

CONSTITUTION
Of
RURAL CANTERBURY
PHO LIMITED

1 PRELIMINARY

- 1.1 **Rights, powers and duties:** The Company, the Board, the Shareholders and each Director and Shareholder of the Company has 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.

2 INTERPRETATION

- 2.1 **Definitions:** In this constitution unless the context otherwise requires:

“**Act**” means the Companies Act 1993;

“**Associated Person**” means a person associated with a Shareholder in the circumstances set out in section OD8(1) of the Income Tax Act 1994;

“**Board**” means the Directors of the Company who number not less than the required quorum acting together as a Board of Directors;

“**Casual User**” means any person who is eligible for publicly funded health services in accordance with applicable legislation and who is not an Enrolled Person but who receives Services provided by the Company or by Contracted Providers;

“**Charitable Purpose**” means every purpose which in accordance of the law of New Zealand is charitable and includes every charitable purpose within the meaning of that term in the Charitable Trusts Act 1957 PROVIDED HOWEVER that any such purpose is also regarded as charitable under every statute, regulation or ordinance relating to income tax or gift duty for the time being in force in New Zealand;

“**Class**” means a class of shares having attached to them identical rights, privileges, limitations and conditions;

“**Community**” means all persons normally residing or located in the geographic region in which the Enrolled Population normally resides, including the Maori Community;

“**Company**” means Rural Canterbury PHO Limited;

“**Consumers**” means the Enrolled Population and all Casual Users;

“**Contracted Provider**” means any health service provider with whom or with which the Company has an agreement to provide Services to Consumers, including that provider's employees, agents and subcontractors;

“**Director**” in relation to the Company has the meaning set out in Section 126;

“**Distribution**” has the meaning given to it in Section 2 but does not include:

- a. any fair and reasonable payment for services performed by a natural person or by any other person of which such natural person is a member, employee or associate, including payment for Services performed by Contracted Providers;
- b. the reimbursement of expenses properly incurred in relation to the performance of such services, or otherwise on behalf of the Company or any Contracted Provider;
- c. any payment of interest on, and any repayment of, money lent to the Company,

provided that, in each case, the amount paid is relative to the amount which would be paid in an arm's-length transaction.

“Dividend” has the meaning given to it in Section 53;

“Enrolled Person” means any person who is eligible for publicly funded health services in accordance with applicable legislation and who is enrolled with the Company (whether directly or via a Contracted Provider) so as to be eligible to receive health Services provided by the Company;

“Enrolled Population” means all Enrolled Persons;

“Founding Shareholder” means South Link Health Incorporated (DN 620498);

“Maori Community” means all natural persons claiming or recognising themselves as being of New Zealand Maori descent who normally reside in the geographic region in which the Enrolled Population normally resides;

“Ordinary Resolution” is a resolution that is approved by a simple majority of the votes of the Shareholders entitled to vote and voting on the question;

“Other Provider” means any health service provider with whom or with which the Company does not have an agreement to provide Services to Consumers;

“Registrar” has the meaning given to it in Section 2;

“Representative Body” means any person or association of persons (including natural persons acting in the capacity of trustees of an unincorporated trust) recognised by Ordinary Resolution of the Shareholders as having authority for the time being to represent the interests of either:

- a. the Community; or
- b. the Maori Community; or
- c. Consumers; or
- d. Contracted Providers; or
- e. Other Providers; or
- f. any section or component or interest group within any of a to e above,

and includes the Founding Shareholder.

“Section” means a section of the Act;

“Services” means services provided by the Company in the pursuit of its Charitable Purpose, whether provided directly by the Company or via Contracted Providers and whether provided to

Consumers, Contracted Providers, the Community, the Maori Community or any Representative Body;

“Shareholder” means any Representative Body which holds shares in the Company from time to time in accordance with this constitution, and for so long as the Founding Shareholder is the only Shareholder, means the Founding Shareholder;

“Share Register” means the register to be kept under Section 87 and includes any division of such register;

“Solvency Test” has the meaning given to it in Section 4;

