular includes the plural and vice versa, and words importing one gender include the other genders;
- 2.3 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;
- 2.4 a reference to an NZX Rule or the NZX Rules includes that NZX Rule or the NZX Rules as from time to time amended or substituted;

- 2.5 a reference to an ASX Rule or the ASX Rules includes that ASX Rule or the ASX Rules as from time to time amended or substituted;
- 2.6 a reference to *permitted by the Act* or *permitted by the NZX Rules* or *permitted by the ASX Rules* means not prohibited by the Act or not prohibited by the NZX Rules or not prohibited by the ASX Rules; and
- 2.7 the Schedules form part of this constitution.

## **CONFIRMATION IN OFFICE**

### **3 Confirmation in Office**

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

## **RELATIONSHIP BETWEEN CONSTITUTION AND ACT**

### **4 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, in accordance with the Act, by this constitution.

### **5 Effect of this constitution**

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

## **RELATIONSHIP BETWEEN CONSTITUTION, NZX RULES AND ASX RULES**

### **6 Incorporation of listing rules of exchanges while listed**

For so long as the Company is listed on the NZX main board and/or the ASX official list (or any successor to those markets):

- 6.1 this constitution is deemed to incorporate all provisions of the NZX Rules required under the NZX Rules to be contained or incorporated by reference in this constitution, as those provisions apply from time to time (and as modified by any waiver or ruling relevant to the Company);
- 6.2 shareholders must not cast a vote if prohibited from doing so by the NZX Rules and/or the ASX Rules; and
- 6.3 Directors must not cast a vote if prohibited from doing so by the NZX Rules and/or the ASX Rules.

### **7 Company must comply with listing rules of exchanges while listed**

- 7.1 Notwithstanding anything else in this constitution, for so long as the Company is listed on the NZX main board (or any successor to that market):

- (a) the Company must comply with the NZX Rules (as modified by any waiver or ruling); and
- (b) subject to clause 8, if this constitution contains any provision inconsistent with the NZX Rules, then the relevant NZX Rules (as modified by any such waiver or ruling) prevail.

7.2 While the Company is admitted to the official list of ASX:

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

**8 Stock Exchange rulings and waivers**

If any act or omission which in the absence of a ruling and/or waiver from either or both of NZX or ASX would be in contravention of the NZX Rules, the ASX Rules and/or this constitution, and rulings or waivers are granted by the relevant stock exchange or stock exchanges, that act or omission will, unless a contrary intention appears in this constitution, be deemed to be authorised by this constitution and the relevant listing rules.

**9 Failure to comply with NZX Rules has limited effect in some cases**

Any failure to comply with:

9.1 the NZX Rules, or

9.2 a clause of this constitution corresponding with a provision of the Rules (whether such provision is set out in full in this constitution or incorporated in it pursuant to clause 6),

by the Company or shareholders does not affect the validity or enforceability of any transaction, contract, action, decision or vote taken at a meeting of Equity Security holders or other matter entered into by, or affecting, the Company, except that a

party to a transaction or contract who knew of the non-compliance is not entitled to enforce that transaction or contract. This clause does not limit the rights of Equity Security holders against the Company or the Directors.

## **COMPLIANCE WITH PUBLIC FINANCE ACT**

### **10 Compliance with Public Finance Act**

The Company must comply with all of its obligations under Part 5A of the Public Finance Act. The Fourth Schedule forms part of this constitution for such time as the Company is a company listed in Schedule 5 of the Public Finance Act.

## **SHARES AND SHAREHOLDERS**

### **11 Board need not comply with statutory pre-emptive rights**

Section 45(1) and section 45(2) of the Act do not apply to the Company.

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

Subject to this constitution, the Board may issue Shares that rank as to voting or distribution rights, or both, equally with or in priority to any existing Shares, in accordance with this constitution and Part 5A of the Public Finance Act and (for so long as the Company is listed) the provisions of the NZX Rules. Any such issue will not be treated as an action affecting the rights attached to those existing Shares unless the terms of issue of those Shares expressly provide otherwise.

### **13 Consolidation and subdivision**

The Board may:

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

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

### **14 Share register may be divided**

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

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

The Board may determine in a notice of meeting for the purpose of voting at that meeting that those registered shareholders as at 5 p.m. on a day not more than 2 working days before the meeting will be the only persons entitled to exercise the right to vote at that meeting and only the Shares registered in the name of those shareholders at that time may be voted at that meeting.

### **16 Registration of separate parcels**

A shareholder or a transferee may request the Company to register the Shares held by that person in two or more separately identifiable parcels. Where the Company agrees to such a request, the Company may, so far as it considers convenient, communicate with the shareholder, pay dividends and otherwise act in respect of such parcel, as if the separately identifiable parcels belonged to different persons.



**17 Board must refuse or delay a transfer**

The Board must refuse or delay the registration of any transfer of Shares where the Board has actual knowledge, or believes, that registration of the transfer would or would be likely to contravene Part 5A of the Public Finance Act.

**18 Board may refuse or delay transfer**

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares (subject to their terms of issue) if permitted to do so by the Act, the NZX Rules or clause 10 of the Fourth Schedule or for so long as the Board or the Company is in the process of exercising any of their respective powers set out in the Fourth Schedule with respect to those Shares.

**19 Registration not to affect other powers**

The registration of any transfer of Shares shall not prejudice or affect in any way the powers exercisable by the Board under the Fourth Schedule or otherwise.

