
CONSTITUTION OF
WAIMAKARIRI IRRIGATION LIMITED

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PART A: INTRODUCTION

1. Defined terms

In this Constitution:

1.1 The following expressions have the following meanings:

the Act means the Companies Act 1993;

Associated Person has the meaning given to that expression in the Securities Act 1978;

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

Business Day means a day on which banks are open for business in Rangiora, not being a Saturday, Sunday or public holiday;

the Company means Waimakariri Irrigation Limited;

Co-op Act means the Co-operative Companies Act 1996;

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

Council means the Waimakariri District Council or any successor to that local authority;

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

Equity Securities means Shares, securities convertible into Shares, and options to acquire Shares;

Farmer means a person holding any interest in land and who uses water supplied by the Company on that land, or who will use water supplied by the Company on that land when such water is supplied by the Company.

Ordinary Resolution means a resolution approved by a simple majority of the votes of those holders of Equity Securities entitled to vote and voting on the question;

Services means the provision of water by the Company to a shareholder or applicant for Water Shares.

Share means a share in the Company;

Water Shares means any Shares issued to a Farmer for the purposes of supplying water for irrigation purposes. All references to Water Shares in this Constitution shall include Water Shares of any class;

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

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

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 gender;
- 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 The Schedules form part of this Constitution.

THE RELATIONSHIP BETWEEN THIS CONSTITUTION AND THE ACT

3. 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 and, while the Company is registered under the Co-op Act, set out in the Co-op Act, except to the extent that they are negated or modified, in accordance with the Act or the Co-op Act, as the case may be, by this Constitution.

4. Shareholders may alter or revoke this Constitution

The shareholders may alter or revoke this Constitution by special resolution.

PART B: SHARES AND SHAREHOLDERS

SHARES

5. Co-operative Company

5.1 The Company is authorised, and each shareholder of the Company authorises the Company, to register as a co-operative company under Section 6 of the Co-op Act.

5.2 The Company may carry out all or any of the co-operative activities set out in Section 3 of the Co-op Act either directly or indirectly, and the principal activity of the Company shall be such co-operative activity.

6. Share confers rights on shareholder

Subject to the terms on which a Share is issued, including those set out in this Constitution, a Share confers on the holder:

6.1 subject to the provisions of *clause 6.4* hereof the right to one vote on a poll at a meeting of shareholders on any resolution, including any resolution to:

6.1.1 appoint or remove a Director or an auditor in accordance with this Constitution;

6.1.2 adopt a Constitution;

6.1.3 alter this Constitution;

6.1.4 approve a major transaction;

- 6.1.5 approve an amalgamation under the Act; and
- 6.1.6 put the Company into liquidation;
- 6.2 a right to a rebate or dividends in respect of Shares according to the rights attached to Shares under this Constitution or in accordance with the terms of issue of any Shares;
- 6.3 the right to share in the distribution of assets of the Company according to the rights attached to each class of shares;
- 6.4 the holders of the Water Shares shall at all times be entitled to exercise one vote for each Water Share. In the event that the aggregate number of votes which could be cast on any poll or postal vote in respect of any matter, other than a poll or postal vote of an interest group pursuant to section 117(1) of the Act, by the holders of any other class of Equity Securities on issue in the Company in respect of those other classes of Equity Securities is forty per cent (40%) or more of the total number of votes which could be cast by all holders of Equity Securities on issue in the Company then the voting rights attached to those other classes of Equity Securities shall be reduced pro-rata until the aggregate number of votes which could be cast in respect of those other classes of Equity Securities does not exceed 40% of the total number of votes which could be cast in respect of all Equity Securities on issue on the Company.

7. Company must obtain approval before altering shareholders' rights

- 7.1 The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a special resolution of each interest group in accordance with the Act.
- 7.2 Subject to this Constitution, the Board may issue Shares that rank as to voting or distribution rights, or both, equally with or prior to any existing Shares, and any such issue will not be treated as an action affecting the rights attached to existing Shares.

8. Consolidation and subdivision

The Board may:

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

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

9. Agreement for provision of Services

9.1 All holders of Water Shares will enter into an agreement with the Company for the supply of Services. All holders of Water Shares will be subject to the Company's current standard terms and conditions for the supply of Services, whether or not they have signed an agreement for the provision of Services. The Company may change the terms on which it supplies Services at any time on notice in writing to the holders of Water Shares.

9.2 The Board shall be entitled to determine and alter from time to time a standard fee for preparing the above mentioned agreement. The Board may:

9.2.1 refuse to enter into the agreement; and/or

9.2.2 refuse to supply the Services; and/or

9.2.3 refuse to register a share transfer in respect of a shareholder to whom that agreement relates,

if the Company's fee (whether it is the standard fee or another fee determined by the Company to be appropriate in the circumstances) has not been paid.

10. Minimum shareholding

The minimum number of Water Shares that may be owned by any shareholder is 24. Nothing in this Constitution requires a holder of Water Shares as at the date of adoption of this Constitution to increase the number of Water Shares owned by them, except as may be required by the operation of clauses 14, 22.1 and 22.2.

