

8 April 2007

CONSTITUTION OF RESEARCH AND
EDUCATION ADVANCED NETWORK
NEW ZEALAND LIMITED (REANNZ)

Date:

PART A: INTRODUCTION

INTERPRETATION

1 Defined terms

- 1.1 Unless the context otherwise requires, in this constitution the following expressions have the following meanings:

Act means the Companies Act 1993;

Advanced Network means the New Zealand research and education network that provides research and education users with high speed, wide bandwidth, and domestic and international connections to enable new forms or research and new research collaborations;

Company means the company whose name is Research and Education Advanced Network New Zealand Limited at the date of this constitution, whether or not the company subsequently changes its name;

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

Crown means Her Majesty the Queen in right of New Zealand;

good employer has the same meaning as in section 118 of the Crown Entities Act 2004;

shareholder means the Crown, acting by and through a Minister of the Crown, as a holder of shares in the Company; and *shareholders* means all shareholders;

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

- 1.2 Unless the context otherwise requires, expressions which are defined in the Act (whether in section 2, or elsewhere for the purposes of a particular subsection, section or sections) have in this constitution the meanings given to them by the Act. Where an expression is defined in the Act more than

once and in different contexts, its meaning will be governed by the context in which it appears in this constitution.

2 Construction

- 2.1 Headings appear as a matter of convenience and do not affect the interpretation of this constitution;
- 2.2 The singular includes the plural and vice versa, and words importing one gender include the other genders;
- 2.3 A reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;
- 2.4 The Schedules form part of this constitution.

THE RELATIONSHIP BETWEEN THIS CONSTITUTION AND THE ACT

3 Effect of the Act on this constitution

Without limiting any other enactment, the Company, the Board, each director, and each shareholder have the rights, powers, duties, and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this constitution.

4 Effect of this constitution

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

5 Shareholders may alter or revoke this constitution

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

PURPOSE AND NATURE OF COMPANY

6 Purpose of Company

The purpose of the Company is to establish and operate the Advanced Network in order to promote education, research and innovation for the benefit of New Zealand and to;

- operate in a financially sustainable manner and manage foreseeable upgrades and increases in Advanced Network capacity through the accumulation of reserves;
- establish and operate the Company in such a way that it:
 - enables leading-edge e-research;
 - facilitates universal connectivity throughout the New Zealand and international research and education community;
 - encourages broad participation by the research and education sector in New Zealand through accessible technology and cost-effective pricing;
 - connects the research and education sector to the broader innovation sector for pre-commercial, research-based collaboration;
 - facilitates participation by multiple telecommunications-sector partners so as to ensure the greatest possible flexibility for on-going evolution; and
- endeavour to obtain a commitment from users of the Advanced Network (for example, Tertiary Education Institutions and Crown Research Institutes) to acquire the Crown's shares in the Company within a reasonable timeframe.

7 Nature of Company

- 7.1 The company is a Crown-owned company and is to be named as an organisation in Schedule 4 of the Public Finance Act 1989.
- 7.2 Under the Public Audit Act 2001 the Controller and Auditor-General is to be the auditor of the Company.
- 7.3 An objective of the Company is to be a good employer.
- 7.4 The Company is an employer for the purposes of sections 84 to 84B of the State Sector Act 1988.

PART B: SHARES AND SHAREHOLDERS

SHARES

8 Company's shares

8.1 At the time of registration, the Company has 1000 shares on issue to the Minister of Finance (500 shares) and the Minister of Research, Science and Technology (500 shares) at \$1.00 per share. Calls may be made on outstanding amounts that are unpaid on those shares in accordance with clause 11.

9 Board to issue shares

- 9.1 Shares in the Company must be held by the Crown acting by and through two or more Ministers of the Crown, one of whom must be the Minister of Finance.
- 9.2 Neither the Board nor any other person may issue any shares, or securities convertible into shares, or options to acquire shares, in the Company unless the issue is expressly authorised in writing by the shareholders.
- 9.3 Subject to *clause 9.2*, the Board may issue further shares that rank as to voting or distribution rights, or both, equally with or prior to any existing shares in the Company. Any such issue will not be treated as an action affecting the rights attached to the existing shares.