**20 Compulsory sale of less than minimum holdings**

- 20.1 The Company may at any time give notice to a shareholder holding less than a Minimum Holding of Shares that if, at the expiration of 3 months after the date the notice is given, Shares then registered in the name of the holder are less than a Minimum Holding the Company may sell those Shares on market (including through a broker acting on the Company's behalf).
- 20.2 The Board may authorise the transfer of the Shares sold by the Company under this clause 20, and the holder is deemed to have authorised the Company to act on behalf of the holder and to sign all necessary documents relating to the sale. For the purposes of the sale and of Rule 5.12 of the ASX Settlement Operating Rules, where the Company has given a notice that complies with Rule 5.12.2 of the ASX Settlement Operating Rules, the Company may, after the expiration of the time specified in the notice, initiate a Holding Adjustment to move the relevant Shares from that CHESS Holding to an Issuer Sponsored Holding or to take any other action the Company considers necessary or desirable to effect the sale. The purchaser of Shares sold by the Company under this clause 20 shall have no obligation to ensure the proceeds of the sale of those Shares is applied in accordance with this clause 20, nor shall the title to the Shares be affected by any irregularity or invalidity in the procedures under this constitution relating to the sale. The remedy of any person aggrieved by the sale is in damages only and against the Company exclusively.
- 20.3 The proceeds of the sale of any Shares sold under this clause must be applied as follows:
- (a) first, in payment of any reasonable sale expenses.
  - (b) second, in satisfaction of any unpaid calls or any other amounts owing to the Company in respect of the Shares.
  - (c) the residue, if any, must be paid to the person who was the holder immediately before the sale or his or her executors, administrators or assigns.

- 20.4 A certificate, signed by a Director that records that a power of sale under this clause has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.

**21 Board may make calls on Shares**

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 First Schedule governs calls on Shares.

**22 Forfeiture of Shares where calls or other amounts unpaid**

The Board may exercise the rights set out in the First Schedule for forfeiture of any Shares if the holder of those Shares fails to pay:

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

22.2 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.

**23 Company's lien**

The Company has a lien on Shares and dividends in respect of such Shares on the terms set out in the First Schedule.

**24 Company may acquire and hold Shares**

Subject to this constitution, the NZX Rules and Part 5A of the Public Finance Act, the Company may:

24.1 purchase or otherwise acquire Shares issued by the Company and may hold Shares as treasury stock; and

24.2 make an offer to one or more holders of Shares to acquire Shares issued by the Company in such number or proportions as it thinks fit,

in accordance with the Act, the NZX Rules and Part 5A of the Public Finance Act.

**25 Company may issue and redeem Shares**

Subject to this constitution, the NZX Rules and Part 5A of the Public Finance Act, the Company may:

25.1 issue or redeem redeemable Shares; and

25.2 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, the NZX Rules and Part 5A of the Public Finance Act.

**26 Board deductions from distribution**

The Board may, at its discretion, deduct from any dividend or other distribution payable to a shareholder any amount owed by the shareholder to the Company in respect of which the Company has a lien over the specific Shares on which the

dividend or other distribution is payable. The Board must deduct from any dividend or other distribution payable to any shareholder any amount it is required by law to deduct, including withholding and other taxes.

**27 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.

**28 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.

**29 Proceedings at meetings of shareholders and interest groups**

The Second Schedule governs the proceedings at meetings of shareholders. The Second Schedule also governs the proceedings of meetings of any interest group required to be held by the Act, the NZX Rules or this constitution, with all necessary consequential modifications, except that the quorum shall be the members of the interest group holding 5% or more of the total number of Shares held by all members of that group having the right to vote at the meeting.

**DIRECTORS**

**30 Composition**

- 30.1 The Company shall comply with the minimum Board composition requirements of the NZX Rules.

**31 Appointment of Directors**

- 31.1 Any natural person who is not disqualified under the Act and, if required under the NZX Rules, who has been nominated within the time limits under the NZX Rules, may be appointed as a Director by an ordinary resolution of shareholders.
- 31.2 The Board may appoint any person who is not disqualified under the Act to be a Director to fill a casual vacancy or as an addition to the existing Directors. Any Director appointed under this clause (including any person who subsequent to his or her appointment as a Director becomes an executive Director) may hold office only until the next annual meeting (at which he or she must retire), and is then eligible for election.
- 31.3 The persons holding office as Directors of the Company on adoption of this constitution continue in office and are deemed to have been appointed as Directors pursuant to this constitution. Similarly the chairperson of the Board continues in office and is deemed to have been appointed as chairperson pursuant to this constitution.

**32 Rotation of Directors**

- 32.1 Each Director shall retire from office when required to do so by the NZX Rules, but, subject to the NZX Rules, shall be eligible for re-election (including at any meeting at which the Director retires).
- 32.2 A Director retiring at a meeting of Shareholders continues to hold office:
- (a) until he or she is re-elected; or
  - (b) if he or she is not re-elected, until the meeting of shareholders at which he or she retires (or any adjournment of that meeting) elects someone in his or her place; or
  - (c) if the meeting of shareholders does not elect someone in his or her place, until the end of the meeting or any adjournment of the meeting.

**33 No shareholding qualification for Directors**

There is no shareholding qualification for Directors.

**34 Election of chairperson of the Board and term of office**

- 34.1 The Directors may elect one of their number, who must be (for such time as the Company is a company listed in schedule 5 of the Public Finance Act) a person approved for this purpose by the Minister of Finance, as chairperson of the Board and determine a period for which the chairperson may hold office.
- 34.2 The chairperson of the Board holds that office until the expiry of any period determined by the Board; or he or she vacates that office; or the Directors elect a chairperson in his or her place.

