

This is the constitution of Tilt Renewables Limited (*company number 1212113*) (the "**Company**").

The constitution will take effect immediately prior to the implementation of the proposed demerger of Trustpower Limited (*company number 604040*).

**CONSTITUTION
OF
TILT RENEWABLES LIMITED**

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	1
2.	CONFIRMATION OF OFFICE	4
3.	GENERAL - LISTING RULES	4
4.	SHARES	5
5.	ISSUE OF NEW SHARES AND EQUITY SECURITIES	6
6.	ALTERATION OF RIGHTS OF SECURITY HOLDERS	7
7.	ACQUISITION AND REDEMPTION OF EQUITY SECURITIES	7
8.	EQUITABLE INTERESTS IN SHARES	7
9.	CALLS ON SHARES	8
10.	FORFEITURE OF SHARES	9
11.	LIEN ON SHARES	9
12.	SALE OF SHARES SUBJECT TO FORFEITURE OR LIEN	10
13.	TRANSFER OF SHARES	10
14.	TRANSMISSION OF SHARES	13
15.	DISTRIBUTIONS	13
16.	EXERCISE OF POWERS OF SHAREHOLDERS	14
17.	MEETINGS OF SHAREHOLDERS	15
18.	NOTICE OF MEETINGS OF SHAREHOLDERS	15
19.	PROCEEDINGS AT MEETINGS OF SHAREHOLDERS	16
20.	CHAIRPERSON OF MEETINGS OF SHAREHOLDERS	17
21.	VOTING AT MEETINGS OF SHAREHOLDERS	18
22.	RESTRICTIONS ON VOTING	18
23.	POLLS	19
24.	PROXIES	19
25.	ELECTRONIC APPOINTMENTS AND VOTING	20
26.	CORPORATE REPRESENTATIVE	20
27.	SHAREHOLDER PROPOSALS AND MANAGEMENT REVIEW	21
28.	DIRECTORS	21
29.	ALTERNATE DIRECTORS	23
30.	MANAGING DIRECTOR	24
31.	REMUNERATION AND OTHER BENEFITS OF DIRECTORS	24
32.	INDEMNITY AND INSURANCE	24
33.	POWERS OF DIRECTORS	26
34.	INTERESTS OF DIRECTORS	26
35.	PROCEEDINGS OF BOARD	27
36.	METHOD OF CONTRACTING	30
37.	INSPECTION OF RECORDS	30

38.	NOTICES	30
39.	LIQUIDATION	31

CONSTITUTION
OF
TILT RENEWABLES LIMITED

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** In this Constitution, unless the context otherwise requires:

"**Act**" means the Companies Act 1993.

"**Alternate Director**" means a person appointed by a Director as his or her alternate under clause 29.

"**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 008 504 532).

"**ASX Settlement Operating Rules**" means the 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.

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

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

"**Class**" means a class of Securities having identical rights, privileges, limitations and conditions, and includes or excludes Securities which NZX in its discretion deems to be, or not to be, of that class.

"**Company**" means Tilt Renewables Limited.

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

"**CS Facility Rules**" means the operating rules of an applicable CS Facility Licensee.

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

"**Distribution**" has the meaning set out in section 2(1) of the Act.

"**Equity Security**" means an Equity Security as defined in the NZX Rules issued, or to be issued, by the Company, as the case may require.

"**FMCA**" means the Financial Markets Conduct Act 2013.

"Holding Adjustment" has the meaning given to that term in the ASX Settlement Operating Rules.

"Interest Group" has the meaning set out in section 116 of the Act.

"Interested", in relation to a Director, has the meaning set out in section 139 of the Act.

"Issuer Sponsored Holding" the meaning given to that term in the ASX Settlement Operating Rules.

"Listed" in respect of the NZX Main Board, has the meaning in the NZX Rules and, in respect of the ASX, means admitted to the official list of the ASX.

"Managing Director" means a person appointed as a managing director of the Company under clause 30.1.

"month" means calendar month.

"NZX Main Board" means the main board equity security market operated by NZX.

"NZX" means NZX Limited and includes its successors and assigns and as the context permits includes any duly authorised delegate of NZX (including NZ Markets Disciplinary Tribunal).

"NZX Rules" means the Listing Rules of NZX in force from time to time, subject to any waiver or Ruling relevant to the Company granted by NZX from time to time.

"NZ Markets Disciplinary Tribunal" has the meaning in the NZX Rules.

"Ordinary Resolution" means a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the question.

"person" includes an individual, partnership, firm, company, body corporate, corporation, association, organisation, trust, a state or government or any agency thereof, a municipal, local or regional authority, and any other entity or organisation, whether incorporated or not (in each case whether or not having a separate legal personality).

"Personal Representative" means:

- (a) in relation to a deceased individual Shareholder, the executor, administrator or trustee of the estate of that Shareholder;
- (b) in relation to a bankrupt individual Shareholder, the assignee in bankruptcy of that Shareholder; and
- (c) in relation to any other individual Shareholder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed thereunder, and a donee of an enduring power of attorney complying with that Act.

"Records" means the documents required to be kept by the Company under section 189(1) of the Act.

"Representative" means:

- (a) a person appointed as a proxy under clause 24;

- (b) a Personal Representative; or
- (c) a representative appointed by a corporation under clause 26.

"**Ruling**" has the meaning in the NZX Rules.

"**Share**" means a share issued, or to be issued, by the Company, as the case may require.

"**Shareholder**" means a person whose name is entered in the Share Register as the holder for the time being of one or more Shares.

"**Share Register**" means the share register for the Company kept in accordance with the Act.

"**Share Registrar**" means an agent appointed by the Company to maintain the Share Register.

"**Special Resolution**" means a resolution approved by a majority of 75% or more of the votes of those Shareholders entitled to vote and voting on the question.

"**Working Day**" has the meaning set out in section 2(1) of the Act.

1.2 **Definitions in the NZX Rules:** Words and expressions in this Constitution which commence with initial capital letters and are not defined in clause 1.1 but are defined in the NZX Rules have the respective meanings given to them by the NZX Rules.

1.3 **Definitions in Act and FMCA:** Subject to clauses 1.2 and 1.5(b), expressions which are defined in the Act and/or the FMCA (whether in section 6 of the FMCA, or elsewhere for the purposes of a particular subsection, section or sections) have the meanings given to them by the Act and/or the FMCA. Where an expression is defined in the Act and/or the FMCA more than once and in different contexts, its meaning will be governed by the context in which it appears in this Constitution.

1.4 **Interpretation:** In this Constitution, unless the context otherwise requires:

- (a) the table of contents, headings, and descriptions relating to sections of the Act, are inserted for convenience only and shall be ignored in construing this Constitution;
- (b) the singular includes the plural and vice versa;
- (c) one gender includes the other genders;
- (d) reference to any legislation or to any provision of any legislation (including regulations and orders) includes:
 - (i) that legislation or provision as from time to time amended, re-enacted or substituted;
 - (ii) any statutory instruments, regulations, rules and orders issued under that legislation or provision;
- (e) "written" and "in writing" include any means of representing or reproducing words, figures and symbols in a tangible and visible form;

- (f) references to clauses and sections (other than sections of the Act) are references to clauses and sections in this Constitution, unless stated otherwise;
- (g) where any word or expression is defined in this Constitution, any other grammatical form of that word or expression has a corresponding meaning;
- (h) a reference to a NZX Rule or the NZX Rules includes that NZX Rule or NZX Rules as from time to time amended or substituted;
- (i) a reference to an ASX Rule or the ASX Rules includes that ASX Rule or ASX Rules as from time to time amended or substituted; and
- (j) a reference to "**permitted by the Act**" or "**permitted by the NZX Rules**" means not prohibited by the Act or not prohibited by the NZX Rules (as the case may be).

1.5 **Constitution not to prevail over Act:** This Constitution has no effect to the extent that it contravenes the Act, or is inconsistent with it, provided that if there is any conflict between:

- (a) a provision in this Constitution and a provision in the Act which is expressly permitted to be altered by this Constitution; or
- (b) a word or expression defined or explained in the Act and a word or expression defined or explained in this Constitution,

the provision, word or expression in this Constitution prevails.