10 No statutory pre-emptive rights

Section 45 of the Act does not apply to the Company.

11 Board may make calls

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

DISTRIBUTIONS

12 Shares in lieu of dividends

The Board may not exercise the powers under section 54 of the Act except in accordance with a written authority to do so signed by the shareholders.

MEETINGS OF SHAREHOLDERS

13 Company must hold annual meeting of shareholders

13.1 Subject to section 120(2) of the Act, the Board must call an annual meeting of shareholders to be held:

13.1.1 once in each calendar year; and

13.1.2 not later than 15 months after the date of the previous annual meeting of shareholders; and

13.1.3 not later than 6 months after the balance date of the Company.

However no annual meeting need be called and held if everything required to be done at the meeting is done by resolution passed in accordance with *clause 15*.

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

14 Company may hold special meetings of shareholders

Without limiting section 121 of the Act, a special meeting of shareholders entitled to vote on an issue-

14.1 may be called at any time by the Board or by any shareholder; and

14.2 must be called by the Board on the written request of any shareholder.

15 Written shareholders' resolution instead of holding a meeting

Without limiting section 122 of the Act, a written resolution signed by at least 75 percent of the shareholders who would be entitled to vote on that resolution at a meeting of shareholders, and who together hold at least 75 percent of the votes entitled to be cast on that resolution is as valid as if it had been passed at a meeting of those shareholders. Any such resolution may consist of several copies of the resolution, each signed by one or more shareholders. A copy of a resolution, which has been signed and sent by facsimile or any similar means of communication, will satisfy the requirements of this clause.

15A The powers reserved to the shareholders of the Company by this Constitution or the Act may be exercised only:

15A.1 at a meeting of shareholders pursuant to clauses 13 or 14; or

15A.2 by a resolution in lieu of a meeting pursuant to clause 15.

16 Proceedings at meetings of shareholders

The Second *Schedule* governs the proceedings at meetings of shareholders.

PART C: DIRECTORS

APPOINTMENT AND REMOVAL

17 Number of directors

The number of directors shall be determined by the shareholders, and may be varied from time to time by the shareholders, but shall not be fewer than 2 nor more than 9.

18 Appointment of directors and chairperson and deputy chairperson

18.1 The shareholders may at any time or times by written notice signed by them to the address for service of the Company, appoint or reappoint –

18.1.1 any natural person as a director; and

18.1.2 any director as the chairperson or deputy chairperson of directors -

and any such appointment or reappointment of a director or of a chairperson or deputy chairperson of directors shall be effective from the time specified in the notice or, if no such time is specified, from the time the notice is received at the address for service of the Company.

18.2 Every appointment of a director or chairperson or deputy chairperson of directors shall be for such term (if any) as is specified in the notice of appointment, but no such term shall exceed 3 years unless the shareholders consider it necessary or desirable in any particular case (in which case the term shall not exceed 3 years and 3 months).

18.3 If there is a deputy chairperson of directors, he or she may, in the absence of the chairperson, act as the chairperson, and any reference in this constitution

to a chairperson shall include a reference to the deputy chairperson acting as chairperson in accordance with this clause.

19 Removal of directors

Any director may be removed from office under section 156 of the Act.

VACATION OF OFFICE

20 Office of director vacated in certain cases

20.1 The office of director is vacated if the term of appointment of the person holding that office expires, or if-

20.1.1 that person dies; or

20.1.2 that person unable to perform the functions of the office due to physical and/or mental incapacity.

20.1.3 that person becomes disqualified from being a director pursuant to section 151 of the Act; or

20.1.4 that person resigns that office in accordance with clause 21; or

20.1.5 that person is removed from office in accordance with this constitution or the Act.

20.2 A director holds office at the pleasure of the shareholders. Shareholders may terminate that office at any time and entirely at their discretion, by written notice signed by them and sent to the address for service of the Company stating that the office shall be vacated..

20.3 The office of chairperson or deputy chairperson is vacated if the term of appointment of the person to that office expires, or if that person ceases to hold office as a director.

21 Directors' resignation procedure

21.1 A director may resign office by delivering a signed notice of resignation in writing to the address for service of the Company. The notice is effective when it is received at that address or at a later time specified in the notice.

