

CONSTITUTION

Little Yellow Bird Limited

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LITTLE YELLOW BIRD LIMITED CONSTITUTION

1. INTERPRETATION

In this Constitution unless the context indicates otherwise:

1.1 Definitions:

Act means the Companies Act 1993;

Board means the Directors acting as a board of directors;

Company means Little Yellow Bird Limited;

Constitution means this constitution;

Direct Relation means the husband, wife, child (including adopted child and step-child) or other lineal descendant of the relevant person;

Director means a director of the Company;

Founder means Samantha Rae Jones;

Founder Director means a Director appointed by the Founder pursuant to clause 7.1 (if any);

Non-Voting Shares means the non-voting shares in the capital of the Company, with the rights attaching to them as set out in clause 4.4;

Ordinary Shares means the ordinary shares in the capital of the Company, with the rights attaching to them as set out in clause 4.3;

Permitted Transferee means a person or entity to whom the Shares may be or are transferred in accordance with clause 8.7(d);

Proposed Transferee means any person who wishes to acquire the Shares of a Proposing Transferor where a notice is given under clause 11.1 or clause 12.1;

Proposing Transferor means any person who:

- (a) gives a Transfer Notice under clause 8.2, or is deemed to have given a Transfer Notice pursuant to this Constitution;
- (b) is obliged to procure a tag along offer under clause 11.1; or
- (c) gives a Selling Notice under clause 12.1;

Related Company has the same meaning as defined in subsections 2(3) of the Act;

Securities means Shares or any security which can be converted to Shares;

Shares means all Ordinary Shares, Non-Voting Shares, and any other shares issued by the Company;

Shareholders means the holders of Shares issued by the Company;

Special Resolution has the meaning given to that term in the Act and which must be supported by the Founder; and

Transfer Notice means a notice in writing given under clause 8.2;

- 1.2 Clauses and Schedules:** references to clauses and schedules are references to clauses of and schedules to this Constitution respectively;
- 1.3 Companies Act:** words or expressions not defined in this Constitution have the same meaning as they have in the Act;
- 1.4 Headings:** headings are for ease of reference only and do not form any part of the context or to affect the interpretation of this Constitution;
- 1.5 Persons:** references to persons include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, states or agencies of state, government departments and local and municipal authorities in each case whether or not having separate legal personality;
- 1.6 Plural and Singular:** words importing the singular number include the plural and vice versa;
- 1.7 Schedules:** the schedules to this Constitution and the provisions and conditions contained in those schedules have the same effect as if set out in the body of this Constitution;
- 1.8 Statutes and Regulations:** references to a statute include references to regulations, orders or notices made under or pursuant to such statute and references to a statute or regulation include references to all amendments to that statute or regulation whether by subsequent statute or otherwise and a statute or regulation passed in substitution for the statute or regulation referred to or incorporating any of its provisions; and

2. COMPANIES ACT

The provisions of the Act are negated, modified, adopted and extended as provided in this Constitution.

3. B-CORP VALUES

The Company adheres to the values and principles of being a B-Corp. To the extent permissible under New Zealand law, and without enlarging, amending, or fettering the directors' legal duties, the Company must be conscious of the impact of its decisions on shareholders, employees, customers, suppliers, the community, and the environment.

4. RIGHTS ATTACHING TO CLASSES OF SHARES

- 4.1** Save as expressly provided in this Constitution or as otherwise required by law, all Shares will rank *pari passu* in all respects.

4.2 Classes: The Shares are divided into classes conferring, amongst other things, liquidation preference and value protection entitlements that differ from the ordinary shareholder rights conferred by the Act.

4.3 Ordinary Shares: Ordinary Shares shall have the following rights attached to them:

(a) the right to one (1) vote on a poll at a meeting of the Company on any resolutions;

(b) the right to an equal share in dividends authorised by the board; and

(c) the right to an equal share in the distribution of the surplus assets of the Company.

4.4 Non-Voting Shares: Non-Voting Shares shall have the following rights attached to them:

(a) no right to vote at a meeting of the Company on any resolutions or Shareholder approval;

(b) the right to an equal share in dividends authorised by the Board; and

(c) the right to an equal share in the distribution of the surplus assets of the Company.

5. CALLS ON SHARES

5.1 Board May Make Calls: The board may from time to time make such calls as it thinks fit upon the Shareholders in respect of any amount unpaid on their Shares and which is not, by the conditions of issue, made payable at a fixed time or times, and each Shareholder will, subject to receiving at least 14 days' written notice specifying the time or times and place of payment, pay to the Company at the time or times and place so specified the amount called. A call may be revoked or postponed as the board may determine.

