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CONSTITUTION

OF

NEW ZEALAND CLEARING AND DEPOSITORY CORPORATION LIMITED

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## **PART A: INTERPRETATION**

### **1 Defined terms**

1.1 In this Constitution the following expressions have the following meanings:

*A Director* means a Director of the Company appointed by the holders of a majority of the A Ordinary Shares in accordance with clause 19.2;

*B Director* means a Director of the Company appointed by the holders of a majority of the B Ordinary Shares in accordance with clause 19.2;

*A Ordinary Shares* means the ordinary shares referred to in clause 3.2(a);

*B Ordinary Shares* means the ordinary shares referred to in clause 3.2 (b);

*Act* means the Companies Act 1993;

*Acceptance Notice* means a notice provided to the Board by a shareholder wishing to accept an offer of Shares to be issued by the Company, or transferred by another shareholder, pursuant to clause 4.4 or clause 7.5;

*Board* means the Directors of the Company who number not less than the required quorum acting together as the board of directors.

*Company* means New Zealand Clearing and Depository Corporation Limited;

*Constitution* means this Constitution as altered from time to time in accordance with the Act;

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

*Group* means the Company and any of its subsidiary companies;

*Ordinary Shares* means A Ordinary Shares and, where they are on issue, B Ordinary Shares.

*Preference Shareholder* means a holder of Redeemable Preference Shares;

*Redemption Amount* means, in relation to any Redemable Preference Share, the issue price;

*Redeemable Preference Shares* means the non-participating redeemable preference shares referred to in clause 3.2(c) and which have the specific terms set out in the Fourth Schedule;

*Remaining Shareholders* means, where a shareholder seeks to sell or transfer its Shares, the shareholders to whom the Shares are offered;

*Share* means a share in the Company;

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

1.2 Subject to clause 1.1, expressions which are defined in the Act (whether generally or for the purposes of one or more particular provisions) have the meanings given to them by the Act. Where an expression is defined in the

Act more than once and in different contexts, its meaning will be governed by the context in which it appears in this Constitution.

**2 Construction**

In this Constitution:

- 2.1 headings appear as a matter of convenience and do not affect the interpretation of this Constitution;
- 2.2 the singular includes the plural and vice versa, and words importing one gender include the other genders;
- 2.3 a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;
- 2.4 a reference to *permitted by the Act* means not prohibited by the Act;
- 2.6 the Schedules form part of this Constitution.

**PART B: SHARES AND SHAREHOLDERS**

**3 Shares**

**3.1 Initial Shares**

The 120 shares on issue at the date the Company adopts this Constitution are deemed to be A Ordinary Shares.

**3.2 Groups of Shares**

Subject to clause 3.4, the Company may issue the following Shares:

- (a) A Ordinary Shares;
- (b) B Ordinary Shares; and
- (c) Redeemable Preference Shares.

**3.3 Rights of Shares**

Except as expressly provided in this Constitution, all of the A Ordinary Shares and B Ordinary Shares have the same rights and privileges and are subject to the same restrictions. Redeemable Preference Shares have the rights and privileges set out in the Fourth Schedule to this Constitution.

**3.4 Additional Classes**

The Board may, with the written consent of the holders of a majority of each of the A Ordinary Shares and, where there are B Ordinary Shares, B Ordinary Shares, issue further Shares, securities that are convertible, or exchangeable for, Shares or options to acquire Shares, in the Company which rank equally with, or in priority to, existing Shares, or which have deferred, preferred or other special rights or restrictions, whether as to voting rights or distributions or otherwise. Any such issue will not be treated as an action affecting the rights attached to existing Shares unless the terms of issue of those Shares expressly provide otherwise.

**4 Issue of Shares**

**4.1 Pre-emptive rights on Issue**

All Shares proposed to be issued or transferred by the Company must be offered for acquisition in the manner set out in clause 4.2 to existing shareholders, except to the extent that the terms of any Shares already



issued do not entitle the holders of those Shares to receive an offer or as approved in writing by all shareholders.

**4.2 Entitlements**

New Shares offered for acquisition under clause 4.1 ("New Shares") must be offered to existing shareholders in proportion to the number of Shares held by that shareholder, except that:

- (a) If any existing Shares do not have rights to receive an offer to acquire New Shares, or have special or disproportionate rights to receive an offer to acquire New Shares, the offer to acquire New Shares must be made in accordance with the relative proportionate entitlements of all shareholders; and
- (b) Fractional entitlements may be disregarded.

**4.3 Offer Notice**

Any offer of New Shares shall be made by written notice, specifying:

- (a) The number, class and terms of the New Shares offered, including the number of New Shares that each Shareholder is entitled to;
- (b) The issue price and payment conditions; and
- (c) The date (being not less than 14 days, nor more than 28 days, after the date of the notice) by which shareholders must give an Acceptance Notice in writing to the Company containing the details set out in clause 4.4.

**4.4 Acceptance Notice**

Each Acceptance Notice must state whether or not the shareholder wishes to purchase:

- (a) All of that shareholder's entitlement or some lesser number of Shares; and
- (b) Any New Shares offered to, but declined by, other shareholders Declined New Shares, and if so, how many.

**4.5 Declined New Shares**

If, within the period referred to in clause 4.3(c), a shareholder does not deliver an Acceptance Notice for all of the New Shares which they have been offered, the number of New Shares which that shareholder is offered but has not accepted shall be deemed to be Declined New Shares. Any Declined New Shares will be offered to other shareholders on the basis that the Declined New Shares not claimed by the offeree will be allocated to the other holders of Shares who have requested Declined New Shares, in proportion to their existing holdings. No shareholder will be allocated more Declined New Shares than the number requested by that shareholder.

