

**CONSTITUTION OF
PROCARE NETWORK LIMITED**

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CONSTITUTION OF PROCARE NETWORK LIMITED

1. DEFINITIONS AND INTERPRETATION

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

Act means the Companies Act 1993;

Additional Director means a Director appointed pursuant to clause 12.7;

Appointed Director means a Director appointed pursuant to clause 12.5;

Board means the directors of the Company acting together as a board of directors;

Company means ProCare Network Limited (company number: 650461);

Constitution means this constitution;

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

Elected Director means a Director appointed pursuant to clause 12.3;

Health Practitioner has the meaning given to it under the HPCA;

Health Services has the meaning given to it under the HPCA;

Healthcare Provider means a person who provides Health Services in the community and includes a person who is party to a contract with PHL for the provision of primary Health Services;

HPCA means the Health Practitioners' Competence Assurance Act 2003;

Ordinary Share means an ordinary share in the Company issued on the terms set out in this Constitution;

PHL means ProCare Health (PHO) Limited (company number 1301340);

Practising Certificate has the same meaning given to it under the HPCA;

Qualifying Relationship, in the case of a Health Practitioner, means a qualifying relationship with a Healthcare Provider, as determined from time to time by the Board;

Responsible Authority has the same meaning given to it under the HPCA;

Share means a share in the capital of the Company;

Shareholder means a shareholder of the Company;

Terms of Trade means the terms of trade between the Company and Healthcare Providers under which the Company supplies core co-operative services to Healthcare Providers, as determined by the Board from time to time; and

Working Day means any day other than a Saturday, a Sunday, or a public holiday (as defined in the Holidays Act 2003) in Auckland.

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

- (a) **capitalised words** or **expressions** that are used in the Constitution and are not defined in clause 1.1 have the meanings as defined in the Terms of Trade, the Act or the Co-operative Companies Act (as applicable);
- (b) references to **clauses** are to clauses of this Constitution;
- (c) **derivations** of any defined word or term shall have a corresponding meaning;
- (d) the **headings** to clauses are inserted for convenience only and shall be ignored in interpreting this Constitution;
- (e) the word **including** and other similar words do not imply any limitation;
- (f) a **person** includes any individual, company, body corporate, firm, partnership, trust, unincorporated body of persons or government agency;
- (g) the **plural** includes the **singular** and vice versa; and
- (h) a reference to a **statute** includes all regulations and other subordinate legislation made under that statute. A reference to a statute, regulation or other subordinate legislation includes that statute, regulation or subordinate legislation as amended or replaced from time to time.

2. PURPOSE AND PRINCIPAL ACTIVITY

2.1 **Co-operative company:** The Company is to be registered as a co-operative company under the Co-operative Companies Act, and intends to operate its business as a co-operative company.

2.2 **Principal activities:** The principal activities of the Company are:

- (a) providing goods and services to providers of Health Services in the community;
- (b) carrying out any other activities to or for the benefit of providers of Health Services in the community; and
- (c) supplying or providing goods or services, or both, that are ancillary to, or that otherwise facilitate, the carrying on by the Company of a co-operative activity referred to in any of clauses 2.2(a) or (b).

2.3 **Full capacity:** Notwithstanding clause 2.2, the company has, both within and outside New Zealand:

- (a) full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction; and
- (b) for the purposes of clause 2.2, full rights, powers and privileges.

2.4 **Effect of the Constitution:** The Company, the Board, each director and each Shareholder has the rights, powers, duties and obligations set out in the Act and the Co-operative Companies Act except to the extent that they are negated or modified, in accordance with the Act or the Co-operative Companies Act, by this Constitution.

3. SHAREHOLDERS

3.1 **Restriction on Shareholding:** Apart from the Company itself, an Ordinary Share may only be held by:

- (a) a Healthcare Provider that:
 - (i) is a party to the Terms of Trade; and
 - (ii) provides Health Services in the community; or
- (b) a Health Practitioner who:
 - (i) is a practitioner of a particular health profession specified and approved by the Board from time to time;
 - (ii) has a current annual Practising Certificate in accordance with the HPCA; and
 - (iii) has a Qualifying Relationship with a Healthcare Provider described in clause 3.1(a).

