

Constitution of Aroa Biosurgery Limited



CONSTITUTION OF AROA BIOSURGERY LIMITED

INTERPRETATION

1 **Defined terms**

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

Act means the Companies Act 1993;

ASX means ASX Limited, its successors and assigns and, as the context permits, includes any duly authorised delegate of ASX;

ASX Listing Rules means the listing rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the official list of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX;

ASX Settlement means ASX Settlement Pty Limited ACN 008 504 532;

ASX Settlement Operating Rules means the ASX Settlement Operating Rules of ASX Settlement, as modified or waived from time to time;

Company means Aroa Biosurgery Limited;

constitution means this constitution as it may be 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;

Holding Lock has the meaning in section 2 of the ASX Settlement Operating Rules;

IPO means an initial public offering of securities in the Company;

Marketable Parcel has the meaning given to it in the ASX Listing Rules;

Official List means the official list of entities that ASX has admitted to quotation and not removed;

Restricted Securities:

- (a) where ASX imposes escrow on securities at the time of an IPO, it has the meaning given to that term in the ASX Listing Rules; or
- (b) where ASX does not impose escrow on securities at the time of an IPO, it means any securities on which the Company imposes escrow in accordance with the terms of approval for the IPO approved by securityholders at an extraordinary general meeting preceding the IPO and in respect of which the Company issues an escrow notice to a securityholder in accordance with those terms.



Restriction Deed means a restriction deed in the form set out in the ASX Listing Rules or as otherwise approved by ASX;

Share means a share in the Company; and

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:

- (a) which are defined in the ASX Listing Rules (whether or not expressed with an initial capital letter) have the meanings given by the ASX Listing Rules.
- (b) 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 an ASX Listing Rule or the ASX Listing Rules includes that ASX Listing Rule or the ASX Listing Rules as from time to time amended or substituted;
- 2.5 a reference to *permitted by the Act* or *permitted by the ASX Listing Rules* means not prohibited by the Act or not prohibited by the ASX Listing Rules;
- 2.6 the Schedules form part of this constitution.

RELATIONSHIP BETWEEN CONSTITUTION AND ASX LISTING RULES

3 Compliance with ASX Listing Rules while listed on ASX

If the Company is admitted to the Official List of ASX, the following clauses apply:

- 3.1 Notwithstanding anything contained in this Constitution, if the ASX Listing Rules prohibit an act being done, the act shall not be done.



- 3.2 Nothing contained in this Constitution prevents an act being done that the ASX Listing Rules require to be done.
- 3.3 If the ASX Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
- 3.4 If the ASX Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision.
- 3.5 If the ASX Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision.
- 3.6 If any provision of this Constitution is or becomes inconsistent with the ASX Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

SHARES AND SHAREHOLDERS

- 4 **Board need not comply with statutory pre-emptive rights**
Section 45 of the Act does not apply to the Company.
- 5 **Further issues of Shares do not affect rights of existing shareholders**
Subject to this constitution, the Board may issue Shares that rank as to voting or distribution rights, or both, equally with or in priority to any existing Shares. Any such issue will not be treated as an action affecting the rights attached to those existing Shares unless the terms of issue of those Shares expressly provide otherwise.
- 6 **Consolidation and subdivision**
The Board may:
 - 6.1 consolidate and divide Shares or any class of Shares in proportion to those Shares or the Shares in that class; or
 - 6.2 subdivide Shares or any class of Shares in proportion to those Shares or the Shares in that class.
- 7 **Share register may be divided**
The Share register may be divided into 2 or more registers kept in different places.
- 8 **Record date for shareholder voting**
The Board may determine in a notice of meeting for the purpose of voting at that meeting that those registered shareholders as at 5 p.m. on a day not more than 2 working days before the meeting will be the only persons entitled to exercise the right to vote at that meeting.
- 9 **Registration of separate parcels**
A shareholder or a transferee may request the Company to register the Shares held by that person in two or more separately identifiable parcels. Where the Company



agrees to such a request, the Company may, so far as it considers convenient, communicate with the shareholder, pay dividends and otherwise act in respect of such parcel, as if the separately identifiable parcels belonged to different persons.

10 Board may refuse or delay transfer

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares (subject to their terms of issue) if permitted to do so by the Act or the ASX Listing Rules.

11 Compulsory sale of less than Marketable Parcel

- 11.1 The Company may at any time give notice to a shareholder holding less than a Marketable Parcel that if, at the expiration of six weeks after the date the notice is given, Shares then registered in the name of the shareholder are less than a Marketable Parcel the Company may sell those Shares on market (including through a broker acting on the Company's behalf) in accordance with the process set out in the First Schedule.