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

The office of Director is vacated if the person holding that office:

- 35.1 dies; or
- 35.2 is absent from 6 consecutive meetings of the Board without leave being granted by a resolution of the Board and the Board resolves that the Director has vacated office; or
- 35.3 becomes disqualified from being a Director pursuant to the Act; or
- 35.4 retires from office and is not re-elected.

**36 Meetings of the Board**

The Third 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.

**37 Written resolutions of Board permitted**

A written resolution signed or assented to by a majority of the Directors then entitled to receive notice of a meeting of the Board is as valid and effective as if it

had been passed at a meeting of the Board duly convened and held. A copy of any such written resolution shall, as soon as reasonably practicable, be given to each Director who did not sign or assent to such written resolution.

**38 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. A copy of a written resolution, which has been signed and is sent by email or any similar means of communication (including PDF counterparts), will satisfy the requirements of this clause.

**39 Board delegates to comply with regulations**

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

**40 Committee proceedings**

The provisions of this constitution relating to meetings and proceedings of the Board also apply to meetings and proceedings of any committee of Directors, except to the extent the Board determines otherwise.

**41 Reimbursement of expenses**

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

**42 Directors may appoint and remove alternate Directors**

Every Director may:

42.1 appoint any person who is not a Director and is not disqualified by the Act or this constitution from being a Director, and whose appointment has been approved in writing by a majority of the other Directors, to act as an alternate Director in his or her place either for a specified period, or generally during the absence or inability to act from time to time of such Director; and

42.2 remove his or her alternate Director from that office,

by giving written notice to that effect to the Company. No Director shall appoint a deputy or agent otherwise than by way of appointment of an alternate.

**43 Alternate Director has powers of appointer**

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

43.1 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, and participate in 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);

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

**44 Termination of appointment of alternate Director**

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

**45 Insufficient number of Directors**

Directors may act notwithstanding any vacancy in their body but, if and for so long as their number is reduced below the minimum number set out in the NZX Rules, the continuing Directors may act for the purpose of increasing the number of Directors to the minimum number set out in the NZX Rules or of summoning a meeting of the Company's shareholders, but for no other purpose.

**GENERAL**

**46 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 such an indemnity.

**47 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.

**48 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:

- (a) two or more Directors; or
- (b) a 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 the Act.

**49 Distribution of surplus assets in kind**

If the Company is liquidated the liquidator may, with the approval of shareholders by ordinary resolution, but subject to any other sanction required by the Act:

49.1 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

49.2 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 on which there is any liability.

**50 Secretary**

50.1 The Board may from time to time appoint one or more persons (other than a body corporate) to act as secretary or deputy secretary of the Company for such terms, at such remuneration, and upon such conditions as the Board thinks fit.

50.2 Subject to the Act, the Secretary has the powers conferred by this constitution (if any) and any other powers the Board may confer on the Secretary.

50.3 If the Board thinks fit, two or more persons may be appointed under clause 50.1 as joint Secretaries.

50.4 Any Secretary or joint Secretary may, at any time, be removed from office by the Board, but without prejudice to any claim for damages for breach of any contract of service between him or her and the Company.

## **FIRST SCHEDULE: CALLS, FORFEITURE AND LIENS**

### **INTERPRETATION**

**1 Construction**

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

### **CALLS ON SHARES**

**2 Shareholders must pay calls**

Every shareholder on receiving at least 10 working days' notice specifying the time or times and the place of payment must pay, in accordance with that notice, the amount called to be paid in respect of any Shares that shareholder holds. The Board may 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. Subject to the NZX Rules, 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 Shares or under a contract for the issue of Shares, 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 shareholders as to calls**

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

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

- 8.1** Where a shareholder is willing to advance some or all of the money unpaid and uncalled on any Share 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.



- 8.2 The Board may at any time repay to any shareholder the whole or any portion of any money so advanced upon giving that holder at least 48 hours notice in writing and as from the date of such repayment interest (if any) shall cease to accrue on the money so repaid.
- 8.3 A shareholder is not entitled as of right to any payment of interest on any amount so paid in advance and the Board may decline to pay any interest. Any amount so paid in advance must not be taken into account in ascertaining the amount of any dividend or other distribution payable upon the Shares concerned.

## **FORFEITURE OF SHARES**

- 9 **Board may by notice require forfeiture of Shares if calls unpaid**  
The Board may during the time that a call, instalment, or other amount remains unpaid on a Share, serve a notice on the holder of that Share requiring payment of the unpaid call, instalment, or other amount, together with any accrued interest and any expenses incurred by the Company by reason of non-payment.
- 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 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.
- 12 **Board may deal with forfeited Share**  
A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment or other amount which remains unpaid on the Share is paid.
- 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 that the shareholder owes the Company, but that liability shall cease if the Company receives payment in full of all money owing for those Shares.
- 14 **Evidence of forfeiture**  
A certificate signed by a Director that a Share has been duly forfeited on a stated date is conclusive evidence of the facts stated in that certificate.

**15 Company may sell forfeited Share**

The Company may receive the 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 is not bound to see to the application of the purchase money, if any, nor is the title to the Share affected by any irregularity or invalidity in the procedures under this constitution in respect of the forfeiture, sale or disposal of that Share. Any residue after satisfaction of unpaid calls, instalments, premiums or other amounts and interest, and expenses, shall be paid to the previous holder, or to his or her executors, administrators or assigns.