3.2 **Board's discretion:** Subject to clause 3.1, the Board may, in its absolute discretion, decide whether or not to accept a person as a Shareholder. The Board has no obligation to provide reasons for any refusal under this clause, and exercise of this discretion will not be reviewable by any Court of law or equity.

4. SHARES, ISSUES OF SHARES, CONSOLIDATION AND SUBDIVISION

4.1 **Classes and issue of Shares:** The Board may issue different classes of shares. Without limiting the classes which may be issued, any share may be issued upon the basis that the Shares:

- (a) are redeemable within the meaning of section 68 of the Act;
- (b) confer preferential rights to distributions of capital or income;
- (c) confer special, limited or conditional voting rights; or
- (d) do not confer voting rights.

4.2 **Shares on adoption:** As at the date of the adoption of this Constitution, the classes of Shares on issue include:

- (a) Ordinary Shares; and
- (b) redeemable preference Shares.

4.3 **Ordinary Shares:**

- (a) Ordinary Shares shall have a nominal value of \$750.
- (b) Unless otherwise provided by this Constitution, or by the terms of issue, an Ordinary Share confers on the Shareholder:
 - (i) the right to vote at meetings of Shareholders and to cast one vote for each Ordinary Share held on any resolution;

- (ii) subject to the rights of any other class of Shares, the right to an equal share in any dividends authorised by the Board;
- (iii) subject to the rights of any other class of Shares, the right to a share in the distribution of the Surplus Assets of the Company as set out in clause 14.

4.4 **Share standard:** The Board may adopt, and alter, a share standard that requires Shareholders to hold any number of Ordinary Shares including, without limitation, an equal number of Ordinary Shares, or a different number of Ordinary Shares calculated by reference to the number of enrolled patients, the nature and level of transactions by or on behalf of, directly or indirectly, the Shareholder, or in any other way, and may for this purpose aggregate each Shareholder which is a Healthcare Provider and all Shareholders who are Health Practitioners having a Qualifying Relationship with that Healthcare Provider.

4.5 **Board's power to issue Shares:** Subject to the Act, the Co-operative Companies Act, and this Constitution, the Board may issue Shares at any time, to any person, and in any number it thinks fit.

4.6 **No pre-emptive rights:** Section 45 of the Act shall not apply to any issue or proposed issue of Shares by the Company.

4.7 **Consolidation and subdivision of Shares:** The Board may:

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

in each case in proportion to those Shares and in each case without cancellation or issue of Shares.

4.8 **Alteration of Shareholders' rights:** The Company may issue Shares which rank equally with or in priority to existing Shares, whether as to voting rights or distributions and any such issue is deemed not to be an action which affects the rights attaching to Shares.

5. PURCHASE AND REDEMPTION OF COMPANY'S OWN SHARES

5.1 **Power to acquire:** The Company may purchase or otherwise acquire Shares issued by it in accordance with the Act and the Co-operative Companies Act.

5.2 **Treasury stock:** The Company may hold its own Shares in accordance with the Act.

5.3 **Special offers:** For the purposes of section 60(1)(b)(ii) of the Act, the Company may make an offer to one or more Shareholders to acquire Shares issued by it, without making such an offer to any other Shareholder or Shareholders of the Company.

5.4 **Redemption of Shares:** The Company may exercise an option to redeem redeemable Shares issued by the Company in relation to one or more holders of redeemable Shares.

6. TRANSFER OF SHARES

6.1 **Restriction on transfer of Ordinary Shares:** Subject to clause 6.2, any Shareholder desiring to sell or transfer his/her Ordinary Shares may do so to a Health Practitioner or a Healthcare Provider who satisfies the provisions of clause 3.1 as to who may hold Ordinary Shares.

