

Constitution of Southern Waters Limited

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1. DEFINITIONS AND INTERPRETATION

1.1 In this Constitution, unless the context otherwise requires:

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

"**Business Day**" means a day (other than a Saturday, a Sunday or a public holiday) on which registered banks are open for business in Otago and Southland regions, New Zealand.

"**Chair**" means the chair of the Board appointed in accordance with clause 11.7.

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

"**Company**" means Southern Waters Limited.

"**Constitution**" means this constitution of the Company (including the Schedules) and all amendments to it from time to time.

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

"**Financial Year**" has the meaning set out in the LG(WS) Act.

"**LGA**" means the Local Government Act 2002.

"**LGOIMA**" means the Local Government Official Information and Meetings Act 1987.

"**LG(WS) Act**" means the Local Government (Water Services) Act 2025.

"**Local Authority**" has the meaning set out in the LGA.

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

"**Reserved Matters**" has the meaning given to it in the Shareholders' Agreement.

"**Service Area**" has the meaning set out in the LG(WS) Act.

"**Shares**" means the shares in the Company on issue from time to time.

"**Shareholder**" means any person for the time being registered in the Company's share register as the holder of one or more Shares in the Company.

"**Shareholders' Agreement**" means the shareholders' agreement relating to the Company to be entered into between the Company and the Shareholders within six months of the date of this Constitution (as amended from time to time).

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

"Stakeholders' Representative Group" or **"SRG"** has the meaning set out in the Shareholders' Agreement.

"Statement of Expectations" has the meaning given to it in section 220 of the LG(WS) Act.

"Subsidiary" has the meaning set out in the Companies Act.

"Water Organisation" has the meaning set out in section 4 of the LG(WS) Act.

"Water Services" has the meaning set out in section 4 of the LG(WS) Act, and for the purposes of this document shall include the water supply services, wastewater services, and/or stormwater services transferred by the territorial authorities that established the Water Organisation in accordance with the Transfer Agreement between each territorial authority and the Water Organisation.

"Water Services Annual Budget" has the meaning set out in section 220 of the LG(WS) Act.

"Water Services Annual Report" has the meaning set out in section 220 of the LG(WS) Act.

"Water Services Strategy" has the meaning set out in section 220 of the LG(WS) Act.

1.2 **Interpretation:** In this Constitution, the following rules of interpretation apply, unless the context requires otherwise:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;
- (d) words in this Constitution have the same meaning as in the Companies Act unless inconsistent with the context;
- (e) a reference to a party, person or entity includes:
 - (i) an individual, firm, company, trust, partnership, joint venture, association, corporation, body corporate, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
 - (ii) an employee, agent, successor, permitted assign, executor, administrator and other representative of such party, person, entity;
- (f) a reference to dollars or \$ is to New Zealand currency and excludes every tax and duty;
- (g) a reference to a clause or schedule is to a clause or schedule of this Constitution;

- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) references to the word 'include' or 'including' are to be construed without limitation;
- (j) references to any form of law is to New Zealand law, including as amended or re-enacted;
- (k) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (l) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (m) any obligation falling due for performance on or by a day other than a Business Day shall be performed on or by the Business Day immediately following that day; and
- (n) an obligation not to do something includes an obligation not to allow or cause that thing to be done.

1.3 If there is any conflict:

- (a) between a provision of this Constitution and the provisions of the Shareholders' Agreement, the terms of the Shareholders' Agreement will prevail (other than to the extent prohibited by the Companies Act) and the Shareholders must pass such resolutions as may be necessary to amend the provisions of this Constitution to make it consistent with the Shareholders' Agreement;
- (b) between a provision in this Constitution and a mandatory provision in the Companies Act, the LG(W.S) Act, LGOIMA or the LGA, then the mandatory provision in the Companies Act, the LG(W.S) Act, LGOIMA or the LGA will prevail; and
- (c) between:
 - (i) a provision in this Constitution and a provision in the Companies Act which is expressly permitted to be altered by this Constitution; or
 - (ii) a word or expression defined or explained in the Companies Act and a word or expression defined or explained in this Constitution,

then the provision, word or expression in this Constitution will prevail.