12 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 or the terms of issue of those Shares or any contract for the issue of those Shares. The First Schedule governs calls on Shares.

13 Forfeiture of Shares where calls or other amounts unpaid

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

13.1 a call, or an instalment of a call, on those Shares; or

13.2 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.

14 Company's lien

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

15 Company may acquire and hold Shares

Subject to this constitution and the ASX Listing Rules, the Company may:

15.1 purchase or otherwise acquire Shares issued by the Company and may hold Shares as treasury stock; and

15.2 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,

in accordance with the Act and the ASX Listing Rules.

16 Company may issue and redeem Shares

Subject to this constitution and the ASX Listing Rules, the Company may:

16.1 issue or redeem redeemable Shares; and



16.2 exercise an option to redeem redeemable Shares issued by the Company in relation to one or more holders of redeemable Shares,

in accordance with the Act and the ASX Listing Rules.

17 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.

18 Distributions do not bear interest

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

19 Unclaimed moneys

All dividends and other distributions, and any other moneys payable to any shareholder or former shareholder in respect of Shares, 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.

20 Proceedings at meetings of shareholders and interest groups

The Second Schedule governs the proceedings at meetings of shareholders. The Second Schedule also governs the proceedings of meetings of any interest group required to be held by the Act, the ASX Listing Rules, 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.

21 Power to refuse to register and Holding Locks

Without limiting clause 10, the Board may decline to register any paper-based transfer of shares or may ask ASX Settlement to apply a Holding Lock to prevent a proper ASX Settlement transfer, where:

21.1 the Company has a lien on any of the shares;

21.2 the Company is served with a court order that restricts the holder's capacity to transfer the shares;

21.3 registration of the transfer may break an Australian law and ASX has agreed in writing to the application of a Holding Lock that satisfies the requirements of the ASX Listing Rules or that the entity may refuse to register a transfer;

21.4 if the transfer is paper-based, the Company is allowed to refuse to register it under ASX Listing Rule 8.12;



- 21.5 if the transfer is paper-based, a law relating to stamp duty prohibits the Company from registering it;
 - 21.6 the transfer does not comply with the terms of an employee incentive scheme or employee incentive plan of the Company;
 - 21.7 if the transfer is paper-based, registration of the transfer will result in a holding which at the time of transfer is lodged is less than a Marketable Parcel;
 - 21.8 the holder has agreed in writing to the application of a Holding Lock (the application of the Holding Lock must not breach an ASX Settlement Operating Rule); or
 - 21.9 the Company is otherwise permitted to do so by the ASX Listing Rules,
- provided that the Board resolves to exercise its powers under this clause 21 (including resolving to ask ASX Settlement to apply a Holding Lock on shares) within five business days after receipt of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee within five working days of the resolution being passed by the Board, together with reasons for the refusal to register the transfer. If the Company applies, or asks ASX Settlement to apply, a Holding Lock under this clause 21, the Company must tell the holder of the securities in writing of the Holding Lock and the reason for it within five business days after the date on which it asks for the Holding Lock.

22 **Restricted Securities**

For so long as the Company has any Restricted Securities on issue:

- 22.1 a holder of Restricted Securities must not dispose of, or agree or offer to dispose of, the Restricted Securities during the escrow period applicable to those Restricted Securities except as permitted by the ASX Listing Rules;
- 22.2 if the Restricted Securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the Restricted Securities are to be kept on the entity's issuer sponsored subregister and are to have a Holding Lock applied for the duration of the escrow period applicable to those securities;
- 22.3 the Company must refuse to acknowledge any disposal (including, without limitation, registering a transfer) of Restricted Securities during the escrow period applicable to those securities except as permitted by the ASX Listing Rules;
- 22.4 a holder of Restricted Securities will not be entitled to participate in any return of capital on those securities during the escrow period applicable to those securities except as permitted by the ASX Listing Rules; and
- 22.5 if a holder of a Restricted Securities breaches a Restriction Deed or a provision of this constitution restricting a disposal of those securities, the holder of the Restricted Securities is not entitled to any dividend or



distribution, or to exercise any voting rights, in respect of the Restricted Securities for so long as the breach continues.

DIRECTORS

23 Composition

The Company shall comply with the minimum Board composition requirements of the ASX Listing Rules (if any).

24 Appointment of Directors

24.1 Any natural person who is not disqualified under the Act and, if required under the ASX Listing Rules, who has been nominated within the time limits under the ASX Listing Rules, may be appointed as a Director by an ordinary resolution of shareholders.