6.2 **Right to refuse registration of transfer:**

- (a) The Board may within 30 Working Days of receipt of any transfer of Shares, resolve to refuse to register that transfer if:
 - (i) the Company has a lien on the Share;
 - (ii) the Share is not fully paid up;
 - (iii) the Board is permitted to do so by the Act;
 - (iv) the requirements of this Constitution relating to the transfer of Shares have not been complied with;
 - (v) the Board exercises its discretion under clause 3.2 not to accept the transferee as a Shareholder; or
 - (vi) the transfer would result in a Shareholder breaching any standard set by the Board under clause 4.4.
- (b) If the Board resolves to refuse the registration of the transfer:
 - (i) the resolution must set out in full the reasons for doing so; and
 - (ii) notice of the resolution, including those reasons, must be sent to the transferor and to the transferee within 5 Working Days of the resolution being passed.

7. SURRENDER OF SHARES

7.1 **Surrender of Shares at option of the Company:** The Company may require any Shareholder to surrender to the Company any or all Ordinary Shares held by that Shareholder if:

- (a) in the case of a natural person Shareholder, that person:
 - (i) ceases to meet the requirements of clause 3.1(b);
 - (ii) dies;
 - (iii) is the subject of a finding by the Ethics Committee of the New Zealand Medical Association or similar committee that pertains to Health Practitioners that the Board, acting in its sole discretion, considers to be a seriously adverse finding; or
 - (iv) is disciplined for an offence by a Health Practitioners' Responsible Authority (or similar) that the Board, acting in its sole discretion, considers to be a serious offence;
- (b) in the case of a Healthcare Provider:
 - (i) the Healthcare Provider ceases to meet the requirements in clause 3.1(a);

- (ii) the Healthcare Provider's Terms of Trade with the Company are terminated for any reason;
 - (iii) the Healthcare Provider ceases to trade with the Company, or trades with the Company below any level required in the Terms of Trade;
 - (iv) the Healthcare Provider fails to comply in a material respect with requirements relating to transactions with the Company contained in the Terms of Trade or any contract between the Company and the Healthcare Provider;
- (c) that Shareholder suspends or ceases to conduct its principal business or threatens to do so; becomes or is presumed by law to be bankrupt or insolvent; makes or proposes to make any assignment, arrangement, compromise or composition with, or for the benefit of, any of its creditors; has any of its assets subject to any form of seizure or execution; has a receiver, liquidator, administrator, statutory manager or any similar insolvency administrator appointed; is removed from the Register of Companies; or suffers any analogous event;
- (d) that Shareholder alone, or when aggregated with other Shareholders in accordance with clause 4.4, holds Shares in excess of any share standard set by the Board under clause 4.4; or
- (e) the Board resolves that surrender is in the best interests of the Company because that Shareholder is bringing the Company into disrepute, or is causing significant loss, disruption or material disadvantage to the business of the Company.

7.2 **Surrender of Shares by agreement:** If the Shareholder has ceased to transact with the Company, the Board may at any time resolve to accept an offer by that Shareholder to surrender that Shareholder's Ordinary Shares.

8. DISTRIBUTIONS TO SHAREHOLDERS

8.1 **Joint holders:** Where several persons are registered as joint holders of any Share in respect of which a Dividend is payable, any one of the holders may give effectual receipt for any Dividend payment in respect of the Share so held.

8.2 **Deductions:** The Board may deduct from any Distribution payable to a Shareholder monies payable by the Shareholder to the Company on account of:

- (a) debts, liabilities or other obligations owed by the Shareholder to the Company; and
- (b) any amount it is required to deduct by law, including withholding and other taxes.

8.3 **Interest:** No Dividend or rebate shall bear interest against the Company.

8.4 **Manner of payment:** Any Distribution payable in cash may be paid by electronic bank transfer to the bank account nominated by the Shareholder and most recently advised in writing to the Company, and the Company will not be responsible for any loss arising from the mode of transmission.

8.5 **Unclaimed Distributions:** Any Distribution unclaimed for one year after the due date for payment will be intermingled with other money of the Company.