21.2 Forthwith on receiving notice of resignation from a director in accordance with *clause 21.1*, the Company shall give written notice of such resignation to the shareholders.

MANAGING DIRECTOR

22 **Power to appoint, reappoint and remove managing director**

22.1 Without limiting sections 128 and 130 of the Act but subject to *clause 22.2*, the shareholders may from time to time by written notice signed by them to the address for service of the Company:

22.1.1 appoint a person as the managing director of the Company for a fixed term (not exceeding 3 years) or otherwise;

22.1.2 remove any such managing director;

22.1.3 at any time not earlier than 3 months before the expiration of a period of appointment of a managing director (whether or not it is the first such period) renew the appointment for a further period not exceeding 3 years -

and any appointment, removal, or reappointment of a managing director shall be effective from the time specified in the notice or, if no such time is specified, from the time the notice is received at the address for service of the Company.

22.2 Subject to *clause 22.3*, no managing director shall be appointed, removed, or reappointed pursuant to *clause 22.1* unless the appointment, removal, or reappointment, and the terms thereof, have been recommended by the Board to the shareholders.

22.3 A managing director shall be subject to the same provisions as regards resignation, removal and disqualification as the other directors of the Company, and, notwithstanding any contract between him or her and the Company, if he or she shall cease to hold the office of director from any cause, he or she shall thereby immediately cease to be the managing director.

22.4 Any managing director removed pursuant to this *clause* 22 shall have no right or claim to continue in office and his or her only remedy against the Company, if any, shall be in damages.

22.5 Subject to clause 28.4, a managing director shall receive in addition to remuneration and benefits for services as a director (if any), such remuneration and benefits as the Board may determine.

23 Managing director's powers

Subject to section 130 of the Act, the Board may from time to time, on such terms and conditions as it thinks fit, confer upon a managing director such of the powers of the Board exercisable under the Act or this constitution as it thinks fit. The Board may at any time withdraw, revoke or vary the powers so conferred or any of them.

PROCEEDINGS OF THE BOARD

24 Meetings of the Board

The Third *Schedule* governs the proceedings at meetings of the Board. The Third Schedule to the Act does not apply to proceedings of the Board.

25 Written resolutions of Board permitted

25.1 A resolution in writing signed or assented to by all of the directors then entitled to receive notice of a meeting of the Board shall be as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

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

25.3 A copy of any such resolution must be entered in the minute book of the Board proceedings.

26 Committee proceedings

The provisions of this constitution relating to proceedings of the Board shall, insofar as they are not altered by regulations made by the Board, also apply to proceedings of any committee of directors.

INTERESTED DIRECTORS

27 Interested director may not vote

27.1 A director of the Company who is interested in a transaction entered into, or to be entered into, by the Company may not (subject to *clauses 27.1.1 and 27.2*) vote on a matter relating to the transaction; but may –

27.1.1 vote on any matter to which either of *clauses 37 and 38* apply;

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

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

27.1.4 do anything else as a director in relation to the transaction,

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

27.2 The shareholders may suspend or relax the prohibition on interested directors voting to any extent in respect of any particular transaction by written notice signed by them to the address for service of the Company.

REMUNERATION

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

28.1 Subject to *clause 28.3* but notwithstanding section 161(1) of the Act, the amount of remuneration or other benefits payable by the Company to directors for services as a director, or in any other capacity excluding managing director, shall be determined by the shareholders from time to time by written notice signed by them to the address for service of the Company.

28.2 Subject to *clauses 22.5 and 28.3*, the power of the Board to authorise:

28.2.1 the making of loans by the Company to a director or the giving of guarantees by the Company for debts incurred by a director; and

28.2.2 the entering into of a contract to do any of the things set out in this *clause 28.2-*

is subject to the written approval of the shareholders.

28.3 The Board may authorise the reimbursement by the Company of reasonable travelling, hotel, and other expenses incurred by directors in attending meetings of the Board or shareholders or in relation to any other affairs of the Company.

28.4 The Board shall not authorise the payment of any compensation or other payment or benefit to a director for loss of office as a director.