2. CAPACITY AND OBJECTIVES

2.1 As at the date of its incorporation, the Company is a Water Organisation.

2.2 As specified in section 46 of the LG(W.S) Act, the Company must not do anything other than provide Water Services, or provide services that are related to, or necessary for, the provision of Water Services.

2.3 The objectives of the Company, as a water service provider, are set out in section 17 of the LG(WS) Act.

2.4 Subject to this Constitution, the Shareholders' Agreement, the Companies Act, the LG(WS) Act and the LGA, the Company has full capacity, rights, powers and privileges to carry on or undertake any business or activity, do any act, or enter into any transaction.

3. WATER ORGANISATION REQUIREMENTS

3.1 The Company must comply with:

- (a) all of the obligations and requirements that apply to a Water Organisation and water service provider under the LG(WS) Act and any other legislation;
- (b) all applicable statutory and regulatory obligations relating to Māori and the Treaty of Waitangi, including those set out in the LGA and LG(WS) Act; and
- (c) the applicable parts of the LGOIMA (Parts 1 to 7).

4. SHARES

4.1 **Pre-emptive Rights:** Section 45 of the Companies Act does not apply to the issue of Shares by the Board.

4.2 **Issue of Shares:** Subject to this Constitution, the Shareholders' Agreement and the LG(WS) Act, the Board may:

- (a) issue Shares at any time, to any person listed in clause 7.4(b) or any other person permitted to hold Shares in accordance with the LG(WS) Act and in such numbers as it thinks fit;
- (b) issue Shares in different classes which have different rights;
- (c) issue Shares which are redeemable (as defined in section 68 of the Companies Act); and
- (d) divide existing Shares into different classes which have different rights,

provided that no Shares may be issued unless the issue is first approved by Special Resolution.

5. CALLS ON SHARES

5.1 **Board may make calls:** The Board may make calls on any Shareholder in respect of any money unpaid on their Shares, and not previously made payable at a fixed time, by prior written notice to the relevant Shareholder specifying the time and date for payment (such time and date to be no earlier than 10 Business Days after the notice is given to the relevant Shareholder). The relevant Shareholder must comply with the terms of any call made by the Board. A call may be payable by instalments. The Board may revoke or postpone a call.

5.2 **Interest and expenses:** A person who fails to pay a call on the due date must pay:

- (a) interest on that money from the day payment was due to the day of actual payment at a rate fixed by the Board; and
- (b) all expenses which the Company has incurred or may incur because of non-payment,

provided that the Board may waive payment of all or part of that interest or those expenses.

5.3 **Joint Shareholders:** Joint Shareholders are jointly and severally liable to pay all calls in respect of Shares registered in their names.

6. LIEN OVER SHARES

6.1 **Existence and subject matter of lien:** If a Shareholder fails to pay any call on the due date, the Board may at any time by written notice to the Shareholder require payment of the unpaid amount together with any amount payable under clause 5.2. Such notice must specify a further date (not earlier than 10 Business Days from the date of the notice) by which payment is required to be made, and must state that if such payment is not made on or before the specified date, clause 6.2 will apply.

6.2 **Company has first lien:**

- (a) The Company has a first lien over:
 - (i) each Share and the proceeds of sale of the Share; and
 - (ii) all distributions made in respect of the Share,for:
 - (iii) all unpaid calls owing in respect of the Shares and any amount payable under clause 5.2; and
 - (iv) sale expenses owing to the Company in respect of the Shares.
- (b) The registration of any transfer of a Share will not operate as a waiver of any lien the Company may have on that Share, unless notice to the contrary is given by the Company to the transferee.

7. TRANSFER OF SHARES

7.1 **Right to transfer:** Subject to any restrictions set out in this clause 7, the LG(W.S) Act and the Shareholders' Agreement, a Share may be transferred by entry of the name of the transferee in the share register for the Company following receipt by the Company of a validly signed form of transfer.

7.2 **Prior approval required:** No Shareholder may sell, assign, transfer or dispose of, directly or indirectly, the legal or beneficial ownership of any of its Shares except in accordance with the provisions of this clause 7 and unless such sale, assignment, transfer or disposal:

- (a) has first been approved in writing by all Shareholders; or

(b) is a permitted transfer in accordance with clause 7.4.