24.2 The Board may appoint any person who is not disqualified under the Act to be a Director to fill a vacancy or as an addition to the existing Directors. Any Director (other than any managing director appointed by the Board from time to time) appointed under this clause may hold office only until the next annual meeting, and is then eligible for election by shareholders.

24.3 The persons holding office as directors of the Company on adoption of this constitution continue in office and are deemed to have been appointed as Directors pursuant to this clause and subject to the terms of this constitution. Similarly the chairperson of the Board continues in office and is deemed to have been appointed as chairperson pursuant to this clause and subject to the terms of this constitution.

25 Rotation of Directors

25.1 Each Director (other than any managing director appointed by the Board from time to time) shall retire from office when required to do so by the ASX Listing Rules, but, subject to the ASX Listing Rules, shall be eligible for re-election (including at any meeting at which the Director retires).

25.2 A Director retiring at a meeting of shareholders continues to hold office:

- (a) until he or she is re-elected; or
- (b) if he or she is not re-elected, until the end of the meeting of shareholders at which he or she retires (or any adjournment of that meeting).

26 Election of chairperson of the Board and term of office

26.1 The Directors may elect one of their number as chairperson of the Board.

26.2 The chairperson of the Board holds that office until he or she vacates that office or the Directors elect a chairperson in his or her place.

27 Office of Director vacated in certain cases

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

- 27.1 dies; or



- 27.2 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
- 27.3 becomes disqualified from being a director pursuant to the Act;
- 27.4 is an executive Director and he ceases to be an executive of the Company (subject to the Board resolving otherwise);
- 27.5 is removed from office pursuant to this constitution or the Act; or
- 27.6 retires from office and is not re-elected or deemed to have been re-elected under this constitution.
- 28 **Meetings of the Board**
The Third Schedule governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. The third schedule to the Act does not apply to proceedings of the Board.
- 29 **Written resolutions of Board permitted**
A written resolution signed or assented to by a majority of the Directors then entitled to receive notice of a meeting of the Board and who together would constitute a quorum at a meeting is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. A copy of any such written resolution shall, as soon as reasonably practicable, be given to each Director who did not sign or assent to such written resolution.
- 30 **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 email or any similar means of communication (including PDF counterparts), will satisfy the requirements of this clause.
- 31 **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.
- 32 **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.
- 33 **Directors may appoint and remove alternate Directors**
Every Director may:
- 33.1 appoint any person who is not a Director and is not disqualified by the Act or this constitution from being a Director, and whose appointment has been approved in writing by a majority of the other Directors, to act as an alternate Director in his or her place either for a specified period, or generally during the absence or inability to act from time to time of such Director; and



33.2 remove his or her alternate Director from that office,
by giving written notice to that effect to the Company.

34 Alternate Director has powers of appointer

While acting in the place of the Director who appointed him or her, an alternate Director:

- 34.1 has, and may exercise and discharge, all the powers, rights, duties and privileges of that Director (including the right to receive notice of, be counted as part of the quorum of, and participate in a meeting, of the Board, and to sign any document, including a written resolution, and to act as chairperson of the Board, but excluding the right to appoint an alternate Director);
- 34.2 is also subject to the same terms and conditions of appointment as that Director, except that he or she is not entitled to receive remuneration other than such proportion (if any) of the remuneration otherwise payable to his or her appointer as the appointer may direct by notice in writing to the Company.

35 Termination of appointment of alternate Director

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 him or her to vacate office if he or she were a Director. A Director retiring by rotation and being re-elected is not to be treated as having ceased to be a Director for the purposes of this clause.

36 Directors' remuneration and expenses

- 36.1 The Board may, subject to the ASX Listing Rules, exercise the power conferred by section 161 of the Act to authorise remuneration and other benefits to and for Directors. For the purposes of this constitution and the ASX Listing Rules the total aggregate remuneration payable to the non-executive Directors as at the date of the adoption of this constitution is capped at the amount approved by the shareholders of the Company from time to time. The total aggregate remuneration of the non-executive Directors may be increased from time to time but shall not be increased except pursuant to a resolution passed at a general meeting of the Company, the notice for which includes the information required under the ASX Listing Rules. No non-executive Director will be paid as part or whole of their remuneration a commission on or a percentage of profits or a commission on or percentage of operating revenue, and no executive Director will be paid as whole or part of their remuneration a commission on or percentage of operating revenue.
- 36.2 Each Director is entitled to be paid for all reasonable travelling, accommodation and other expenses incurred by the Director in connection with the Director's attendance at meetings or otherwise in connection with the Company's business. For the avoidance of doubt, any travelling, accommodation and other expenses incurred other than in accordance with the policies of the Company in force as at the time the expense is incurred



shall not be reasonable for the purposes of this clause and the relevant Director will not be entitled to be paid for such expenses.