ALTERNATE DIRECTORS

29 **Directors may appoint and remove alternate directors**

29.1 Every director may:

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

29.1.2 remove that person from that office -

by giving written notice to that effect to the address for service of the Company.

29.2 An alternate director shall look to the director appointing him or her and not the Company for remuneration, but shall have the same rights as a director to be recompensed by the Company for reasonable travelling, hotel and other expenses incurred by him or her in attending meetings of the Board or of the shareholders or in relation to any other affairs of the Company.

30 **Alternate director has powers of appointor**

30.1 While acting in the place of the director who appointed him or her, an alternate director has, and may exercise and discharge, all the powers, rights, duties and privileges of that director (including the right to sign any document, including a written resolution, and to act as chairperson, but excluding the right to appoint an alternate). He or she is also subject to the same terms and conditions of appointment as that director, except in respect of remuneration.

30.2 A director who is also an alternate director is entitled to exercise his or her voting and other powers as an alternative director in addition to and independently of the exercise of his or her powers as a director; except that, in determining whether a quorum is present at a meeting of the Board, any such director shall be counted once only.

31 Termination of appointment of alternate director

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

LIMITATIONS ON DIRECTORS' POWERS OF MANAGEMENT

32 Statement of intent and Output Agreement

The Board must ensure that every decision made or any action taken by it is consistent with the Company's current statement of intent and current output agreement (if any)

PART D: GENERAL

CHANGE OF COMPANY NAME

33 A director may apply to change Company name

33.1 A director may apply to the Registrar of Companies to change the name of the Company if:

33.1.1 the Board has approved the director doing so; and

33.1.2 the shareholders have given written approval of the change of name.

CHANGE OF REGISTERED OFFICE OR ADDRESS FOR SERVICE

34 Board to notify shareholders of change of registered office or address for service

Whenever the Board gives notice to the Registrar of a change in the registered office or the address for service of the Company, the Board must at the same time give written notice of the change to the shareholders.

INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

35 Company may indemnify directors and employees for certain liabilities

35.1 The Company may indemnify every director or employee of the Company or any related company out of the assets of the Company to the maximum extent permitted by law, including (without limit) under s 162(3) and 94) of the Act.

35.2 If the directors, or any employee or agent of the Company, or any other person acting in the interests of the Company, become personally liable, either absolutely or contingently, for the payment of any sum primarily due from the Company, the Board may cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the persons or person so becoming liable from any loss in respect of such liability.

35.3 The directors shall comply with section 162 of the Act and section 163 of the Crown Entities Act 2004 in respect of any indemnity given under clause 35.1 or 35.2.

36 Company may effect insurance for directors and employees

36.1 With the prior approval of the Board, the Company may effect insurance for a director or employee of the Company or a related company to the maximum extent permitted by law, including (without limit) under s 162(5) of the Act.

36.2 The directors shall comply with section 162 of the Act in respect of any insurance given under clause 36.1

GOVERNANCE

37 Good employer

37.1 The Company will, if it employs employees:

37.1.1 operate a personnel policy that complies with the principle of being a good employer; and

37.1.2 make that policy (including the equal employment opportunities programme) available to its employees; and

37.1.3 ensure its compliance with that policy (including its equal employment opportunities programme) and, with effect from the 2006/07 financial year, report in its annual report on the extent of its compliance.

37.2 For the purposes of the above paragraph, **equal employment opportunities programme** has the meaning set out in section 118 of the Crown Entities Act 2004

38 **Whole of government directions**

38.1 The Company must have regard to any whole of government direction that would apply to the company if it were a Crown entity company under the Crown Entities Act 2004.

MANNER OF CONTRACTING

39 **Manner of execution of contracts by the Company**

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

39.1.1 an obligation which, if entered into by a natural person, is, by law, required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by-

- (a) two or more directors; or
- (b) a director, or any person authorised by the Board for that purpose, whose signature must be witnessed; or
- (c) one or more attorneys appointed by the Company in accordance with section 181 of the Act;

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

39.1.3 an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the

Company in writing or orally by a person acting under the Company's express or implied authority.