9. CALLS ON SHARES

9.1 Directors powers to make calls:

- (a) The Board may make calls upon the Shareholders in respect of any money that is:
 - (i) unpaid on their Shares; and
 - (ii) not made payable at a fixed time or times by the terms of issue of the Shares.
- (b) Subject to receiving at least 10 Working Days' notice specifying the time and place of payment, each Shareholder must pay to the Company the amount called on that Shareholder's Shares, in the manner specified in the notice.
- (c) A call may be revoked or postponed.
- (d) A call may be required to be paid by instalments.
- (e) Unless the Board resolves to the contrary, a call will be deemed to have been made at the time the Board resolution authorising the call is passed.

9.2 Liability of joint holders and interest:

- (a) The joint holders of any Share are jointly and severally liable to pay all calls in respect of that Share.
- (b) If the call in respect of a Share is not paid when due, the person from whom the sum is due must pay interest on the sum from the due date for payment to actual payment, at a rate not exceeding five percent above the Company's prime overdraft rate as certified by the Board. The Board may waive payment of all or part of that interest.

9.3 **Payment required by terms of issue of Shares:** If the terms of issue of a Share require a sum to be paid on issue or at any fixed date, for the purpose of this Constitution a call will be deemed to be duly made and the sum will become payable on the date specified in the terms of issue.

9.4 **Proof of liability:** The amount of any unpaid call or instalment may be recovered as a debt from the Shareholder at any time after the debt becomes payable. In any proceedings, proof of the following matters will constitute conclusive evidence of the debt:

- (a) the name of the Shareholder is entered on the Share Register as a holder of the Shares in respect of which the debt accrued;
- (b) the resolution making the call is duly recorded in the minute book; and
- (c) notice of the call was duly given to the Shareholder.

10. SUSPENSION OF DISTRIBUTIONS, FORFEITURE AND LIEN ON SHARES

10.1 Suspension of Distributions:

- (a) If a Shareholder fails to pay any call or instalment of a call on the date appointed for payment the Board may suspend payment of any Distributions payable to that Shareholder until payment of:
 - (i) the call or instalment;
 - (ii) any interest accrued on that amount; and
 - (iii) all expenses incurred by the Company by reason of the non-payment.
- (b) All suspended Distributions must be applied to reduce the amount owing under the call or instalment together with any interest and expenses.

10.2 Forfeiture:

- (a) If a Shareholder fails to pay any call or instalment of a call or amount which (by the terms of issue of a Share) becomes payable at a fixed time on the day appointed for payment, the Board may serve notice on that Shareholder requiring payment of:
 - (i) the unpaid call, instalment or amount;
 - (ii) any interest accrued on that amount; and
 - (iii) all expenses incurred by the Company by reason of the non-payment.

The notice must:

- (iv) name a further day (not earlier than the expiration of 10 Working Days from the date of service of the notice) on or before which payment is to be made; and
 - (v) state that if payment is not made by that date the Shares are liable to be forfeited.
- (b) If the requirements of the notice are not complied with, any Share that is the subject of the notice may, at any time after expiry of the notice and before payment, be forfeited by the Board. The forfeiture will include any Distributions or interest relating to the forfeited Shares that have not actually been paid before the forfeiture.
 - (c) If a Share is forfeited the Board must:
 - (i) give notice of the forfeiture to the Shareholder in whose name it stood immediately prior to the forfeiture; and
 - (ii) enter the forfeiture and its date on the Share Register,and the Shareholder ceases to be a Shareholder in respect of the forfeited Shares but remains liable to pay all money payable to the Company at the date of forfeiture in respect of the Shares.
 - (d) A forfeited Share is deemed the Property of the Company and may be sold, reissued or otherwise disposed of on terms and in such manner as the Board thinks fit. The Board may

cancel the forfeiture at any time before a sale or disposition on such terms as the Board thinks fit.

11. MEETINGS OF SHAREHOLDERS

11.1 **Proceedings at meetings of Shareholders:** Schedule 1 of this Constitution applies to meetings of Shareholders.