5.2 Timing of Calls: A call may be made payable at such times and in such amount as the board may determine.

5.3 Liability of Joint Holders: The joint holders of a Share will be jointly and severally liable to pay all calls in respect thereof.

5.4 Interest: If an amount called in respect of a Share is not paid before or on the time appointed for payment thereof, the persons from whom the amount is due will pay interest on that amount from the time appointed for payment thereof to the time of actual payment at such rate not exceeding 10% per annum as the board may determine, but the board may be at liberty to waive payment of that interest wholly or in part.

5.5 Instalments: Any amount which by the terms of issue of a Share becomes payable on issue or at any fixed time will for all purposes be deemed to be a call duly made and payable at the time at which by the terms of issue the same becomes payable and, in case of non-payment, all the relevant provisions of this Constitution relating to payment of interest and expenses, forfeiture, or otherwise

will apply as if the amount had become payable by virtue of a call duly made and notified.

- 5.6 Differentiation as to Amounts:** The board may, on the issue of Shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

6. FORFEITURE OF SHARES

- 6.1 Notice of Default:** If any person fails to pay any call or any instalment of a call for which such person is liable at the time appointed for payment, the board may at any time thereafter serve notice on such person requiring payment of the amount unpaid together with any interest which may have accrued.
- 6.2 Final Payment Date:** The notice will name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made, and will state that, in the event of non-payment on or before the time appointed, the Shares in respect of which the amount was owing will be liable to be forfeited.
- 6.3 Forfeiture:** If the requirements of any such notice are not complied with, any Share in respect of which the notice has been given may be forfeited, at any time before the required payment has been made, by a resolution of the board to that effect. Such forfeiture will include all dividends and bonuses declared in respect of the forfeited Share and not actually paid before the forfeiture.
- 6.4 Sale of Forfeited Shares:** Subject to compliance with the rights of pre-emption conferred in clause 8, a forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the board in its sole discretion thinks fit and, at any time before a sale or disposition, the forfeiture may be cancelled on such terms as the board thinks fit. If any forfeited Share will be sold within 12 months of the date of forfeiture, the residue, if any, of the proceeds of sale after payment of all costs and expenses of such sale or any attempted sale and all amounts owing in respect of the forfeited Share and interest thereon will be paid to the persons whose share has been forfeited.
- 6.5 Cessation of Shareholding:** A person whose Share has been forfeited will cease to be a Shareholder in respect of the forfeited Share, but will, nevertheless, remain liable to pay to the Company all amounts which, at the time of forfeiture, were payable by such person to the Company in respect of the Share, but that liability will cease if and when the Company receives payment in full of all such amounts.
- 6.6 Evidence of Forfeiture:** A statutory declaration in writing declaring that the declarant is a director of the Company and that a Share in the Company has been duly forfeited on a date stated in the declaration will be conclusive evidence of such facts as against all persons claiming to be entitled to the Share.
- 6.7 Validity of Sale:** The Company may receive the consideration, if any, given for a forfeited Share on any sale or disposition thereof and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and such person will then be registered as the holder of the Share and will not be bound to see to the application of the purchase money, if any, nor will such person's title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the Share.

7. BOARD

- 7.1 Founder Director:** The Founder is entitled to appoint one (1) Director by giving written notice to the Company, and may remove or replace any person so appointed in the same manner.
- 7.2 Other Directors:** Other Directors may be appointed by ordinary resolution and may be removed or replaced in the same manner.
- 7.3 Alternate Directors:** Each Director will be entitled to appoint an alternate to act on his or her behalf as a Director and the Company's obligations to the Director will be taken to extend to such alternate.

8. TRANSFER OF SHARES

- 8.1 Pre-emptive Provision:** Save for transfers exempted pursuant to clause 8.7 no Share in the Company will be sold or transferred by any Shareholder unless and until the rights of pre-emption conferred in this clause 8 have been exhausted. Any contract to sell Shares entered into before these rights are exhausted must be conditional on those rights being exhausted.
- 8.2 Obligation to Give a Transfer Notice:** Every Shareholder who wishes to sell or transfer any Shares (other than as permitted by clause 8.7) will give notice in writing to the Company specifying the price at which the Proposing Transferor is prepared to sell its Shares. Such notice will have the effect of constituting the Company as the Proposing Transferor's agent for the sale of the Shares in accordance with this clause 8. If a Transfer Notice includes several Shares it will not operate as if it were a separate notice in respect of each Share and the Proposing Transferor will be under no obligation to sell or transfer part only of the Shares specified in the notice, unless explicitly stated in the Transfer Notice. No such notice may be revoked by a Proposing Transferor except with the consent of the board.
- 8.3 Offer to Founder:** A Transfer Notice must be dealt with as follows:
- (a) Notice to Founder:** Upon receipt of the Transfer Notice the Company must promptly give written notice to the Founder in accordance with the provisions of this clause.
 - (b) Form of Offers:** An offer pursuant to clause 8.3(a) must be made by written notice to the Founder. The notice must state:
 - (i)** the number of Shares to which the Founder is entitled;
 - (ii)** whether the Proposing Transferor's offer is conditional on all or only some of the Shares being accepted;
 - (iii)** the price specified in the Transfer Notice at which the Proposing Transferor is prepared to sell the Shares; and
 - (iv)** the time (not being less than 14 days nor more than 28 days) within which the offer, if not accepted, will be deemed to be declined.

