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CONSTITUTION
OF
NEW ZEALAND DEPOSITORY NOMINEE LIMITED

TABLE OF CONTENTS

PART A: INTERPRETATION.....	1
1 Defined terms.....	1
2 Construction.....	1
PART B: SHARES AND SHAREHOLDERS.....	2
3 Initial Shares.....	2
4 Issue of Shares.....	2
5 Transfer.....	2
6 Meetings of Shareholders.....	2
PART C: TRUST STATUS.....	2
7 Capacity and Powers.....	2
8 Trusts Not Recognised.....	2
9 Binding Shareholder Resolution.....	2
10 Non-Binding Shareholder Resolution.....	2
11 Shareholder Escalation.....	3
PART E: DIRECTORS.....	3
12 Number of Directors Restricted.....	3
13 Appointment of Directors.....	3
14 Removal of Directors.....	3
15 Alternate Directors.....	3
16 Election of chairperson of the Board and term of office.....	3
17 Office of Director vacated in certain cases.....	4
18 Director's Remuneration and Other Benefits.....	4
19 Meetings of the Board.....	4
20 Written resolutions of Board permitted.....	4
21 Written resolutions may be in counterparts.....	4
22 Exercise of powers may be ratified.....	4
23 Board delegates to comply with regulations.....	4
24 Committee proceedings.....	4
25 Reimbursement of expenses.....	4
26 Management of Company.....	5
PART F: GENERAL.....	5
27 Resolution in lieu of Meeting.....	5
28 Directors Duties as Wholly owned Subsidiary.....	5
29 Company may indemnify Directors and employees for certain liabilities.....	5
30 Company may effect insurance for Directors and employees.....	5
31 Manner of execution of deeds.....	5
32 Distribution of surplus assets in kind.....	5
SCHEDULE 1: PROCEEDINGS OF THE BOARD.....	7
NOTICE OF MEETING.....	7
1 Director's power to convene meetings.....	7
2 Notice to be sent to Director's address.....	7
3 Notice to contain certain details.....	7
4 Period of notice required to be given to Directors.....	7
5 Absent Directors.....	7
6 Directors may waive irregularities in notice.....	7
MEETING AND QUORUM.....	7
7 Methods of holding meetings.....	7
8 Quorum for Board meeting.....	8
9 Meeting adjourned if no quorum.....	8
10 Chairperson to chair meeting.....	8
11 Voting.....	8

12 Board must keep minutes of proceedings..... 8
13 Board may regulate other proceedings 8

PART A: INTERPRETATION

1 Defined terms

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

Act means the Companies Act 1993;

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 Depository Nominee Limited;

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

Clearing and Settlement Rules means the Clearing and Settlement Rules of New Zealand Clearing Limited, as amended from time to time;

Depository Operating Rules means the Depository Operating Rules of New Zealand Depository Limited, as amended from time to time;

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

NZDL means New Zealand Depository Limited;

Product means any property, right (present or future) of any description or asset including, without limitation, a financial product, security, emission unit, or futures contract;

Share means a share in the Company;

written or in writing means in relation to words, figures and symbols, 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;

2.5 unless explicitly stated otherwise, references to clauses, Parts and/or Schedule are references to the clauses, Parts and/or Schedules, as appropriate, of this Constitution; and

2.6 the Schedules form part of this Constitution.

PART B: SHARES AND SHAREHOLDERS

3 Initial Shares

On the adoption of this Constitution there are 100 ordinary shares on issue.

4 Issue of Shares

The Board may not issue further additional Shares from those that are issued at the time of the incorporation of the Company.

5 Transfer

No Shares held by NZDL may be transferred to any other person and the Board shall refuse to register the transfer of any such Shares.

6 Meetings of Shareholders

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.

PART C: TRUST STATUS

7 Capacity and Powers

The sole function of the Company is to act as custodian trustee, in accordance with section 50 of the Trustee Act 1956, under the Clearing and Settlement Rules and the Depository Operating Rules, and the capacity, rights, powers and privileges of the Company are restricted to those necessary to carry out its sole function.