- 2.2 **No definition:** Any expression not defined in this constitution but defined in the Act shall bear the same meaning in this constitution as in the Act.
- 2.3 **Singular and plural:** In this constitution, unless the context requires otherwise, words importing the singular number include the plural number and vice versa.
- 2.4 **Persons:** In this constitution, unless the context requires otherwise or the reference is confined to natural persons, words importing persons include firms, corporations, charitable trust boards, the trustees of unincorporated trusts, and agencies of the Crown.
- 2.5 **Headings:** Headings shall not affect the interpretation of this constitution.
- 2.6 **Reference to statutes:** Unless the context otherwise requires, references to a statute include:
- (a) amendments to that statute;
 - (b) a statute passed in substitution for that statute; and
 - (c) regulations passed under that statute or any of its amendments or under a statute passed in substitution for that statute.
- 2.7 **Reference to share:** A reference to a share means a share in the Company.
- 2.8 **Words of limitation:** In interpreting this constitution, the words "including", "include" and "for example" do not have any limiting effect.

3 OBJECTS AND POWERS

- 3.1 **Charitable Purpose:** The Company is established solely for Charitable Purposes including:
- (a) improving and maintaining the health of the Enrolled Population;
 - (b) providing primary health care services to restore Consumers' health when they are unwell;
 - (c) providing any educational, advisory, supervisory, planning, administrative and support services as are incidental or conducive to the pursuit of the above Charitable Purposes.
- 3.2 Notwithstanding anything else contained in this constitution, no power expressed or implied in this constitution shall authorise the Directors to do or suffer any act which does not further the Company's Charitable Purposes.

4 SHARES

4.1 **Types of shares:** Different classes of shares may be issued in the Company from time to time and, without limiting the foregoing, shares may:

- (a) be redeemable;
- (b) confer preferential rights to distributions of capital or income;
- (c) confer special, limited, or conditional voting rights;
- (d) not confer voting rights; or
- (e) have limitations on restrictions on transferability.

4.2 **Redeemable shares generally:** The Board may issue shares that are redeemable:

- (a) at the option of the Company;
- (b) at the option of the holder of the share;
- (c) on a date determined by the Board,

for a consideration that is:

- (d) determined by the Board;
- (e) to be calculated in accordance with a formula; or
- (f) required to be fixed by a suitable qualified person who is not associated with or interested in the Company.

4.3 **Redemption in specific circumstances:** Without limiting the generality of clause 4.2, the Board may issue shares that are redeemable at the option of the Company if:

- (a) the Shareholders resolve under clause 5.2 that a Shareholder is no longer recognised as being a Representative Body; or
- (b) a resolution is passed in accordance with clause 5.3 that shares may only be issued to or held by Representative Bodies that exist for Charitable Purposes, and a Shareholder does not exist for a Charitable Purpose.

5 ISSUE OF SHARES

5.1 **Generally:** Subject to the Act and in particular Section 47 and this constitution, the Board may issue shares only to Representative Bodies, and shares may continue to be held by a Shareholder only while it continues to be a Representative Body. The consideration for which such shares are issued may take any form and may be cash, promissory notes, contracts for future services, real or personal property, or other securities.

5.2 **Recognition of Representative Bodies:** The Shareholders may at any time by Ordinary Resolution determine that a person or association of persons previously recognised as being a Representative Body is no longer recognised as being a Representative Body.

5.3 **Issue of shares to non-charitable bodies:** Either the Shareholders by Ordinary Resolution, or the Board, may at any time resolve that shares may only be issued to and/or held by Representative

Bodies that exist for Charitable Purposes. If such a resolution is passed and for so long as it remains in effect, no share may be issued to a Representative Body that does not exist for Charitable Purposes and any such issue of shares is void. A resolution of Shareholders passed in accordance with this clause shall remain in force until a further Ordinary Resolution of Shareholders is passed authorising the issue of shares to non-charitable bodies. A resolution of the Board passed in accordance with this clause shall remain in force until either a further resolution of the Board, or an Ordinary Resolution of Shareholders, is passed authorising the issue of shares to non-charitable bodies.

5.4 **Consent to issue:** The issue of a share that:

- (a) increases the liability of a Shareholder to the Company; or
- (b) imposes a new liability on a Shareholder to the Company,

is void unless the Shareholder or an agent of the Shareholder authorised in writing consents in writing to becoming the holder of the share before it is issued.

5.5 **Time of issue:** A share is issued when the name of the Shareholder is entered on the Share Register.

5.6 **Restriction:** No share shall be issued if, immediately following the proposed issue, the Founding Shareholder would hold less than 60% of all the shares in the Company.