2. CONFIRMATION OF OFFICE

2.1 **Confirmation in Office:** All offices, elections, and appointments (including of or to the Board and committees of the Board), registers, registrations, records, instruments, delegations, plans 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 adopted by the Shareholders shall continue and be deemed to be effective and in full force under this Constitution.

3. GENERAL - LISTING RULES

3.1 **Companies Act 1993:** 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 by this Constitution.

3.2 **Compliance with NZX Rules:** Notwithstanding anything else in this Constitution, for so long as the Company is Listed on the NZX Main Board:

- (a) those provisions of the NZX Rules which are required to be contained or incorporated by reference in this Constitution, as they may be modified by any Ruling relevant to the Company, will be deemed to be incorporated in this Constitution and have the same effect as if they were set out in full with any necessary modification;
- (b) the Company must comply with the NZX Rules (as modified by, and subject to, any waiver or Ruling);

- (c) if this Constitution contains any provision inconsistent with the NZX Rules, as modified by any waiver or Ruling relevant to the Company, then the relevant NZX Rules (as modified by any such waiver or Ruling) prevail;
- (d) if the NZX Rules are changed so that any act or omission by the Company, which was formerly prohibited by the NZX Rules, is subsequently required or permitted by the change, the act or omission is deemed to be authorised by this Constitution with effect from the date of the change;
- (e) Shareholders must not cast a vote if prohibited from doing so by the NZX Rules; and
- (f) Directors must not cast a vote if prohibited from doing so by the NZX Rules.

3.3 Effect of failure to comply with NZX Rules or the ASX Rules: Failure to comply with:

- (a) any of the NZX Rules;
- (b) any of the ASX Rules; or
- (c) a clause of this Constitution corresponding with a provision of the NZX Rules or the ASX Rules,

shall not affect the validity or enforceability of any transaction, contract, action or other matter whatsoever (including the proceedings of, or voting at, any meeting) done or entered into by, or affecting, the Company, except that a party to a transaction or contract who knew of the failure to comply with those NZX Rules, those ASX Rules or those clauses of this Constitution corresponding with a provision of the NZX Rules or the ASX Rules, is not entitled to enforce that transaction or contract. This clause shall not affect the rights of any holder of any Securities of the Company against the Company or the Directors arising from failure to comply with the NZX Rules, the ASX Rules or any provision of this Constitution.

3.4 Effect of Ruling or waiver: If any ruling or waiver is granted by NZX or the ASX in respect of any act or omission which, in the absence of that ruling or waiver, would be in contravention of the NZX Rules, the ASX Rules and/or this Constitution, that act or omission will, unless a contrary intention appears in this Constitution, be regarded as being authorised by this Constitution and the relevant listing rules.

3.5 Cessation: Clauses 1.2, 3.2, 3.3 and 3.4 apply only for so long as the Company is party to a listing agreement with NZX or ASX (as the case may be). If the Company ceases to be party to a listing agreement with NZX or ASX (as the case may be) those clauses shall cease to have effect in so far as they relate to the Company's Listing on the NZX Main Board or ASX official list (as the case may be).

4. SHARES

4.1 Existing Shares: At the time of adoption of this Constitution, the Company has issued Shares, with the rights set out in section 36 of the Act. No money is payable for calls or otherwise on those Shares.

4.2 Consolidation and subdivision: The Board may:

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

in each case in proportion to those Shares or the Shares in that Class, as the case may be.

4.3 **Classes of Shares:** Different Classes of Shares may be issued by the Company. Without limiting the Classes which may be issued, any Share may be issued upon the basis that it:

- (a) ranks equally with, or in priority to, any existing Share;
- (b) confers preferential rights to distributions of capital or income;
- (c) confers special, limited or conditional voting rights;
- (d) does not confer voting rights;
- (e) is redeemable in accordance with section 68 of the Act; or
- (f) is convertible.

5. ISSUE OF NEW SHARES AND EQUITY SECURITIES

5.1 **Powers of Board to issue:** The Board may issue Equity Securities that rank as to voting or distribution rights or both, equally with or prior to any existing Equity Securities in the Company to any person and in any number it thinks fit provided that the issue is in accordance with this Constitution and (for so long as the Company is Listed) the provisions of the NZX Rules. Any such issue shall not be treated as an action affecting the rights attached to the existing Equity Securities unless the terms of the issue of those Equity Securities expressly provide otherwise.

5.2 **Board need not comply with statutory pre-emptive rights:** The provisions of sections 45(1) and 45(2) of the Act shall not apply to any issue or proposed issue of Shares by the Company. If the Board issues Equity Securities that rank as to voting or distribution rights, or both, equally with or prior to the Equity Securities already issued by the Company, the Board need not first offer those Equity Securities for acquisition to existing holders.

5.3 **Bonus issues:** Subject to the NZX Rules, the Board may resolve to apply any amount which is available for Distribution either:

- (a) in paying up in full Shares or other Securities of the Company to be issued credited as fully paid to:
 - (i) the Shareholders who would be entitled to that amount if it were distributed by way of dividend, and in the same proportions; and
 - (ii) if applicable, the holders of any other Securities of the Company who are entitled by the terms of issue of such Securities to participate in bonus issues by the Company, whether at the time the bonus issue is made to the Shareholders, or at some later time, in accordance with their respective entitlements; or
- (b) in paying up any amount which is unpaid on any Shares held by the Shareholders referred to in clause 5.3(a)(i),

or partly in one way and partly in the other.

5.4 **Share certificates:**

- (a) The Directors will not, unless they determine otherwise or the Act, the NZX Rules, the ASX Settlement Operating Rules or the CS Facility Rules require, issue a certificate to a Shareholder for any Shares registered in the Shareholder's name.
- (b) Any certificate for Shares must be issued and despatched in accordance with the Act, the NZX Rules, the ASX Settlement Operating Rules and the CS Facility Operating Rules.
- (c) The Directors may order worn-out or defaced certificates to be cancelled and, if necessary, replaced by new certificates.

6. **ALTERATION OF RIGHTS OF SECURITY HOLDERS**

- 6.1 **Procedure in respect of Shares:** The Company shall, before taking action affecting the rights attached to any Shares, comply with the provisions of sections 116 and 117 of the Act.

7. **ACQUISITION AND REDEMPTION OF EQUITY SECURITIES**

- 7.1 **Powers to acquire, hold and redeem Securities:** The Company may:

- (a) purchase or otherwise acquire Shares or other Equity Securities from one or more of the holders;
- (b) hold as treasury stock any Shares or other Equity Securities so purchased or acquired;
- (c) issue or redeem any redeemable Shares or other Equity Securities held by one or more of the holders;
- (d) exercise an option to redeem redeemable Shares issued by the Company in relation to one or more holders of redeemable Shares, and
- (e) 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 provisions, and subject to the restrictions, of the Act, this Constitution, and the NZX Rules and the ASX Rules.

8. **EQUITABLE INTERESTS IN SHARES**

- 8.1 **No notice of trusts:** No notice of a trust, whether express, implied, or constructive, may be entered on the Share Register.

- 8.2 **No recognition of equitable interests:** Except as required by law or by this Constitution, no person shall be recognised by the Company as holding any Share upon trust and the Company shall not be bound by, nor be compelled to recognise (even after notice), any equitable, contingent, future or partial interest in any Share, or any interest in any fraction or part of a Share or (except as provided by this Constitution or by law) any other rights in respect of any Share, except an absolute right of the registered holder to the entire Share.