12. APPOINTMENT AND REMOVAL OF DIRECTORS

12.1 **Composition of Board:** The Board shall consist of 3 to 10 directors as follows:

- (a) up to 6 Elected Directors appointed by Shareholders in accordance with clause 12.3;
- (b) up to 3 Appointed Directors appointed by the Elected Directors in accordance with clause 12.5;
- (c) up to 1 Additional Director appointed by the Elected Directors and the Appointed Directors in accordance with clause 12.7,

provided that at no time shall the number of Appointed Directors be the same as or exceed the number of Elected Directors.

12.2 **Eligibility of directors:**

- (a) No person shall be qualified to act as a director (other than as an Appointed Director or as an Additional Director) unless he or she is:
 - (i) a Shareholder; or
 - (ii) a Health Practitioner who:
 - (1) is a practitioner of a particular health profession as specified and approved by the Board from time to time;
 - (2) holds a current annual Practising Certificate in accordance with the HPCA;
 - (3) has a Qualifying Relationship with a Shareholder that is a Healthcare Provider; and
 - (4) has been nominated by the Healthcare Provider referred to in subclause 12.2(a)(ii)(3) above.

12.3 **Elected Directors:**

- (a) Subject to clause 12.1, a person who satisfies the provisions of clause 12.2 may be appointed as an Elected Director by Ordinary Resolution.
- (b) Where nominations for the position of Elected Director might result in more than six Elected Directors being appointed, the process for appointing the Elected Directors shall be determined by the Board and set out in the notice of meeting.

12.4 **Rotation of Elected Directors:**

- (a) One-third of the Elected Directors (rounded to the nearest whole number if one-third involves other than a whole number and always rounded upwards from one-half) will retire from office at each Annual Meeting and shall be eligible to stand for re-election. A retiring Elected Director shall retain office until the dissolution or adjournment of the meeting at which their successor is elected.
- (b) The Elected Directors to retire shall be those who have been longest in office since they were last elected and in the event of there being more than the required number of Elected Directors with equal time in office the Elected Director(s) to retire shall be determined by agreement of the Elected Directors concerned.
- (c) The Board may appoint a person to fill a casual vacancy of an Elected Director provided they satisfy the provisions of clause 12.2. That Director shall retire from office at the following Annual Meeting and shall be eligible to stand for re-election at that time and shall not be counted in the number of Elected Directors required to retire in accordance with clause 12.4(a).

12.5 **Appointment by Elected Directors:**

- (a) Subject to clause 12.1, the Elected Directors may at any time appoint a person to be an Appointed Director for such period as the Elected Directors think fit.
- (b) In determining the Appointed Directors, the Elected Directors shall take into account the following factors about the applicants, and the Board as a whole:
 - (i) knowledge of, and experience in Health Services; and
 - (ii) the need for persons with business and governance acumen or expertise considered valuable by the Elected Directors.
- (c) The Appointed Directors shall enjoy the same rights and privileges as the Elected Directors.

12.6 **Rotation of Appointed Directors:** Each Appointed Director shall serve a three year term and shall retire at the Annual Meeting thereafter but will be eligible for re-election by the Elected Directors. A retiring Appointed Director shall retain office until the dissolution or adjournment of the meeting at which their successor is elected.

12.7 **Appointment of an Additional Director:**

- (a) In accordance with clause 12.1, the Directors may at any time appoint a person to be the Additional Director for the purposes of assisting the Board with a specific project, in preparation for the retirement of a Director, or in any other circumstance described in any Board charter, manual or other Board governance document.
- (b) The Additional Director shall enjoy the same rights and privileges as the Elected Directors and the Appointed Directors.

12.8 **Founder Chairman:**

- (a) The Shareholders of the Company consider that Thomas Harry Marshall, the original Chairman of the Company from 1995 to 2008, through his vision and commitment to the Company and its values, has given the Company and its Shareholders exceptional service since the Company's inception in 1995, and on his retirement from the Board desired to recognise this service and created the opportunity to call upon his services from time to time in circumstances or situations where his contribution might be of value.
- (b) Accordingly, Thomas Harry Marshall, from the date of his resignation as a Director, became known as the Founder Chairman of the Company and he shall remain in such role with the Company for so long as the Board of Directors in their absolute discretion determine. The appointment of Thomas Harry Marshall as Founder Chairman may be revoked at any time by resolution of the Board.