39.2 *Clause 37.1* applies to a contract or other obligation-

39.2.1 whether or not that contract or obligation was entered into in New Zealand; and

39.2.2 whether or not the law governing the contract or obligation is the law of New Zealand.

PROVISIONS RELATING TO CROWN'S SHAREHOLDINGS

40 **Crown's shareholdings**

- 40.1 Shares in the Company held by the Crown acting by and through a person described as the holder of a specified Ministerial portfolio shall be held by the Crown acting by and through the person for the time being holding that portfolio.
- 40.2 The Prime Minister may at any time or times, by written notice to the chairperson of directors of the Company which specifies the existing Ministerial portfolio and the new Ministerial portfolio, change the Ministerial portfolio by and through whose holder the Crown acts in relation to any shares in the Company and any such change shall have effect from the date specified in the notice (or, if no date is specified, from the date on which the notice is received by the Company).
- 40.3 It shall not be necessary to complete or register a transfer of shares in the Company consequent upon a change in the person holding a Ministerial portfolio as contemplated by *clause 38.1* or upon a change in a Ministerial portfolio as contemplated by *clause 38.2*; and the new person or holder of the new Ministerial portfolio may, on behalf of the Crown, act in relation to the shares as if the person or holder was registered in the Company's share register as the person by and through whom the Crown acts in relation to the shares.

41 **Appointment of representative**

A Minister of the Crown by and through whom the Crown acts as a holder of shares in the Company may at any time or times, by written notice to the chairperson of directors of the Company, authorise (on such terms and conditions

as are specified in the notice) such person as the Minister thinks fit to act as the Crown's representative at any or all of the meetings of shareholders of the Company, and any person so authorised shall be entitled to exercise at the meeting or meetings the same powers as the Crown acting by and through that Minister could exercise if present in person at the meeting or meetings.

FIRST SCHEDULE - CALLS ON SHARES

INTERPRETATION

1. Clause references

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

CALLS ON SHARES

2. Shareholders must pay calls

Every shareholder on receiving written notice in accordance with *clause 3* 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 the shareholder holds. The Board may revoke or postpone a call, or require a call to be paid by instalments.

3. Period of notice for calls

The period of notice required for a call on shares shall be that prescribed in the terms of issue of the shares. Where no such period is specified in the terms of issue, the period of notice shall be such period as is agreed between the shareholders and the directors or, in the absence of agreement, 12 months.

4. Call made when Board resolution passed

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

5. Joint holders are jointly and severally liable

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

6. Unpaid calls will accrue interest

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

7. Amounts payable under terms of issue treated as calls

Any amount that becomes payable on issue or at any specified date under this constitution or under the terms of issue of a share or under a contract for the issue

of a share, will be regarded as being a call duly made and payable on the specified date. If the payment is not made, the relevant provisions of this constitution will apply as if the amount had become payable by virtue of a call made in accordance with this constitution.

8. Board may differentiate between holders as to calls

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

9. Board may accept payment in advance for calls

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

SECOND SCHEDULE - PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

INTERPRETATION

1. Construction

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

A reference in this Schedule to a shareholder present at a meeting or entitled to vote at a meeting includes a reference to a proxy or representative of a shareholder and any person who may lawfully act at the meeting on behalf of a shareholder.

NOTICE

2. Written notice must be given to shareholders, directors and auditors

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

3. Notice must state nature of business

The notice must state:

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

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

4. Irregularities in notice may be waived

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

5. Omission of notice does not invalidate meeting

The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to that notice, does not invalidate the proceedings at that meeting.

6. Notice of an adjournment

If a meeting is adjourned for less than 30 days no notice of the time and place of the adjourned meeting need be given other than by announcement at the meeting from which the adjournment took place.

If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in the same way as notice was given of the meeting from which the adjournment took place.

MEETING AND QUORUM

7. Methods of holding meetings

A meeting of shareholders may be held either:

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

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

Meetings may be held under *clause 7.1.2* only if the notice of meeting so specifies or the Board decides that the Company should do so.

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

Subject to *clauses 10 and 11*, no business may be transacted at a meeting of shareholders if a quorum is not present.

9. Quorum for shareholders' meeting

A quorum for a meeting of shareholders is present if two shareholders are present (being the Crown acting by and through a Minister of the Crown, and the Crown acting by and through a different Minister of the Crown).