9. CALLS ON SHARES

- 9.1 **Board may make calls:** The Board may, from time to time, make such calls as it thinks fit upon the Shareholders in respect of any amounts unpaid on any Shares held by them which are not made payable at fixed times under this Constitution, by the terms of issue of those Shares, or any contract for the issue of those Shares.
- 9.2 **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 require a call to be paid by instalments. The Board may revoke or postpone any call.
- 9.3 **Time of call:** A call is deemed to be made at the time when the resolution of the Board making the call is passed.
- 9.4 **Fixed instalments deemed calls:** An amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date is deemed for the purposes of this Constitution to be a call duly made and payable on the date on which the amount is payable. 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.
- 9.5 **Notice of call:** At least 10 Working Days' notice of any call shall be given to the holder of the Share in respect of which the call is made, specifying the time and place of payment.
- 9.6 **Differential calls:** The Board may, on the issue of Shares, differentiate between the Shareholders as to the amounts to be paid in respect of the Shares and the times of payment of such amounts.
- 9.7 **Manner of payment:** A Shareholder by whom a call is payable shall pay the amount of the call to the Company at the time and place specified by the Board.
- 9.8 **Joint Shareholders:** Joint Shareholders are jointly and severally liable to pay all calls in respect of Shares registered in their names.
- 9.9 **Default interest:** If a call in respect of a Share is not paid on or before the due date, the Shareholder by whom the call is payable shall pay interest on the call from the due date to the date of actual payment at such rate as the Board determines, unless the Board waives payment of interest wholly or in part.
- 9.10 **Proceedings for recovery of call:** In any proceedings for recovery of a call:
- (a) it is sufficient to prove that:
 - (i) the name of the relevant Shareholder is entered in the Share Register as the holder, or one of the holders, of the Shares to which the call relates; and
 - (ii) except in relation to any amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date, the resolution making the call is entered in the Records and notice of the call has been duly given,

and proof of the matters mentioned in this clause is conclusive evidence of the debt; and
 - (b) it is not necessary to prove the appointment or qualification of any member of the Board which made the call nor any other matter.

- 9.11 **Payment in advance of calls:** The Board may, on behalf of the Company, accept and receive from any Shareholder in advance any amount uncalled and unpaid upon any Shares held by that Shareholder and may, until the date on which the amount becomes payable pursuant to a call, pay interest on the amount at such rate as the Board and the Shareholder agree.
- 9.12 **Repayment of calls paid in advance:** The Board may at any time repay to any Shareholder the whole or any portion of any money paid in advance of a call 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.
- 9.13 **No right to interest on calls paid in advance:** A Shareholder is not entitled as of right to any payment of interest on any amount paid in advance of a call 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 Distribution payable upon the Shares concerned.

10. FORFEITURE OF SHARES

- 10.1 **Notice requiring payment of call:** If a Shareholder fails to pay any call or instalment of a call on the due date, the Company may at any time thereafter by written notice to that Shareholder require payment of the amount unpaid together with any accrued interest and all expenses incurred by the Company by reason of such non-payment.
- 10.2 **Contents of notice:** The notice shall specify a further date (not earlier than 10 Working Days after the date of service of the notice) on or before which the payment is to be made, and shall state that, if payment is not made by the specified date, the Share in respect of which the call or instalment of a call is due, is liable to be forfeited.
- 10.3 **Forfeiture for non-payment:** If payment is not made by the date specified in the notice then, at any time thereafter before the payment required by the notice has been made, any Share in respect of which the notice has been given may be forfeited by a resolution of the Board to that effect. The forfeiture shall include all Distributions declared in respect of the forfeited Share and not paid before the forfeiture.
- 10.4 **Notice of forfeiture:** When a Share has been forfeited, the Company shall give notice of the resolution to the Shareholder in whose name the Share stood immediately prior to the forfeiture, and shall enter in the Share Register details of the forfeiture.
- 10.5 **Cancellation of forfeiture:** A forfeiture may be cancelled at any time before the sale of the forfeited Share, on such terms as the Board thinks fit.
- 10.6 **Effect of forfeiture:** The holder of a Share which has been forfeited ceases to be a Shareholder in respect of the forfeited Share notwithstanding any other provision in this Constitution, but remains liable to the Company for all money payable in respect of the forfeited Share.

11. LIEN ON SHARES

- 11.1 **Lien on Shares:** The Company has a first and paramount lien upon each Share, the proceeds of sale of the Share, and all Distributions made in respect of the Share, for:
- (a) all unpaid calls owing in respect of the Share and interest thereon (if any);
 - (b) sale expenses owing to the Company in respect of any such Share; and

- (c) any amount which the Company may be called upon to pay under any legislation in respect of the Share, whether or not the due date for payment thereof has arrived.

11.2 **Waiver of lien:** Unless otherwise agreed between the Company and the relevant Shareholder, the registration of a transfer of a Share shall operate as a waiver of any lien which the Company may have on that Share, except as provided in clause 14.2.

12. SALE OF SHARES SUBJECT TO FORFEITURE OR LIEN

12.1 **Company may sell Shares:** The Company may sell any forfeited Share, or any Share on which the Company has a lien, in such manner as the Board thinks fit, but the Company shall not sell any Share:

- (a) unless the amount in respect of which any lien exists is due and payable; and
- (b) until the expiry of 10 Working Days after written notice demanding payment of the amount has been given to the person entitled to receive notice of meetings of Shareholders in respect of the Share.

12.2 **Proceeds of sale:** The net proceeds (after deduction of any expenses) of the sale of a forfeited Share or of any Share sold for the purpose of enforcing a lien shall be applied in or towards satisfaction of any unpaid calls, interest or other amount in respect of which any lien exists (as the case may require). The residue, if any, shall be paid to the holder of the Share at the time of its forfeiture or, in the case of a Share sold for the purpose of enforcing a lien, the holder immediately prior to the sale or, if applicable in either case, to the Personal Representative of the holder.

12.3 **Evidence:** A certificate by a Director that any power of sale has arisen and is exercisable by the Company under this Constitution, or that a Share has been forfeited on the date stated in the certificate, shall be conclusive evidence of those facts.

12.4 **Sale procedure:** For giving effect to any sale after forfeiture of any Share or for enforcing a lien over any Share, the Board may:

- (a) authorise any person to transfer any Share to the purchaser;
- (b) 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 on the Share Register; and
- (c) receive the consideration, if any, given for the Share.

The purchaser shall not be bound to see to the application of the purchase money (if any), and the title of the purchaser shall not be affected by any irregularity or invalidity in relation to the forfeiture, sale or disposal of that Share. The remedy of any person having a cause of action in relation to the sale is in damages only and solely against the Company.

13. TRANSFER OF SHARES

13.1 **Right to transfer:** Subject to any restrictions contained in this Constitution, a Shareholder or Personal Representative may transfer any Share:

- (a) pursuant to a "designated settlement system" within the meaning set out in section 156M of the Reserve Bank of New Zealand Act 1989, which is applicable to the Company;

- (b) in any manner authorised by or pursuant to the FMCA provided that if registration as a holder imposes a liability on the transferee, the transfer shall be signed by the transferee;
 - (c) by an instrument in common form or in any other form approved by the Board which has been signed by or on behalf of the transferor and, if registration as a holder imposes a liability on the transferee, also signed by the transferee;
 - (d) under any other share transfer system, including under ASX Settlement Operating Rules and the CS Facility Rules, which operates in relation to the trading of securities on any stock exchange outside New Zealand on which Shares are listed and which is applicable to the Company; or
 - (e) by an instrument of transfer which complies with this Constitution.
- 13.2 **Overseas execution:** Where an instrument of transfer executed by a transferor overseas would have complied with the provisions of the FMCA had it been executed by the transferor in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or its Share Registrar.
- 13.3 **Other forms of transfer:** An instrument of transfer of Shares to which the provisions of clauses 13.1 and 13.2 are not applicable shall:
- (a) be in any common form or any other form approved by the Company or the Share Registrar;
 - (b) be signed or executed by or on behalf of the transferor; and
 - (c) if registration as holder of the Share imposes a liability on the transferee, be signed or executed by or on behalf of the transferee.
- 13.4 **Delivery to Company:** An instrument transferring Shares must be delivered to the Company or to the Share Registrar, together with such evidence (if any) as the Company or the Share Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Shares.
- 13.5 **Board may refuse or delay registration of transfer:** Subject to the Act, the Board may, in its absolute discretion, refuse or delay the registration of a transfer of any Share:
- (a) if permitted to do so by the Act, the NZX Rules or the ASX Rules;
 - (b) if the Company has a lien on the Share;
 - (c) if the transferor fails to produce such evidence as the Company or the Share Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Share; or
 - (d) if registration of the transfer (together with registration of any further transfer or transfers then held by the Company and awaiting registration) would result in less than a Minimum Holding of Shares of the relevant Class standing in the name of the transferee.
- 13.6 **When transfer effective:** A transferor of a Share is deemed to remain the holder of the Share until the name of the transferee is entered in the Share Register in respect of the Share.
- 13.7 **Company to retain transfer:** If the Company registers an instrument of transfer it shall retain the instrument.