- (c) **Other Persons:** If any Shares specified in the Transfer Notice remain unaccepted after the procedures set out in the preceding clauses have been followed (**Unallocated Shares**) the Company may for a further period of 28 days (or longer period if agreed by the Founder) offer those Unallocated Shares to any third person(s), including other Shareholders, approved by the board (**Other Persons**) at a price not lower than the price specified in the Transfer Notice and on terms no more favourable to the purchaser than those offered to the Founder.

8.4 Obligation to Transfer: If, within the time periods specified in clause 8.3 after receipt of a Transfer Notice, the Company has received acceptances pursuant to clause 8.3 for some or all of the Shares specified in the Transfer Notice, the board must promptly give notice of that fact to the Proposing Transferor and to the Founder and any Other Persons who were allocated Shares (**Transferees**), such notification to also specify the number of Shares allocated to each Transferee and the date when settlement will occur, being not more than 21 days after the Company has received acceptance notices pursuant to clause 8.3 for all of the Shares (or, if explicitly stated in the Transfer Notice, the requisite number of Shares) specified in the Transfer Notice (**Settlement Transfer Date**). On the Settlement Transfer Date:

- (a) **Payments:** each Transferee will pay to the Proposing Transferor the price of the Shares which that Transferee has agreed to purchase at the price per Share specified in the Transfer Notice;
- (b) **Proposing Transferor Bound to Sell:** the Proposing Transferor will be bound to transfer the relevant Shares to each Transferee upon payment of the total purchase price for those Shares, subject to deduction in payment to the Company of any amount which the Proposing Transferor owes to the Company; and
- (c) **Transfers to be Registered:** subject only to the restrictions contained in clause 9, the board will register all such transfers.

If, within the time period specified in clause 8.3(b) after receipt of a Transfer Notice, the Company has not received acceptances pursuant to clause 8.3 for the requisite number of the Shares specified in the Transfer Notice, the Proposing Transferor is not bound to sell any of the Shares specified in the Transfer Notice to the Founder or any Other Persons, and clause 8.6 will apply.

8.5 Board May Effect Transfer: If a Proposing Transferor defaults in transferring any Shares specified in a Transfer Notice in accordance with clause 8.4 the Company may execute a transfer of the Shares on behalf of the Proposing Transferor. Subject to deduction of any amount in respect of which the Company has a lien over the Shares, the Company will hold the purchase price in trust for the Proposing Transferor. The receipt of the Company will constitute a valid discharge for the purchase price and no question will be raised as to the title of a Transferee after entry of the name of the Transferee or other person in the share register as the holder of the relevant Shares.

8.6 Transferor May Sell to Non-Shareholders: If, within the time periods specified in clause 8.3 after receipt of a Transfer Notice, the Company has not received acceptances pursuant to clause 8.3 for all of the Shares specified in the Transfer Notice, the Proposing Transferor may (subject to clause 9), within the following three months thereafter, sell or transfer all of the Shares (or a remainder of the Shares, as the case may be) specified in the Transfer Notice to any person(s) at a

price not lower than the price specified in the Transfer Notice and on terms no more favourable to the purchaser than those offered to the Founder.

8.7 Exempted Transfers: The provisions of this clause 8 will not apply to any transfer of Shares by a Shareholder:

- (a) **Shareholder Approved Transfers:** to any person approved by the Board;
- (b) **Acquisition of Company's Own Shares:** to the Company, if made in accordance with this Constitution and the Act;
- (c) **Drag Along:** to any person where all of the Shareholders are "dragged" in accordance with clause 12;
- (d) **Tag Along:** to a Proposed Transferee in accordance with clause 11; or
- (e) **Permitted Transferees:** to any of the following persons:
 - (i) **Group Of Companies:** if the Shareholder is a company, to any Related Company;
 - (ii) **Beneficial Owner:** subject to clause 9.2, to a person who is the beneficial owner of such Shares or (in the case of the legal title only) to a different or additional nominee(s) or trustee(s) on behalf of such beneficial owner; or
 - (iii) **Direct Relation:** if the Shareholder is an individual, to a Direct Relation.