ISSUE OF EQUITY SECURITIES

11. Board to issue Equity Securities

11.1 the Board may issue Equity Securities, at any time, to any person and in any number it thinks fit provided:

11.1.1 the issue by the Board is expressly authorised by *clause 12* or *clause 13* of this Constitution; or

11.1.2 the issue of those Equity Securities has been approved by an Ordinary Resolution; or

11.1.3 in the case of Shares of any class other than Water Shares, those Shares are issued in accordance with:

(a) the terms of conversion of securities convertible into Shares; or

(b) the terms of any option to acquire Shares; or

(c) the terms of any Equity Securities;

which have been issued in accordance with an Ordinary Resolution under *clause 11.1.2*;

12. Board may issue Water Shares

12.1 The Board may issue Water Shares as provided for by the Co-op Act and for such purpose:

12.1.1 all Water Shares on issue as at the date of adoption of this Constitution, to be known as “Original Water Shares”, shall have a nominal value of \$57.49; and

12.1.2 all Water Shares issued subsequent to the adoption of this Constitution in series 1 – 5000 will have the nominal value as indicated by their series number and set out in their terms of issue i.e. series 300 Water Shares will have a nominal value of \$300 and series 350 Water Shares will have a nominal value of \$350, and so on.

12.2 All Water Shares will have the same rights, notwithstanding that they may be issued in different series.

13. Board may issue new Equity Securities on pro rata basis

The Board may issue Equity Securities if:

13.1 those Equity Securities are offered to holders of existing Equity Securities on a basis which, if the offer were accepted by all such holders, would maintain the existing proportionate rights of each existing holder (relative to other holders of Equity Securities) to voting and distribution rights, whether that offer is renounceable or not; or

13.2 those Equity Securities are issued to holders of existing Equity Securities as fully paid securities on a basis which maintains the existing proportionate rights of each existing holder (relative to other holders of Equity Securities) to voting and distribution rights.

Notwithstanding *clauses 13.1* and *13.2*, the Board is entitled:

13.3 to issue any Equity Securities in respect of which an offer is not accepted, or which because of fractional entitlements are not otherwise offered, to such persons and in such manner as the Board considers equitable and in the interests of the Company, provided that the price and terms and conditions of the issue of such Equity Securities are not materially more favourable to the persons to whom they are issued than the terms of the original offer; and

13.4 to offer and issue Equity Securities to the holders of existing securities in accordance with specific rights attached to those existing securities to participate in issues of Equity Securities, notwithstanding that the effect may be that existing proportionate rights to voting and distribution rights are not maintained; and

13.5 to not offer or issue Equity Securities to holders of existing Equity Securities the terms of which expressly exclude the right to participate in the relevant offer or issue.

14. Minimum Shareholding

The Board must not issue Water Shares to any person or entity unless that person or entity will own not less than 24 Water Shares after the relevant issue of Water Shares.

15. Board may issue Redeemable Preference Shares

The Board may from time to time issue redeemable preference shares with the approval of an Ordinary Resolution.

16. No issue

If any issue of Equity Securities would cause the registration of the Company under the Co-op Act to be suspended then such issue shall not proceed unless it has first been authorised by the shareholders by special resolution.

17. Dividend and Rebate Rights attached to shares

The Board may determine in respect of any issue of Equity Securities to attach rights to dividends and/or rebates to such Equity Securities. Any dividends and rebates paid on Water Shares and any other Equity Securities shall be paid and distributed in such manner as the Board thinks fit.

SHARE REGISTER

18. Share register may be divided

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

TRANSFER OF SHARES

19. Signed transfer to be delivered to Company

Where Shares are to be transferred, a form of transfer signed by the present holder of the Shares, or by that holder's attorney, personal representative, or by any other person who may lawfully sign on behalf of that holder, must be delivered to the Company or to an agent who maintains the Company's share register. The transferee must sign the transfer form if the registration imposes a liability to the Company on the transferee. The transfer must include:

19.1 full name and address of transferor;

19.2 full name and address of transferee;

19.3 price paid for shares;

19.4 number of shares sold.

The share transfer must be accompanied by any other information requested by the Company. The Company may disclose the number of shares sold, the price and the date of the sale.

20. Share transfer fee to be paid

The Board shall be entitled to determine, and alter, from time to time a standard fee for processing a transfer of Shares. The Company shall not be required to:

20.1 register a transfer of Shares on the Company's share register;
or

20.2 enter into an agreement to purchase Services from the Company between the Company and the proposed transferee of those Shares;

until it has received payment of the fee invoiced by it whether it is the standard fee set by the Board or any other fee deemed appropriate by the Company in the circumstances.

21. Board may refuse or delay a Share transfer in certain cases

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares if:

21.1 the holder of the Shares has failed to pay the Company an amount due:

21.1.1 in respect of those Shares, whether by way of consideration for the issue of the Shares or in respect of sums payable by the holder of the Shares in accordance with this Constitution or otherwise; or

21.1.2 for any Services provided by the Company or for any other reason;

21.2 the holder of the Shares is not complying with any applicable terms on which the holder holds the Shares or purchases Services, other than by way of non-payment;

21.3 registration would impose a liability to the Company on the transferee and the transferee has not signed the transfer form; or

21.4 the transfer is for more than one class of Shares; or

21.5 the transfer is not in the form required by the Company or is not accompanied by:

21.5.1 such evidence as the Board may reasonably require to establish the right of the transferor to make the transfer; and

21.5.2 such other information as the Company may require; or

- 21.6 in respect of Water Shares, the transfer of Water Shares is not to a Farmer who purchases or intends to purchase Services from the Company and simultaneously to that transfer enters, or prior to that transfer has entered, into an agreement with the Company for the purchase of Services; or
- 21.7 any fee payable under *clause 20* in respect of the proposed transfer or under *clause 9* has not been received by the Company.