- 13.8 **Multiple registers:** Subject to the Act and, in particular, the requirement that the principal Share Register must be kept in New Zealand, the Share Register may (and must if required by the ASX Rules or the Australian *Corporations Act 2001* (Cth)), by resolution of the Board, be divided into two or more Share Registers, which may be kept in different places, and may be kept by one or more Share Registrars.
- 13.9 **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.
- 13.10 **Compulsory disposal when holding less than Minimum Holding:** The Board may at any time give notice to a Shareholder holding less than a Minimum Holding of Shares of any Class that if at the expiration of three months after the date the notice is given the Shareholder still holds less than a Minimum Holding of Shares of that Class, the Board may exercise the power of sale of those Shares set out in this clause. If that power of sale becomes exercisable:
- (a) The Board may arrange for the sale of the relevant Shares on behalf of the Shareholder, through the NZX Main Board, or in some other manner approved by NZX.
 - (b) The Shareholder shall be deemed to have authorised the Company to act on behalf of the Shareholder in relation to the sale of the relevant Shares, and to sign all necessary documents relating to such sale.
 - (c) 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.
 - (d) The purchaser is not bound to see to the application of the purchase money, 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.
 - (e) The Company shall account to the Shareholder for the net proceeds of sale (after deduction of reasonable sale expenses and any unpaid calls or other amounts owing to the Company in respect of the Shares) which shall be held on trust by the Company for, and paid (together with interest at such rate (if any) as the Board deems appropriate) to, the Shareholder, on surrender of the certificate (if any) relating to the relevant Shares.
 - (f) The title of the purchaser of any Shares sold pursuant to this clause shall not be affected by any irregularity in the exercise or purported exercise of the power of sale specified in this clause and the receipt of the Company shall be a good discharge to the purchaser for the purchase price.
- 13.11 **Securities other than Shares:** The provisions of this clause 13 shall apply, with any necessary modifications, to Securities of the Company other than Shares except to the extent (if any) provided otherwise by the terms of issue of such Securities, by the NZX Rules or by law. Without limiting the foregoing, every person to whom unissued Equity

Securities are offered pursuant to an offer complying with NZX Rule 7.3.4(a), may transfer their Rights thereunder to any person or persons to whom the Equity Securities, when issued, could be transferred but the Directors have the same right to decline to accept any such transfer as they would have if the transfer were a transfer of Shares, and the provisions of this Constitution as to the transfer of Shares, with all necessary modifications, apply to transfers of Rights to unissued Equity Securities.

14. TRANSMISSION OF SHARES

14.1 **Transmission on death of Shareholder:** If a Shareholder dies the survivor, if the deceased was a joint Shareholder, or the Personal Representative, shall be the only persons recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder but nothing in this clause shall release the estate of a deceased joint Shareholder from any liability in respect of any Share or constitute a release of any lien which the Company may have in respect of any Share.

14.2 **Rights of Personal Representatives:** A Personal Representative of a Shareholder:

- (a) is entitled to exercise all rights (including without limitation the rights to receive Distributions, to attend meetings and to vote in person or by Representative), and is subject to all limitations, attached to the Shares held by that Shareholder; and
- (b) is entitled to be registered as holder of those Shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the Personal Representative pursuant to this sub-clause.

14.3 **Joint Personal Representatives:** Where a Share is subject to the control of two or more persons as Personal Representatives, they shall, for the purposes of this Constitution, be deemed to be joint holders of the Share.

15. DISTRIBUTIONS

15.1 **Power to authorise:** The Board may, if satisfied on reasonable grounds that the Company will immediately after the Distribution satisfy the solvency test, subject to the Act and this Constitution, authorise Distributions by the Company at times, and of amounts, and to any Shareholders, as it thinks fit and may do everything which is necessary or expedient to give effect to any such Distribution.

15.2 **Form of Distribution:** Subject to the rights of holders of any Shares in a Class, the Board may make a Distribution in such form as it thinks fit, but except as provided in clause 15.3 shall not differentiate between Shareholders as to the form in which a Distribution is made without the prior approval of the Shareholders.

15.3 **Currency of payment:** The Board, if it thinks fit, may differentiate between Shareholders as to the currency in which any Distribution is to be paid. In exercising its discretion the Board may have regard to the registered address of a Shareholder, the register on which a Shareholder's Shares are registered and such other matters (if any) as the Board considers appropriate. If the Board determines to pay a Distribution in a currency other than New Zealand currency, the amount payable shall be converted from New Zealand currency in such manner, at such time, and at such exchange rate, as the Board thinks fit.

15.4 **Entitlement to dividends:** The Board shall not authorise a dividend:

- (a) in respect of some but not all the Shares in a Class; or

- (b) that is of a greater value per Share in respect of some Shares of a Class 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, but a Shareholder may waive that Shareholder's entitlement to receive a dividend or any part thereof by written notice to the Company signed by or on behalf of the Shareholder.

- 15.5 **Deduction of money:** The Board may deduct from a Distribution payable to a Shareholder any amount which is due and payable by the Shareholder to the Company on account of calls or otherwise in relation to any Shares held by that Shareholder. 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.
- 15.6 **Method of payment:** A Distribution payable in cash may be paid in such manner as the Board thinks fit to the entitled Shareholders or, in the case of joint Shareholders, to the Shareholder named first in the Share Register, or to such other person and in such manner as the Shareholder or joint Shareholders may in writing direct. Any one of two or more joint Shareholders may give a receipt for any payment in respect of the Shares held by them as joint Shareholders.
- 15.7 **No interest on Distributions:** The Company is not liable to pay interest in respect of any Distribution.
- 15.8 **Payment of small Distribution amounts:** Where the net amount of a Distribution payable to a Shareholder is less than such minimum amount as may be determined from time to time by the Board for the purposes of this clause, the Company may, with the prior approval of that Shareholder, defer payment of the Distribution to that Shareholder until the earlier of:
- (a) such time as that Shareholder has an aggregate entitlement to net Distributions of not less than such minimum amount; and
- (b) the date upon which that Shareholder ceases to hold any Shares.
- 15.9 **Unclaimed Distributions:** Dividends or other monetary Distributions unclaimed for more than one year after having been authorised, may be used 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. All dividends or other monetary Distributions unclaimed for more than five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Board shall nevertheless, at any time after such forfeiture, but subject to compliance with the solvency test, annul the forfeiture and agree to pay a claimant who produces satisfactory evidence of entitlement.

16. EXERCISE OF POWERS OF SHAREHOLDERS

- 16.1 **Alternative forms of meeting:** A meeting of Shareholders may be held either:
- (a) by a number of Shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) if determined by the Board and to the extent permitted by the Act and the NZX Rules, by means of audio, audio and visual, or electronic, communication by which all Shareholders participating and constituting a quorum, can reasonably

be expected to be able to hear each other simultaneously throughout the meeting; or

- (c) if determined by the Board, by a combination of both the methods described in paragraphs (a) and (b) above.

The Company is not required to hold meetings of Shareholders in the manner specified in clauses (b) or (c). 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, if a meeting is held in the manner specified in clauses (b) or (c), 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.

- 16.2 **Powers exercisable by Ordinary Resolution:** Unless otherwise specified in the Act or this Constitution, a power or right of approval reserved to Shareholders may be exercised by an Ordinary Resolution.

17. MEETINGS OF SHAREHOLDERS

- 17.1 **Annual meetings:** The Company shall hold annual meetings of Shareholders in accordance with section 120 of the Act.

- 17.2 **Special meetings:** A special meeting of Shareholders entitled to vote on an issue:

- (a) may be called by the Board at any time; and
- (b) shall be called by the Board on the written request of Shareholders holding Shares carrying together not less than 5% of the voting rights entitled to be exercised on any of the questions to be considered at the meeting.

- 17.3 **Time and place of meetings:** Each meeting of Shareholders shall be held at such time and place as the Board appoints.

- 17.4 **Meetings of Interest Groups:** A meeting of the Shareholders constituting an Interest Group may be called by the Board at any time. All the provisions of this Constitution relating to meetings of Shareholders shall apply, with all necessary modifications, to meetings of Interest Groups, except that:

- (a) the necessary quorum for a meeting is one Shareholder having the right to vote at the meeting, present in person or by Representative;
- (b) any Shareholder in the relevant Interest Group, present in person or by Representative, may demand a poll; and
- (c) if the Board so elects, one meeting may be held of Shareholders constituting more than one Interest Group, so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of the Shareholders in each Interest Group.