12.9 **Retirement of Directors:**

- (a) The Elected Directors may retire from the Board by giving notice in writing to that effect to either the Chairperson or the Company Secretary.
- (b) The Appointed Directors shall serve as Directors until such time as they are asked in writing by the Elected Directors to retire or until such time as they retire of their own volition.
- (c) An Additional Director shall serve as Director until such time as they are asked in writing by the Elected Directors and the Appointed Directors to retire or until such time as they retire of their own volition.

12.10 **Directors remuneration:** The Board may resolve, in accordance with the provisions of section 161 of the Act, the total remuneration to be paid to the Directors from time to time for their services as Directors and the Directors shall decide how that amount shall be divided between them. Directors shall be entitled to be paid expenses properly incurred by them in connection with the business of the Company.

12.11 **Meetings of the Board:** Schedule 2 of this Constitution applies at meetings of the Board.

13. **INDEMNITY AND INSURANCE**

13.1 **Indemnifying directors and employees:** The Company may give such indemnities and effect such insurances as are referred to in section 162 of the Act to the fullest extent permitted by that section.

14. **LIQUIDATION**

14.1 **Surplus Assets:** Subject to the terms of issue of any Shares, upon the liquidation of the Company the Surplus Assets of the Company (if any) must be distributed among the Shareholders in proportion to the number of Ordinary Shares held by each Shareholder.

14.2 **Distribution in specie:** With the approval of a Special Resolution of Shareholders, the liquidator of the Company may divide the whole or any part of the assets of the Company among the

Shareholders in kind (whether or not they are of the same kind) and for that purpose the liquidator may:

- (a) attribute such values to assets as the liquidator considers appropriate; and
- (b) determine how the division will be carried out as between the Shareholders, regardless of the Classes of Shareholders.

14.3 **Vesting in trust:** With the approval of Shareholders by Special Resolution, the liquidator of the Company may vest the whole or any part of any Surplus Assets of the Company in trustees upon trust for the benefit of the Shareholders. The liquidator may determine the terms of the trust.

15. REMOVAL FROM THE REGISTER

15.1 **Directors may remove the Company from the Register:** If the Company:

- (a) has ceased to carry on business, has discharged in full its liabilities to all its known creditors and has distributed its Surplus Assets in accordance with this Constitution and the Act; or
 - (b) has no Surplus Assets after paying its debts in full or in part and no creditor has applied to the Court under section 241 of the Act for an order putting the Company into liquidation,
- the Board may request the Registrar to remove the Company from the New Zealand Register.

16. NOTICES

16.1 **Writing:** Each notice given under this Constitution (each a **notice**) shall be in writing and delivered personally or sent by post or email.

16.2 **Addresses:** Each notice shall be delivered to the address of the relevant party which is from time to time designated for that purpose by at least 5 Working Days' prior notice to the Company.

16.3 **Receipt:** A notice under this Agreement is deemed to be received if:

- (a) **Delivery:** delivered personally, when delivered;
- (b) **Post:** posted, 3 Working Days after the date of posting;
- (c) **Email:** sent by email, one hour after the time on the Working Day it actually comes to the recipient's attention in readable form,

provided that any notice deemed received after 5 pm on a Working Day or on a non-Working Day shall be deemed to have been received on the next Working Day.

SCHEDULE 1

Proceedings at meetings of Shareholders

1. Meeting of Shareholders

1.1 Annual meeting:

- (a) The Board must call an annual meeting of Shareholders to be held:
 - (i) once in each calendar year;
 - (ii) not later than five months after the balance date of the Company; and
 - (iii) not later than 15 months after the previous annual meeting.
- (b) The Company must hold the annual meeting on the date on which it is called to be held.