7.3 **No delay:** The Board may not exercise any powers conferred by this Constitution to refuse or delay the registration of any sale, assignment, transfer or disposal of Shares completed in accordance with clause 7.2.

7.4 **Permitted transfers:** Subject to the LG(WS) Act, the restrictions in this clause 7 do not apply to the following transfers:

(a) the transfer of Shares from the trustees of any consumer trust to:

- (i) the new trustees of that trust;
- (ii) the Local Authority/ies for the Service Area where the beneficiaries of that trust reside; or
- (iii) another consumer trust established for the purpose of providing water services to the public; and

(b) the transfer of Shares by a Local Authority to:

- (i) another Local Authority
- (ii) any successor Local Authority to that Local Authority; or
- (iii) a consumer trust established for the purpose of providing water services to the public.

7.5 **Board may refuse to register:** The Board may refuse or delay the registration of any transfer of a Share to any person if:

- (a) the transfer would result in a breach of law, this Constitution or the Shareholders' Agreement;
- (b) any money payable on that Share is due for payment and has not been paid;
- (c) the Company has an unsatisfied lien on that Share or the proceeds of sale of that Share;
- (d) the transferee is a person without legal capacity to contract or the transfer has not been properly executed;
- (e) the transfer is not accompanied by proof (reasonably required by the Directors) of the right of the transferor to make the transfer;
- (f) the Directors acting in good faith determine that registration of the transfer would not be in the best interests of the Company; or
- (g) the transfer document is not in the usual or common form or otherwise in the form prescribed by the Board from time to time (if any),

provided that the Board must at all times comply with section 84 of the Companies Act.

8. DISTRIBUTIONS

8.1 **Distributions:** The Board, if satisfied on reasonable grounds that the Company will, immediately after the Distribution, satisfy the solvency test under section 4 of the Companies Act, may, subject to:

- (a) the Companies Act and the LG(WS) Act;
- (b) the Shareholders' Agreement and the terms of issue of the relevant Shares; and
- (c) the prior approval of Shareholders by Special Resolution,

authorise Distributions by the Company at times, and of amounts, and in such form, as it thinks fit and may do everything which is necessary or expedient to give effect to any such Distribution.

9. COMPANY ACQUIRING ITS OWN SHARES

9.1 **Company may acquire its own Shares:** The Company may purchase or otherwise acquire its own Shares where this is consistent with the terms of the Shareholders' Agreement or, if outside the scope of what is provided for in the Shareholders' Agreement, only if it has first been authorised to do so by unanimous resolution of Shareholders in which case the Shares purchased or otherwise acquired shall be deemed to be cancelled immediately on acquisition.

10. SHAREHOLDER MEETINGS

10.1 **Annual meeting:** The Board must hold an annual Shareholders' meeting in accordance with section 120 of the Companies Act unless in the case of any annual meeting, everything required to be done at that meeting (whether by way of resolution or otherwise) is done by written resolution in accordance with section 122 of the Companies Act.

10.2 **Special meetings:** A special Shareholders' meeting:

- (a) may be called at any time by the Board; and
- (b) must be called by the Board on the written request of the SRG.

10.3 **Proceedings at Shareholders' meetings:** The provisions of the First Schedule to the Companies Act as modified by this Constitution, including the rules set out in Schedule 1, govern proceedings at Shareholders' meetings.

11. DIRECTORS

11.1 **Number of Directors:**

- (a) The maximum number of Directors will be 7.
- (b) The minimum number of Directors will be 3 (provided that the Company may have 1 Director until such time as the SRG has appointed not less than 3 Directors under clause 11.2).

11.2 **Appointment and removal by Stakeholders:**

- (a) The SRG may appoint up to the number of Directors set out in clause 11.1, by notice in writing to the Company. Directors may be removed and replaced in the same way.
- (b) The Shareholders and the Company shall promptly take such steps as may be necessary to effect the appointment, replacement or removal of any individual (including if a Director fails to vacate office when required to do so) in accordance with this clause 11.2 if applicable, including, in the case of the Shareholders, by exercising their voting rights in the relevant Shareholders' meeting (or by way of written resolution).