9. REFUSAL TO REGISTER TRANSFERS

9.1 Transfer Restrictions: Subject to compliance with the provisions of section 84 of the Act, the board will refuse or delay the registration of any transfer of any Share to any person, whether an existing Shareholder or not:

- (a) **Required by Law:** if so required by law;
- (b) **Imposition of Liability:** if registration would impose on the transferee a liability to the Company and the transferee has not signed the transfer;
- (c) **Failure to Pay:** if a holder of any such Share has failed to pay when due any amount payable in respect of that Share to the Company;
- (d) **Infant or Unsound Mind:** if the transferee is an infant or a person of unsound mind;
- (e) **Proof of Ownership:** if the transfer is not accompanied by such proof as the board reasonably requires of the right of the transferor to make the transfer;
- (f) **Transfer Provisions:** if the pre-emptive provisions contained in clause 8 or tag along provisions in clause 11 have not been complied with; or

- (g) **Comply with Terms:** if the terms of issue of the Shares or this Constitution have not been complied with in relation to the proposed transfer.

9.2 Takeovers Code: Subject to compliance with the provisions of section 84 of the Act, the board may refuse or delay the registration of any transfer of any Share to any person, whether an existing Shareholder or not if the transfer would result in the Company becoming a "code company" as defined in the Takeovers Code Approval Order 2000 or having more than 45 share parcels.

10. NEW ISSUES OF SECURITIES

10.1 Section 45: Section 45 of the Act will not apply to the Company. The Board may issue shares to any person on any terms it thinks fit.

10.2 Consolidation: The board may:

- (a) **Consolidation:** consolidate and divide all or any of the existing Securities in the Company; and
- (b) **Subdivision:** subdivide all or any of the existing Securities in the Company.

11. TAG ALONG

11.1 Material Acquisitions of Shares: If a Shareholder (or group of Shareholders) proposes a transfer of Shares (having exhausted the pre-emptive rights pursuant to clause 8) and which, together with any related transactions, would constitute a sale of 50% or more of the Shares, the Proposing Transferor must first give notice in writing to the remaining Shareholders of their intention to sell their Shares, before making the proposed transfer (**Proposed Transfer**) and procure the Proposed Transferee to make a legally binding offer to the remaining Shareholders to acquire a pro rata proportion equivalent to the proportion of Shares being purchased from the Proposing Sellers on the same terms.

11.2 Period of Offer: The offer referred to in clause 11.1 must be expressed to be capable of acceptance for a period of not less than 14 days and if it is accepted by any Shareholder (**Accepting Shareholder**) within that period, the completion of the Proposed Transfer will be conditional upon the Proposed Transferee tendering completion of the purchase of all of the Shares held by each Accepting Shareholder.

12. DRAG ALONG

12.1 Offer to Purchase: If the holder(s) of 50% or more of the Shares which must include the Founder propose to sell all of their Shares to a proposed third party purchaser (or purchasers acting in concert) who has made a bona fide legally binding offer on arm's length terms for all of the issued Shares (**Offer**), the Proposing Transferor(s) will have the right to give to the Company written notice, requiring the Company to drag the other Shareholders. That notice (**Selling Notice**) will include details of the price and terms offered for each Share, details of the Proposed Transferee and the place and time for completion (**Completion**) of the Offer (being no less favourable terms in all respects offered to the Proposing Transferor(s) for their Shares).

- 12.2 Drag Along Notice:** Immediately upon receipt of the Selling Notice, the Company will give notice in writing (**Drag Along Notice**) to each of the Shareholders (other than the Proposing Transferor(s)) giving the details contained in the Selling Notice and requiring each of them to sell to the Proposed Transferee at Completion all of their holdings of Shares on the terms contained in the Drag Along Notice subject to the provisions set out below.
- 12.3 Compulsory Sale:** Each Shareholder who is given a Drag Along Notice will sell all of their Shares referred to in the Drag Along Notice (contemporaneously with the Proposing Transferor(s)) on the terms set out in the Drag Along Notice. However in no circumstances will any such Shareholder be required to:
- (a) provide any warranties or indemnities to the Proposed Transferee beyond those that are being provided by the Proposing Transferor(s) on a pro rata basis;
 - (b) make any covenants beyond those which are being made by the Proposing Transferor(s) on a pro rata basis; and
 - (c) be liable under any warranties or indemnities for an amount in excess of what they receive in respect of the sale of their Shares (save in respect to carve outs of any limitations also applicable to the Proposing Transferor(s) on a pro rata basis).
- 12.4 Company May Complete:** If any Shareholder fails to comply with clause 12.3, the Company will be constituted the agent of that Shareholder for the sale of the respective Shares in accordance with the Drag Along Notice and the board may authorise any person to execute and deliver on behalf of, and as attorney for, each defaulting Shareholder the necessary instrument(s) of transfer. The Company's receipt of the purchase price will be good discharge to the Proposed Transferee and the Company will be solely responsible to account to the defaulting Shareholders.