6 CALL ON SHARES

6.1 **Power to call:** The Board may from time to time make calls in respect of all moneys unpaid on shares and which are not payable at fixed times. A call may be made payable by instalments. A call shall be deemed to have been made at the time when the resolution of the Board making the call was passed. The Shareholder shall pay the call so made to the Company or person appointed for the purpose and at the times and places appointed by the Board.

6.2 **Revocation or postponement of calls:** A call may be revoked, reduced or postponed as the Board determines.

6.3 **Interest:** Interest on the call shall be payable from the day appointed for payment to the day of actual payment at such rate as may be applicable under the terms of issue or as the Board determines. The Board may waive payment of that interest wholly or in part.

6.4 **Term of issue:** Any sum which by the terms of issue of a share becomes payable on a particular day shall for the purposes of this constitution be deemed to be a call duly made and payable on that day.

6.5 **Different amounts:** The Board may on the issue of shares differentiate as to the amount of calls to be paid and the time of payment.

6.6 **Calls may be paid in advance and interest may be paid thereon:** The Board may receive from a Shareholder advances of all or part of the money uncalled and unpaid upon any shares held by the Shareholder. The Board may pay interest on the money so advanced at such rate as the Board determines. Distributions shall not be made on uncalled amounts paid in advance.

7 NO DISTRIBUTIONS TO SHAREHOLDERS

- 7.1 **Restriction on Distributions:** Subject to the Act, the Company shall be prohibited from making any Distributions to Shareholders or to any Associated Person, whether by way of money, property or otherwise howsoever.
- 7.2 **Other benefits:** No person shall be entitled to receive any benefit from the Company which would result in the Company being in breach of its Charitable Purposes. Any income, benefit, advantage or capital of the Company shall be applied only to the Charitable Purposes for the time being of the Company.

8 TRANSFER OF SHARES RESTRICTED

- 8.1 **Transfer Restricted:** Shares may not be transferred to any person that is not a Representative Body. During any period that the Company is prohibited from issuing shares to non-charitable bodies in accordance with clause 5.3, only a Representative Body that exists for Charitable Purposes shall be a Shareholder in the Company and shares in the Company may not be transferred to any other party. Shares in the Company may not be transferred to any person if, immediately following the proposed transfer, the Founding Shareholder would hold less than 60% of all shares in the Company.

9 MEETINGS OF SHAREHOLDERS

- 9.1 **Annual meeting of Shareholder:** Subject to clause 9.2, the Board must call an annual meeting of Shareholders to be held:
- (a) once in each calendar year;
 - (b) not later than 6 months after the balance date of the Company; and
 - (c) not later than 15 months after the previous annual meeting.
- 9.2 **Special meeting of Shareholders:** A special meeting of Shareholders may be called at any time by:
- (a) the Board;
 - (b) a Director, at any time that there are insufficient Directors appointed or entitled to act to form a quorum of Directors; or
 - (c) the Shareholder or a representative of the Shareholder.
- 9.3 **Proceedings at Shareholders' meetings:** The provisions of Schedule 1 to this constitution govern proceedings at meetings of Shareholders.
- 9.4 **Resolution in Lieu of meeting:** A resolution in writing by or on behalf of a Shareholder or a representative of the Shareholder is as valid as if it had been passed at a meeting of the Shareholder.

10 POWERS OF DIRECTORS

- 10.1 **Management by Board:** The business and affairs of the Company shall be managed by, or under the direction or supervision of the Board.
- 10.2 **Powers:** Subject to clauses 3, 7 and 18, the Board has all the powers necessary for managing and for directing and supervising the management of the business and affairs of the Company.

- 10.3 **Board may delegate:** The Board may delegate its powers in accordance with the Act.
- 10.4 **Change of name:** A Director may, with the approval of the Shareholders, apply to change the name of the Company.

11 TRANSACTIONS INVOLVING SELF INTEREST

- 11.1 **Interested Director not entitled to vote:** No person who is a Director, Shareholder or Associated Person shall materially influence in any way the determination by the Company of the nature or amount or circumstances of any benefit to be derived by that person from the Company, or any other matter in which that person has a material interest, except in relation to:

- (a) a payment authorised in accordance with clause 15; or
- (b) the payment of interest at commercial rates of interest for the time being,

and in particular, that person shall be excluded from any role in the decision of the Directors or Shareholders as to the acquisition or use of goods or services provided by that person, or the borrowing of moneys from that person, and this exclusion shall be documented by resolution.