**4.6 Treasury Stock**

This clause 4 will apply to the transfer of Shares held by the Company as if the transfer was an issue of New Shares by the Company.

**4.7 Further Ordinary Shares**

If additional ordinary shares are issued to holders of A Ordinary Shares such ordinary shares shall be deemed to be A Ordinary Shares. If additional ordinary shares are issued to holders of B Ordinary Shares they shall be deemed to be B Ordinary Shares.

**5 Consolidation and subdivision**

The Board may:

- 5.1 consolidate and divide Shares or any class of Shares in proportion to those Shares or the Shares in that class; or
- 5.2 subdivide Shares or any class of Shares in proportion to those Shares or the Shares in that class.

**6 Share register may be divided**

The share register may be divided into 2 or more registers kept in different places.

**7 Pre-emptive Rights on Transfer of Shares**

**7.1 Transfer Notice**

Every shareholder who desires to sell or transfer any legal or beneficial interest in Shares ("Vendor") must give notice in writing ("Transfer Notice") to the Board that the Vendor desires to sell or transfer those Shares.

**7.2 Contents of Transfer Notice**

A Transfer Notice must state:

- (a) The Vendor's name;
- (b) The number of Shares the Vendor intends to sell or transfer ("Specified Shares"); and
- (c) The consideration that the Vendor proposes as the sale price of the Specified Shares ("Proposed Sale Price").

**7.3 Board Appointed Agent**

A Transfer Notice constitutes the Board as the agent of the Vendor for the sale of the Specified Shares in accordance with this clause 7. A Transfer Notice is not revocable by a Vendor except as provided in clause 7.7.

**7.4 Offer to Shareholders**

Immediately upon receipt of a Transfer Notice the Board must promptly give written notice to all shareholders (except shareholders only holding Shares that carry no right to participate under this clause 7) offering the Specified Shares in accordance with the provisions of this clause 7.4;

- (a) An offer must be made by written notice to each of the relevant shareholders, in proportion to their existing holdings. The notice must state:
  - (i) The number of Specified Shares to which the offeree is entitled;
  - (ii) The Proposed Sale Price;
  - (iii) The date (being not less than 21 days nor more than 28 days after the receipt by the Company of the Transfer Notice) ("Acceptance Date") by which the offeree must give notice in writing to the Company ("Acceptance Notice") containing the details set out in clause 7.5.
- (b) If shareholders do not submit Acceptance Notices in respect of their full entitlement, the unclaimed Shares ("Declined Shares") must be used to satisfy the requests for Declined Shares made by other shareholders. If there are insufficient Declined Shares to satisfy such requests, then the Declined Shares must be divided among those shareholders who requested Declined Shares in proportion to their existing holdings, but no shareholder shall be allocated more Declined Shares than the number which that shareholder has requested.
- (c) If there are any Declined Shares remaining after satisfying the requests for Declined Shares under clause 7.4(b) then the the

Company may offer those remaining Declined Shares to any person nominated jointly by the holders of a majority of each of the A Ordinary Shares and B Ordinary Shares.

**7.5 Acceptance Notices**

Each Acceptance Notice must state whether or not the shareholder:

- (a) Wishes to purchase all of their entitlement to, or some lesser number of, Specified Shares;
- (b) Wishes to purchase any Declined Shares and, if so, how many; and
- (c) Accepts the Proposed Sale Price or wishes the sale price to be the Fair Market Value determined in accordance with clause 7.11.

**7.6 Notice to Vendor**

After receipt of Acceptance Notices from all offerees, or the earlier expiry of the date specified in clause 7.4(a)(iii), the Board must within seven days either send to the Vendor copies of all Acceptance Notices received or notify the Vendor that no Acceptance Notices have been received.

**7.7 Vendor's Right to Withdraw**

If Acceptance Notices are received which do not purport to accept all of the Specified Shares the Vendor may, within seven days of being given notice under clause 7.6, revoke the Transfer Notice by giving a notice in writing to the Board ("Withdrawal Notice"). If the Vendor gives a Withdrawal Notice under this clause 7.7, the Transfer Notice will be revoked and the Vendor may, within three months of the Withdrawal Notice being given, sell or transfer all of the Specified Shares (but not part only) at a price which is not less than the Proposed Sale Price and otherwise on terms no more favourable to a Purchaser than the terms offered to the existing shareholders.

**7.8 Sale and Purchase**

The Vendor will become bound to sell the Specified Shares for which Acceptance Notices have been received when:

- (a) Acceptance Notices are given under clause 7.5 for all of the Specified Shares in a Transfer Notice; or
- (b) Acceptance Notices are given under clause 7.5 for only some of the Specified Shares and the Vendor does not to submit a Withdrawal Notice under clause 7.7.

**7.9 Purchasers**

The purchasers of the Specified Shares will be determined as follows:

- (a) If all shareholders have accepted their entitlements then each shareholder will become bound to purchase that number of Specified Shares.
- (b) In any other case:
  - (i) Each shareholder will become bound to purchase that number of Specified Shares equal to the lesser of the number of Specified Shares that the shareholder has agreed to accept in the shareholder's Acceptance Notice and the number of Specified Shares equivalent to the shareholder's entitlement; and
  - (ii) Each shareholder who has agreed to accept Declined Shares will be bound to purchase that number of Declined Shares to which they are entitled under clause 7.4(b) or 7.4(c).

**7.10 Price**

If a shareholder's Acceptance Notice states that the shareholder accepts the Proposed Sale Price that offeree will be bound to purchase the relevant Specified Shares at that price.

**7.11 Fair Market Value if no Agreement**

If a shareholder's Acceptance Notice states that the offeree does not accept the Proposed Sale Price, the sale price for all Shares to be sold will be the fair market value ("Fair Market Value") fixed by a person ("Expert") appointed by agreement between the Vendor and the offeree or, failing agreement, appointed by the President for the time being of the Institute of Chartered Accountants of New Zealand. The Expert will be an expert, not an arbitrator and the Arbitration Act 1996 will not apply.