18. NOTICE OF MEETINGS OF SHAREHOLDERS

- 18.1 **Written notice:** Written notice (or such other notice as permitted by law) of the time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting, to every Director, and to the auditor of the Company, not less than 10 Working Days before the meeting, but with the consent of all Shareholders entitled to

attend and vote at a meeting, it may be convened by such shorter notice, and in such manner, as those Shareholders agree.

18.2 **Contents of notice:** A notice of meeting shall:

- (a) state the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it;
- (b) state the text of any Special Resolution to be submitted to the meeting;
- (c) state that a Shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of the Shareholder and that a proxy need not be a Shareholder; and
- (d) for so long as the Company is Listed, comply with the requirements of the NZX Rules.

18.3 **Form of resolutions:** So far as reasonably practicable, the resolutions to be proposed at a meeting shall be framed in a way which facilitates the giving of two way voting instructions to proxies.

18.4 **Waiver of notice irregularity:** An 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.

18.5 **Accidental omission of notice:** The accidental omission to give notice of a meeting to, or the non-receipt or late receipt of notice of a meeting by, any person entitled to receive notice, does not invalidate the proceedings at the meeting.

18.6 **Notice of adjourned meeting:** If a meeting of Shareholders is adjourned for less than 30 days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clause 18.1.

19. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

19.1 **Requirement for quorum:** Subject to clause 19.3, no business may be transacted at a meeting of Shareholders if a quorum is not present.

19.2 **Quorum:** Subject to clause 19.3, a quorum for a meeting of Shareholders is five persons present at the meeting and each having the right to vote at that meeting, (whether present as a Shareholder or as a Representative) or participating by means of audio, audio and visual, or electronic, communication.

19.3 **Lack of quorum:** If a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) in the case of a meeting called by the Board on the written request of Shareholders entitled to exercise that right, the meeting is dissolved;
- (b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the Board may appoint and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Shareholders or their Representatives present are a quorum.

- 19.4 **Regulation of procedure:** Subject to the provisions of the Act, and except as otherwise provided in this Constitution, the chairperson may regulate the procedure at meetings of Shareholders.
- 19.5 **Adjournment of meeting:** The chairperson may, with the consent of a meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the relevant meeting.
- 19.6 **Adjournment or dissolution of disorderly meeting:** If a meeting becomes so unruly, disorderly or inordinately protracted, that in the opinion of the chairperson the business of the meeting cannot be conducted in a proper and orderly manner, the chairperson, notwithstanding any provision to the contrary contained in this Constitution and without the consent of the meeting, may, in his or her sole and absolute discretion and without giving any reason therefor, either adjourn or dissolve the meeting.
- 19.7 **Completion of unfinished business if meeting dissolved:** If a meeting is dissolved by the chairperson pursuant to clause 19.6, the unfinished business of the meeting shall be dealt with as follows:
- (a) in respect of a resolution concerning the approval or authorisation of a Distribution, the Board may, in the exercise of the powers conferred on it by the Act or this Constitution, authorise such Distribution;
 - (b) in respect of a resolution concerning the remuneration of the auditors, the meeting shall be deemed to have resolved that the Board be authorised to fix the remuneration of the auditors;
 - (c) the chairperson may direct that any other item of uncompleted business, which in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion, in accordance with clause 23.4.

20. CHAIRPERSON OF MEETINGS OF SHAREHOLDERS

- 20.1 **Chairperson:** If the Directors have elected a chairperson of the Board and he or she is present at a meeting of Shareholders, he or she shall chair the meeting, unless or except to the extent that the chairperson considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting.
- 20.2 **Directors may appoint chairperson:** 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 after the time appointed for the commencement of the meeting, or considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting, the Directors present may elect one of their number to chair the meeting or that part of the meeting which relates to the particular business, as the case may require.
- 20.3 **Shareholders may appoint chairperson:** If at any meeting of Shareholders no Director is willing to act as chairperson or no Director is present within 15 minutes after the time appointed for the commencement of the meeting, the Shareholders present may choose one of their number to chair the meeting.

21. VOTING AT MEETINGS OF SHAREHOLDERS

- 21.1 **Voting at meeting in one place:** In the case of a meeting of Shareholders held under clause 16.1(a), unless a poll is demanded in accordance with clause 23.1, the chairperson of the meeting shall determine whether voting will be by voice or by show of hands.
- 21.2 **Voting at audio/visual meeting:** In the case of a meeting of Shareholders held under clause 16.1(b) or (c), unless a poll is demanded in accordance with clause 23.1, voting at the meeting will be by any method permitted by the chairperson of the meeting.
- 21.3 **Postal votes:** Unless the Board determines otherwise, Shareholders may not exercise the right to vote at a meeting by casting postal votes. If the Board determines that postal voting will be permitted at a meeting, the provisions of clause 7 of the first schedule to the Act shall apply, with such modifications (if any) as the Board thinks fit.
- 21.4 **Entitlement to vote:** A Shareholder may exercise the right to vote either in person or by Representative.
- 21.5 **Number of votes:** Subject to clause 22.1 and to any rights or restrictions for the time being attached to any Share:
- (a) where voting is by show of hands or by voice every person present (whether as a Shareholder or as a Representative) has one vote; and
 - (b) on a poll every Shareholder present in person or by Representative has:
 - (i) in respect of each fully paid Share held by that Shareholder, one vote;
 - (ii) in respect of each Share held by that Shareholder which is not fully paid, a fraction of the vote or votes which would be exercisable if that Share were fully paid equivalent to the proportion which the amount paid (excluding amounts credited as paid) on that Share bears to the total amount paid and payable thereon (excluding amounts credited as paid and amounts paid in advance of calls).
- 21.6 **Vote of overseas protected persons:** A Shareholder who is not living in New Zealand, and who is of unsound mind or in respect of whom an order has been made by any court having appropriate jurisdiction, may vote in respect of any Shares held by that Shareholder, by his or her committee, manager, or other person of a similar nature appointed by that court, voting in person or by proxy.
- 21.7 **Declaration by chairperson:** A declaration by the chairperson of a meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 23.1.
- 21.8 **Chairperson's casting vote:** The chairperson of a meeting of Shareholders is not entitled to a casting vote.
- 21.9 **Joint Shareholders:** Where two or more persons are registered as joint Shareholders, 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.

22. RESTRICTIONS ON VOTING

- 22.1 **No vote when amount owing on Share:** A Shareholder is not entitled to vote at any meeting of Shareholders (including a meeting of an Interest Group) in respect of any

Share if any amount is due and payable on that Share by the Shareholder to the Company.

23. POLLS

23.1 **Right to demand poll:** At a meeting of Shareholders a poll may be demanded by:

- (a) the chairperson; or
- (b) not less than five Shareholders having the right to vote at the meeting; or
- (c) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting; or
- (d) a Shareholder or Shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right.

23.2 **When poll may be demanded:** A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.

23.3 **When poll taken:** A poll demanded on the election of a chairperson of a meeting or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time as the chairperson directs and any business, other than that upon which a poll is demanded, may proceed pending the taking of the poll.

23.4 **Poll procedure:** A poll shall be taken in such manner as the chairperson directs and the result of the poll is deemed to be a resolution of the meeting at which the poll is demanded.

23.5 **Votes:** On a poll:

- (a) votes may be given either personally or by Representative;
- (b) votes shall be counted according to the votes attached to the Shares of each Shareholder present in person or by Representative and voting in respect of those Shares;
- (c) a Shareholder need not cast all the votes to which the Shareholder is entitled and need not exercise in the same way all of the votes which the Shareholder casts.

23.6 **Scrutineers:** The auditors shall be scrutineers unless they are unable or unwilling to act, or the chairperson of the meeting directs otherwise, in which case the scrutineers shall be appointed by the chairperson.

23.7 **Declaration of result:** The chairperson is entitled to declare the result of a poll upon receipt of a certificate from the scrutineers stating that sufficient votes to determine the result of the resolution have been counted and setting out the basis of that determination.