**LIEN ON SHARES**

**16 Company's lien**

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

16.1 all Shares registered in the name of a shareholder; and

16.2 all dividends authorised in respect of such Shares; and

16.3 the proceeds of sale of such Shares,

for:

16.4 unpaid calls and instalments payable in respect of any such Shares; and

16.5 interest on any such calls or instalments; and

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 legislation in respect of the Shares of that 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 gives notice to the contrary to the transferee prior to registration.

**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 that registered holder written notice demanding payment of that sum.

**19 Company may transfer Share and apply proceeds**

- 19.1 The Company may receive the 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.
- 19.2 The purchaser is not bound to see to the application of the purchase money, and the purchaser's title to the Share is not affected by any irregularity or invalidity in the proceedings relating to the sale. The remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.
- 19.3 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 who held the Share immediately before the date of sale or to his or her executors, administrators or assigns.

## **SECOND SCHEDULE: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

### **INTERPRETATION**

#### **1 Construction**

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

### **NOTICE**

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

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

#### **3 Notice must state nature of business**

The notice must:

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

#### **4 Proxy form must be sent with notice**

A proxy form must be sent by mail or electronically with each notice of meeting.

#### **5 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.

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

The accidental omission to send notice of a meeting to, or the failure to receive notice by, any person entitled to that notice, does not invalidate the proceedings at that meeting.

**7 Notice of an adjournment**

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

**MEETING AND QUORUM**

**8 Methods of holding meetings**

A meeting of shareholders may be held by a quorum of the shareholders:

- 8.1 being assembled together at the time and the place appointed for the meeting; or
- 8.2 participating in the meeting by means of audio, audio and visual, or electronic communication, to the extent permitted by the Act and the NZX Rules; or
- 8.3 by a combination of both the methods described in clauses 8.1 and 8.2.

The Company is not required to hold meetings of shareholders in the manner specified in clauses 8.2 or 8.3. 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. 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.

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

Subject to clauses 11 and 12, business may be transacted at a meeting of shareholders only if a quorum is present at the time when the meeting proceeds to business.

**10 Quorum for shareholders' meeting**

A quorum for a meeting of shareholders is present if 3 or more shareholders are present having the right to vote at the meeting.

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

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

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

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a special meeting convened under the Act or a meeting of an interest group), the meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time, and place as the Directors may appoint. If at the adjourned meeting a quorum is not present within 30 minutes

after the time appointed for the meeting, the shareholders present will constitute a quorum.

## **CHAIRPERSON**

### **13 Chairperson of Board to be chairperson of meeting**

The chairperson of the Board, if one has been elected by the Directors and is present at a meeting of shareholders, will chair the meeting.

### **14 Directors may elect chairperson if chairperson of Board not available**

If no chairperson of the Board has been elected or, if at any meeting of shareholders the chairperson of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting or is unwilling to act, the Directors present may elect one of their number to be chairperson of the meeting.

### **15 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.

### **16 Chairperson's power to adjourn meeting**

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

16.1 may adjourn the meeting with the consent of the shareholders present who are entitled to attend and vote at that meeting; and

16.2 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.

### **17 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.

### **18 Dissolved meetings - unfinished business**

If the chairperson proposes to dissolve a meeting pursuant to clause 17, and there is any item of unfinished business of the meeting which in his or her opinion requires to be voted upon, then that item shall be dealt with by the chairperson directing it to be put to the vote by a poll without further discussion.

## **VOTING**

**19 Voting by show of hands or voice vote at meeting**

In the case of a meeting of shareholders held under clause 8.1, 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.

**20 Voting by voice if audio-conference meeting**

In the case of a meeting of shareholders held under clause 8.2 or 8.3, unless a poll is demanded, voting at the meeting will be by any method permitted by the chairperson of the meeting.

**21 Voting by electronic means**

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

**22 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.

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

If a sum due to the Company in respect of any 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.

**24 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 does not have a casting vote.

**25 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 other manner as the chairperson may have decided under clause 19 or clause 20 is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

## **POLLS**

**26 Poll may be demanded by chairperson or shareholder**

At a meeting of shareholders, a poll may be demanded, either before or after a vote by show of hands or voice vote, by:

26.1 the chairperson, at his or her absolute discretion; or

26.2 at least 5 shareholders having the right to vote at the meeting; or

26.3 a shareholder or shareholders having the right to exercise at least 10 percent of the total votes entitled to be exercised on the business to be transacted at the meeting; or

26.4 a 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.

**27 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.

**28 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 and voting.

**29 Declaration of poll result**

29.1 The chairperson of the meeting may declare the result of a poll either at or after the meeting, and when the outcome of the poll is known, may do so regardless of whether all votes have been counted.

29.2 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.

**30 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.

**SHAREHOLDER PROPOSALS**

**31 Shareholder proposals by written notice**

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

**PROXIES**

**32 Proxies permitted**

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

**33 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.



**34 Appointment of proxy must be in writing or approved electronic format and specify restrictions**

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

34.2 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.

**35 Notice of proxy to be produced at least 48 hours before meeting**

35.1 No appointment of a 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.

**36 Form of notice of proxy**

36.1 A notice appointing a proxy shall be in such form as the Board may direct.

36.2 Proxy forms must as a minimum (so far as the subject matter and form of resolutions reasonably permits) provide for four-way voting (for, against, abstention or proxy discretion) on all resolutions, enabling the shareholder to instruct the proxy as to the casting of the vote, and must not be sent with any name or office (e.g. "chairman of Directors") filled in as proxy holder.

36.3 So far as reasonably practicable, resolutions must be framed in a manner which facilitates four-way voting instructions for proxy holders.

**37 Vote by proxy valid where no notification before meeting of disqualified proxy**

Where:

37.1 the shareholder has died or become incapacitated; or

37.2 the proxy, or the authority under which the proxy was executed, has been revoked; or

37.3 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.