**7.12 Settlement**

Settlement of the sale and purchase of the Shares must take place:

- (a) Within 14 days after the Vendor becomes bound to sell the Specified Shares pursuant to clause 7.8 if at the Proposed Sale Price; or
- (b) In any other case within 14 days after the determination of the Fair Market Value.

**7.13 Payment**

On settlement:

- (a) The offeree must pay the purchase price for the Shares to the Company in cleared funds; and
- (b) In return, the Vendor must deliver to the offeree the signed Share transfer and relevant Share certificate (if any).

**7.14 Execution by Company**

If the Vendor does not transfer the Shares in accordance with clause 7.13(b), the Company shall execute transfers of the Shares on behalf of the Vendor and receive the price for the Shares.

**7.15 Actions by Company**

Upon receipt of the price paid for the Shares, the Company must cause the name of the relevant shareholder to be entered in the Register as the holder of those Shares and hold the amount paid in trust for the Vendor.

**7.16 Validity**

The Board's receipt of the price paid is a good discharge of the obligation to pay the purchase price. No question may be raised as to the title of the offeree to the Shares.

**7.17 Vendor's Rights if no Acceptance Notices Received**

If a Vendor has given a Transfer Notice and no Acceptance Notices are received before the Acceptance Date, the Vendor may, within three months after the Acceptance Date, sell or transfer all of the Specified Shares (but not part only) at a price which is not less than the Proposed Sale Price and otherwise on terms no more favourable to a purchaser than the terms offered to the Remaining Shareholders.

**7.18 Approved Transfer**

Any Share may be transferred by a shareholder to any person if the transfer is approved in writing by all shareholders and the restrictions in the preceding provisions of this clause 7 shall not apply to any transfer authorised by this clause 7.18.

**8 Board may refuse or delay transfer**

The Board may, in its absolute discretion, refuse or delay the registration of a transfer of Shares only in the following circumstances:

- 8.1 such transfer is not undertaken in compliance with clause 7; and
- 8.2 the transfer of the Shares would be contrary to the terms of issue of the Shares.

**9 Board may make calls on Shares**

The Board may make calls on any shareholder for any money that is unpaid on that shareholder's Shares and not otherwise payable at a specified time or times under this Constitution, the terms of issue of those Shares or any contract for the issue of those Shares. Schedule 1 governs calls on Shares.

**10 Forfeiture of Shares where calls or other amounts unpaid**

The Board may exercise the rights set out in Schedule 1 for the forfeiture of any Shares if the holder of those Shares fails to pay:

- (a) a call, or an instalment of a call, on those Shares; or
- (b) any amount that is payable under this Constitution or the terms of issue of those Shares or any contract for the issue of the Shares.

**11 Company's lien**

The Company has a lien on Shares and dividends in respect of such Shares on the terms set out in Schedule 1.

**12 Company may acquire and hold Shares**

Subject to this Constitution, the Company may in accordance with the Act:

- 12.1 purchase or otherwise acquire Shares issued by the Company and may hold Shares as treasury stock; and
- 12.2 make an offer to one or more holders of Shares to acquire Shares issued by the Company in such number or proportions as it thinks fit.

**13 Board deductions from distribution**

The Board may, at its discretion, deduct from any dividend or other distribution payable to a shareholder any amount owed by the shareholder to the Company in respect of which the Company has a lien over the specific Shares on which the dividend or other distribution is payable. The Board must deduct from any dividend or other distribution payable to any shareholder any amount it is required by law to deduct, including withholding and other taxes.

**14 Distributions do not bear interest**

No dividend or other distribution shall bear interest against the Company unless the applicable terms of issue of a Share expressly provide otherwise.

**15 Unclaimed distributions**

All dividends and other distributions unclaimed for one year after the due date for payment may be invested or otherwise made use of by the Board for the benefit of the Company until claimed. The Company shall be entitled to mingle the distribution with other money of the Company and shall not be required to hold it or to regard it as being impressed with any trust but, subject to compliance with the solvency test, shall pay the distribution to the person producing evidence of entitlement.

**16 Methods of Holding Meetings**

A meeting of shareholders may be held either:

- (a) By a number shareholders, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- (b) By means of audio, or audio and visual, communication by which all shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

**17 Proceedings at meetings of Shareholders and interest groups**

Schedule 2 governs the proceedings at meetings of shareholders. Schedule 2 also governs the proceedings of meetings of any interest group required to be held by the Act or this Constitution, with all necessary consequential modifications, except that the quorum shall be the members of the interest group holding 5% or more of the total number of Shares held by all members of that group having the right to vote at the meeting.

**PART C: DIRECTORS****18 Number of directors is restricted**

18.1 The minimum number of Directors is 3. The maximum number of Directors is 6.

18.2 For so long as there are A Ordinary Shares and B Ordinary Shares on issue, the number of A Directors shall not at any time be more than two and the number of B Directors shall not at any time be more than two.

**19 Appointment of Directors**

19.1 For so long as there are no B Ordinary Shares on issue, a person may be appointed as a Director by:

- (a) notice in writing to the Company from the holders of a majority of the A Ordinary Shares; or
- (b) an ordinary resolution of the holders of a majority of the A Ordinary Shares.

19.2 For so long as there are A Ordinary Shares and B Ordinary Shares on issue:

- (a) the holders of a majority of the A Ordinary Shares may at any time, by written notice to the Company, appoint any person as an A Director; and
- (b) the holders of a majority of the B Ordinary Shares may at any time, by written notice to the Company, appoint any person as a B Director; and
- (c) subject to clause 18, the Board may appoint any other person as a Director with the written consent of the holders of a majority of each of the A Ordinary Shares and B Ordinary Shares.