24. PROXIES

24.1 **Right to appoint:** A Shareholder may appoint a proxy to vote on behalf of the Shareholder at a meeting of Shareholders. The proxy is entitled to attend and be heard at the meeting, and to demand or join in demanding a poll, as if the proxy were the Shareholder.

- 24.2 **Multiple proxies:** A Shareholder may appoint more than one proxy for a particular meeting, provided that more than one proxy is not appointed to exercise the rights attached to a particular Share held by the Shareholder.
- 24.3 **Notice of appointment:** A proxy shall be appointed by written notice signed by the appointing Shareholder and the notice shall state whether the appointment is for a particular meeting or for a specified term. The notice shall (so far as the subject matter and form of the resolutions to be proposed at the relevant meeting reasonably permit) provide for at least two way voting on all resolutions, enabling the appointor to instruct the proxy as to the casting of the vote.
- 24.4 **Proxy form to be sent with notice of meeting:** The Company shall send (either by mail or electronically) a form of notice of appointment of proxy to every Shareholder entitled to attend and vote at a meeting, with the notice convening the meeting.
- 24.5 **Receipt of proxy form:** No appointment of a proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by the Company at its registered office, or by the Share Registrar at such address as is specified for that purpose in the form of notice of appointment or in the notice convening the meeting, not later than 48 hours before the start of the meeting.
- 24.6 **Validity of proxy vote:** A vote given in accordance with the terms of a notice of appointment of a proxy is valid notwithstanding the previous death or mental disorder of the principal, or the revocation of the appointment or of the authority under which the notice of appointment was executed, or the transfer of the Share in respect of which the proxy is appointed, if no written notification of such death, mental disorder, revocation, or transfer is received by the Company at its registered office, or by the Share Registrar, before the commencement of the meeting or adjourned meeting for which the proxy is appointed.

25. ELECTRONIC APPOINTMENTS AND VOTING

- 25.1 **Appointments and voting by electronic means:** The Board may permit, in relation to a particular meeting of Shareholders or generally in relation to meetings of Shareholders:
- (a) the appointment of Representatives to be made by electronic means;
 - (b) postal votes to be cast by electronic means; and
 - (c) to the extent permitted by the Act and the NZX Rules, votes to be cast on resolutions at meetings of Shareholders (or of other groups) by electronic means.
- 25.2 **Procedures:** The procedures in relation to electronic appointment or electronic voting shall be those required by law (if any) in conjunction with any other procedure determined by the Board. If the Board permits electronic appointment of proxies or Representatives or electronic voting in accordance with clause 25.1, such electronic appointments may be made or electronic votes cast notwithstanding any other provision of this Constitution.

26. CORPORATE REPRESENTATIVE

- 26.1 **Appointment of representative:** A corporation which is a Shareholder may appoint a person to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.

27. SHAREHOLDER PROPOSALS AND MANAGEMENT REVIEW

27.1 **Shareholder proposals:** A Shareholder may give written notice to the Board of a matter which 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.

27.2 **Management review by Shareholders:** The chairperson of a meeting of Shareholders shall allow a reasonable opportunity for Shareholders at the meeting to question, discuss, or comment on the management of the Company. The Shareholders may pass a resolution relating to the management of the Company at that meeting but no such resolution is binding on the Board.

28. DIRECTORS

28.1 **Number of Directors:** The maximum number of Directors (other than Alternate Directors) is seven. Subject to that maximum and the NZX Rules, the number of Directors to hold office shall be fixed from time to time by the Board.

28.2 **No shareholding qualification:** There is no shareholding qualification for Directors.

28.3 **Appointment by Ordinary Resolution:** Subject to clause 28.1 and the NZX Rules:

- (a) 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 at any time by an Ordinary Resolution and
- (b) a Shareholder who beneficially owns not less than 25 percent of the Shares may appoint one Director and subsequently remove that Director at any time by notice in writing to the Company (and if the Shareholder exercises this right then the Shareholder has no right to vote upon the election of other Directors).

28.4 **Appointment by Board:** Subject to clause 28.1 and the NZX Rules, the Board may at any time appoint any natural person who is not disqualified under the Act to be a Director. Any Director appointed under this clause (including any person who subsequent to his or her appointment as a Director becomes a Managing Director) may hold office only until the next annual meeting (at which he or she must retire), and is then eligible for election, but must not be taken into account in determining the Directors who are to retire by rotation at that meeting.

28.5 **Existing Directors to continue:** The persons holding office as Directors on the date of adoption of this Constitution, in accordance with clause 2, continue in office and are deemed to have been appointed as Directors pursuant to this Constitution.

28.6 **Removal of Directors:** Any Director may be removed from office by an Ordinary Resolution passed at a meeting called for the purpose of, or for purposes that include, removal of the Director. The Director removed will cease to be a Director at the conclusion of that meeting or any adjournment of that meeting.

28.7 **Rotation of Directors:** At the annual meeting in every year at least the number of Directors required to retire at that meeting by the NZX Rules must retire from office, but shall be eligible for re-election at that meeting. The following Directors are exempt from this particular obligation to retire:

- (a) Directors who are appointed by the Board pursuant to clause 28.4 (who are offered for election under that clause); and

- (b) one executive Director nominated by the Board.
- 28.8 **Order of retirement:** The directors to retire at an annual meeting pursuant to clause 28.7 will be those directors who have been longest in office since they were last elected or deemed elected. Persons who became directors on the same day must retire in the order they determine by lot or as otherwise agreed between those persons, unless the Board resolves otherwise.
- 28.9 **Re-election of retiring Director:** A Director retiring by rotation at a meeting in accordance with the NZX Rules shall, if standing for re-election, be deemed to have been re-elected unless:
- (a) some other person is elected to fill the vacated office; or
- (b) it is resolved not to fill the vacated office; or
- (c) a resolution for the re-election of that Director is put to the meeting and lost.
- 28.10 **Duration of office of retiring Director:** A Director retiring at a meeting continues to hold office until:
- (a) he or she is re-elected at that meeting; or
- (b) if he or she is not re-elected at that meeting, the end of that meeting or any adjournment of that meeting.
- 28.11 **Restriction on appointment of several Directors by single resolution:** A single resolution for the appointment of two or more persons as Directors shall not be moved unless a separate resolution that it be so moved has first been passed by the meeting without any vote being cast against it, but nothing in this clause prevents the election of two or more Directors by ballot or poll.
- 28.12 **Vacation of office:** A Director ceases to be a Director if he or she:
- (a) is removed from office pursuant to clause 28.6; or
- (b) dies, or becomes mentally disordered or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988; or
- (c) resigns by written notice delivered to the Company at its address for service or at its registered office (such notice to be effective at the time when it is so received unless a later time is specified in the notice); or
- (d) becomes disqualified from being a Director pursuant to the Act; or
- (e) becomes bankrupt or makes an arrangement or composition with his or her creditors generally; or
- (f) has for more than six months been absent without approval of the Board from meetings of the Board held during that period.
- 28.13 **Timing of appointment:** If a person who is not already a Director is appointed or elected as a Director at a meeting of Shareholders, that person shall take office as a Director immediately after the conclusion of the meeting or after any adjournment of the meeting, whichever is earlier.
- 28.14 **Election of Chairperson and Deputy Chairperson:** The Directors may elect one of their number as:

- (a) chairperson of the Board and determine a period for which the chairperson may hold office; and
- (b) deputy chairperson of the Board and determine a period for which the deputy chairperson may hold office.

28.15 **Duration of office of Chairperson and Deputy Chairperson:** The chairperson and deputy chairperson of the Board holds that office until:

- (a) the expiry of any period determined by the Board; or
- (b) he or she vacates that office; or
- (c) the Directors elect a chairperson or deputy chairperson (as the case may be) in his or her place in accordance with clause 28.14.

29. ALTERNATE DIRECTORS

29.1 **Power to appoint:** A Director may from time to time by written notice to the Company appoint any person, who is not already a Director and who is approved by a majority of the other Directors, to be that Director's alternate. No Director may appoint a deputy or agent except by way of appointment of an Alternate Director under this clause 29.

29.2 **Rights of Alternate Director:** Unless otherwise specified by the terms of his or her appointment, an Alternate Director:

- (a) is entitled, in the absence or unavailability of the Director who appointed him or her (the "**Appointor**"), to exercise the same rights, powers and privileges (other than the power to appoint an Alternate Director or to act as chairperson or deputy chairperson at a meeting of the Directors solely by virtue of being appointed an Alternate Director by the Appointor who is the chairperson or deputy chairperson) as the Appointor (including the right to receive notice of, and 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
- (b) when acting as an Alternate Director is subject to the same duties and obligations as the Appointor.