## **POSTAL VOTES**

### **38 Postal votes are permitted only at Board's option**

38.1 A shareholder may exercise the right to vote at a meeting by casting a postal vote only if the Board, prior to the giving of notice of a meeting, has so determined and, if the Board so determines, the provisions of clause 7 of the first schedule to the Act shall apply.

38.2 To avoid doubt, a postal vote may be cast using electronic means permitted by the Board.

## **CORPORATE REPRESENTATIVES**

### **39 Corporations may act by representative**

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

## **MINUTES**

### **40 Board must keep minutes of proceedings**

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

## **OTHER PROCEEDINGS**

### **41 Shareholder participation by electronic means**

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

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

41.2 To avoid doubt, participation in a meeting includes participation in any manner specified in this Schedule or permitted by the constitution.

### **42 Chairperson may regulate other proceedings**

Except as provided in this Schedule, the chairperson of a meeting of shareholders may regulate the proceedings at the meeting.

## **THIRD SCHEDULE: PROCEEDINGS OF THE BOARD**

### **NOTICE OF MEETING**

**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 in writing (whether printed and/or in electronic format) and must be:

2.1 delivered by hand to the Director; or

2.2 sent to the address which the Director provides to the Company for that purpose; or

2.3 sent by electronic means in accordance with any request made by the Director to the Company from time to time for such purpose; or

2.4 if an address is not provided, and an electronic means of delivery not requested, delivered to his or her last place of employment or residence or email address known to the Company.

**3 Notice to contain certain details**

The notice of meeting must include the date, time and place of the meeting and an 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 five 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. Any such shorter notice may be given by telephone communication to each Director at the telephone number provided to the company by each Director provided that written notice shall be given to the Directors within the shorter notice period where it is practicable to do so.

**5 Absent Directors**

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

**6 Directors may waive irregularities in notice**

Any irregularity in the notice of a meeting, or failure to comply with clauses 1 to 5 of this Schedule is waived if all Directors entitled to receive notice of the meeting

attend the meeting without protest as to the irregularity or failure, or if all Directors entitled to receive notice of the meeting agree to the waiver.

## **MEETING AND QUORUM**

### **7 Methods of holding meetings**

A meeting of the Board may be held by a number of Directors who constitute a quorum either:

- 7.1 by 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 all Directors participating can simultaneously hear each other throughout the meeting; or
- 7.3 by a combination of the methods described in clauses 7.1 and 7.2 of this Schedule.

### **8 Quorum for Board meeting**

Unless otherwise determined by the Board, the quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

### **9 Meeting adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the same day in the following week at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Directors present will constitute a quorum. Notice of the adjourned meeting must be given to the Directors at least 24 hours prior to the date of the adjourned meeting.

## **CHAIRPERSON**

### **10 Chairperson to chair meetings**

The chairperson of the Board will chair all meetings of the Board. If no chairperson is elected, or if at a meeting of the Board the chairperson is not present within 15 minutes after the time appointed for the commencement of the meeting, then the Directors present may elect one of their number to be chairperson of the meeting.

## **VOTING**

### **11 Voting on resolutions**

Each Director has one vote. Subject to clause 8 of this Schedule, a resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it. A Director must not vote where that Director is not permitted to vote by the NZX Rules or this constitution. A Director present at a meeting of the Board may abstain from voting on a resolution,

and any Director who abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Act.

**12 Interested Directors**

12.1 Subject to clause 12.2 of this Schedule, a Director shall not vote on a Board resolution in respect of any matter in which that Director is interested (as that term is defined in the Act), nor shall the Director be counted in the quorum for the purposes of that matter.

12.2 Notwithstanding the above, a Director may vote in respect of and be counted in the quorum for the Board for the consideration of a matter in which that Director is interested if that matter is one in respect of which Directors are expressly required to sign a certificate or which relates to the grant of indemnity under section 162 of the Act.

**13 Chairperson does not have a casting vote**

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

**MINUTES**

**14 Board must keep minutes of proceedings**

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

**OTHER PROCEEDINGS**

**15 Board may regulate other proceedings**

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

## FOURTH SCHEDULE: OWNERSHIP RESTRICTIONS

### INTERPRETATION

#### 1 Definitions

In this Schedule, unless the context otherwise requires:

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

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

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

*Associated Persons* are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2 **Construction**

In this Schedule, unless the context requires otherwise:

- (a) capitalised terms which are not otherwise defined in this Schedule have the meanings given to them in the constitution of which this Schedule forms part; and
- (b) a reference to a clause is reference to a clause in this Schedule.

## **COMPLIANCE WITH PART 5A OF THE PUBLIC FINANCE ACT**

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

## **LIMITATION ON ISSUES, ACQUISITIONS AND REDEMPTIONS OF SHARES**

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

## **LIMITATION ON OWNERSHIP BY PERSONS OTHER THAN THE CROWN**

### 5 **Limitation on ownership**

No person, other than the Crown, may have a Relevant Interest in Shares that comprises more than the Maximum Specified Percentage of a Class of Shares unless the person is an Approved Nominee and has a Relevant Interest in the relevant Shares in accordance with the requirements of section 45U of the Public Finance Act.