22. Board must refuse to register a Share transfer in certain cases

22.1 Subject to clause 22.2 the Board must refuse the registration of any transfer of Shares if:

22.1.1 the transfer is in respect of less than all of the Water Shares owned by the transferor and after the transfer of the Water Shares the subject of the transfer, and the transfer of any other Water Shares owned by the Shareholder and the subject of a share transfer submitted to the Board for registration, the transferor will own 23 or less Water Shares;

22.1.2 the transfer is to a transferee who:

- (a) does not own Water Shares at the date of the transfer; or
- (b) owns 23 or less Water Shares at the date of the transfer,

and after the transfer of the Water Shares the subject of the transfer, and the transfer of any other Water Shares to be transferred to the transferee Shareholder and the subject of a share transfer submitted to the Board for registration, the transferee will own 23 or less Water Shares;

22.1.3 it is required to do so by law; or

22.1.4 the transfer is a transfer of Water Shares and the Board is not satisfied, in its absolute discretion, that after having regard to the technical capability and capacity of the irrigation scheme operated by the

Company at the time of the proposed transfer, the supply of Services to the proposed transferee:

- (a) is technically possible;
- (b) can be provided with a certainty of supply (whether as to timing or quantity or flow or otherwise) the Board considers acceptable;
- (c) can be provided with the same efficiency as the supply of Services to the transferor; and
- (d) would not affect detrimentally the supply of Services to any existing shareholder (whether as to timing or quantity or flow or otherwise).

22.2 The Board may register the transfer of Water Shares when clause 22.1.2 would otherwise require the Board to refuse to register the transfer if:

22.2.1 the Board is satisfied the proposed transfer occurs in association with the sale of a property owned by the proposed transferor or an Associated Person of the proposed transferor, the proposed transferee is the purchaser of the property, and the proposed transfer is of all of the Water Shares held by the proposed transferor; and

22.2.2 the Board in its absolute discretion decides to register the transfer after having regard to any matters the Board considers to be relevant.

CALLS, FORFEITURE AND LIENS

23. Board may make calls

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

24. Forfeiture of Shares where calls or other amounts unpaid

The Board may commence procedures in accordance with the First Schedule for forfeiture of any Shares if the holder of those Shares fails to pay:

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

24.2 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.

25. Company's lien

The Company has a lien on Shares, proceeds of sale of Shares, and dividends on the terms set out in the First Schedule.

ACQUISITION OF OWN SHARES, REDEMPTIONS AND FINANCIAL ASSISTANCE

26. Company may acquire and hold Shares

Subject to this Constitution, the Company may purchase or otherwise acquire Shares and may hold those Shares in accordance with the Act. If the Company intends to transfer any Shares which it has acquired and held, such transfer will be treated as a new issue of Shares and the Board must first comply with the requirements of this Constitution for issues of Shares.

27. Board may acquire Shares in the Company on a non-proportional basis

Subject to this Constitution, the Board may purchase or otherwise acquire Shares from such shareholders and in such numbers or proportions as it thinks fit, in accordance with the Act.

28. Acquisition of Shares is restricted

The Company must not acquire Shares unless:

28.1 the acquisition is effected in compliance with section 60(1)(a) (read together with section 60(2)) of the Act; or

28.2 the precise terms and conditions of the specific proposal for the acquisition is approved by Ordinary Resolution of holders of all Equity Securities; or

28.3 the acquisition is required by a shareholder of the Company pursuant to sections 110 or 118 of the Act;

28.4 that acquisition is the surrender of shares having a nominal value pursuant to the provisions of the Co-op Act.

29. Company may redeem and surrender Shares

29.1 The Company may redeem redeemable shares in accordance with the Act and their terms of issue. The Company may exercise an option to redeem Shares issued by the Company in relation to one or more holders of Shares, in accordance with the Act and the terms of issue.

29.2 The Board may, in its absolute discretion, in the circumstances set out in and in accordance with section 21 of the Co-op Act and if otherwise so permitted to under the Co-op Act, require any shareholder to surrender all or any Shares in the Company having a nominal value held by that shareholder including, without limitation, where:

29.2.1 the shareholder has ceased to be a transacting shareholder; or

29.2.2 the shareholder has failed to comply in a material respect with requirements relating to transactions with the Company contained in any contract between the Company and the shareholder.

29.3 The consideration for the surrender of any shares in the Company having a nominal value shall be the nominal value of those Shares or a price determined by the Board. If the shareholder objects to the consideration determined by the Board, the shareholder may seek to have the consideration determined by arbitration in accordance with the Arbitration Act 1908.

29.4 The Board may resolve that any Shares in the Company having a nominal value that have been surrendered will not be deemed to be cancelled and the Company may hold any such Shares surrendered subject to the provisions of section 24 of the Co-op Act.

29.5 In lieu of the surrender of Shares as set out in the Co-op Act and this clause the Board may require a shareholder to transfer the Shares subject to surrender to such persons as the Board determines. If that shareholder does not within twenty Working Days after being notified of such requirement so transfer such Shares such shareholder shall be deemed to have appointed each Director the agent of that shareholder

for the sale of such Shares to a Farmer at the price determined as set out in *clause 29.3* or to have authorised the Board to surrender such Shares at the said price.