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

If a quorum is not present within 30 minutes after the time appointed for a meeting convened on the written request of one or more shareholders, the meeting will be dissolved automatically.

11. Other meetings to be adjourned if no quorum

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a meeting to which *clause 10* applies), the meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time, and place as the Board may appoint. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders present will constitute a quorum.

CHAIRPERSON

12. Chairperson or deputy chairperson of directors to be chairperson of meeting

The chairperson of directors (or if there is no chairperson or the chairperson is not present within 5 minutes of the time appointed for the commencement of the meeting or is unwilling to act, the deputy chairperson of directors) will chair each meeting of shareholders.

13. Shareholders may elect chairperson if neither chairperson nor deputy chairperson is available

If no chairperson or deputy chairperson of directors is present within 5 minutes of the time appointed for the commencement of a meeting of shareholders or neither of them is willing to act, the shareholders present may appoint a person to be chairperson of the meeting.

14. Chairperson's power to adjourn meeting

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

may adjourn the meeting with the consent of the shareholders; and

adjourn the meeting if directed by the shareholders to do so.

The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

VOTING

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

In the case of a meeting of shareholders held under *clause 7.1.1*, unless a poll is demanded, voting at the meeting will be by a show of hands or by voice vote, as the chairperson may determine.

16. Voting by voice if audio-conference meeting

In the case of a meeting of shareholders held under *clause 7.1.2*, unless a poll is demanded, voting at the meeting will be by the shareholders signifying individually their assent or dissent by voice.

17. Votes of joint holders

Where two or more persons are registered as the holders of a share, the vote of the person named first in the share register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

18. Shareholder does not lose voting rights if calls unpaid

A shareholder is entitled to vote at any meeting of shareholders whether or not all sums due to the Company by that shareholder in respect of any share registered in that shareholder's name have been paid.

19. Chairperson not allowed casting vote

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

20. Chairperson's declaration of result

Unless a poll is demanded, a declaration by the chairperson of the meeting that a resolution voted on under *clause 15* or *clause 16* is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

The result of a poll declared by the chairperson of the meeting shall be the resolution of the meeting at which the poll was demanded on the issue for which the poll was taken.

POLLS

21. Poll may be demanded by shareholders

Subject to clause 5(4) of the First Schedule to the Act, at a meeting of shareholders, a poll may be demanded, either before or after a vote by show of hands or voice vote, by any shareholder.

22. Time at which poll to be taken

A poll must be taken forthwith after it is demanded.

23. Counting votes cast in a poll

If a poll is taken, votes must be counted according to the votes attached to the shares of each shareholder present and voting.

24. Proxy allowed to demand a poll

The instrument appointing a proxy to vote at a meeting confers authority to demand, or join in demanding, a poll, and a demand by a person as proxy for a shareholder has the same effect as a demand by the shareholder.

PROXIES

25. Proxies permitted

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

26. Proxy to be treated as shareholder

A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were the shareholder.

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

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

28. Notice of proxy to be produced before meeting

No proxy is effective in relation to a meeting unless the notice of appointment, or a copy of the notice, is produced before the start of the meeting.

29. Form of notice of proxy

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

NO POSTAL VOTING

30. Postal votes are not permitted

A shareholder may not exercise the right to vote at a meeting by casting a postal vote.

MINUTES

31. Board must keep minutes of proceedings

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

SHAREHOLDER PROPOSALS

32. Shareholder proposals by written notice

A shareholder may give written notice to the Board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote, and clause 9 of the First Schedule to the Act shall apply accordingly.

OTHER PROCEEDINGS

33. Meeting may regulate other proceedings

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

THIRD SCHEDULE - PROCEEDINGS OF THE BOARD

NOTICE OF MEETING

1. Director or employee under director's instructions to convene meetings

A director, or an employee of the Company at the request of a director, may convene a meeting of the Board by giving written notice in accordance with this Schedule.

2. Notice to contain certain details

The notice of meeting must include the date, time and place of the meeting and the matters to be discussed.