**20 Removal of Directors**

20.1 For so long as there are no B Ordinary Shares on issue, any Director may be removed from office at any time on written notice to the Company from the holders of a majority of the A Ordinary Shares.

20.2 For so long as there are A Ordinary Shares and B Ordinary Shares on issue:

- (a) the holders of a majority of the A Ordinary Shares may at any time by written notice to the Company remove an A Director from office;
- (b) the holders of a majority of the B Ordinary Shares may at any time by written notice to the Company remove a B Director from office; and
- (c) any Director appointed pursuant to clause 19.2(c) may be removed by notice in writing to the registered office of the Company signed by the holders of a majority of each of the A Ordinary Shares and B Ordinary Shares.

**21 Alternate Directors**

21.1 A Director appointed in accordance with clause 19 may appoint any person, who is not disqualified under the Act to be a Director, to act as an alternate director in the place of that Director by notice in writing to the Company. Any appointment of an alternate director may be for a specified period or generally during the absence from time to time of the Director. An alternate director may be removed in like manner.

21.2 Unless otherwise provided for by the terms of appointment, an alternate Director shall have the same rights, powers and privileges, and shall discharge all the duties of, and be subject to the same provisions as, the Director in whose place he or she acts.

21.3 An alternate director is entitled to a separate vote for each Director the alternate director represents in addition to any vote that alternate director may have as a Director in their own right.

21.4 The appointment of an alternate director terminates automatically if the Director who appointed him or her ceases to be a Director or if an event occurs which would cause the alternate director to vacate office if he or she were a Director.

**22 Election of chairperson of the Board and term of office**

22.1 The Directors may elect one of their number as chairperson and, if they so determine, a deputy chairperson of the Board.

22.2 The chairperson of the Board and, if one has been elected, the deputy chairperson of the Board, holds that office until he or she vacates that office or the Directors elect a chairperson or deputy chairperson (as the case may be) in his or her place.

**23 Separation of the Chief Executive and Chairperson of the Board**

A Director may not simultaneously hold the positions of chief executive or Managing Director of the Company and chairperson of the Board.

- 24 **Office of Director vacated in certain cases**  
 The office of Director is vacated if the person holding that office:
- 24.1 dies; or
  - 24.2 is absent from 3 consecutive meetings of the Board without leave being granted by a resolution of the Board and the Board resolves that the Director has vacated office; or
  - 24.3 becomes disqualified from being a director pursuant to the Act; or retires from office and is not re-elected or deemed to have been re-elected under this Constitution; or
  - 24.4 resigns from that office in accordance with the Act.
- 25 **Meetings of the Board**  
 Schedule 3 governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. Schedule 2 to the Act does not apply to proceedings of the Board.
- 26 **Written resolutions of Board permitted**  
 A written resolution signed or assented to by all of the Directors then entitled to receive notice of a meeting of the Board is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- 27 **Written resolutions may be in counterparts**  
 Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors. A copy of a written resolution, which has been signed and is sent by facsimile or any electronic means of communication, will satisfy the requirements of this clause.
- 28 **Board delegates to comply with regulations**  
 In exercising the Board's delegated powers, any committee of Directors, Director, employee, or any other person must comply with any regulations that the Board may impose.
- 29 **Committee proceedings**  
 The provisions of this Constitution relating to meetings and proceedings of the Board also apply to meetings and proceedings of any committee of Directors, except to the extent the Board determines otherwise.
- 30 **Reimbursement of expenses**  
 A Director may be reimbursed for reasonable travelling, accommodation and other expenses incurred in the course of performing duties or exercising powers as a Director without requiring the prior approval of shareholders.
- 31 **Board may appoint Managing Director**  
 The Board may appoint one of the Directors to the office of Managing Director (by whatever name called) for a term not exceeding 5 years and on such other terms as the Board thinks fit. A Managing Director may be re-appointed at any time within 3 months before expiry of a term of appointment for a further period not exceeding 5 years, and may be re-appointed for a further term of 5 years in the same manner. Subject to the terms of any agreement entered into between the Board and the Director concerned, the Board may revoke the appointment. The appointment of a Managing Director shall terminate automatically if he or she ceases to be a Director.
- 32 **Remuneration of Managing Director**  
 A Managing Director will receive in addition to remuneration for services as a Director such remuneration and benefits as the Board may determine.



**33 Powers conferred on Managing Director**

Subject to the restrictions on delegation in the Act, the Board may:

- 33.1 confer on a Managing Director any of the powers exercisable by the Board; and
- 33.2 without affecting the powers of a Managing Director to act as a member of the Board, impose such terms and conditions and such restrictions as the Board thinks fit; and
- 33.3 alter or revoke any of the powers it confers under this clause.

**34 Managing Director has no power to appoint alternate Managing Director**

The power to appoint an alternate director conferred on Directors by this Constitution does not confer on any Managing Director the power to appoint an alternate Managing Director.

**35 Management of Company**

35.1 Subject to any provision to the contrary in this Constitution, the business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.

35.2 The Board shall not:

- (a) adopt a new, materially amend or alter, any policy, or policies, of the Group relating to the source, nature, application, or use of capital provided to the Company for its ongoing operations or for the purpose of meeting the obligations of the clearing house as a central counterparty;
- (b) adopt a new, or materially amend the pricing structure for clearing and depository services;
- (c) undertake any merger or acquisition;
- (d) approve the acquisition or disposition of any information technology assets valued at over NZ\$5,000,000 by any member of the Group;

without the prior written approval of a majority of shareholders and, where there are A Ordinary Shares and B Ordinary Shares on issue without the prior written consent of the holders of the majority of each of the A Ordinary Shares and B Ordinary Shares.