30. Financial assistance is restricted

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

30.1.1 the financial assistance is offered or given so that all holders of Equity Securities of the Company are treated, or given the opportunity to be treated, on the same basis; or

30.1.2 the financial assistance is given in accordance with section 80 of the Act; or

30.1.3 the proposal to give that assistance is approved by Ordinary Resolution of holders of Equity Securities whose rights or entitlements could be affected by the financial assistance.

30.2 The Company may give any person who is issued with Water Shares the right to pay the nominal amount of those Water Shares over such period as the Board considers appropriate.

DISTRIBUTIONS

31. Board's power to authorise rebates and dividends

31.1 The Board may pay rebates and other distributions on the Water Shares in accordance with Section 30 of the Co-op Act.

31.2 Where the Company has issued shares entitled to a dividend the Board must not authorise a dividend:

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

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

unless the amount of the dividend in respect of a Share of that class is in proportion to the amount paid to the Company in satisfaction of the liability of the shareholder under this Constitution or under the terms of issue of the Share or under the contract for the issue of the Share.

Nothing in this clause prevents the Board issuing Shares wholly or partly in lieu of dividend in accordance with the Act.

- 31.3 For the purpose of *clause 31 to 35* the word “dividend” shall include rebates and vice versa.
- 32. Shareholder may waive dividend**
Notwithstanding *clause 31*, a shareholder may waive his or her entitlement to receive a dividend by giving a written notice to the Company signed by or on behalf of the shareholder.
- 33. Board may deduct from distribution amounts owed to Company**
The Board may, at its discretion, deduct from any dividend or other distribution payable to any 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.
- 34. 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.
- 35. 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.

MEETINGS OF SHAREHOLDERS

- 36. Company must hold annual meeting of shareholders**
- 36.1 The Board must call an annual meeting of shareholders to be held:
- 36.1.1 once in each calendar year; and
- 36.1.2 not later than 15 months after the date of the previous annual meeting of shareholders; and

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

36.2 The Company must hold the meeting on the date on which it is called by the Board to be held.

37. Proceedings at meetings of shareholders

The Second Schedule governs the proceedings at meetings of shareholders.

PART C: DIRECTORS

APPOINTMENT AND REMOVAL

38. Number of Directors

38.1 The minimum number of Directors shall be four and the maximum number of Directors shall be eight.

38.2 The shareholders may change the minimum and/or the maximum number of Directors by Ordinary Resolution.

39. Appointment of Directors

39.1 The Directors shall be appointed as follows:

39.1.1 The Council may at any time by notice in writing to the Company appoint up to 2 persons who are not disqualified under the Act to act as Directors and may in the same way at any time remove any Director so appointed from office.

39.1.2 The holders of Water Shares may appoint up to 6 directors by Ordinary Resolution of the holders of Water Shares voting as a class.

40. Removal of Directors

Directors may be removed from office as follows:

40.1 Any Director appointed pursuant to *clause 39.1.1* may be removed from office by the Council giving notice in writing to the Company to that effect.

40.2 Any Directors appointed pursuant to *clause 39.1.2* may be removed from office by an Ordinary Resolution passed by the holders of the Water Shares voting as a class at a meeting

called for the purpose of, or for purposes that include, removal of the Director.

41. Rotation of Directors

- 41.1 While there are Directors holding office under *clause 39.1.1* those Directors shall hold office for a term of three years and shall retire (but be eligible for reappointment) at the annual meeting of the Company in the third year after the appointment.
- 41.2 At the annual meeting in every year at least one third (to the nearest whole number) of Directors appointed under *clause 39.1.2* must retire from office.
- 41.3 The Directors to retire at an annual meeting will be:
- 41.3.1 first, any Directors who wish to retire and do not offer themselves for re-election; and
- 41.3.2 secondly, if those retiring pursuant to *clause 41.3.1* do not constitute the number of Directors required to retire from office under *clause 41.2*, those of the other Directors who have been longest in office since their last election. If it is necessary that some but not all persons who became Directors on the same day retire then as between the persons who became Directors on the same day the persons who must retire shall be determined by lot.
- 41.4 A retiring Director continues to hold office until:
- 41.4.1 he or she is re-elected; or
- 41.4.2 if he or she is not re-elected, until the shareholders at any meeting at which he or she retires (or any adjournment of that meeting) elect someone in his or her place; or
- 41.4.3 if the meeting does not elect someone in his or her place, until the end of the meeting or any adjournment of the meeting.
- 41.5 A retiring Director who is not disqualified under the Act is eligible for re-election.
- 41.6 The holders of the Water Shares may by Ordinary Resolution fill the office vacated by a Director appointed by them who is retiring in

accordance with this clause by electing a person who is not disqualified under the Act to that office at the annual meeting at which the outgoing Director retires. If no new Director is elected and if the retiring Director (not being disqualified under the Act) is offering himself or herself for re-election, the retiring Director shall be regarded as having been re-elected unless it is expressly resolved by Ordinary Resolution not to fill the vacated office or a resolution for the re-election of that Director is not passed.

41.7 No person, other than a Director retiring pursuant *to clauses 41.1 to clause 41.3* will be eligible for election to the office of director at any annual meeting unless:

41.7.1 he or she has been recommended by the Board for election; or

41.7.2 there has, at least 20 working days before the meeting, been served on the Company a notice in writing, signed by a shareholder qualified to attend and vote at the meeting for which the notice is given, of his or her intention to propose that person for election and a notice in writing signed by the person of his or her willingness to be elected.