**6 Notification of contravention of limitation on ownership**

If a registered holder of Shares (a *Notifying Holder*):

- (a) has or acquires a Relevant Interest in Shares in contravention of clause 5; or
- (b) knows or believes that a person who has a Relevant Interest in Shares held by the Notifying Holder has, or may have, a Relevant Interest in Shares in contravention of clause 5,

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

- (c) where paragraph (a) of this clause applies:
  - (i) the number and Class of Shares in which the Notifying Holder has a Relevant Interest in contravention of clause 5; and
  - (ii) the name(s) and address(es) of the registered holder(s) of any Shares in which the Notifying Holder has a Relevant interest, where the Notifying Holder is not the registered holder of those Shares, and the name and address of any other person who has a Relevant Interest in any such Shares; and
- (d) where paragraph (b) of this clause applies:
  - (i) the name and address of the person who has, or may have, a Relevant Interest in Shares in contravention of clause 5;
  - (ii) the number and Class of the Shares held by the Notifying Holder in which that person has a Relevant Interest; and
  - (iii) the names of any other persons who are registered as the holders of Shares in which that person also has a Relevant Interest and the nature of any such Relevant Interest, if and to the extent known by the Notifying Holder.

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

**7 Automatic suspension of rights where contravention of limitation on ownership**

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

- (a) no vote may be cast (whether by voice, show of hands, on a poll or in any other manner) in respect of any of the Shares in which that person has a Relevant Interest in contravention of clause 5 (being, for the avoidance of doubt, the Shares in a Class of Shares in which the person has a Relevant



Interest in excess of the Maximum Specified Percentage) on any matter arising for determination at any meeting of the holders of the relevant Class of Shares, or any meeting at which the holders of the relevant Class of Shares are entitled to vote (and any such vote cast at any such meeting will be disregarded); and

- (b) the registered holder of the Shares in which that person has a Relevant Interest in contravention of clause 5 will not be entitled to receive, in respect of the Shares in a Class of Shares in which the person has a Relevant Interest in excess of the Maximum Specified Percentage, any dividend or other distribution authorised by the Board in respect of the Class of Shares of which those Shares form part.

#### 8 **Power to require declaration of holding**

If the Board has actual knowledge, or believes, that a person:

- (a) has or may have a Relevant Interest in Shares in contravention of clause 5; or
- (b) will have, or is likely to have, following the registration of a transfer of Shares that has been lodged with or presented to the Company for registration (including under a share or other security transfer system approved under the Financial Markets Conduct Act 2013 or pursuant to a "designated settlement system" within the meaning set out in section 156M of the Reserve Bank of New Zealand Act 1989), a Relevant Interest in Shares in contravention of clause 5,

(each, a *Possible Interest Holder*),

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

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

- (f) the name and address of any other person who has, or may have, a Relevant Interest in Shares in contravention of clause 5, the number and Class of Shares concerned and the nature of that Relevant Interest, and the names of the registered holders of those Shares; and
- (g) such other information as the Board may require for the purposes of determining whether there has been a contravention of clause 5.

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

**9 Disclosure register**

The Company:

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

**10 Power to refuse to register**

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

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

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

**11 Registration of transfer not to affect rights of the Board**

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

**AFFECTED SHARES**

**12 Notification that Shares may be Affected Shares**

Where:

- (a) the registered holder of any Shares:
  - (i) has not or may not have, in the opinion of the Board, complied with clause 6 in all material respects; or
  - (ii) has not lodged any statutory declaration or other documentary evidence required by the Company under clause 8 within the 14 day period specified in clause 8 or that declaration or documentary evidence has been received by the Company but has not been completed to the reasonable satisfaction of the Board or is otherwise unsatisfactory to the Board (in its discretion) or in the opinion of the Board is or may be materially incorrect or misleading,  
  
(a *Non-Notifying Holder*); or
- (b) the Board is of the opinion, in its discretion, that any declaration or documentary evidence provided to the Company under clause 8, or any other information held by or known to the Board, reveals that any person has, or may have, a Relevant Interest in Shares in contravention of clause 5,

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

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

**13 Final determination of Affected Shares**

Within:

(a) 14 days of the date of a notice given by the Company under clause 12 (if no representations are received by the Company within the time referred to in clause 12(e)); or

(b) 14 days of receiving any representations in writing pursuant to clause 12(d),

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

(c) whether the Board has determined that Shares held by that registered holder are Affected Shares;

(d) if so, the number of Shares in each Class of Shares held by that registered holder that the Board has determined are Affected Shares (being, for the avoidance of doubt, the Shares in the relevant Class of Shares held by that registered holder in which a person has a Relevant Interest in excess of the Maximum Specified Percentage); and

(e) whether the Board is or is not satisfied that the contravention of clause 5 was inadvertent.

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

#### 14 **Inadvertent contravention**

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

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

to be disregarded. This voting restriction is without prejudice to the right of any such registered holder to attend any meeting referred to in this clause;

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

such that the relevant Shares are no longer Affected Shares.

**15 Contravention where Board not satisfied breach was inadvertent**

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

- (a) subject to the proviso to this clause, will not (unless the notice given by the Board under clause 13 is withdrawn) be entitled to exercise the votes attached to any Shares held by it that are of the same Class as the Affected Shares at any meeting of the holders of the relevant Class of Shares or at any meeting at which the holders of the relevant Class of Shares are entitled to vote (including at any meeting of an interest group) and any such vote cast at any such meeting is to be disregarded. This voting restriction is without prejudice to the right of any such registered holder to attend any meeting referred to in this clause;
- (b) subject to the proviso to this clause, will not (unless the notice given by the Board under clause 13 is withdrawn) be entitled to receive any dividend or other distribution authorised by the Board in respect of any Shares held by it that are of the same Class as the Affected Shares; and

- (c) must (unless the notice given by the Board under clause 13 is withdrawn), within the period required under section 45T(1)(b) of the Public Finance Act, ensure that Shares, or Relevant Interest(s) in Shares, are disposed of such that the Affected Shares cease to be Affected Shares and if the Board is not satisfied that such a disposal has been made or if made the disposal has not otherwise resulted in there no longer being a contravention of clause 5, the Company must arrange for the sale of the Affected Shares on behalf of the registered holder:
  - (i) in the case of Shares that are Quoted, on the NZX main board (or any successor market on which the Shares are Quoted); or
  - (ii) in the case of Shares that are not Quoted, by such means as the Board determines,

such that the relevant Shares are no longer Affected Shares.