- 11.2 **Question as to materiality of Director's interest:** If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by the Director voluntarily agreeing to abstain from voting, such question shall be referred to the chairperson of the meeting and his or her ruling in relation to any such Director shall be final and conclusive. A Director shall be deemed to have an interest in any matter in which he or she would reasonably be regarded as likely to be influenced materially to prefer interests other than those of the Company, or any other affected party, for reasons of personal advantage of business or family associates provided that a Director shall not be deemed to have such an interest merely by virtue of the Director being a member, employee, officer or representative of a Representative Body or of a Contracted Provider.

12 APPOINTMENT AND REMOVAL OF DIRECTORS

- 12.1 **Number of Directors:** The number of Directors shall be not less than 4 nor greater than 7, all of whom shall be appointed by the Shareholders.

- 12.2 **Initial Directors:** A person named as a Director in an application for registration holds office as a Director in accordance with the Act.

- 12.3 **Appointment of Subsequent Directors:** All subsequent Directors shall be appointed by the Shareholders by notice to the Company. In appointing Directors (other than the initial Directors), the Shareholders shall ensure the composition of the Board of Directors conforms with the following:

- (a) at least one Director shall be appointed on the written recommendation of a Representative Body of the Community or, if no such recommendation is received from such Representative Body, then one Director shall be appointed by the Shareholders to represent the interests of the Community;
- (b) at least one Director shall be appointed on the written recommendation of a Representative Body of the Maori Community or, if no such recommendation is received from such Representative Body or if there is no such Representative Body, then one Director shall be appointed on the written recommendation of a Representative Body of the Community to

represent the interests of the Maori Community (and shall be a different person from the Director appointed under paragraph (a));

- (c) at least one Director shall be appointed on the written recommendation of a Representative Body of Consumers or, if no written recommendation is received from such Representative Body or if there is no such Representative Body, then on the written recommendation of a Representative Body of the Community to represent the interests of Consumers (and may be the same person as the Director appointed under either paragraph (a) or paragraph (b) or may be a different person).

12.4 Director ceasing to hold office: The office of a Director is vacated if the person holding that office:

- (a) resigns;
- (b) is removed from office in accordance with the Act or clause 12.6;
- (c) becomes disqualified from being a Director pursuant to Section 151; or
- (d) dies; or
- (e) retires by rotation and is not re-elected.

12.5 Resignation procedure: A Director may resign office by signing a written notice of resignation and delivering it 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.

12.6 Removal of Directors: A Director may be removed from office by an Ordinary Resolution. A Director appointed pursuant to any of paragraphs a, b or c of clause 12.3 shall be removed by Ordinary Resolution following receipt by the Shareholders of a written resolution of no confidence in that Director from the Representative Body that recommended that Director's appointment.

12.7 Vacancy: The Directors may act notwithstanding any vacancy in their body.

12.8 Retirement by rotation: One-third of the Directors or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office at the annual meeting each year. The Directors to retire shall be those who have been longest in office since they were last elected or deemed elected. In the case of Directors who were last appointed directors on the same day (including the initial Directors), those to retire shall be determined by agreement between those Directors or, if they cannot agree, by lot.

12.9 Re-election of retiring Director: At a meeting at which a Director retires, the Company may elect a person to fill the vacated office. If no other person is elected, the retiring Director shall, if standing for re-election, be deemed to have been re-elected unless it is resolved not to fill the vacated office or unless a resolution for the re-election of that Director is put to the meeting and lost.

13 ALTERNATE DIRECTORS

13.1 Appointment:

- (a) Any Director may with the prior approval of the Shareholder, by notice to the Company appoint a person, not being a Director, to be the alternate of that Director;
- (b) No Director shall appoint a deputy or agent otherwise than by way of appointment of an alternate.

13.2 **Powers:** Each alternate shall:

- (a) be entitled to receive notice of meetings of Directors;
- (b) during the absence of the appointing Director, be entitled to attend and vote at meetings of Directors and be counted in the quorum at such meetings; and
- (c) have all the rights, powers, duties and authorities of the appointing Director except that:
 - (i) the alternate shall not be entitled to appoint an alternate; and
 - (ii) the alternate shall not be entitled to be remunerated otherwise than out of the remuneration of the appointing Director.