3. Period of notice required to be given to directors

At least 5 working days' notice of a meeting of the Board must be given to every director. Where the chairperson or, in the chairperson's absence from New Zealand, any other director believes it is necessary to convene a meeting of the Board as a matter of urgency, shorter notice of the meeting of the Board may be given, so long as at least 1 working day's notice is given.

4. Notice to be sent to director's address

The notice of meeting must be sent to the address, or email address or facsimile number, which the director provides to the Company for that purpose, but if an address, or email address or facsimile number, is not provided, then to his or her last place of employment or residence, or email address or facsimile number, known to the Company.

5. Directors may waive irregularities in notice

Any irregularity in the notice of a meeting is waived if all directors attend the meeting without protest as to the irregularity, or if all directors agree to the waiver.

MEETING AND QUORUM

6. Methods of holding meetings

A meeting of the Board may be held either:

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

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

7. Quorum for Board meeting

The quorum necessary for the transaction of business at a meeting of the Board is a majority of the directors. Subject to *clause 8* of this Schedule, no business may be transacted at a meeting of the Board unless a quorum is present.

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

CHAIRPERSON

9. Chairperson or deputy chairperson to chair meetings

The chairperson of directors (or if there is no chairperson or the chairperson is not present within 5 minutes after the time appointed for the commencement of the meeting, the deputy chairperson of directors) will chair each meeting of the Board at which he or she is present.

10. Directors may appoint chairperson of meeting if neither chairperson nor deputy chairperson is present

If at a meeting of the Board no chairperson or deputy chairperson of directors is present within 5 minutes after the time appointed for the commencement of the meeting, the directors present may appoint one of their number to be chairperson of the meeting.

VOTING

11. Voting on resolutions

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

12. Chairperson has casting vote

In the case of an equality of votes, the chairperson of directors has a casting vote, except when only two directors vote.

MINUTES

13. Board must keep minutes of proceedings

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

OTHER PROCEEDINGS

14. Board may regulate other proceedings

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

CONTENTS

PART A: INTRODUCTION.....	1
INTERPRETATION	1
1 Defined terms	1
2 Construction	2
THE RELATIONSHIP BETWEEN THIS CONSTITUTION AND THE ACT	2
3 Effect of the Act on this constitution	2
4 Effect of this constitution.....	2
5 Shareholders may alter or revoke this constitution.....	2
PURPOSE AND NATURE OF COMPANY	2
6 Purpose of Company	2
7 Nature of Company	3
PART B: SHARES AND SHAREHOLDERS.....	4
SHARES.....	4
8 Company’s shares	4
9 Board to issue shares.....	4
10 No statutory pre-emptive rights	4
11 Board may make calls	4
DISTRIBUTIONS	4
12 Shares in lieu of dividends	4
MEETINGS OF SHAREHOLDERS	5
13 Company must hold annual meeting of shareholders	5
14 Company may hold special meetings of shareholders	5
15 Written shareholders’ resolution instead of holding a meeting	5
16 Proceedings at meetings of shareholders	6
PART C: DIRECTORS	6
APPOINTMENT AND REMOVAL.....	6
17 Number of directors	6
18 Appointment of directors and chairperson and deputy chairperson	6
19 Removal of directors.....	7
VACATION OF OFFICE	7
20 Office of director vacated in certain cases.....	7
21 Directors’ resignation procedure.....	7

MANAGING DIRECTOR	8
22 Power to appoint, reappoint and remove managing director	8
23 Managing director's powers	9
PROCEEDINGS OF THE BOARD	9
24 Meetings of the Board.....	9
25 Written resolutions of Board permitted	9
26 Committee proceedings.....	9
INTERESTED DIRECTORS	10
27 Interested director may not vote	10
REMUNERATION	10
28 Board's power to authorise remuneration and other benefits is limited	10
ALTERNATE DIRECTORS.....	11
29 Directors may appoint and remove alternate directors	11
30 Alternate director has powers of appointor.....	11
31 Termination of appointment of alternate director	12
LIMITATIONS ON DIRECTORS' POWERS OF MANAGEMENT	12
32 Statement of intent and Output Agreement.....	12
PART D: GENERAL	12
CHANGE OF COMPANY NAME.....	12
33 A director may apply to change Company name	12
CHANGE OF REGISTERED OFFICE OR ADDRESS FOR SERVICE	12
34 Board to notify shareholders of change of registered office or address for service.....	12
INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES .	13
35 Company may indemnify directors and employees for certain liabilities	13
36 Company may effect insurance for directors and employees	13
GOVERNANCE.....	13
37 Good employer.....	13
38 Whole of government directions.....	14
MANNER OF CONTRACTING	14
39 Manner of execution of contracts by the Company	14
PROVISIONS RELATING TO CROWN'S SHAREHOLDINGS.....	15
40 Crown's shareholdings.....	15
41 Appointment of representative.....	15