13. ACQUISITION OF COMPANY'S OWN SHARES

- 13.1 Acquire Own Shares Subject to Shareholder Approval:** For the purposes of sections 59 and 60(1)(b)(ii) of the Act, the Company is expressly authorised to purchase or otherwise acquire Shares issued by it provided that no such purchase or other acquisition will be made, other than under section 107 or sections 110 to 112 of the Act, without the approval of a Special Resolution of Shareholders.
- 13.2 Authority to Hold Own Shares:** Subject to any restrictions or conditions imposed by law the Company is expressly authorised to hold Shares acquired by it pursuant to section 59 or section 112 of the Act. All the provisions of this Constitution relating to the issue of Shares including, without limitation, clause 10 will apply to a transfer by the Company of a Share held in itself (as if the transfer were an issue of the Share).

14. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

- 14.1 Governing Provisions:** The provisions of the first schedule of this Constitution govern proceedings at meetings of Shareholders. In the event of any inconsistency between the first schedule of this Constitution and the first schedule

to the Act, the first schedule of this Constitution will prevail and the first schedule to the Act will be deemed to be amended accordingly.

- 14.2 Resolutions in Lieu of Meeting:** A Shareholders' resolution in writing under section 122 of the Act may consist of one or more documents in similar form (including letters, telegrams, cables, email or other similar means of communication) each signed or assented to by or on behalf of one or more of the Shareholders.

15. BOARD MEETINGS

The second schedule to this Constitution govern proceedings of the board. The provisions of the third schedule to the Act will not apply to the Company.

16. INDEMNITIES AND INSURANCE

The Company is expressly authorised to indemnify and/or insure any director or employee against liability for acts or omissions and/or costs incurred in connection with claims relating thereto of the type specifically contemplated by sub-sections (3), (4) and (5) of section 162 of the Act to the maximum extent permitted by those sub-sections.

17. NOTICES

- 17.1 Service:** A notice may be served by the Company upon any director or Shareholder either:

- (a) personally;
- (b) by posting it by fast post in a prepaid envelope or package addressed to such director or Shareholder at such person's last known address;
- (c) by email to the email address of such director or Shareholder; or
- (d) by notification on or by electronic delivery via the PledgeMe Shareholder Communication Portal provided to the Company by PledgeMe Limited.

- 17.2 Service by Email or PledgeMe Shareholder Communication Portal:** Any notice transmitted by email or PledgeMe Shareholder Communication Portal:

- (a) will be deemed to be received on the Business Day on which it arrives in the recipient's information system; or
- (b) if received in the recipient's information system after 5.00 pm on a Business Day, or at any time on a non Business Day, will be deemed to be received at 9.00 am on the next Business Day,

being, in each case, the time of day at the intended place of receipt of that notice. If there is any dispute as to whether an email or PledgeMe Shareholder Communication Portal notification has been received, it shall be sufficient to prove that the email or notification was properly addressed and sent, delivered or notified.

- 17.3 Time of Service by Post:** A notice sent by post will be deemed to have been served:

- (a) **In New Zealand:** in the case of a person whose last known address is in New Zealand, at the expiration of 48 hours after the envelope or package containing the same was duly posted or delivered in New Zealand; and
- (b) **Outside New Zealand:** in the case of a person whose last known address is outside New Zealand, at the expiration of seven days after the envelope or wrapper containing the same was duly posted by fast post in New Zealand.

17.4 Proof of Service: In proving service by post, it will be sufficient to prove that the envelope or package containing the notice was properly addressed and posted or delivered with all attached postal or delivery charges paid.

17.5 Service on Joint Holders: A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the share register in respect of the Share.

17.6 Service on Representatives: A notice may be given by the Company to the person or persons entitled to a Share in consequence of the death or bankruptcy of a Shareholder by addressing it to such person or persons by name or by title or by any appropriate description, at the address, if any, within New Zealand supplied for the purpose by the person or persons claiming to be so entitled, or (until such an address has been so supplied), by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

18. ELECTRONIC SIGNATURES

18.1 Consent: The Company and every Shareholder irrevocably consents to the use of electronic signatures for the purposes of the CCLA, including:

- (a) the use of electronic signatures in relation to documents, resolutions, certificates, waivers, consents, correspondence or the like relating to the Company; and
- (b) receipt of documents, resolutions, certificates, waivers, consents, correspondence or the like relating to the Company by electronic signature,

and agrees to be bound by any documents, resolutions, certificates, waivers, consents, correspondence or the like relating to the Company executed by electronic signature.