41.8 Notice of each and every eligible candidate for the office of Director must either be included in the notice of the meeting at which the election is to take place or be sent by the Company to all persons entitled to receive notice of the meeting at least 5 working days prior to the meeting. Failure to send such notice to any such person will not invalidate the nomination but the meeting, as far as the election of Directors is concerned, must be adjourned until such notices have been sent. However, the accidental omission to give such notice to, or the non-receipt of notice of a meeting by, any person does not invalidate the election of a Director at that meeting.

42. Board may fill casual vacancy on the Board

Subject to the maximum number of Directors under *clause 38.1* the Board may appoint any person to be a Director to fill a casual vacancy, except a vacancy under *clause 39.1.1*.

CHAIRPERSON

43. Directors to elect chairperson of the Board

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

44. Chairperson to hold office on certain terms

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

VACATION OF OFFICE

45. Office of Director vacated in certain cases

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

- 45.1 dies; or
- 45.2 is absent from 3 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
- 45.3 becomes disqualified from being a director pursuant to the Act; or
- 45.4 retires from office under *clause 41* and is not re-elected; or
- 45.5 resigns that office in accordance with this Constitution; or
- 45.6 is removed from office in accordance with this Constitution

46. Directors' resignation procedure

A Director may resign office:

- 46.1 by signing a written notice of resignation and delivering it to the address for service of the Company, the notice being effective when it is received at that address or at a later time specified in the notice; or
- 46.2 in any other manner permitted by the Act.

PROCEEDINGS OF THE BOARD

47. 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.

48. Written resolutions of Board permitted

A written resolution signed or assented to by at least 75% in number then entitled to receive notice of a meeting of the Board of the Directors is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Within 5 working days of a resolution being passed in accordance with this clause, the Company must send a copy of the resolution to every Director who did not sign the resolution or on whose behalf the resolution was not signed.

49. 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 facsimile or any similar means of communication, will satisfy the requirements of this clause.

DELEGATION OF POWERS

50. Restriction on Board's right to delegate its powers

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

51. Board delegates to comply with regulations

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

52. Committee proceedings

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

INTERESTED DIRECTORS

53. Directors must disclose their interests

Subject to section 140 of the Act, as soon as a Director becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, cause to be entered in the interests register, and disclose to the Board the nature of the interest and the monetary value, if it can be quantified, and if the monetary value cannot be quantified, the nature and extent of the interest.

54. Failure to disclose does not affect validity of transaction

Any failure by a Director to comply with *clause 53* does not affect the validity of a transaction entered into by the Company or the Director. However, the transaction may be avoided under *clause 53*.

55. Company may avoid transaction if Director interested

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

56. Interested Director may vote

A Director of the Company who is interested in a transaction entered into, or to be entered into, by the Company may unless a majority of the Directors request that Director who has an interest refrain from voting or taking part in any discussions or otherwise act as a Director in relation to that transaction:

56.1 vote on a matter relating to the transaction;

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

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

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

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

REMUNERATION

57. Board's power to authorise remuneration and other benefits is limited

57.1 The Board may authorise:

57.1.1 the payment of remuneration or other benefits by the Company to a Director for services other than as a Director, including in respect of any professional services provided by that Director to the Company;

57.1.2 the entering into of a contract to make a payment described in clause 57.1.1;

57.2 The Board may authorise payment or actions under section 161 of the Act other than those described in *clause 57.1* above only if the payment or action has been approved by Ordinary Resolution. Directors fees may be set as:

57.2.1 an annual monetary sum payable among all Directors (other than an executive Director); or

57.2.2 an annual monetary sum payable to any person holding office as a Director.

57.3 If remuneration is expressed in accordance with *clause 57.2.1* and there is an increase in the number of Directors holding office, the Board may, without the authorisation of an Ordinary Resolution, increase the total remuneration by the amount required to enable the Company to pay the additional Director or Directors remuneration not exceeding the average amount then being paid to each of the other non-executive Directors (other than the chairperson).

57.4 No resolution which increases the amount fixed under a previous resolution is to be passed at a meeting of shareholders of the Company unless notice of the amount of the proposed increase has been given in the notice of meeting.

57.5 If the Company determines to make loans or advances or gives or permits the giving of other benefits for all shareholders, or the shareholders of a particular class then any Director who is also a shareholder of that class may accept that loan advance or other benefit without the requirement for any approval from shareholders, unless the approval of shareholders is required by the Act or this Constitution in respect of the loans, advances or benefits.

58. 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 of the Company, without requiring the prior authorisation of shareholders.

ALTERNATE DIRECTORS

59. Directors may appoint and remove alternate Directors

Every Director may:

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

59.2 remove that person from that office,

by giving written notice to that effect to the Company.

60. Alternate Director has powers of appointor

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

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

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

61. 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.

PART D: GENERAL

INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

62. Company may indemnify directors and employees for certain liabilities

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

63. 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.

EXECUTION OF CONTRACTS

64. Manner of execution

A contract or other enforceable obligation may be entered into by the Company as follows:

64.1 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:

64.1.1 two or more Directors; or

64.1.2 a Director, or any other person authorised by the Board whose signature must be witnessed; or

64.1.3 one or more attorneys appointed by the Company in accordance with this Constitution;

64.2 an obligation which, if entered into by a natural person, is by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and

64.3 an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company in writing or orally by a person acting under the Company's express or implied authority.