11.3 **Appointment and removal by Board:** Where there is a vacancy on the Board, the Appointments and Accountability Committee established by the Board (or, where the Board so determines, the full Board), may, by majority vote, appoint a person to fill that vacancy, but any Director appointed under this clause shall only hold office until the next meeting of the SRG at which the appointment or removal of Directors is formally considered .

11.4 **Director eligibility:** A person must not be appointed as a Director if the person is disqualified from being a director under the LG(W.S) Act or the Companies Act.

11.5 **Term of Appointment:**

- (a) No person may be appointed as a Director for a term of more than 3 consecutive years ("**Term**").
- (b) A Director may be reappointed at the expiry of his or her Term of appointment, provided that no Director may be appointed for a total term of more than 9 years.

11.6 **Vacation of office:** A Director vacates office if that Director:

- (a) resigns by written notice of resignation to the Company. The notice is to be effective when it is received at that address or at a later time specified in the notice;
- (b) is removed from office in accordance with clause 11.3;
- (c) becomes disqualified from being a Director in accordance with clause 11.14; or
- (d) dies.

11.7 **Appointment of Chair and deputy Chair:**

- (a) The SRG may appoint the Chair and any deputy Chair by notice in writing to the Company. The Chair or any deputy Chair may be removed or replaced in the same way.
- (b) If there is a vacancy and the SRG has not appointed a replacement Chair, the Board may appoint a Chair by majority vote of the Board to hold office pending such appointment by the SRG.
- (c) The Chair and any deputy Chair will hold office until:
 - (i) they cease to be a Director of the Company; or

- (ii) a new Chair or deputy Chair is appointed by the SRG.

11.8 Powers of the Board:

- (a) Subject to clause 11.8(b) and any restrictions in the Companies Act, the LG(WS) Act, the Shareholders' Agreement or this Constitution, the business and affairs of the Company must be managed by or under the direction or supervision of the Board.
- (b) The Board has, and may exercise, all the powers necessary for managing, directing and supervising the management of the business and affairs of the Company except to the extent that this Constitution, the Shareholders' Agreement, the Companies Act or the LG(WS) Act expressly requires those powers to be exercised by the Shareholders or any other person.

11.9 Shareholder Reserved Matters: Notwithstanding clause 11.8(b), but subject to any restrictions in the LG(WS) Act, the Board must not, and must not cause the Company to enter into any transaction or matter that is a Reserved Matter, unless first approved by the Shareholders in accordance with the Shareholders' Agreement.

11.10 Proceedings of the Board: The provisions of the Third Schedule to the Companies Act as modified by this Constitution, including the rules set out in Schedule 2, govern proceedings at meetings of Directors.

11.11 Directors' duties: In addition to the duties set out in the Companies Act, the Directors must assist the Company to meet the objectives set out in clause 2.3, to give effect to the Statement of Expectations in accordance with, and to meet any other requirements set out in, the LG(WS) Act.

11.12 Directors to act in good faith: A Director, when exercising powers or performing duties, must act in a manner which that Director believes to be in the best interests of the Company (notwithstanding that it may not be in the best interests of any particular Shareholder) provided that Director must not exercise such powers or perform such duties in a manner which is inconsistent with section 17 of the LG(WS) Act.

11.13 Indemnity and insurance of Directors and employees: The Company may indemnify and effect insurance in accordance with any part or all of section 162 of the Companies Act provided that:

- (a) the Board must ensure that particulars of any indemnity given to, or insurance taken out for, any director, or employee of the Company are immediately entered in the interests register; and
- (b) the Board may impose any conditions in relation to any indemnity or insurance if the conditions do not contravene the Companies Act.

For the purposes of this clause 11.13 "director" includes any former director, "employee" includes any former employee and "Company" includes any related company.

11.14 Disqualification of Directors: A person will be disqualified from holding the office of Director if he or she:

- (a) is or becomes disqualified from being a Director under any provision of the Companies Act or the LG(WS) Act; or
- (b) dies; or
- (c) becomes a protected person under the Protection of Personal and Property Rights Act 1988; or
- (d) is an undischarged bankrupt.