If a registered holder of Affected Shares to which this clause applies is an Approved Nominee, paragraphs (a) and (b) of this clause shall apply only in respect of Shares held by the Approved Nominee on behalf of a person who has a Relevant Interest in Shares in contravention of clause 5.

#### 16 **Validity of resolutions etc unaffected**

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

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

#### 17 **Appointment of Company as agent and attorney**

For the purposes of clauses 14 and 15, the registered holder of any Affected Shares will be deemed to have appointed, and does hereby irrevocably appoint, the Company as its agent and its attorney, in each case with full authority to act on its behalf in relation to the sale of the Affected Shares and to sign all documents relating to such sale and transfer of the Affected Shares and the Board may register a transfer of the Affected Shares so sold, whether or not the transfer has been properly completed and whether or not it is accompanied by the certificates (if any) for the Affected Shares. For the purposes of the sale and of Rule 5.12 of the ASX Settlement Operating Rules, where the Company has given a notice that complies with Rule 5.12.2 of the ASX Settlement Operating Rules, the Company may, after

the expiration of the time specified in the notice, initiate a Holding Adjustment to move all Shares held by the registered holder of the Affected Shares from that CHESS Holding to an Issuer Sponsored Holding or a certificated holding and effect a transfer to give effect to the sale of the relevant number of Shares held by the registered holder. The person to whom such Shares are transferred will not be bound to see to the application of the purchase money, nor will his, her or its title to the Shares be affected by any irregularity or invalidity in the proceedings relating to the sale of those Shares. The net proceeds of sale, after deduction of any brokerage, other costs of sale and other costs incurred by the Company in connection with the sale (including, for the avoidance of doubt, all costs reasonably incurred by the Company or the Board in investigating whether there had been a contravention of clause 5 and all other costs reasonably incurred by the Company or the Board in connection with that contravention), will be held on trust by the Company for and be paid (together with interest at such rate (if any) as the Board deems appropriate) to the former registered holder on surrender of the certificate (if any) for the Affected Shares and otherwise as soon as practicable after the sale has been completed.

**18 Identifying Affected Shares**

When:

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

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

**19 Withdrawal or amendment of notice**

If the Board considers that any notice issued by the Company under clause 12 or 13 should be withdrawn (because it no longer believes that the Shares to which the notice applied may be, or are, (as the case may be) Affected Shares) or amended, it may do so, and must give notice of the withdrawal or amendment to the registered holder of the relevant Shares and give a copy of such notice to the Crown. No withdrawal or amendment of any notice issued under clause 12 or 13 will affect the operation of clauses 5, 6 or 7.

**20 No liability**

Subject to the obligation of the Company to pay the net proceeds from the sale of Affected Shares to the former registered holder of the same, none of the Company, any Director, any officer, any employee of the Company, or the Crown is to have any liability of any nature to any person (including any registered holder of any Shares or any person who has a Relevant Interest in any Shares) for or in connection with the exercise or purported exercise of any of the powers permitted by this Schedule or otherwise in connection with the provisions of this Schedule.

## **RIGHTS OF THE CROWN**

21 Where the Crown suspects that any person may be a Non-Notifying Holder or has, or may have, a Relevant Interest in Shares in contravention of clause 5, the Crown may, by notice in writing to the Board or the Company (as the case may be), require that:

- (a) the Company exercise its power under clause 8 to require that a statutory declaration or other evidence be delivered to the Board irrespective of whether or not the Board has the knowledge or belief referred to in that clause;
- (b) if the Company has given a notice to a Non-Notifying Holder or other registered holder of Shares under clause 12, the Board make a determination under, and in accordance with, clause 13 as to whether or not any Shares held by that Non-Notifying Holder or other registered holder are Affected Shares; or
- (c) the Company exercise a power of sale that has arisen under clause 14 or 15,

and the Company and the Board, as applicable, will comply (as promptly as is reasonably practicable in the circumstances) with any such notice and keep the Crown informed as to the actions taken and expected to be taken by the Company or the Board (as the case may be) and issues arising therefrom. For the avoidance of doubt, the giving of a notice by the Crown under clause 21(b) or 21(c) does not prevent the Board from subsequently giving a notice under clause 19 withdrawing or amending the notice initially given by the Company under clause 12 or 13.