65. Company may appoint attorneys

The Company may, by an instrument in writing executed in accordance with *clause 64.1*, appoint one or more persons as its attorney or attorneys either generally or in relation to a specified matter or matters. An act of an attorney in accordance with that instrument binds the Company.

LIQUIDATION

66. Distribution of assets in kind

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

66.1 divide among the shareholders in kind the whole or any part of the assets of the Company and for that purpose the liquidator may:

66.1.1 fix such values for assets as the liquidator considers to be appropriate, and

66.1.2 determine how the division will be carried out as between shareholders or different classes of shareholder; and

66.2 vest the whole or any part of any such assets in trustees upon such trusts for the benefit such of those shareholders as the liquidator thinks fit,

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

REMOVAL OF COMPANY FROM REGISTER

67. Directors may remove Company from register

If the Company has ceased to carry on business and:

67.1 discharged in full its liabilities to all known creditors, and distributed its surplus assets in accordance with the Act; or

67.2 has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court for an order putting the Company into liquidation,

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

FIRST SCHEDULE: CALLS, FORFEITURE AND LIENS

INTERPRETATION

1 Clause references

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' written notice specifying the time or times and the place of payment must pay, in accordance with that notice, the amount called to be paid in respect of any Shares that he or she holds. The Board may revoke or postpone a call, or require a call to be paid by instalments.

3 Call made when Board resolution passed

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

4 Joint holders are jointly and severally liable

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

5 Unpaid calls will accrue interest

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

6 Amounts payable under terms of issue treated as calls

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

7 Board may differentiate between holders as to calls

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

8 Board may accept payment in advance for calls

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

FORFEITURE OF SHARES

9 Directors may by notice require forfeiture of Shares if calls unpaid

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

10 Notice of forfeiture must satisfy certain requirements

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

11 Failure to comply with notice may lead to forfeiture

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

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

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

12 Board may deal with forfeited Share

The Board must first offer any forfeited Shares to existing shareholders, other than the shareholder holding the forfeited Shares at the time of forfeiture, as if they were new shares about to be issued by the Company. Subject to this requirement, a forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment or other amount 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 he or she owes the Company, but that liability shall cease if the Company receives payment in full of all money owing for those Shares.

14 Director's statutory declaration is conclusive

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

15 Company may sell forfeited Share

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

LIENS**16 Company's lien**

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

16.1 all Shares registered in the name of a shareholder (whether solely or jointly with others);

16.2 the proceeds of sale or the surrender of such Shares; and

16.3 all dividends authorised in respect of such Shares,

for:

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

16.5 interest on any such calls or instalments;

16.6 sale expenses owing to the Company in respect of any such Shares; and

16.7 any money, debts or other liabilities owing or due and payable to the Company on any account whatsoever and whether solely or jointly with any other person;

16.8 any amounts that the Company may be called on to pay under any statute, regulation, ordinance or other law in respect of the Shares of a shareholder, whether the period for payment has arrived or not.

17 Waiver of lien

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

18 Company may sell Share on which it has a lien

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

18.1 the lien on the Share is for a sum which is presently payable; and

18.2 the registered holder of the Share, or the person entitled to it on his or her death or bankruptcy, has failed to pay that sum within 10 working days after the Company has served him or her with written notice demanding payment of that sum.

19 The Company may transfer Share and apply proceeds

19.1 The Company may receive consideration given for a Share sold under *clause 18*, and may execute a transfer of the Share in favour of the person to whom the Share is sold, and register that person as the holder of the Share discharged from all calls due prior to the purchase. The purchaser shall not be bound to see to the application of the purchase money, and his or her title to the Shares shall not be affected by any irregularity or invalidity in the proceedings relating to the sale.

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

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 state:

3.1 the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgement in relation to it; and

3.2 the text of any special resolution to be submitted to the meeting.

4. Irregularities in notice may be waived

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

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

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

6. Notice of an adjournment

6.1 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.

6.2 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

7. Methods of holding meetings

A meeting of shareholders may be held either:

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

7.2 by means of an audio, or audio and visual, communication by which all shareholders participating and constituting a quorum can simultaneously hear each other throughout the meeting.

The Company is not required to hold meetings of shareholders in the manner specified in *clause 7.2*. 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.

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

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

9. Quorum for shareholders' meeting

A quorum for a meeting of shareholders is present if 10 or more shareholders are present in person or by proxy or if less than 10

shareholders are so present at least 5 shareholders able to exercise votes on 10% or more of the voting shares on issue are present.

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

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

11. Other meetings to be adjourned if no quorum

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a meeting convened on the request of shareholders), 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

12. 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.

13. 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.

14. As a last resort shareholders may elect chairperson

If at any meeting of shareholders, no Director is willing to act as chairperson or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting, the

shareholders present may elect one of their number to be chairperson of the meeting.

15. Chairperson's power to adjourn meeting

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

15.1 may adjourn the meeting with the consent of the shareholders entitled to attend and vote at that meeting; and

15.2 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.

VOTING

16. Voting by show of hands or voice vote at meeting

In the case of a meeting of shareholders held under *clause 7.1*, 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.

17. Voting by voice if audio-conference meeting

In the case of a meeting of shareholders held under *clause 7.2*, unless a poll is demanded, voting at the meeting will be by the shareholders signifying individually their assent or dissent by voice or by such other manner as the chairperson may decide.

18. 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.