13.3 **No agency:** An alternate shall not be deemed to be the agent of the appointing Director, and shall alone be responsible to the Company for his or her own acts and defaults.

13.4 **Cessation of appointment:**

- (a) A Director may at any time by notice to the Company revoke the appointment of his or her alternate.
- (b) If a Director shall cease to be a Director, the appointment of that Director's alternate shall thereupon cease.

14 PROCEEDINGS OF DIRECTORS

14. **Proceedings governed by Schedule 2:** The provisions set out in Schedule 2 to this constitution govern the proceedings of the Board. The Third Schedule to the Act shall not apply to the Company.

15 REMUNERATION OF DIRECTORS AND ASSOCIATES

15.1 **Power to authorise reasonable remuneration:** The Board may authorise the payment of reasonable remuneration or the provision of other reasonable benefits by the Company to a Director or any Associate of a Director for services actually carried out as a Director or in any other capacity if the Board is satisfied that to do so is fair to the Company and is a reasonable market remuneration for those services.

16 INDEMNITY AND INSURANCE

16.1 **Indemnity:** The Company shall indemnify every Director and employee of the Company in respect of:

- (a) any costs incurred by him or her in any proceeding:
 - (i) that relates to liability for any act or omission in his or her capacity as a Director or employee;
 - (ii) in which judgement is given in his or her favour, or in which he or she is acquitted, or which is discontinued;
 - (iii) liability to any person other than the Company for any act or omission in his or her capacity as a Director or employee; and

- (iv) reasonable costs incurred by that Director or employee in defending or settling any claim or proceeding relating to any such liability,

not being criminal liability or liability in respect of a breach, in the case of a Director, of the duty specified in Section 131 or, in the case of an employee, of any fiduciary duty owed to the Company.

16.2 Insurance against liability: The Company may with the prior approval of the Board and in accordance with Section 162 effect insurance for a Director or employee of the Company in respect of.

- (a) liability, not being criminal liability, for any act or omission in any Director's or employee's capacity as Director or employee;
- (b) costs incurred by that Director or employee in defending or settling any claim or proceeding relating to any such liability; or
- (c) costs incurred by that Director or employee in defending any criminal proceedings in which he or she is acquitted.

16.3 Definitions: For the purposes of this clause 16 the words and expressions "Director" "effect insurance", "employee", "indemnify" and "indemnity" shall each have the meaning given to them by Section 162(9).

17 LIQUIDATION AND REMOVAL FROM THE REGISTER

17.1 Liquidation on certain events: A liquidator of the Company may be appointed by Ordinary Resolution of the Shareholder.

17.2 Shareholder's view: If the Shareholder passes a resolution under clause 17.1 it may also set out its views in the resolution, which views the liquidator must have regard to under Section 258.

17.3 Division of surplus assets: The liquidator shall transfer or distribute the whole or any part of the surplus assets of the Company (whether they consist of property of the same kind or not) to such persons in New Zealand that exist for Charitable Purposes as may be determined by Ordinary Resolution or, in default of such determination, as may be directed by the High Court of New Zealand. This clause shall apply subject to any applicable legislation requiring the liquidator to transfer or distribute assets to any other person.

17.4 Removal from register: Any Director with the prior approval of the Board may request the Registrar to remove the Company from the New Zealand register of companies under Section 318 on the grounds that:

- (a) the Company has ceased to carry on business, has discharged in full its liabilities to all its known creditors, and has transferred or distributed its surplus assets in accordance with this constitution and the Act; or
- (b) the Company has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court under Section 241 for an order putting the Company into liquidation.

18 AMENDMENTS TO CONSTITUTION

- 18.1 Subject to clause 18.2, the Constitution may be altered or amended by Ordinary Resolution provided always that prior to passing such Ordinary Resolution the proposed alteration or amendment shall have first been approved by the Inland Revenue Department so that after such alteration or amendment the Company will continue to be established for Charitable Purposes.
- 18.2 Notwithstanding clause 18.1, the Shareholders shall not amend clauses 3, 7, 15 or 17.3 unless and to the extent necessary or desirable to obtain or maintain the charitable status of the Company.