**PART D: GENERAL**

**36 Company may indemnify directors and employees for certain liabilities**

The Company may indemnify a director or employee of the Company or a related company for any liability or costs for which a director or employee may be indemnified under the Act. The Board may determine the terms and conditions of such an indemnity.

**37 Company may effect insurance for directors and employees**

The Company may, with the prior approval of the Board, effect insurance for a director or employee of the Company or a related company for any liability or costs for which a company may effect insurance for a director or employee under the Act. The Board may determine the amounts and the terms and conditions of any such insurance.

**38 Manner of execution of deeds**

A deed may be entered into on behalf of the Company in writing signed under the name of the Company by:

38.1 two or more Directors; or

38.2 a Director, or any other person authorised by the Board whose signature must be witnessed; or

38.3 one or more attorneys appointed by the Company in accordance with the Act.

39 **Constitution Entrenched**

Notwithstanding section 32 of the Act, the Constitution shall not be altered without the prior approval of shareholders given at a duly convened meeting of shareholders by a special resolution approved by the votes of those shareholders who are entitled to vote and who vote on the resolution and who between them hold not less than 75 percent of all of Ordinary Shares in the Company.

40 **Distribution Policy Entrenched**

The Distribution Policy contained in paragraph 3.2 of the Company's Treasury Policy and the Company's Investment Policy ("the Distribution Policy") shall not be altered without the prior approval of shareholders given at a duly convened meeting of shareholders by a special resolution approved by the votes of those shareholders who are entitled to vote and who vote on the resolution and who between them hold not less than 75 percent of all of Ordinary Shares in the Company.

41 **Distribution of surplus assets in kind**

If the Company is liquidated the liquidator may, with the approval of shareholders by ordinary resolution, but subject to any other sanction required by the Act:

41.1 divide among the shareholders in kind the whole or any part of the surplus assets of the Company and for that purpose the liquidator may:

- (a) fix such values for surplus assets as the liquidator considers to be appropriate, and
- (b) determine how the division will be carried out as between shareholders or different classes of shareholder;

and

41.2 vest the whole or any part of any such surplus assets in trustees upon such trusts for the benefit of such of those shareholders as the liquidator thinks fit,

but so that no shareholder is compelled to accept any shares or other securities on which there is any liability.

## **SCHEDULE 1: CALLS, FORFEITURE AND LIENS**

### **INTERPRETATION**

#### **1 Construction**

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

### **CALLS ON SHARES**

#### **2 Shareholders must pay calls**

Every shareholder, on receiving at least 10 Business Days' notice specifying the time or times and the place of payment, must pay, in accordance with that notice, the amount called to be paid in respect of any Shares that shareholder holds. The Board may revoke or postpone a call, or require a call to be paid by instalments.

#### **3 Call made when Board resolution passed**

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

#### **4 Joint holders are jointly and severally liable**

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

#### **5 Unpaid calls will accrue interest**

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

#### **6 Amounts payable under terms of issue treated as calls**

Any amount that becomes payable on issue or at any specified date under this Constitution, the terms of issue of the Shares or under a contract for the issue of Shares, will be regarded as being a call duly made and payable on the specified date. If the payment is not made, the relevant provisions of this Constitution will apply as if the amount had become payable by virtue of a call made in accordance with this Constitution.

#### **7 Board may differentiate between shareholders as to calls**

The Board may differentiate between shareholders as to the amount of calls to be paid and the times of payment.

#### **8 Board may accept payment in advance for calls**

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

8.2 The Board may at any time repay to any shareholder the whole or any portion of any money so advanced upon giving that holder at least 10 Business Days' notice in writing and as from the date of such repayment interest (if any) shall cease to accrue on the money so repaid.

8.3 A shareholder is not entitled as of right to any payment of interest on any amount so paid in advance and the Board may decline to pay any interest. Any amount so paid in advance must not be taken into account in ascertaining the amount of any dividend or other distribution payable upon the Shares concerned.

## **FORFEITURE OF SHARES**

### **9 Board may by notice require forfeiture of Shares if calls unpaid**

The Board may during the time that a call, instalment, or other amount remains unpaid on a Share, serve a notice on the holder of that Share requiring payment of the unpaid call, instalment, or other amount, together with any accrued interest and any expenses incurred by the Company by reason of non-payment.

### **10 Notice of forfeiture must satisfy certain requirements**

The notice served on a shareholder under clause 9 must specify a date not earlier than 14 days after the date the notice is served by which the payment is to be made. The notice must also state that in the event of non-payment by the appointed time, the Shares to which the call, instalment, or other amount relates, will be liable to be forfeited by the shareholder.

### **11 Failure to comply with notice may lead to forfeiture**

Where a valid notice under clause 9 is served on a shareholder and the shareholder fails to comply with the notice, then the Board may resolve that any Share for which that notice was given and all distributions authorised and not paid before the notice was served be forfeited.

### **12 Board may deal with forfeited Share**

A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment or other amount which remains unpaid on the Share is paid.

### **13 Shareholder whose Shares are forfeited loses rights**

A person whose Shares have been forfeited immediately ceases to be a shareholder in respect of those Shares notwithstanding any other provision of this Constitution, and remains liable to pay the unpaid amount that the shareholder owes the Company, but that liability shall cease if the Company receives payment in full of all money owing for those Shares.

### **14 Evidence of forfeiture**

A certificate signed by a Director that a Share has been duly forfeited on a stated date is conclusive evidence of the facts stated in that certificate.