18.2 Electronic signatures: Where the Company or any party wishes to use the provision of electronic signatures, then the Company shall facilitate the use of an electronic signature system capable of meeting the requirements of section 228 of the CCLA.

18.3 Other means: This clause 18 does not detract from the CCLA nor does it limit the ability of the Company or the other parties signing a document, resolution, certificate, waiver, consent, correspondence or the like by any other means so permitted at law.

19. LIQUIDATION

19.1 Distribution of Surplus Assets: Subject to the terms of issue of any Shares in the Company and to clause 19.2, upon the liquidation of the Company the assets, if any, remaining after payment of the debts and liabilities of the Company and the costs of winding-up (**Surplus Assets**) will be distributed among the Shareholders on a pro-rata basis, provided however that the holders of Shares not fully paid up will only receive a proportionate share of their entitlement being an amount which is in proportion to the amount paid to the Company in satisfaction of the liability of the Shareholder to the Company in respect of the Shares.

19.2 Distribution In Specie: Upon a liquidation of the Company, the liquidator, with the sanction of an ordinary resolution and any other sanction required by law, may divide amongst the Shareholders in kind the whole or any part of the Surplus Assets of the Company (whether they consist of property of the same kind or not) and may for that purpose set such value as the liquidator deems fair upon any property to be divided and may determine how the division will be carried out as between the Shareholders. The liquidator may, with the like sanction, vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the Shareholders as the liquidator thinks fit, but so that no Shareholder will be compelled to accept any shares or other securities to which any liability attaches.

20. METHOD OF CONTRACTING

For the purpose of section 180 of the Act, a director, or other person or class of persons approved by the Board, may entered into a deed on behalf of the Company if their signature or signatures are witnessed.

**FIRST SCHEDULE
PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

1. CHAIRPERSON

- 1.1 Chairperson of Board to Chair Meetings:** If the directors have elected a chairperson of the board, and the chairperson of the board is present at a meeting of Shareholders, he or she must chair the meeting.
- 1.2 Election if No Chairperson:** If no chairperson of the board has been elected, or if at any meeting of Shareholders the chairperson of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the directors present will elect one of their number to be chairperson of the meeting. If at any meeting no director is willing to act as chairperson, or if no director is present within 15 minutes of the time appointed for holding the meeting, the Shareholders present will choose one of their number to be chairperson of the meeting.

2. NOTICE OF MEETINGS

- 2.1 Notice to be Given:** 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 an auditor of the Company not less than 10 working days before the meeting.
- 2.2 Contents of Notices:** The notice must state:
- (a) Nature of Business:** 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;
 - (b) Text of Special Resolutions:** the text of any Special Resolution to be submitted to the meeting;
 - (c) Text of Opt Out Resolutions:** the text of any resolution for the purposes of section 207I or 207J of the Act to be submitted to the meeting; and
 - (d) Minority Buy-Out Rights:** in the case of special resolutions required by section 106(1)(a) or (b) of the Act, the right of a Shareholder under section 110 of the Act.
- 2.3 Waiver of Irregularities:** 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.
- 2.4 Accidental Omissions:** The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a Shareholder does not invalidate the proceedings at that meeting.
- 2.5 Adjournments:** The chairperson may, and if so directed by the meeting will, adjourn the meeting from time to time and from place to place, but no business

will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting will be given as in the case of an original meeting. Save as aforesaid, it will not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

3. METHODS OF HOLDING MEETINGS

A meeting of Shareholders may be held either:

- 3.1 **Physical Meeting:** by a number of Shareholders, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting;
- 3.2 **Other Means:** by means of audio, or audio and visual, communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting; or
- 3.3 **Combination:** by a combination of the methods described in clauses 3.1 and 3.2 of this schedule.

4. QUORUM

- 4.1 **No Business Without Quorum:** Subject to clause 4.3 of this schedule, no business may be transacted at a meeting of Shareholders if a quorum is not present.
- 4.2 **Quorum of Shareholders:** A quorum for a meeting of Shareholders is present if Shareholders or their proxies are present who between them hold more than 50% of the Shares.
- 4.3 **Proceedings in Absence of Quorum:** If a quorum is not present within 30 minutes after the time appointed for the meeting the meeting is adjourned to the following working day at the same time and place, or to such other date, time, and place as the directors present (or otherwise by board resolution) may determine, and 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.
- 4.4 **Participation by Electronic Communication:** To avoid doubt, a Shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

5. VOTING

- 5.1 **Methods of Voting - Physical Meeting:** In the case of a meeting of Shareholders held under clause 3.1 of this schedule, unless a poll is demanded, voting at the meeting will be by whichever of the following methods is determined by the chairperson of the meeting:
 - (a) **Voice:** voting by voice; or
 - (b) **Show of Hands:** voting by show of hands.