SCHEDULE 1

Proceedings at Meetings of Shareholders

1 CHAIRPERSON

- 1.1 The chairperson (if any) of the Board shall preside as chairperson at every general meeting of the Company. If there is no such chairperson or if he or she is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act the Directors present shall elect one of their number to be chairperson of the meeting.
- 1.2 If no Director is willing to act as chairperson or if no Director is present within 15 minutes after the time appointed for holding the meeting the members present shall nominate a person to be chairperson of the meeting.

2 NOTICE OF MEETINGS

- 2.1 Written notice of the time and place of a meeting of the Shareholder must be sent to the Shareholders, to every Director, and the auditor of the Company not less than 10 working days before the meeting.
- 2.2 The notice must state:
 - (a) the nature of the business to be transacted at the meeting in sufficient detail to enable the Shareholders to form a reasoned judgement in relation to it; and
 - (b) the text of any Ordinary Resolution to be submitted to the meeting.
- 2.3 An irregularity in a notice of a meeting is waived if a Shareholder attends the meeting without protest as to the irregularity, or if the Shareholder agrees to the waiver.
- 2.4 The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a Shareholder or other person, shall not invalidate the proceedings at a meeting.

3 METHODS OF HOLDING MEETINGS

- 3.1 A meeting of the Shareholders may be held either by means of audio, or audio and visual, communication by which all representatives of the Shareholders can simultaneously hear each other throughout the meeting.

4 QUORUM

- 4.1 No business may be transacted at a meeting of the Shareholders if a representative of the Shareholder or Shareholders holding between them a majority of the shares in the Company carrying a right to vote on the business to be transacted at the meeting is not present.

5 ADJOURNMENT

- 5.1 A meeting of the Shareholders at which a quorum is present, or any business being considered or remaining to be considered at such a meeting:

- (a) may be adjourned if the chairperson of the meeting in his or her sole discretion so determines; or
- (b) shall be adjourned if the chairperson of the meeting is so directed by the meeting (in which case the meeting shall be adjourned).

5.2 No business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. If a meeting of the Shareholder 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.

5.3 Without limiting subclause 5.1 of this Schedule, a meeting of the Shareholders or any business being considered or remaining to be considered may be adjourned indefinitely if the meeting becomes so disorderly or protracted that in the opinion of the chairperson in his/her sole discretion the business of the meeting cannot be conducted in a proper and orderly manner.

5.4 If any meeting is adjourned pursuant to subclauses 5.1 or 5.3 of this Schedule, then with respect to any unfinished business of such meeting:

- (a) a resolution not voted upon concerning the remuneration of the auditors will be deemed to have been withdrawn and a resolution authorising the Board to fix the remuneration of the auditors will be deemed to have been passed; and
- (b) the chairperson may direct that any other item of business uncompleted at the original meeting (of which notice was given in the notice convening the original meeting) be put to the vote on a poll without further discussion.

6 VOTING

6.1 Voting at the meeting shall be by the authorised representatives of the Shareholders signifying individually their assent or dissent by voice.

6.2 A declaration by the chairperson of the meeting that a resolution is carried is conclusive evidence of that fact.

7 REPRESENTATIVES

7.1 A Shareholder may exercise the right to vote by appointing in writing a person or persons to represent it at the meeting.

7.2 Such representative or representatives are entitled to attend and be heard at the meeting.

7.3 The instrument of appointment must be signed on behalf of the Shareholder and must state whether the appointment is for a particular meeting or for a specified term not exceeding 24 months. If more than one person is appointed the instrument shall specify whose vote shall prevail if such persons are unable to agree on any issue.

7.4 A Shareholder that has appointed a representative in accordance with this clause may at any time give a notice to the Company, signed by the Shareholder, terminating that representative's appointment and/or replacing that representative with a new representative or appointing an additional representative.

7.5 No such instrument of appointment is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting. An instrument of appointment of a

representative for a specified term, once received by the Company, is effective until the expiry of that specified term or receipt by the Company from the appointing Shareholder of a further instrument terminating the representative's appointment and/or replacing that representative with a different representative, whichever is earlier.

8 POSTAL VOTES

- 8.1 A Shareholder may exercise its right to vote at a meeting by casting a postal vote.

9 MINUTES

- 9.1 The Board must ensure that minutes are kept of all proceedings at meetings of the Shareholders.
- 9.2 Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

10 OTHER PROCEEDINGS

- 10.1 Except as provided in this Schedule the chairperson of a meeting of the Shareholders may regulate the procedure at that meeting.