### **15 Company may sell forfeited Share**

The Company may receive the consideration, if any, given for a forfeited Share following a sale or disposition, and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and register that person as the holder of the Share. That person is not bound to see to the application of the purchase money, if any, nor is the title to the Share affected by any irregularity or invalidity in the procedures under this Constitution in respect of the forfeiture, sale or disposal of that Share. Any residue after satisfaction of unpaid calls, installments, premiums or other amounts and interest, and expenses, shall be paid to the previous holder, or to his or her executors, administrators or assigns.

## **LIEN ON SHARES**

### **16 Company's lien**

The Company has a lien, ranking in priority over all other equities, on:

16.1 all Shares registered in the name of a shareholder; and

16.2 all dividends authorised in respect of such Shares; and

16.3 the proceeds of sale of such Shares,

for:

16.4 unpaid calls and instalments payable in respect of any such Shares; and

16.5 interest on any such calls or instalments; and

16.6 sale expenses owing to the Company in respect of any such Shares; and

16.7 any amounts that the Company may be called on to pay under any statute, regulation, ordinance or other legislation in respect of the Shares of that shareholder, whether the period for payment has arrived or not.

### **17 Waiver of lien**

Registration of a transfer of Shares on which the Company has any lien will operate as a waiver of the lien, unless the Company gives notice to the contrary to the transferee prior to registration.

### **18 Company may sell Share on which it has a lien**

The Company may sell a Share on which it has a lien in such manner as the Board thinks fit, where:

18.1 the lien on the Share is for a sum which is presently payable; and

18.2 the registered holder of the Share, or the person entitled to it on his or her death or bankruptcy, has failed to pay that sum within 10 working days after the Company has served that registered holder written notice demanding payment of that sum.

### **19 Company may transfer Share and apply proceeds**

19.1 The Company may receive the consideration given for a Share sold under clause 18, and may execute a transfer of the Share in favour of the person to whom the Share is sold, and register that person as the holder of the Share discharged from all calls due prior to the purchase.

19.2 The purchaser is not bound to see to the application of the purchase money, and the purchaser's title to the Share is not affected by any irregularity or invalidity in the proceedings relating to the sale. The remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

19.3 The Company must apply the sale proceeds in payment of the sum presently payable on the lien, and the balance, if any, shall (subject to a like lien for sums not presently payable that existed upon the Share before the sale) be paid to the person who held the Share immediately before the date of sale or to his or her executors, administrators or assigns.

## **SCHEDULE 2: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

### **INTERPRETATION**

#### **1 Construction**

- 1.1 Unless stated otherwise, references to clauses are references to clauses in this Schedule.
- 1.2 A reference in this Schedule to a shareholder present at a meeting or entitled to vote at a meeting includes a reference to a proxy of a shareholder, a representative of a corporate shareholder, an attorney of a shareholder, and any person who may lawfully act on behalf of a shareholder.

### **NOTICE**

#### **2 Written notice must be given to shareholders, Directors and auditors**

Written notice of the time and place of a meeting of shareholders must be sent to every shareholder entitled to receive notice of the meeting and to every Director and any auditor of the Company not less than 14 days before the meeting.

#### **3 Notice must state nature of business**

The notice must:

- 3.1 state the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it; and
- 3.2 state the text of any special resolution to be submitted to the meeting; and
- 3.3 contain or be accompanied by sufficient explanation to enable a reasonable person to understand the effect of the resolutions proposed in the notice.

#### **4 Irregularities in notice may be waived**

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

#### **5 Company's accidental failure to send notice does not invalidate meeting**

The accidental omission to send notice of a meeting to, or the failure to receive notice by, any person entitled to that notice, does not invalidate the proceedings at that meeting.

#### **6 Notice of an adjournment**

- 6.1 If a meeting is adjourned for less than 30 days no notice of the time and place of the adjourned meeting need be given other than by announcement at the meeting from which the adjournment took place.
- 6.2 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in the same way as notice was given of the meeting from which the adjournment took place.

## **MEETING AND QUORUM**

### **7 Methods of holding meetings**

7.1 A meeting of shareholders may be held either:

- (a) by a number of shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) by means of an audio, or audio and visual, communication by which all shareholders participating and constituting a quorum can simultaneously hear each other throughout the meeting.

7.2 The Company is not required to hold meetings of shareholders in the manner specified in clause 7.1(b). Meetings will be held in that manner only if the notice of meeting so specifies or the Board otherwise decides that the Company should do so.

### **8 Business to be transacted only if a quorum is present**

Subject to clauses 11 and 12, business may be transacted at a meeting of shareholders only if a quorum is present at the time when the meeting proceeds to business.

### **9 Quorum for Shareholders' meeting**

9.1 For so long as there are no B Ordinary Shares on issue, a quorum for a meeting of shareholders is present if one shareholder is present having the right to vote at the meeting.

9.2 For so long as there are A Ordinary Shares and B Ordinary Shares on issue, the quorum for a meeting is at least one holder of A Ordinary Shares and at least one holder of B Ordinary Shares.

### **10 Meeting convened at shareholders' request dissolved if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a special meeting convened under the Act on the written request of shareholders holding Shares together carrying at least 5 percent of the voting rights entitled to be exercised, the meeting will be dissolved automatically.

### **11 Other meetings to be adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a special meeting convened as described in clause 10 above or a meeting of an interest group), the meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time, and place as the Directors may appoint. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders present will constitute a quorum.

## **CHAIRPERSON**

### **12 Chairperson of Board to be chairperson of meeting**

The chairperson of the Board, if one has been elected by the Directors and is present at a meeting of shareholders, will chair the meeting.

### **13 Directors may elect chairperson if chairperson of Board not available**

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 or is unwilling to act, the deputy chairperson of the Board (if any) shall be the chairperson, or failing him or her, the Directors present may elect one of their number to be chairperson of the meeting.