- 5.2 Methods of Voting - Other Meetings:** In the case of a meeting of Shareholders held under clause 3.2 or 3.3 of this schedule, unless a poll is demanded, voting at the meeting will be by the Shareholders signifying individually their assent or dissent by any method permitted by the chairperson of the meeting.
- 5.3 Chairperson's Declaration:** 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 clause 5.4 of this schedule.
- 5.4 Demand for Poll:** At a meeting of Shareholders a poll may be demanded by:
- (a) Two Shareholders:** not less than two Shareholders having the right to vote at the meeting;
 - (b) 10% of Voting Rights:** a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting;
 - (c) 10% of Amount Paid Up:** by a Shareholder or Shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right; or
 - (d) Chairperson:** the chairperson of the meeting.
- 5.5 Timing of Demand:** A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.
- 5.6 Number of Votes on Poll:** If a poll is taken, votes must be counted according to the votes attached to the Shares of each Shareholder present in person or by proxy and voting.
- 5.7 No Casting Vote:** The chairperson is not entitled to a casting vote.
- 5.8 Effect of Proxy:** For the purposes of clause 5 of this schedule, the instrument appointing a proxy to vote at a meeting of the Shareholders 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.
- 5.9 Chairperson to Direct Manner of Poll:** Except as provided in clause 5.10 of this schedule if a poll is demanded it will be taken in such manner as the chairperson directs, and the result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.
- 5.10 Timing of Poll:** A poll demanded on the election of a chairperson or on a question of adjournment will be taken immediately. A poll demanded on any other question will be taken at such time and place as the chairperson of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

6. PROXIES

- 6.1 Proxy May Be Appointed:** A Shareholder may exercise the right to vote either by being present in person or by proxy.

- 6.2 Rights of Proxy:** A proxy for a Shareholder is entitled to attend and be heard at a meeting of Shareholders as if the proxy were the Shareholder.
- 6.3 Method of Appointment:** A proxy must be appointed by notice in writing signed by or, in the case of an electronic notice, sent by the Shareholder and the notice must state whether the appointment is for a particular meeting or a specified term. A Shareholder may appoint more than 1 proxy for a particular meeting, provided that more than 1 proxy is not appointed to exercise the rights attached to a particular Share held by the Shareholder
- 6.4 Notice of Appointment to be Produced:** No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting.
- 6.5 Specified Time for Production of Proxy:** The instrument appointing a proxy and a power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority will be deposited at the registered office of the Company or at such other place within New Zealand as is specified for that purpose in the notice convening the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default, the instrument of proxy will be treated as invalid.
- 6.6 Proxy Form With Notice of Meeting:** A proxy form will be sent with each notice calling a meeting of the Company.
- 6.7 Form of Proxy:** An instrument appointing a proxy will be in the following form or a form as near thereto as circumstances admit:

[] LIMITED

INSTRUMENT APPOINTING A PROXY

I/We
of

being a Shareholder of [] Limited hereby
appoint
(print name of proxy) of
or failing him/her of
as my/our proxy to vote for me/us on my/our behalf at the [.....th
Annual] [Special] Meeting of the Company to be held at
on commencing
at [am/pm] [or all meetings of the Company
held within twelve months of the date hereof] and at any
adjournment of any such meeting.

Signed this day of
(Usual signature/s)"

- 6.8 Form of Proxy With Voting Directions:** Where it is desired to afford Shareholders an opportunity of voting for or against a resolution, the instrument appointing a proxy will be in the following form or a form as near thereto as circumstances admit:

[] LIMITED

INSTRUMENT APPOINTING A PROXY

I/We
of

being a Shareholder of [] Limited hereby appoint
(print name of proxy) of
or failing him/her of
as my/our proxy to vote for me/us on my/our behalf at the
[.....the Annual] [Special] Meeting of the Company to be held
at on commencing
at [am/pm] and at any adjournment thereof.

I/We direct my/our proxy to vote in the following manner

Vote with a Tick

Resolutions	For	Against
1. _____		
2. _____		

Signed this day of
(Usual signature/s)"

6.9 Validity of Proxy Votes: A vote given in accordance with the terms of an instrument of proxy will be valid notwithstanding the previous death or insanity of the appointor or revocation of the proxy or revocation of the authority under which the proxy was executed, or the transfer of any Share in respect of which the proxy is given, if no intimation in writing of such death, insanity, revocation or transfer has been received by the Company before the start of the meeting or adjourned meeting at which the proxy is used.