8 Trusts Not Recognised

Except as required by law, NZDL will not be recognised by the Company as holding any Share upon trust and the Company shall not be bound by, or compelled in any way, to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share, or any interest in a fractional part thereof, except the absolute legal right to the entirety of the Shares vested in NZDL.

PART D: MANAGEMENT BY NZDL

9 Binding Shareholder Resolution

NZDL may pass a resolution relating to, or for the purposes of, managing or directing the supervising of the management of the business or affairs of the Company. Any such resolution shall be a resolution of the Company and shall be binding on the Company and the Board.

10 Non-Binding Shareholder Resolution

NZDL may pass a resolution regarding the management of the Company, expressed as a non-binding resolution, and any such resolution shall not be binding on the Company or the Board.

11 Shareholder Escalation

The Board has the express power to refer any matter arising out of the business or affairs of the Company to NZDL, and any resolution passed by NZDL directing, requiring or affirming a proposed course of conduct shall be a resolution of the Company and shall, if expressed as a binding resolution, be binding on the Company and the Board.

PART E: DIRECTORS

12 Number of Directors Restricted

The minimum number of Directors is 1. The maximum number of Directors is 6.

13 Appointment of Directors

A Director may be appointed by:

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

Two or more Directors may be appointed by a single resolution or notice.

14 Removal of Directors

Each Director may be removed from office at any time by:

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

Two or more Directors may be removed from office by a single resolution or notice.

15 Alternate Directors

15.1 A Director may appoint any person, who is not disqualified under the Act to be appointed as 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.

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

15.3 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.

15.4 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.

16 Election of chairperson of the Board and term of office

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

16.2 If one has been elected, the chairperson of the Board and/or 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.

17 Office of Director vacated in certain cases

The office of Director is vacated if the person holding that office:

17.1 dies; or

17.2 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

17.3 becomes disqualified from being a director pursuant to the Act; or

17.4 retires from office and is not re-elected or deemed to have been re-elected under this Constitution; or

17.5 resigns from that office in accordance with the Act.

18 Director's Remuneration and Other Benefits

The Board shall not exercise any of the powers contained in, or implied by, section 161 of the Act without the prior written approval of the Company's ordinary shareholders.

19 Meetings of the Board

Schedule 1 governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. The Second Schedule to the Act does not apply to proceedings of the Board.

20 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.

21 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 other electronic means of communication, will satisfy the requirements of this clause.

22 Exercise of powers may be ratified

Subject to section 177 of the Act, the purported exercise by a Director or the Board of any power vested in shareholders may be ratified by the shareholders in the same manner in which the power may be exercised.

23 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.

24 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.

25 Reimbursement of expenses

Directors and alternate directors may be reimbursed for reasonable travelling, accommodation and other expenses incurred in the course of performing duties or exercising their powers as a Director without requiring the prior approval of shareholders.

26 Management of Company

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.

PART F: GENERAL

27 Resolution in lieu of Meeting

27.1 A resolution in writing signed by NZDL is as valid as if it had been passed at an Annual or Special Meeting including, for the avoidance of doubt, for the purpose of Part D.

27.2 It shall not be necessary for an Annual Meeting to be held if everything required to be done at that meeting (by resolution or otherwise) is done in accordance with clause 27.1.

28 Directors Duties as Wholly owned Subsidiary

For the purpose of section 131(2) of the Act, for so long as the Company is a wholly owned subsidiary of another company, each director of the Company is expressly permitted, when exercising powers or performing duties as a director of the Company, to act in a manner which he or she believes to be in the best interests of the Company's holding company irrespective of whether it is in the best interests of the Company, or not.

29 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.

30 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.

31 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:

31.1 two or more Directors; or

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

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

32 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:

32.1 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

- 32.2 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: 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, 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, where a chairperson has been elected, 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

A quorum for a meeting of the Board shall be a majority of the Directors. No business may be transacted at a meeting of Directors if a quorum is not 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 of the meeting 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.

10 Chairperson to chair meeting

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.

11 Voting**11.1 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.

11.2 Chairperson does not have a casting vote

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

12 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.

13 Board may regulate other proceedings

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