- 14 **As a last resort shareholders may elect chairperson**  
If at any meeting of shareholders, no Director is willing to act as chairperson or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting, the shareholders present may elect one of their number to be chairperson of the meeting.
- 15 **Chairperson's power to adjourn meeting**  
15.1 The chairperson of a meeting at which a quorum is present:
- (a) may adjourn the meeting with the consent of the shareholders present who are entitled to attend and vote at that meeting; and
  - (b) must adjourn the meeting if directed by the meeting to do so.
- 15.2 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- 16 **Chairperson may dissolve or adjourn unruly meetings**  
The chairperson may adjourn or dissolve the meeting if in his or her opinion the meeting has become so unruly, disorderly or inordinately protracted, that the business of the meeting cannot be conducted in a proper and orderly manner. The chairperson may exercise this power without the consent of the meeting and without giving reasons.
- 17 **Dissolved meetings - unfinished business**  
If the chairperson proposes to dissolve a meeting pursuant to clause 17, and there is any item of unfinished business of the meeting which in his or her opinion requires to be voted upon, then that item shall be dealt with by the chairperson directing it to be put to the vote by a poll without further discussion.
- VOTING**
- 18 **Voting by show of hands or voice vote at meeting**  
In the case of a meeting of shareholders held under clause 8.1(a), unless a poll is demanded, voting at the meeting will be by a show of hands or by voice vote, as the chairperson may determine.
- 19 **Voting by voice if audio-conference meeting**  
In the case of a meeting of shareholders held under clause 8.1(b), unless a poll is demanded, voting at the meeting will be by the shareholders signifying individually their assent or dissent by voice or by such other manner as the chairperson may decide.
- 20 **Votes of joint holders**  
Where two or more persons are registered as the holders of a Share, the vote of the person named first in the share register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.
- 21 **Shareholder loses certain voting rights if calls unpaid**  
If a sum due to the Company in respect of any Share registered in a shareholder's name has not been paid then that Share may be voted at a meeting of an interest group but not at any other meeting of shareholders.
- 22 **Chairperson casting vote**  
In the case of an equality of votes, whether on a show of hands, voice vote or on a poll, the chairperson does not have a casting vote.



**23 Chairperson's declaration of result**

Unless a poll is demanded, a declaration by the chairperson of the meeting that a resolution on a show of hands or voice vote or by such other manner as the chairperson may have decided under clause 20 is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

**POLLS**

**24 Poll may be demanded by chairperson or shareholder**

At a meeting of shareholders, a poll may be demanded, either before or after a vote by show of hands or voice vote, by:

24.1 the chairperson, at his or her absolute discretion; or

24.2 at least 5 shareholders having the right to vote at the meeting; or

24.3 a shareholder or shareholders having the right to exercise at least 10 percent of the total votes entitled to be exercised on the business to be transacted at the meeting; or

24.4 a shareholder or shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is at least 10 percent of the total amount paid up on all the Shares that confer that right.

**25 Time at which polls to be taken**

A poll demanded on the election of a chairperson of a meeting or on a question of adjournment must be taken immediately. A poll demanded on any other question is to be taken at such time as the chairperson of the meeting directs. The meeting may proceed to deal with any business other than that upon which a poll has been demanded pending the taking of the poll.

**26 Counting votes cast in a poll**

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

**27 Declaration of poll result**

27.1 The chairperson of the meeting may declare the result of a poll either at or after the meeting, and when the outcome of the poll is known, may do so regardless of whether all votes have been counted.

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

**28 Proxy allowed to demand a poll**

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

**29 Auditor of Company to be scrutineer**

The auditor of the Company (including employees and agents of the auditor) for the time being, or if the auditor of the Company is unable or unwilling to act, then such person as the chairperson nominates, shall act as scrutineer for the purposes of a poll.

**SHAREHOLDER PROPOSALS****30 Shareholder proposals by written notice**

Subject to the Act, 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. The provisions of clause 9 of Schedule 1 of the Act apply to any notice given pursuant to this clause.

**PROXIES****31 Proxies permitted**

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

**32 Proxy to be treated as shareholder**

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

**33 Appointment of proxy must be in writing and specify restrictions**

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

**34 Notice of proxy to be produced at least 48 hours before meeting**

No appointment of a proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

**35 Form of notice of proxy**

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

35.2 Proxy forms must provide for two-way voting on all resolutions, enabling the shareholder to instruct the proxy as to the casting of the vote, and must not be sent with any name or office (e.g. "chairman of directors") filled in as proxy holder.

35.3 So far as reasonably practicable, resolutions must be framed in a manner which facilitates two-way voting instructions for proxy holders.

**36 Vote by proxy valid where no notification before meeting of disqualified proxy**

Where:

36.1 the shareholder has died or become incapacitated; or

36.2 the proxy, or the authority under which the proxy was executed, has been revoked; or

36.3 the Share in respect of which the notice of proxy is given has been transferred,

before a meeting at which a proxy exercises a vote in terms of a notice of proxy but the Company does not receive written notice of that death, incapacity, revocation, or transfer before the start of the meeting, the vote of the proxy is valid.

#### **POSTAL VOTES**

**37 Postal votes are not permitted**

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

#### **CORPORATE REPRESENTATIVES**

**38 Corporations may act by representative**

A body corporate which is a shareholder may appoint a representative to attend any meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy. The representative shall be entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder.

#### **MINUTES**

**39 Board must keep minutes of proceedings**

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

#### **OTHER PROCEEDINGS**

**40 Chairperson may regulate other proceedings**

Except as provided in this Schedule, the chairperson of a meeting of shareholders may regulate the proceedings at the meeting.

**SCHEDULE 3: PROCEEDINGS OF THE BOARD****NOTICE OF MEETING****1 Director's power to convene meetings**

A Director, or any other person at the request of a Director, may convene a meeting of the Board by giving notice in accordance with this Schedule.