29.3 **Remuneration and expenses:** An Alternate Director is not entitled to any remuneration from the Company in his or her capacity as an Alternate Director but is entitled to be reimbursed by the Company for all expenses incurred in attending meetings of the Directors and in the discharge of his or her duties, to the same extent as if he or she were a Director.

29.4 **Cessation of appointment:** An Alternate Director ceases to be an Alternate Director:

- (a) if the Appointor ceases to be a Director, provided that 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 sub-clause;
- (b) if the Appointor revokes the appointment by written notice to the Company; or
- (c) on the occurrence of any event which would disqualify the Alternate Director if he or she were a Director; or
- (d) if a majority of the other Directors resolve to revoke the Alternate Director's appointment.

30. MANAGING DIRECTOR

- 30.1 **Appointment:** The Board may from time to time appoint one or more Directors to the office of Managing Director for such period not exceeding five years, and on such terms, as the Board thinks fit and, subject to the terms of any agreement entered into in any particular case, may at any time revoke such appointment. A Managing Director may be re-appointed by the Board for further terms not exceeding 5 years in the same manner.
- 30.2 **Resignation:** A Managing Director is subject to the same provisions as regards resignation, removal, and disqualification as the other Directors, and if a Managing Director ceases to hold the office of Director from any cause he or she automatically ceases to be a Managing Director.
- 30.3 **Remuneration:** A Managing Director is entitled to receive such remuneration for his or her services as an employee (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Board may determine.
- 30.4 **Powers conferred on Managing Director:** Subject to the restrictions on delegation in the Act, the Board may:
- (a) confer on a Managing Director any of the powers exercisable by the Board; and
 - (b) without affecting the powers of a Managing Director to act as a member of the Board, impose such terms and conditions and such restrictions as the Board thinks fit; and
 - (c) alter or revoke any of the powers it confers under this clause.
- 30.5 **Managing Director has no power to appoint alternate Managing Director:** The power to appoint an Alternate Director conferred on Directors by this Constitution does not confer on any Managing Director the power to appoint an alternate Managing Director (but, for the avoidance of doubt, they may appoint an Alternative Director).

31. REMUNERATION AND OTHER BENEFITS OF DIRECTORS

- 31.1 **Restriction on authorisation:** The Board may, subject to the NZX Rules, exercise the power conferred by section 161 of the Act to authorise payments and other benefits to and for Directors.
- 31.2 **Payment of expenses:** Directors are entitled to be paid for all travelling, accommodation and other expenses properly incurred by them in attending meetings of the Board, or any committee of the Board, or meetings of Shareholders, or in connection with the business of the Company.
- 31.3 **Special remuneration:** Without limiting clause 31.1, the Board may authorise the Company to pay special remuneration to any Director who is, or has been, engaged by the Company to carry out work in a capacity other than that of Director.

32. INDEMNITY AND INSURANCE

- 32.1 **Indemnity of Directors:** Subject to clause 32.3, every Director shall be indemnified by the Company:
- (a) for any costs incurred by him or her in any proceeding that relates to liability for any act or omission in his or her capacity as a Director or a director of a

subsidiary of the Company and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and

- (b) in respect of liability to any person other than the Company or a related company for any act or omission by him or her in his or her capacity as a Director or a director of a subsidiary of the Company, and costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability,

and this indemnity shall continue in force, despite any subsequent revocation or amendment of this clause, in relation to any liability which arises out of any act or omission by a Director prior to the date of such revocation or amendment, but shall be subject to any limitations contained in any deed or agreement from time to time in force between the Company and the Director relating to indemnities.

32.2 **Other indemnities:** Subject to clause 32.3, the Company may, with the prior approval of the Board, indemnify a director of a related company, or an employee of the Company or a related company:

- (a) for any costs incurred by him or her in any proceeding that relates to liability for any act or omission by him or her in such capacity and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and
- (b) in respect of liability to any person other than the Company or a related company for any act or omission by him or her in such capacity, and costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability.

32.3 **Exceptions:** An indemnity conferred by clause 32.1(b), or given pursuant to clause 32.2(b), shall not apply in respect of:

- (a) any criminal liability; or
- (b) in the case of an employee of the Company or a related company, any liability in respect of a breach of any fiduciary duty owed to the Company or related company; or
- (c) in the case of a Director or a director of a related company, any liability in respect of a breach of the duty specified in section 131 of the Act.

An indemnity conferred by clause 32.1, or given pursuant to clause 32.2, shall not apply in respect of any other liability or costs in respect of which an indemnity is prohibited by any law.

32.4 **Express indemnity:** Without limiting the indemnity conferred by clause 32.1 the Company may, with the prior approval of the Board, by deed or agreement grant in favour of any Director an express indemnity to the same effect as that conferred by clause 32.1, but subject (insofar as that indemnity relates to the matters referred to in clause 32.1(b)) to the exceptions in clause 32.3.

32.5 **Insurance:** The Company may, with the prior approval of the Board, effect insurance for a Director or employee of the Company or a director or employee of a related company, in respect of:

- (a) liability, not being criminal liability, for any act or omission by him or her in such capacity; or

- (b) costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability; or
- (c) costs incurred by him or her in defending any criminal proceedings that have been brought against the Director or employee in relation to any act or omission in his or her capacity as a Director or employee and in which he or she is acquitted.

32.6 **Definitions:** In this clause 32:

- (a) "Director" includes a former Director and "director" includes a former director; and
- (b) other words given extended meanings in section 162(9) of the Act have those extended meanings.

33. POWERS OF DIRECTORS

33.1 **Management of Company:** The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.

33.2 **Exercise of powers by Board:** The Board may exercise all the powers of the Company which are not required, either by the Act or this Constitution, to be exercised by the Shareholders.

33.3 **Delegation of powers:** The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in the second schedule to the Act.

33.4 **Appointment of attorney:** The Company may exercise the power conferred by section 181 of the Act to appoint a person as its attorney, either generally or in relation to a specified matter. Any such power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

33.5 **Ratification by Shareholders:** Subject to the provisions of section 177 of the Act (relating to ratification of directors' actions) the Shareholders, or any other person in whom a power is vested by this Constitution or the Act, may ratify the purported exercise of that power by a Director or the Board in the same manner as the power may be exercised. The purported exercise of a power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that power.

34. INTERESTS OF DIRECTORS

34.1 **Disclosure of Interests:** A Director shall comply with the provisions of section 140 of the Act (relating to disclosure of interest of directors) but failure to comply with that section does not affect the operation of clause 34.2.

34.2 **No voting:** Subject to clause 34.3, a Director shall not vote on a Board resolution in respect of any matter in which that Director is Interested, nor shall the Director be counted in the quorum for the purposes of that matter.

34.3 **Exception to no voting:** Notwithstanding clause 34.2, a Director may vote in respect of and be counted in the quorum for the Board for the purposes of a matter in which that Director is interested if that matter is one in respect of which, pursuant to an express

provision of the Act, Directors are required to sign a certificate or one which relates to the grant of an indemnity pursuant to section 162 of the Act.

34.4 **Personal involvement of Directors:** Notwithstanding any rule of law or equity to the contrary, but subject to the NZX Rules and to sections 107(3) and 141 of the Act (relating to avoidance of transactions in which a Director is Interested) and section 36 of the Financial Reporting Act 2013, a Director may:

- (a) contract with the Company in any capacity;
- (b) be a party to any transaction with the Company;
- (c) have any direct or indirect personal involvement or Interest in any transaction or arrangement to which the Company is a party or in which it is otherwise directly or indirectly interested or involved;
- (d) become a director or other officer of, or otherwise interested in, any corporation promoted by the Company or in which the Company may be directly or indirectly interested as a shareholder or otherwise; and
- (e) retain any remuneration, profit or benefits in relation to any of the foregoing,

and no contract or arrangement of any kind referred to in this clause may be avoided by reason of a Director's Interest.