7. NO POSTAL VOTING

Section 7 of the first schedule to the Act, providing for postal votes, will not apply to the Company.

8. ELECTRONIC PARTICIPATION

The participation of the Shareholders in meetings of Shareholders may if so determined by the Board be conducted by electronic communication pursuant to paragraph 3(b) of Schedule 1 of the Act. Such method may include electronic communication by use of the PledgeMe Shareholder Communication Portal.

9. MINUTES

9.1 Minutes to be Kept: The board must ensure that minutes are kept of all proceedings at meetings of Shareholders.

9.2 Minutes Prima Facie Evidence: Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

10. SHAREHOLDER PROPOSALS

10.1 Notice of Proposal: 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.

10.2 Circulation of Proposals at Company's Expense: If the notice is received by the board not less than 20 working days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the board, the board must, at the expense of the Company, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

10.3 Circulation of Proposals at Shareholder's Expense: If the notice is received by the board not less than 5 working days and not more than 20 working days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the board, the board must, at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

10.4 Circulation of Proposals if Practicable: If the notice is received by the board less than 5 working days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the board, the board must, if practicable, and at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

10.5 Statement in Support: If the directors intend that Shareholders may vote on the proposal by proxy they must give the proposing Shareholder the right to include in or with the notice given by the board a statement of not more than 1000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.

10.6 Excluded Statements: The board is not required to include in or with the notice given by the board:

(a) **Defamatory Statement:** any part of a statement prepared by a Shareholder which the directors consider to be defamatory (within the meaning of the Defamation Act 1992), frivolous, or vexatious; or

(b) **Defamatory Resolution:** any part of a proposal or resolution prepared by a Shareholder that the directors consider to be defamatory (within the meaning of the Defamation Act 1992), frivolous or vexatious.

10.7 Deposit of Circulation Costs: Where the costs of giving notice of the Shareholder proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder must, on giving notice to the board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

11. CORPORATIONS MAY ACT BY REPRESENTATIVES

A body corporate which is a Shareholder may appoint a representative to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.

12. VOTES OF JOINT HOLDERS

Where two or more persons are registered as the holder 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.

13. LOSS OF VOTING RIGHT IF CALLS UNPAID

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 a meeting of an interest group.

14. OTHER PROCEEDINGS

Except as provided in this schedule, and subject to this Constitution, a meeting of Shareholders may regulate its own procedures.

15. SHAREHOLDER PARTICIPATION BY ELECTRONIC MEANS

15.1 Participation by Electronic Means: For the purposes of this schedule, a Shareholder, or the Shareholder's proxy or representative, may participate in a meeting by means of audio, audio and visual, or electronic communication if:

- (a) Board Approval:** the board approves those means; and
- (b) Conditions:** the Shareholder, proxy, or representative complies with any conditions imposed by the board in relation to the use of those means (including, for example, conditions relating to the identity of the Shareholder, proxy, or representative and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means).

15.2 Meaning of Participation: To avoid doubt, participation in a meeting includes participation in any manner specified in this schedule or permitted by this Constitution.

**SECOND SCHEDULE
PROCEEDINGS OF THE BOARD**

1. REGULATION OF MEETINGS, QUORUM AND CONVENING

- 1.1 Meetings As Directors See Fit:** The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 1.2 Quorum:** A quorum for a meeting of the Board will be a majority of Directors, including the Founder Director (or their respective alternates in each case) present in person or by telephone or equivalent electronic means, provided that where a quorum is not present within 30 minutes after the time appointed for the meeting the meeting will be adjourned to the next Business Day and at such adjourned meeting, if the Founder Director is present, the Directors present will constitute a quorum.
- 1.3 Summoning Meetings:** A director may, and an employee at the request of a director will, at any time, summon a meeting of the board by notice to each of the directors given by any means of communication.

2. VOTING

At every meeting of the board each director will have one vote. Unless the Shareholders' Agreement requires otherwise, questions arising at any meeting of the board will be decided by a majority of votes.

3. CHAIRPERSON

The chairperson of the Board will be a Director appointed by the Founder Director from time to time, and may be removed or replaced in the same manner from time to time. The chairperson will not have a casting vote.

4. RESOLUTION IN WRITING

A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the board will be as valid and effectual as if it had been passed at a meeting of the board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more directors. A signed resolution that is received by email in PDF or other document reproduction format will be as valid and effectual as the original signed document with effect from completion of its transmission.

5. METHOD OF MEETING

Subject to clause 1.2 of this schedule, a meeting of the board may be held either:

- 5.1 Physical Meeting:** by a number of the directors who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or
- 5.2 Other Means:** by means of audio, or audio and visual, communication by which all directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

6. MINUTES

The board will ensure that minutes are kept of all proceedings at meetings of the board.