19. Shareholder loses certain voting rights if calls unpaid

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

20. Chairperson not allowed casting vote

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

21. Chairperson's declaration of result

Unless a poll is demanded, a declaration by the chairperson of the meeting that a resolution on a show of hands or voice vote or by such manner as the chairperson may have decided under *clause 17* is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

POLLS

22. Poll may be demanded by chairperson or shareholders

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

22.1 the chairperson, at his or her absolute discretion;

22.2 at least 5 shareholders having the right to vote at the meeting;

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

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

23. 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.

24. 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.

- 25. Result of a poll to be treated as resolution of the meeting**
The result of a poll declared by the chairperson of the meeting will be treated as the resolution of the meeting at which the poll was demanded on the issue for which the poll was taken.
- 26. 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.
- 27. 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.
- 28. Dissolved meetings - unfinished business**
If the chairperson proposes to dissolve a meeting pursuant to *clause 27*, 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.

SHAREHOLDER PROPOSALS

- 29. 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.
- 30. Board to give notice of proposal at Company's expense**
If the Board receives the notice at least 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, at the expense of the Company, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

- 31. Board to give notice of proposal at shareholder's expense**
If the Board receives the notice at least 5 working days and not more than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- 32. Board may give notice of proposal on short notice**
If the notice is received by the Board less than 5 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board may, if reasonably practicable, and at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- 33. Proposing shareholder may include statement**
If the Directors intend that shareholders may vote on the proposal by proxy or by postal vote, they must give the proposing shareholder the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.
- 34. Board may exclude statement in some cases**
The Board is not required to include in or with the notice given by the Board a statement prepared by a shareholder which the Directors consider to be defamatory, frivolous or vexatious.
- 35. Shareholder to give security for costs for proposal with short notice**
Where the costs of giving notice of the shareholder proposal and the text of any proposed resolution are required to be met by the proposing shareholder, the proposing shareholder must, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

PROXIES

36. Proxies permitted

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

37. 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.

38. Appointment of proxy must be in writing and specify restrictions

A proxy must be appointed by a notice in writing that is signed by the shareholder, and the notice must state whether the appointment is for a particular meeting or a specified term not exceeding 12 months. A proxy need not be a shareholder of the Company.

39. Notice of proxy to be produced before meeting

No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company by 5pm on the last Business Day before the date set 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.

40. Form of notice of proxy

A notice appointing a proxy shall be in the form set out in the Fourth Schedule or in a form as near to it as circumstances allow, or in such other form as the Board may direct.

41. Vote by proxy valid where Company not notified before meeting of disqualified proxy

Where:

41.1 the shareholder has died or become incapacitated; or

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

41.3 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

42. Postal votes are permitted

If the Board determines that a postal vote is to be held in respect of any resolution then a shareholder may exercise the right to vote at a meeting by casting a postal vote in accordance with the following provisions.

43. Notice of meeting to state name of person authorised to receive and count postal votes

The notice of a meeting at which shareholders are entitled to cast a postal vote must state the name of the person authorised by the Board to receive and count postal votes at that meeting.

44. Directors may be regarded as authorised to receive and count postal votes

If no person has been authorised to receive and count postal votes at a meeting, or if no authorised person is named in the notice of the meeting, every Director is regarded as being authorised for that purpose.

45. Manner in which postal vote to be cast

A shareholder may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice setting out the manner in which that shareholder's Shares are to be voted to a person authorised to receive and count postal votes at that meeting. The notice must reach that person by not later than 5pm on the last Business Day before the day set for the meeting or the adjourned meeting.

46. Duties of person authorised to collect and count postal votes

It is the duty of a person authorised to receive and count postal votes at a meeting:

- 46.1 to collect together all postal votes received by him or her or by the Company; and
- 46.2 in relation to each resolution to be voted on at the meeting, to count:
 - 46.2.1 the number of shareholders voting in favour of the resolution and the number of votes cast by each shareholder in favour of the resolution; and
 - 46.2.2 the number of shareholders voting against the resolution, and the number of votes cast by each shareholder against the resolution; and
 - 46.2.3 the number of shareholders abstaining from voting on the resolution and the number of votes held by those shareholders;
- 46.3 to sign a certificate stating that he or she has carried out the duties set out in *clauses 46.1* and *46.2* and setting out the results of the counts required by *clause 46.2*; and
- 46.4 to ensure that the certificate required by *clause 46.3* is presented to the chairperson of the meeting.

47. Chairperson to take postal votes into account

If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting must:

- 47.1 on a vote by show of hands, count each shareholder who has submitted a postal vote for or against the resolution;
- 47.2 on a poll, count the votes cast by each shareholder who has submitted a postal vote for or against the resolution.

48. Chairperson must call for poll if postal votes will affect result

Where the chairperson of a meeting holds sufficient postal votes on a resolution so as to lead the chairperson to believe that if a

poll were taken the result may differ from that obtained on a show of hands, then he or she must call for a poll on that resolution.

49. Certificate of postal votes to be annexed to minutes

The chairperson of a meeting must ensure that a certificate of postal votes held by him or her is annexed to the minutes of the meeting.

50. Form of postal vote

A postal vote shall be in the form set out in the Fifth Schedule or in a form as near to it as circumstances allow, or in such other form as the Board may direct.