## **TERMS OF ISSUE OF OTHER SHARES**

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

## **CANCELLATION OF SALE OF SHARES BY THE CROWN**

23 **Cancellation for misrepresentation**

The Crown may cancel the sale of Shares (the *Breach Shares*) to a Shareholder (the *Affected Shareholder*) under the initial public offering of Shares by the Crown (*IPO*), by giving notice in writing (the *Cancellation Notice*) to the Company and to the Affected Shareholder at the address provided to the Crown for that purpose by the Company (being the address for the Affected Shareholder recorded on the Company's share register), if the Affected Shareholder misrepresented its entitlement to apply for, and be sold, Shares under the IPO as a New Zealand Applicant (as defined in the offer document for the IPO) on its application for Shares under the IPO. (For the purposes of clauses 23 to 28 (inclusive), the Shares held by the Affected Shareholder as at the date of the Cancellation Notice, up to the number of Shares sold to the Affected Shareholder under the IPO, will be deemed to be Breach Shares, with the result that the provisions of clauses 23 to 28 (inclusive) are



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

**24 Subsequent disposal of Breach Shares**

If the Affected Shareholder has subsequently transferred, sold or otherwise disposed of some or all of the Breach Shares to an Associated Person of that Affected Shareholder:

- (a) the Crown's right to cancel the sale of Breach Shares under clause 23 will extend, to the extent necessary, to Shares held by that Associated Person, who will also be deemed to be an "Affected Shareholder" for the purposes of clauses 23 to 28 (inclusive), (with the result that the provisions of those clauses are to apply to it as if it were an "Affected Shareholder"); and
- (b) Shares held by that Associated Person will be deemed to be Breach Shares if and to the extent necessary to enable the Crown to exercise its rights under clauses 23 to 28 (inclusive) in respect of the total number of Shares sold to the Affected Shareholder under the IPO (irrespective of whether the Associated Person has acquired Shares other than from that Affected Shareholder) provided that the:
  - (i) Crown has given a notice in writing to the Associated Person at the address provided to the Crown for that purpose by the Company (being the address for the Associated Person of the Affected Shareholder recorded on the share register) that the relevant shares are held by it are deemed to be "Breach Shares"; and
  - (ii) number of Shares held by the Associated Person that are deemed to be "Breach Shares" is not to exceed the number of Shares transferred to the Associated Person by the Affected Shareholder.

**25 Effect of Cancellation Notice**

If the Crown gives a Cancellation Notice under clause 23 and, if applicable, a notice to an Associated Person of an Affected Shareholder under clause 24(b)(i), then the following provisions are to apply:

- (a) the relevant Affected Shareholder will cease to have the right to sell, transfer or otherwise dispose of the Breach Shares, or any interest in them, with effect on and from the date of the Cancellation Notice;
- (b) on receipt of the Cancellation Notice, the Company shall:
  - (i) immediately direct the registrar of the share register to place a block on the Breach Shares to prevent the relevant Affected Shareholder from transferring the Breach Shares; and

(ii) as soon as reasonably practicable, sell the relevant Breach Shares on the NZX main board (or any successor market on which the Breach Shares are Quoted) on behalf of the relevant Affected Shareholder and pay to it the lesser of:

(A) the sale price for the relevant Breach Shares less the costs incurred by the Crown and the Company in connection with the cancellation of the sale, and the subsequent sale, of the Breach Shares; and

(B) the offer price at which Shares were allotted to investors under the IPO less the costs of the Company and the Crown in connection with the cancellation of the sale, and the subsequent sale, of the Breach Shares,

with any excess amount being payable to the Crown.

**26 Appointment of Company as agent and attorney**

For the purposes of clause 25, each and every Affected Shareholder will be deemed to have appointed, and does hereby irrevocably appoint, the Company as its agent and its attorney, in each case with full authority to act on its behalf in relation to the sale of Breach Shares under clause 25 and to sign all documents relating to such sale of Breach Shares and the Board shall (subject to clause 10) register a transfer of Breach Shares so sold, whether or not the sale has been properly completed and whether or not it is accompanied by the certificates (if any) for those Breach Shares.

**27 Title not affected by irregularity**

The purchaser's title to Breach Shares sold to it pursuant to clause 25(b)(ii) will not be affected by any irregularity or invalidity in the proceedings relating to the sale of those Breach Shares.

**28 No liability**

Subject to the obligation of the Company to pay the net proceeds from the sale of Breach Shares to the Affected Shareholder and any deemed Affected Shareholder pursuant to clause 25(b)(ii), none of the Crown, the Company, any Director, any officer or any employee of the Company is to have any liability to an Affected Shareholder or deemed Affected Shareholder (or any person who has a Relevant Interest in the relevant Breach Shares) for or in connection with the exercise or purported exercise of any of the powers permitted by clauses 23 to 27 (inclusive) or otherwise in connection with the provisions of clauses 23 to 27 (inclusive).

**GENERAL**

**29 Notices**

(a) A notice required to be given to a person under this Schedule may be given in the manner set out in section 391 of the Act, provided that where the Crown has provided the Company with an address for service (which address will be recorded in the share register) then notices to, or copies of notices that must be provided to, the Crown are to be given, or provided, to the Crown at that address.

- (b) The Company is not obliged to give any notice required under this Schedule to any person if it does not know either the identity or address of the person.
- (c) The absence of such a notice in such circumstances, and any accidental error in or failure to give any notice to any person to whom notice is required to be given under this Schedule will not prevent the implementation of or invalidate any procedure under this Schedule.

30 **Decisions final, conclusive and binding**

Any resolution or determination of, or decision or declaration or exercise of any discretion or power by, the Company or the Board under or pursuant to this Schedule is to be final and conclusive; and any disposal or transfer made, or other thing done, by or on behalf of, or on the authority of, the Company or the Board pursuant to this Schedule is to be conclusive and binding on all persons concerned and is not open to challenge, appeal or review, whether as to its validity or otherwise on any ground whatsoever.

31 **Certificate conclusive**

A certificate signed by a Director and countersigned by a second Director that a power of sale under clause 14, 15 or 25 has arisen and is exercisable by the Board, or that a Share has been duly transferred under clause 14, 15 or 25 on the date stated therein, is conclusive evidence of the facts stated therein.