11.15 Remuneration of Directors:

- (a) The Shareholders shall determine, by Special Resolution, the total sum available to the Board each year to make remuneration payments in accordance with clause 11.15(b).
- (b) The Board may not authorise any form of remuneration to be paid to a Director without Board approval and unless such payment is made and authorised in accordance with the provisions of the Companies Act and the Special Resolution passed in accordance with clause 11.15(a).
- (c) The Board may authorise the reimbursement by the Company of reasonable travelling, hotel and other expenses incurred by Directors in attending Board meetings, Shareholder meetings or in relation to any other affairs of the Company.

11.16 Other offices with company held by Director:

- (a) Any Director may act by himself or herself or by the Director's firm in a professional capacity for the Company, and the Director or the Director's firm will be entitled to remuneration for professional services as if the Director were not a Director. Nothing in this clause authorises a Director or the Director's firm to act as auditor of the Company.
- (b) A Director may hold any other office or place of profit in the Company (other than the office of auditor) in conjunction with the Director's office of Director for such period and on such terms (as to remuneration and otherwise) as the Board may determine, subject to the necessary reporting disclosures and avoidance of conflicts of interest.

12. INTERESTS OF DIRECTORS

12.1 Disclosure of interests: A Director must disclose particulars of any interest in a transaction or proposed transaction of the Company in accordance with section 140 of the Companies Act.

12.2 Interested Directors: As set out in section 139 of the Companies Act, a Director is "interested" in a transaction to which the Company is a party if:

- (a) the transaction relates to a dispute between the Company and the Shareholder that appointed the Director ("**Director's Shareholder**"), or the enforcement of remedies available to the Company against the Director's Shareholder, including

under any agreement or arrangement between the Company (whether by itself or with one or more other parties) and the Director's Shareholder;

- (b) they are a party to the transaction or may derive a material financial benefit from it;
- (c) they have a material interest in another party to the transaction;
- (d) they are a director, officer or trustee of another party to the transaction;
- (e) they are a director, officer or trustee of a person who may derive a material financial benefit from the transaction;
- (f) they are a parent, child or spouse, civil union partner, or de facto partner of a person described in clause 12.2(a); or
- (g) they are otherwise directly or indirectly materially interested in the transaction.

12.3 **Interested Directors may act:** A Director who is interested in a transaction entered into, or to be entered into, by the Company must not do any of the following:

- (a) sign a document relating to that transaction on behalf of the Company; or
- (b) do any other thing in their capacity as a Director in relation to that transaction,

provided that a Director may vote, sign documents and otherwise do any other thing in their capacity as a Director with regard to any matter relating to the following:

- (c) any payment or other benefit of the kind referred to in section 161 of the Companies Act in respect of that Director in accordance with clause 11.15;
- (d) the entry into an indemnity or insurance arrangement in respect of that Director in their capacity as a director of the Company in accordance with clause 11.13; or
- (e) transactions in which a Director is interested solely in their capacity as a director of a Subsidiary of the Company.

12.4 **Interests register review:** The Board shall review the interests register at the beginning of every Board meeting.

12.5 **No prohibition re quorum:** No prohibition under this clause 12 will prevent the attendance of a Director at a Board meeting from counting for quorum purposes.

13. NOTICES

13.1 **Service:** Notices may be served by the Company upon any Director or Shareholder, either by personal delivery, by electronic means or by posting it in a prepaid envelope or package addressed to the recipient at his or her last known address (or, in the case of a company, its registered office). A notice may be given by the Company to joint Shareholders by giving the notice to the joint Shareholder named first in the Share Register in respect of the Share, or to such other person as or the joint Shareholders may in writing direct.

13.2 **Time of service:** Notices are deemed served at the following times:

- (a) when given personally, on delivery;
- (b) when sent by post or document exchange, five Business Days after (but exclusive of) posting; and
- (c) when sent by email, at the time of transmission, if (in the event receipt is disputed) the sender produces a printed copy of the email which evidences that the email was sent to the email address of the recipient.

Any notice which has been served on a Saturday, Sunday or public holiday is deemed to be served on the first Business Day after that day.