SCHEDULE 2

Proceedings of the Board

1 CHAIRPERSON

- 1.1 The Directors may elect one of their number as chairperson of the Board.
- 1.2 The Director elected as chairperson holds that office until he or she dies or resigns or the Directors elect a chairperson in his or her place.
- 1.3 If no chairperson is elected, or if at a meeting of the Board the chairperson is not present within 10 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.

2 NOTICE OF MEETING

- 2.1 A Director or the secretary of the Company may convene a meeting of the Board.
- 2.2 Notice of a meeting of the Board must be given to every Director who is in New Zealand (including alternate Directors). The notice must include the date, time, and place of the meeting. The notice need not be in writing.
- 2.3 An irregularity in the notice of a meeting is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.

3 METHODS OF HOLDING MEETINGS

- 3.1 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 telephone communication pursuant to clause 4 of this Schedule.

4 MEETINGS BY TELEPHONE

- 4.1 The contemporaneous linking together by telephone of a number of the Directors not less than the quorum, whether or not any one or more of the Directors is out of New Zealand, shall be deemed to constitute a meeting of the Directors. The following conditions shall be met in relation to a telephone meeting:
 - (a) all the Directors for the time being entitled to receive notice of a meeting of the Directors (including any alternate Directors) shall be entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting. Notice of any such meeting may be given on the telephone;
 - (b) if all reasonable efforts are made to contact a Director or alternate Director to give notice of a meeting, including by telephone, and the Director or alternate Director cannot be contacted, notice of the meeting shall be deemed to have been given;

- (c) each of the Directors taking part in the meeting by telephone must be able to hear each of the other Directors taking part at the commencement of the meeting;
- (d) at the commencement of the meeting and at or about the closure of the meeting each Director must acknowledge his presence for the purpose of a meeting of the Directors to all the other Directors taking part;
- (e) a Director may not leave the meeting by disconnecting his telephone unless he or she has previously obtained the express consent of the chairperson of the meeting. A Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone unless he or she has previously obtained the express consent of the chairperson to leave the meeting;
- (f) a minute of the proceedings at such meeting by telephone shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting; and
- (g) for the purposes of this clause "telephone" shall include television or any other audio and visual device which permits instantaneous communication.

5 QUORUM

- 5.1 At any time that the Company has 4 Directors, a quorum for a meeting of the Board is 3 Directors. At any time that the Company has more than 4 Directors, a quorum for a meeting of the Board is 4 Directors.
- 5.2 No business may be transacted at a meeting of Directors if a quorum is not present.
- 5.3 If notice of a meeting of the Board has been properly given under clause 2 of this Schedule and a quorum is not present within 30 minutes after the time appointed for the meeting, any Director may by not less than 2 days' notice to every Director who is in New Zealand (including alternate Directors) convene a further meeting of the Board.
- 5.4 A Director who is prohibited by this constitution from materially influencing a decision of the Company on a particular matter and who is accordingly required to abstain from voting on any resolution of Directors on that matter may nevertheless be counted in the quorum for that meeting (if present).

6 VOTING

- 6.1 Every Director has one vote.
- 6.2 The chairperson has a casting vote.
- 6.3 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.
- 6.4 A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he or she:
 - (a) expressly dissents from or votes against the resolution at the meeting; or
 - (b) expressly abstains from voting on that resolution at the meeting.

- 6.5 A Director who is prohibited by this constitution from materially influencing a decision of the Company on a particular matter must abstain and the abstention must be recorded in the minutes. Any Director who abstains from voting shall not be deemed to have voted for or against the proposal or issue being voted on, and accordingly shall not be required to execute any director's certificates required under the Act.

7 MINUTES

- 7.1 The Board must ensure that minutes are kept of all proceedings at meetings of the Board.
- 7.2 Minutes that have been signed correct by the chairperson of the meeting, or by the chairperson of the next meeting, are prima facie evidence of the proceedings.
- 7.3 A copy of any written resolution under clause 6 of this Schedule shall be entered in the minute book of board proceedings.

8 COMMITTEES

- 8.1 The proceedings of committees of Directors shall be governed by this Schedule with all necessary modifications.

9 OTHER PROCEEDINGS

- 9.1 Except as provided in this Schedule, the Board may regulate its own procedure.