35. PROCEEDINGS OF BOARD

35.1 **Third schedule of Act not to apply:** The provisions of the third schedule to the Act (relating to proceedings of a board) do not apply to the Company, except to the extent expressly incorporated in this Constitution.

35.2 **Alternative forms of meeting:** A meeting of the Board may be held either:

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

35.3 **Procedure:** Except as provided in this Constitution, the Board may regulate its own procedure.

35.4 **Convening of meetings:** A Director, or an employee of the Company at the request of a Director, may convene a meeting of the Board by giving notice in accordance with clause 35.5.

35.5 **Notice of meeting:** The following provisions apply in relation to meetings of the Board (except where otherwise agreed by all Directors in relation to any particular meeting or meetings):

- (a) Not less than five clear days' notice of a meeting shall be sent to each Director, unless:
 - (i) the Director waives that right; or

- (ii) the chairperson (or, in the chairperson's absence from New Zealand, the deputy chairperson if they are available and if not, 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.
- (b) Notice to a Director of a meeting may be:
 - (i) given to the Director in person by telephone or other oral communication;
 - (ii) delivered to the Director;
 - (iii) posted to the address given by the Director to the Company for such purpose;
 - (iv) sent by facsimile transmission to the facsimile telephone number given by the Director to the Company for such purpose; or
 - (v) sent by electronic means in accordance with any request made by the Director from time to time for such purpose.
- (c) A notice of meeting shall:
 - (i) specify the date, time and place of the meeting;
 - (ii) in the case of a meeting by means of audio, audio and visual, or electronic, communication, specify the manner in which each Director may participate in the proceedings of the meeting; and
 - (iii) give an indication of the matters to be discussed, in sufficient detail to enable a reasonable Director to appreciate the general import of the matters, unless this is already known to all the Directors or is impracticable in any particular circumstances.
- (d) A notice of meeting given to a Director pursuant to this clause is deemed to be given:
 - (i) in the case of oral communication, at the time of notification;
 - (ii) in the case of delivery, by handing the notice to the Director or by delivery of the notice to the address of the Director;
 - (iii) in the case of posting, three days after it is posted;
 - (iv) in the case of facsimile transmission, when the Company receives a transmission report by the sending machine which indicates that the facsimile was sent in its entirety to the facsimile telephone number given by the Director;
 - (v) in the case of electronic means, at the time of transmission.

- (e) If all reasonable efforts have been made to give notice of a meeting to a Director in accordance with this clause 35.5 but the Director cannot be contacted, notice of the meeting shall be deemed to have been duly given to that Director.
- 35.6 **Waiver of notice irregularity:** An irregularity in the giving of notice of a meeting is waived if each of the Directors either attends the meeting without protest as to the irregularity or agrees (whether before, during, or after the meeting) to the waiver.
- 35.7 **Quorum:** A quorum for consideration of any matter at a meeting of the Board is a majority of Directors entitled to vote on the matter (or such other number as the Board may from time to time determine, provided that such number is not less than three). No matter may be considered at a meeting of the Board if a quorum for the purposes of the matter is not present.
- 35.8 **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 chairperson may adjourn the meeting to a specified day, time and place, being within the next two Working Days. If the chairperson does not so adjourn the meeting, 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.
- 35.9 **Insufficient number of Directors:** The Directors may act notwithstanding any vacancy in their body, but if and so long as the number of Directors holding office is less than the minimum number (if any) fixed by clause 28.1, the continuing Directors may act only for the purposes of increasing the number of Directors to that number or calling a meeting of the Shareholders.
- 35.10 **Election of chairperson:** The chairperson, or failing the chairperson the deputy chairperson, shall chair all meetings of the Directors. If at any time there is no such chairperson or deputy chairperson, or if at any meeting the chairperson or deputy chairperson is not present within 10 minutes after the time appointed for holding the meeting, or is present but not entitled to vote on a particular matter, the Directors present may choose one of their number to be chairperson of that meeting, or for consideration of that particular matter, as the case may be.
- 35.11 **Voting:** Every Director has one vote. In the case of an equality of votes, the chairperson does have a casting vote. A resolution of the Board is passed if it is agreed to without dissent by all Directors present and entitled to vote on the resolution, or if a majority of the votes cast on it are in favour of the resolution. 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.
- 35.12 **Written resolution:** A resolution in writing, signed or assented to by a majority of the Directors entitled to vote on the resolution is as valid and effective as if passed at a meeting of the Board duly convened and held provided those Directors would constitute a quorum for consideration of the resolution at a meeting of the Board and that those Directors have made all efforts they consider reasonable to contact the other Directors for the purposes of determining whether they will sign or assent to the resolution. Any such resolution may consist of several documents (including facsimile or other similar means of communication including electronic communication such as by email) in similar form, each signed or assented to by one or more Directors (whose assent may be given by electronic communication, including email). A copy of any such resolution shall be entered in the Records. The Company shall, within five Working Days after any resolution is passed in

accordance with this clause, send a copy of the resolution to each Director who has not signed or assented to the resolution.

- 35.13 **Committees:** A committee of Directors shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this Constitution relating to proceedings of Directors apply, with appropriate modification, to meetings of a committee of Directors.
- 35.14 **Validity of actions:** The acts of a person as a Director are valid even though the person's appointment was defective or the person is not qualified for appointment.
- 35.15 **Minutes:** The Board shall ensure that minutes are kept of all proceedings at meetings of the Shareholders and of the Board. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

36. METHOD OF CONTRACTING

- 36.1 **Deeds:** A deed which is to be entered into by the Company may be signed on behalf of the Company, by:
- (a) two or more Directors; or
 - (b) any Director, together with any other person authorised by the Board whose signature must be witnessed; or
 - (c) one or more attorneys appointed by the Company.
- 36.2 **Other written contracts:** An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by a person acting under the express or implied authority of the Company.
- 36.3 **Other obligations:** Any other obligation or contract may be entered into on behalf of the Company in writing or orally by a person acting under the express or implied authority of the Company.

37. INSPECTION OF RECORDS

- 37.1 **Inspection by Directors:** Subject to section 191(2) of the Act (which relates to the power of a court to limit inspection), all accounting and other records of the Company shall be open to the inspection of any Director.
- 37.2 **Inspection by Shareholders:** No Shareholder who is not also a Director is entitled to inspect any accounting or other records of the Company except as expressly authorised by law or permitted by the Board. Subject to the provisions of section 216 of the Act (which permits inspection of certain records by Shareholders) the Board may from time to time determine whether, to what extent, at what times and places, and under what conditions, the accounting or other records of the Company or any of them are open to the inspection of Shareholders (who are not also Directors).

38. NOTICES

- 38.1 **Service of notices overseas:** If the holder of a Quoted Security has not given to the Company or the Share Registrar an address within New Zealand for the giving of notices, but has supplied an address outside New Zealand, then notices shall be sent to that

holder at such address and shall be deemed to have been received by that holder 24 hours after the time of sending.

- 38.2 **Accidental omissions:** The failure to send an annual report, notice, or other document to a Shareholder or other Equity Security holder in accordance with the Act or this Constitution does not invalidate the proceedings at a meeting of Shareholders if the failure to do so was accidental.
- 38.3 **Joint Shareholders:** A notice may be given by the Company to the joint holders of an Equity Security by giving the notice to the joint holder named first in the register in respect of that Equity Security.
- 38.4 **Shareholder deceased or bankrupt:** If a Shareholder dies or is adjudicated bankrupt, notice may be given in any manner in which notice might have been given if the death or bankruptcy had not occurred, or by giving notice in the manner provided in section 391 of the Act to the Personal Representative of the Shareholder at the address supplied to the Company for that purpose.
- 38.5 **Waiver by Shareholders:** Subject to section 212(2) of the Act, a Shareholder may from time to time, by notice to the Company, waive the right to receive all or any documents from the Company and may at any time thereafter revoke the waiver in the same manner. While any waiver is in effect, the Company need not send to the Shareholder the documents to which the waiver relates.

39. LIQUIDATION

- 39.1 **Distribution of assets:** If the Company is liquidated the liquidator may, with the approval of Shareholders and any other sanction required by the Act:
- (a) divide among the Shareholders in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may for that purpose fix such value as the liquidator deems fair in respect of any property to be so divided, and may determine how the division shall be carried out as between Shareholders or between different Classes; and
 - (b) vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the persons so entitled 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.