CORPORATE REPRESENTATIVES

51. 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. Representatives must be appointed in by notice in writing from the shareholder received by no later than 5pm on the last Business Day before the date set for the meeting or adjourned meeting. The representative shall be entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder. The Company is entitled to treat an appointment as a corporate representative as valid until such time as the Company receives written notice from the shareholder that it is no longer valid (which notice must be given before 5pm on the last Business Day before the date set for the meeting or the adjourned meeting). The Company is not required to check that any appointment remains valid.

MINUTES

52. Board must keep minutes of proceedings

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

OTHER PROCEEDINGS

53. Meeting may regulate other proceedings

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

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

3. Notice to contain certain details

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

4. Period of notice required to be given to Directors

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

5. Absent Directors

If a Director, who is for the time being absent from New Zealand, supplies the Company with a facsimile number or address or electronic mail address to which notices are to be sent during his or her absence, then notice must be given to that Director. Otherwise notice need not be given to any Director 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 either:

7.1 By a number of Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or

7.2 By means of audio, or audio and visual, communication by which a quorum of Directors participating can simultaneously hear each other throughout the meeting.

8. Quorum for Board meeting

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

9. Meeting adjourned if no quorum

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the following working day 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.

CHAIRPERSON

10. Chairperson to chair meetings

The chairperson of the Board will chair all meetings of the Board at which he or she is present. If no chairperson of the Board is elected, or if at a meeting of the Board the chairperson of the Board is not present within 5 minutes from the time appointed for

the meeting, then the Directors present may elect one of their number to chair the meeting.

VOTING

11. Voting on resolutions

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

12. Chairperson casting vote

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

MINUTES

13. Board must keep minutes of proceedings

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

OTHER PROCEEDINGS

14. Board may regulate other proceedings

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

FOURTH SCHEDULE: PROXY FORM**WAIMAKARIRI IRRIGATION LIMITED****PROXY FORM****SECTION 1: SHAREHOLDER DETAILS (please print clearly)**

Full name:

Full address:

If shares are held jointly, enter details of other joint holders:

Full name:

Full address:

Full name:

Full address:

SECTION 2: APPOINTMENT OF PROXY

(Please note that if the shares are held jointly, the appointment made in this section is made on behalf of each joint holder).

I appoint

Full name:

Full address:

as my proxy to exercise my vote at the *[annual/special] meeting of shareholders of the Company to be held on *[date], and at any adjournment of that meeting. If the person I have appointed is unable to be my proxy then I appoint

Full name:

Full address:

SECTION 3: VOTING INSTRUCTIONS

(Please note that if the shares are held jointly, the voting instructions given in this section are given on behalf of each joint holder).

(Tick the box that applies)

I direct my proxy to vote in the following manner: For Against Discretion Abstain

***[General Business]**

- | | | | | |
|----|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

***[Special Business]**

- | | | | | |
|----------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| *[4. <i>Identify resolution]</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|----------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|

Signed by each shareholder named in Section 1

Date:

NOTES

1. *As a shareholder you may attend the meeting and vote, or you may appoint a proxy to attend the meeting. A proxy need not be a shareholder of the Company.*
2. *If you are joint holders of shares each of you must sign this proxy form. If you are a Company this proxy form must be signed on behalf of the Company by a person acting under the Company's express or implied authority.*
3. *For this proxy form to be valid, you must complete it and produce it to the Company by 5pm on the business day before the date set for holding the meeting. You can produce it to the Company by:*

- *Delivering it to the *[Company's registered office at [full address]/other addressee details]; or*
- *Posting it to the *[Company's registered office at [postal address]/other addressee details]; or*
- *Faxing it to the Company at its facsimile number: *[give facsimile number],*

in each case, so that it is received by the time specified in note 3 above.

4. *If this proxy form has been signed under a 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 be produced to the Company with this proxy form.*
5. *If you return this form without directing the proxy how to vote on any particular matter, the proxy will vote as he or she thinks fit.*

FIFTH SCHEDULE: POSTAL VOTING FORM

WAIMAKARIRI IRRIGATION LIMITED

POSTAL VOTING FORM

To: *[Name of person authorised to receive and count postal votes at the meeting]

*[Full postal address]

SECTION 1: SHAREHOLDER DETAILS (please print clearly)

Full name:

Full address:

If shares are held jointly, enter details of other joint holders:

Full name:

Full address:

Full name:

Full address:

SECTION 2: VOTE

(Tick the box that applies)

I/We vote in the following manner: For Against Abstain

***[General Business]**

- | | | | |
|----|--------------------------|--------------------------|--------------------------|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

***[Special Business]**

- | | | |
|---------------------------|--------------------------|--------------------------|
| *[4. Identify resolution] | <input type="checkbox"/> | <input type="checkbox"/> |
|---------------------------|--------------------------|--------------------------|

Signed by the shareholders named in Section 1

Date:**NOTES**

1. *As a shareholder you may attend the meeting and vote, or you may cast a postal vote. In casting a postal vote you may vote on any one or more of the matters set out in Section 2 of this form.*
2. *If you are joint holders and intend to cast a postal vote, ideally each of you should sign this form. But if for any reason that is not possible, at least one of you must sign this form. If you are a Company this form must be signed on behalf of the Company by a person acting under the Company's express or implied authority.*
3. *For this postal voting form to be valid, you must complete it and send it to *[name of person authorised to receive and count postal votes] at *[full postal address] so as to ensure that it reaches *[him/her] by *[time] on *[day and date]. If it has been signed under a power of attorney please send 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 with this form.*