14. LIQUIDATION

- 14.1 If the Company is liquidated, the liquidator may, with the approval of the Shareholders by Special Resolution and any other approval required by the Companies Act or the LG(W.S) Act, but subject to the requirements of the Shareholders' Agreement (as notified by any Shareholder to the liquidator) and, if applicable, the rights or restrictions attached to the different classes of shares issued by the Company:
- (a) enter into a transfer agreement with the Shareholders to distribute to the Shareholders in kind the whole or any part of the assets of the Company; and
 - (b) vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the persons so entitled as the liquidator thinks fit, but so that the Shareholders are not compelled to accept any Shares or other securities on which there is any liability.

15. METHODS OF CONTRACTING

- 15.1 A deed which is to be entered into by the Company may be signed on behalf of the Company by:
- (a) two or more Directors;
 - (b) a Director, and any person authorised by the Board, whose signatures must be witnessed; or
 - (c) one or more attorneys appointed by the Company in accordance with section 181 of the Companies Act.
- 15.2 Subject to clause 15.1, an obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by two people acting under the express or implied authority of the Company.
- 15.3 Subject to clause 15.1, any other obligation or contract may be entered into on behalf of the Company in writing or orally by two people acting under the express or implied authority of the Company.

SCHEDULE 1

Rules for Shareholder Meetings

1. CHAIR

- 1.1 If the Chair is present at the meeting, he or she must chair the meeting.
- 1.2 If there is no Chair or if the Chair is not present at the meeting within 15 minutes of the start time, the Directors present may elect a chair for that meeting, failing which, the Shareholders (or their representatives) present may elect a chair for that meeting.

2. NOTICE OF MEETINGS

- 2.1 Each Shareholder and every Director of the Company must be sent written notice of the time and place of the meeting at least 10 Business Days before the meeting.
- 2.2 The notice must state:
 - (a) the nature of the business to be discussed at the meeting in sufficient detail to enable the Shareholders to form a reasoned judgment in relation to it; and
 - (b) the text of any Special Resolution to be put to the meeting.
- 2.3 An irregularity in a notice of a meeting is waived if:
 - (a) the Shareholders attend the meeting without protest as to the irregularity; or
 - (b) if each Shareholder agrees to the waiver.
- 2.4 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting. It is not otherwise necessary to give any new notice for an adjourned meeting.
- 2.5 The accidental omission to give a notice of a meeting to, or the non-receipt of a notice of a meeting by, any person entitled to receive notice does not invalidate the proceedings at that meeting.

3. METHODS OF HOLDING MEETINGS

- 3.1 A Shareholders' meeting may be held either:
 - (a) at the place, date, and time appointed for the meeting; or
 - (b) by means of audio, or audio and visual, communication. The Shareholders (or their representatives) participating must constitute a quorum and must all be able to simultaneously hear all participants throughout the meeting.

4. QUORUM

4.1 No business may be transacted at a Shareholder meeting if a quorum is not present.

4.2 A quorum for a Shareholder meeting is present if a majority of Shareholders (based on the number of Shares held) or their proxies:

- (a) is present; or
- (b) has completed postal votes (where permitted).

4.3 If a quorum is not present within the 30 minutes after the start time for the meeting:

- (a) if the meeting is called under section 121(b) of the Companies Act, the meeting is dissolved;
- (b) for any other meeting, the meeting is adjourned to:
 - (i) the same day in the following week at the same time and place, or
 - (ii) to another date, time and place to be fixed by the Directors.

5. ADJOURNMENTS

5.1 The Chair:

- (a) may adjourn the meeting from time to time and from place to place, but no business can be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place; and
- (b) must adjourn the meeting as above if directed to do so by the meeting.

6. VOTING

6.1 If a Shareholder meeting is held under rule 3.1(b), unless a poll is demanded, voting at the meeting will be by:

- (a) voting by voice; or
- (b) voting by show of hands,

and the chair of the meeting will decide which method is used.

6.2 A declaration by the chair of the meeting that a resolution is carried by the necessary majority is conclusive evidence of that fact unless a poll is demanded.

6.3 Subject to the Shareholders' Agreement and to any rights or restrictions attached to any Share:

- (a) where voting is by voice or a show of hands, every Shareholder present in person or by representative has one vote; and

- (b) on a poll every Shareholder present in person or by representative has one vote in respect of every Share held by that Shareholder which entitles a Shareholder to vote; and
- (c) in the case of an equality of votes, the chair of the meeting does not have a casting vote.