1.2 Special meetings: A special meeting of Shareholders entitled to vote on an issue:

- (a) may be called at any time by:
 - (i) the Board; or
 - (ii) requisitioned by not less than 5% of the Shareholders entitled to vote on the issue; and
- (b) when requisitioned under paragraph 1.2(a)(ii), it must be requisitioned in writing signed by all requisitioning Shareholders and the requisition must specify the purpose for which the special meeting is called.

1.3 Chairperson of meetings of Shareholders:

- (a) If the Directors have elected a Chairperson and that Chairperson is present at a meeting of Shareholders he or she must chair the meeting.
- (b) If no Chairperson has been elected or if, at any meeting of Shareholders, the Chairperson is not present within 15 minutes of the time appointed for the commencement of the meeting and if the Directors have appointed a Deputy Chairperson and that Deputy Chairperson is present he or she must chair the meeting.
- (c) If neither the Chairperson nor the Deputy Chairperson is present within 15 minutes of the time appointed for the commencement of the meeting the Shareholders present may choose another Director to be chairperson of the meeting and, failing a Director being present one of the Shareholders may be elected to chair the meeting.

1.4 Shareholders entitled to notice of meeting: All registered Shareholders are entitled to receive notice of a meeting of Shareholders.

1.5 Notice of meeting: 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 the auditor of the Company, not less than 10 working days before the meeting.

1.6 Contents of notice: The notice referred to in paragraph 1.5 must state:

- (a) 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

(b) the text of any resolution to be submitted to the meeting.

1.7 **Irregularities in notice:** 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.

1.8 **Method of holding meeting:** A meeting of Shareholders may be held by a number of Shareholders, who constitute a quorum being assembled together at the place, date and time appointed for the meeting.

1.9 **Adjournments:** 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.

1.10 **Minutes:**

(a) The Board must ensure that full and accurate minutes are kept of all proceedings at meetings of Shareholders.

(b) Minutes which have been signed as correct by the Chairperson of the meeting are prima facie evidence of the proceedings.

2. **Voting at Meetings**

2.1 **Quorum:**

(a) The quorum for a meeting of Shareholders shall be five percent (5%) of all Shareholders entitled to vote at the meeting represented in person or by proxy.

(b) No business may be transacted at a meeting of Shareholders if a quorum is not present.

(c) If a quorum is not present within 30 minutes after the time appointed for the meeting:

(i) in the case of a meeting called pursuant to a requisition of Shareholders under paragraph 1.2(b) the meeting is dissolved;

(ii) 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 Directors may appoint.

2.2 **Voting:**

(a) Subject to paragraph 2.3, in the case of a meeting of Shareholders held under paragraph 1.8 unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the Chairperson of the meeting:

(i) voting by voice; or

(ii) voting by show of hands.

(b) A declaration by the Chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with paragraph 2.2(c).

- (c) At a meeting of Shareholders a poll may be demanded by:
 - (i) the Chairperson of the meeting; or
 - (ii) Shareholders representing not less than 5 percent of the total voting rights of all Shareholders having the right to vote at the meeting.
- (d) A poll may be demanded either before or after the vote is taken on a resolution.
- (e) If a poll is taken, votes must be counted according to the votes attached to the Share of each Shareholder present in person or by proxy and voting.
- (f) The Chairperson of a Shareholders' meeting is not entitled to a casting vote.

2.3 Proxies and representatives

- (a) A Shareholder may exercise the right to vote:
 - (i) by being present;
 - (ii) by proxy; or
- (b) In accordance with paragraph 2.4 if permitted by the Board.
- (c) A proxy for a Shareholder is entitled to attend and be heard and vote at a meeting of Shareholders as if the proxy were the Shareholder.
- (d) A proxy must be appointed by notice in writing 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.
- (e) Unless a later time is specified by the Board in a notice of meeting, no proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced at least 48 hours before the start of the meeting.
- (f) A proxy need not be a Shareholder.