**2 Notice to be sent to Director's address**

The notice of meeting must be a written notice delivered by hand to the Director, or sent to the address or facsimile number, or an electronic mail message sent to the electronic mail address, which the Director provides to the Company for that purpose, or if an address or facsimile number, or electronic mail address, is not provided, then a written notice to his or her last place of employment or residence or facsimile number known to the Company.

**3 Notice to contain certain details**

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

**4 Period of notice required to be given to Directors**

At least two days' notice of a meeting of the Board must be given unless the chairperson (or, in the chairperson's absence from New Zealand, the deputy chairperson (if any), and in the deputy chairperson's absence, any other Director) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice of the meeting of the Board may be given, so long as at least two hours notice is given. Any such shorter notice may be given by telephone communication to each Director at the telephone number provided to the company by each Director provided that written notice shall be given to the Directors within the shorter notice period where it is practicable to do so.

**5 Absent Directors**

If a Director, who is for the time being absent from New Zealand, supplies the Company with a facsimile number or electronic mail address to which notices are to be sent during his or her absence, then notice must be given to that Director. Otherwise notice need not be given to any Director for the time being absent from New Zealand. However, if he or she has an alternate Director who is in New Zealand, then notice must be given to that person.

**6 Directors may waive irregularities in notice**

Any irregularity in the notice of a meeting, or failure to comply with clauses 1 to 5 of this Schedule is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or failure, or if all Directors entitled to receive notice of the meeting agree to the waiver.

**MEETING AND QUORUM****7 Methods of holding meetings**

A meeting of the Board may be held either:

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

7.2 by means of audio, or audio and visual, communication by which all Directors participating can simultaneously hear each other throughout the meeting.

**8 Quorum for Board meeting**

- 8.1 For so long as there are no B Ordinary Shares on issue, a quorum for the transaction of business at a meeting of the Board is at least two Directors (present in person or by alternate).
- 8.2 For so long as there are A Ordinary Shares and B Ordinary Shares on issue, a quorum for the transaction of business at a meeting of the Board is at least one A Director and at least one B Director (present in person or by alternate).

No business may be transacted at a meeting of the Board unless a quorum is present. An alternate director present at a meeting may be included for the purpose of establishing a quorum if the Director for whom the alternate director is acting is absent from the meeting.

**9 Meeting adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the chairperson will adjourn the meeting to a specified day, time and place, the day being within the next 4 days. If no such adjournment is made the meeting will be adjourned automatically until the same day in the following week at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Directors present will constitute a quorum.

**CHAIRPERSON****10 Chairperson to chair meetings**

The chairperson or, in the absence of the chairperson, the deputy chairperson of the Board will chair all meetings of the Board. If no chairperson or deputy chairperson is elected, or if at a meeting of the Board the chairperson or deputy chairperson is not present within 15 minutes after the time appointed for the commencement of the meeting, then the Directors present may elect one of their number to be chairperson of the meeting.

**VOTING****11 Voting on resolutions**

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

**12 Chairperson does not have a casting vote**

The chairperson of the Board does not have a casting vote.

**13 Board must keep minutes of proceedings**

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

**14 Board may regulate other proceedings**

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

**SCHEDULE 4: TERMS OF REDEEMABLE PREFERENCE SHARES****1. Dividends**

Each Preference Shareholder is entitled to receive non-cumulative dividends as determined by the Directors from time to time in accordance with this Constitution in priority to the holders of all other classes of Shares but, except as otherwise provided in this Schedule, is not entitled to any further participation in the profits or assets of the Company.

**2. Non-Participation in Future Issue**

Unless otherwise approved by the holders of A Ordinary Shares and B Ordinary Shares, Redeemable Preference Shares bear no entitlement to participate in any further issue of Shares, or to receive any offer made under clause 7 of the Constitution.

**3. Redemption of Redeemable Preference Shares**

Subject to the provisions of the Act, a Preference Shareholder may, at its option and at any time, redeem all, or any Redeemable Preference Shares for the Redemption Price. An option to redeem must be exercised by notice in writing delivered to the Company stating the number of Redeemable Preference Shares to be redeemed. The Company must pay the Redemption Amount for each Redeemable Preference Share to be redeemed by the Preference Shareholder within 14 days of receipt of a notice to redeem given under this clause.

**4. Priority**

4.1 Each Redeemable Preference Share ranks for priority of payment of capital and dividend:

4.1.1 *pari passu* with all other Redeemable Preference Shares; and

4.1.2 in priority to all other Shares and classes of Shares on issue from time to time.

4.2 On the appointment of a liquidator, the Redeemable Preference Shares rank in priority to all other Shares or classes of Shares. On the liquidation of the Company, the holders of Redeemable Preference Shares shall be entitled to 100% of the assets and profits of the Company which are available for distribution to the Company's shareholders.

**5. Attendance at General Meetings**

Preference Shareholders are not entitled to attend, speak or vote at any annual or other meeting of shareholders except:

5.1 if any Redemption Amount due and payable remains unpaid on the date of any meeting of shareholders; or

5.2 in respect of a resolution to appoint a liquidator to the Company.

**6. Issue of Share**

The issue of any Shares ranking in priority, or in preference to the Redeemable Preference Shares is deemed to be an action affecting the rights attached to those Redeemable Preference Shares and the Company must not issue any such Shares without the prior written consent of the holders the Redeemable Preference Shares.

**7. Transfer**

Redeemable Preference Shares are not transferable, except with the prior written consent of the holders of the A Ordinary Shares and B Ordinary Shares.

**8. Terms**

The Company cannot vary the rights attaching to the Redeemable Preference Shares without the prior written consent of all Preference Shareholders.