7. PROXIES AND POSTAL VOTES

- 7.1 Each Shareholder has the right to appoint a representative as its proxy to attend and vote at Shareholder meetings on its behalf. Any such representative so appointed is entitled to attend and be heard at Shareholder meetings and to demand or join in demanding a poll, as if that representative was the relevant Shareholder.
- 7.2 A Shareholder may not cast a postal vote at a Shareholders' meeting unless the Board has previously authorised postal votes for that meeting in which case:
 - (a) the notice of that meeting must state whether postal votes are authorised; and
 - (b) postal voting must be carried out in accordance with clause 7 of the First Schedule to the Companies Act.

8. MINUTES

- 8.1 The Board must ensure that minutes are kept of all proceedings at Shareholder meetings.
- 8.2 Minutes which have been signed correct by the Chair of the meeting are prima facie evidence of the proceedings.

9. SHAREHOLDER PROPOSALS

- 9.1 The Shareholders may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next Shareholder meeting. The provisions of clause 9 of the First Schedule of the Companies Act apply to any notice given under this rule 9.1.
- 9.2 The Chair of a Shareholder meeting will allow a reasonable opportunity for the Shareholders to question, discuss or comment on the management of the Company.

10. OTHER PROCEEDINGS

- 10.1 Except as provided in this Schedule 1, and subject to this Constitution, a Shareholder meeting may regulate its own procedure.

SCHEDULE 2

Rules for Board Proceedings

1. NOTICE OF MEETING

- 1.1 A Director or, if requested by a Director to do so, an employee of the Company, may convene a meeting of the Board by giving notice in accordance with this clause.
- 1.2 At least five Business Days' notice of a meeting of the Board must be given to every Director.
- 1.3 Public notification of meetings must be given in accordance with the LGOIMA. Agendas and reports for meetings must be made available in accordance with the LGOIMA.
- 1.4 An irregularity in the notice of the meeting is waived if all Directors attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.
- 1.5 The Company may withhold from publication official information in accordance with the LGOIMA.

2. METHOD OF HOLDING MEETINGS

- 2.1 The Board may meet in person or by any technological means that:
 - (a) allow participating Directors to be in communication with other participating Directors in a manner that is relatively contemporaneous; and
 - (b) ensure the meeting is compliant with the requirements set out in Part 7 of LGOIMA.
- 2.2 Where Directors are not all in attendance in one place but are holding a meeting through such a system of communication that complies with paragraph 2.1 of this Schedule 2:
 - (a) the participating Directors will be taken to be assembled together at a meeting and present at that meeting (including for the purposes of quorum requirements);
 - (b) the meeting will be taken to be held at the place agreed to by the participating Directors so long as at least one participating Director is physically present at that place; and
 - (c) all proceedings at meetings conducted in such a manner will be valid and effective as if conducted at a meeting at which all of them were physically present.

3. QUORUM

- 3.1 At any meeting of Directors:
 - (a) a quorum will only be present if at least a majority of Directors are present; and

- (b) any resolution, unless otherwise specified in this Constitution or the Shareholders' Agreement, will be passed if a majority of the votes cast on it are in favour of it.

3.2 If a quorum is not present within 30 minutes of the time appointed for the commencement of the Board meeting, the Board meeting must be adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the chairperson may appoint, and if at the adjourned meeting a quorum is not present within one hour after the time appointed for the commencement of the meeting, the Directors present (regardless of the person who appointed them) will constitute a quorum. No business may be transacted at a meeting of Directors if a quorum is not present.

4. VOTING

4.1 Every Director has one vote.

4.2 The Chair does not have a casting vote.

4.3 Subject to clause 11.9, 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.

4.4 A Director who abstains from voting is not presumed to have voted in favour of the relevant resolution of the Board.

5. MINUTES

5.1 The Board must ensure minutes are kept of all proceedings at meetings of the Board. Such minutes will be made available to the public in accordance with, and to the extent required by, section 51 of LGOIMA.

6. RESOLUTIONS

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

6.2 A resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more Directors.

6.3 A copy of all resolutions must be entered in the minute book of Board proceedings.

7. OTHER PROCEEDINGS

7.1 Except as provided in this Schedule 1 and this Constitution, the Board may regulate its own procedure.