2.4 Board may permit electronic voting:

- (a) The Board may permit, in relation to a particular meeting or generally, to the extent permitted by law, votes to be cast on resolutions at meetings of Shareholders (or of other groups) by electronic means.
- (b) The procedures in relation to electronic voting are those required by law (if any) together with any other procedures determined by the Board.
- (c) If the Board permits electronic voting in accordance with paragraph 2.4(a), the electronic appointment may be made or electronic votes may be cast notwithstanding any other provision of this Constitution.

2.5 Unpaid calls: If a sum due to the Company in respect of a Share has not been paid, that Share may not be voted at a Shareholders' meeting other than at a meeting of an interest group.

SCHEDULE 2

Proceedings at meetings of the Board

1. Proceedings of the Board

1.1 Chairperson:

- (a) The Directors shall elect one of their number as Chairperson of the Board. For the avoidance of doubt, such person may be any member of the Board.
- (b) The Director elected as Chairperson holds that office until he or she ceases to be a Director or the Directors elect another Chairperson in his or her place.
- (c) The Directors may elect one of their number as Deputy Chairperson of the Board.
- (d) Any Director elected as Deputy Chairperson holds that office until he or she ceases to be a Director or the Directors elect another Director to be the Deputy Chairperson in his or her place.
- (e) A Director acting as Chairperson or Deputy Chairperson shall, upon retirement from the Board, cease acting as Chairperson or Deputy Chairperson (as the case may be) from the time of his or her resignation as a Director. However, if the retiring Director is re-elected, that Director shall be deemed to have been re-appointed as Chairperson or Deputy Chairperson upon their re-election as Director unless the Board resolves otherwise.
- (f) If no Chairperson is elected, or if at a meeting of the Board the Chairperson is not present within five minutes after the time appointed for the commencement of the meeting, the Deputy Chairperson (if there is one) shall chair the meeting, but if no Deputy Chairperson is present within five minutes after the time appointed for the commencement of the meeting the Directors present may choose one of their number to be Chairperson of the meeting.

1.2 **Notice of meeting:** A Director or, if requested by a Director to do so, the Company Secretary may convene a meeting of the Board by giving notice in accordance with this clause:

- (a) Not less than five working days' notice of a meeting of the Board must be given to every Director who is in New Zealand, and the notice must include the date, time and place of the meeting and the matters to be discussed.
- (b) An irregularity in the notice of the meeting is waived if 75% of all Directors attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.
- (c) Notice of a meeting may be given by any means, including by telephone and by e-mail communication. Notice given by a letter addressed to a Director at his or her last known residential address will be deemed to have been given on the second day following the day the letter is posted.

1.3 **Method of holding meetings:** A meeting of the Board may be held either:

- (a) by a number of Directors sufficient to form a quorum being assembled together at the place, date and time appointed for the meeting; or

- (b) by means of audio, or audio and visual communication by which all the Directors participating in the meeting and constituting a quorum can simultaneously hear each other throughout the meeting.

1.4 Quorum:

- (a) A quorum for a meeting of the Directors shall be present when 50 per cent of the Directors are present.
- (b) No business may be transacted at a meeting of Directors if a quorum is not present.

1.5 Voting:

- (a) Every Director present at a meeting of the Board has one vote.
- (b) The Chairperson shall have a casting vote.
- (c) A resolution of the Board is passed if it is agreed to by a majority of the Directors.
- (d) A Director present at a meeting of the Board is presumed to have agreed to, or to have voted in favour of a resolution of the Board unless he or she expressly votes against the resolution at the meeting.
- (e) A Director may vote in respect of any transaction in which the Director is interested and if the Director does so the Director's vote will be counted and the Director will be counted in the quorum present at the meeting.

1.6 Minutes: The Board must ensure that full and accurate minutes are kept of all proceedings at meetings of the Board.

1.7 Circular Resolution:

- (a) A resolution in writing, signed or assented to by a majority of Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- (b) Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more Directors.
- (c) A copy of any such resolution must be entered in the minute book of Board proceedings.
- (d) A copy of any such resolution shall be forwarded to any Director who did not sign it.

1.8 Other proceedings: Except as provided in this schedule 2 the Board may regulate its own procedure.