FIRST schedule - calls ON SHARES	17
INTERPRETATION	17
1. Clause references.....	17
CALLS ON SHARES	17
2. Shareholders must pay calls	17
3. Period of notice for calls.....	17
4. Call made when Board resolution passed.....	17
5. Joint holders are jointly and severally liable	17
6. Unpaid calls will accrue interest	17
7. Amounts payable under terms of issue treated as calls	17
8. Board may differentiate between holders as to calls	18
9. Board may accept payment in advance for calls	18
SECOND SCHEDULE - PROCEEDINGS AT MEETINGS OF SHAREHOLDERS.....	19
INTERPRETATION	19
1. Construction	19
NOTICE.....	19
2. Written notice must be given to shareholders, directors and auditors.....	19
3. Notice must state nature of business	19
4. Irregularities in notice may be waived	19
5. Omission of notice does not invalidate meeting.....	19
6. Notice of an adjournment	20
MEETING AND QUORUM.....	20
7. Methods of holding meetings	20
8. Business to be transacted only if a quorum is present.....	20
9. Quorum for shareholders' meeting.....	20
10. Meeting convened at shareholders' request dissolved if no quorum	20
11. Other meetings to be adjourned if no quorum.....	21
CHAIRPERSON	21
12. Chairperson or deputy chairperson of directors to be chairperson of meeting.....	21
13. Shareholders may elect chairperson if neither chairperson nor deputy chairperson is available.....	21
14. Chairperson's power to adjourn meeting	21
VOTING.....	21

15. Voting by show of hands or voice vote at meeting	21
16. Voting by voice if audio-conference meeting	22
17. Votes of joint holders	22
18. Shareholder does not lose voting rights if calls unpaid.....	22
19. Chairperson not allowed casting vote	22
20. Chairperson's declaration of result.....	22
POLLS	22
21. Poll may be demanded by shareholders	22
22. Time at which poll to be taken	22
23. Counting votes cast in a poll	23
24. Proxy allowed to demand a poll	23
PROXIES.....	23
25. Proxies permitted.....	23
26. Proxy to be treated as shareholder.....	23
27. Appointment of proxy must be in writing and specify restrictions.....	23
28. Notice of proxy to be produced before meeting.....	23
29. Form of notice of proxy.....	23
NO POSTAL VOTING	23
30. Postal votes are not permitted	23
MINUTES	24
31. Board must keep minutes of proceedings.....	24
SHAREHOLDER PROPOSALS	24
32. Shareholder proposals by written notice	24
OTHER PROCEEDINGS	24
33. Meeting may regulate other proceedings	24
THIRD SCHEDULE - PROCEEDINGS OF THE BOARD	25
NOTICE OF MEETING	25
1. Director or employee under director's instructions to convene meetings.	25
2. Notice to contain certain details	25
3. Period of notice required to be given to directors	25
4. Notice to be sent to director's address.....	25
5. Directors may waive irregularities in notice	25
MEETING AND QUORUM.....	25
6. Methods of holding meetings	25

7. Quorum for Board meeting	26
8. Meeting adjourned if no quorum.....	26
CHAIRPERSON	26
9. Chairperson or deputy chairperson to chair meetings	26
10. Directors may appoint chairperson of meeting if neither chairperson nor deputy chairperson is present.....	26
VOTING.....	26
11. Voting on resolutions	26
12. Chairperson has casting vote	27
MINUTES	27
13. Board must keep minutes of proceedings.....	27
OTHER PROCEEDINGS	27
14. Board may regulate other proceedings	27