GENERAL

- 37 **Company indemnification of directors and employees for certain liabilities**
The Company shall indemnify a director of the Company, and may indemnify an employee of the Company or a director or employee of 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.
- 38 **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.
- 39 **Manner of execution of deeds**
An obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by a Director, or any other person authorised by the Board, whose signature must be witnessed, or as otherwise permitted by the Act.
- 40 **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:
- 40.1 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
- 40.2 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.



FIRST SCHEDULE: CALLS, FORFEITURE, LIENS AND DISPOSALS

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 working 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 ASX Listing 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 or under the terms of issue of 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**

On the issue of Shares, 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 working 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 10 working 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, instalments, premiums or other amounts and interest, and expenses, shall be paid to the previous holder, or to his or her executors, administrators or assigns.

DISPOSAL OF NON-MARKETABLE PARCELS

16 Non-marketable parcels of shares

16.1 In this clause 16 of the First Schedule:

Marketable Parcel of the relevant securities has the meaning given by the ASX Listing Rules;

Minority Member means the holder of less than a Marketable Parcel of the relevant securities;

Notice means the written notice given to a Minority Member in accordance with clause 16.2;

Notice Date means the date of the Notice sent by the Company to a Minority Member advising that the Company intends to sell that Minority Members' securities on that member's behalf under clause 16.2;

Purchaser means the person or persons (including a member or members) to whom the relevant securities are disposed or sold in accordance with clause 16.2; and

Sale Consideration means the proceeds of any sale or other disposal of the relevant securities of a Minority Member under this clause 16.

16.2 Subject to the ASX Listing Rules, the Company is entitled to sell securities of a Minority Member on the following conditions:

- (a) the Company must give to the Minority Member a Notice that the Company intends to invoke the power of sale contained in this clause 16;
- (b) the Minority member must be given at least 6 weeks' from the Notice Date in which to advise the Company that the Minority Member wishes to retain the Minority Member's holding;
- (c) if the Minority Member advises the Company under clause X that the Minority member wishes to retain the Minority member's security holding, the Company must not sell it; and
- (d) subject to clause 16.2(c), at the expiry of the minimum 6 week period, the Company is entitled to sell any security holding of the Minority Member which is, at the date of sale, less than a marketable Parcel.



- 16.3 For the purposes of the sale of securities under this clause 16 each Minority Member:
- (a) appoints the Company as the Minority Member's agent to sell all of the Minority Member's relevant securities;
 - (b) acknowledges that the Company may sell the Minority Member's holding along with the holding(s) of other Minority Member(s), contemporaneously or at a similar time, in which case each Minority Member will be entitled to its pro rata share of the total Sale Consideration obtained on behalf of all Minority Members; and
 - (c) appoints the Company and each of its Directors jointly and severally as the Minority Member's attorneys in that Minority Member's name and on that Minority Member's behalf to effect all transfer documents, deeds or other documents or instruments necessary to transfer the relevant securities from the Minority Member to the Purchaser.
- 16.4 The Company must bear all costs of, and incidental to, the sale of the securities under this clause 16.
- 16.5 Subject to this clause 16, with respect to the receipt and payment of the Sale Consideration:
- (a) the Sale Consideration must be received by the Company and paid by the Company to the Minority Member or as that Minority Member may direct;
 - (b) the Sale Consideration received by the Company must be paid into a bank account opened and maintained by the Company for that purpose only;
 - (c) the Company must hold the Sale Consideration in trust for the Minority Members whose securities are sold under this clause 16 pending distribution of the sale Consideration;
 - (d) the Company must as soon as practicable after the sale of securities of Minority Members, and to the extent that it may reasonably do so, distribute the Sale Consideration; and
 - (e) any Sale Consideration payable to a Minority Member under this rule which is unclaimed for one year after receipt by the Company may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed or otherwise disposed of according to law. No money under this rule owed by the Company to the Minority Members bears interest against the Company.
- 16.6 The Sale Consideration must not be sent to a Minority Member until the Company receives any certificate relating to the securities which have been sold (or the Company is satisfied that the certificate has been lost or destroyed).
- 16.7 Subject to clause 16.8, this clause 16 may be invoked only once in any 12 month period.



- 16.8 The power to sell contained in this clause 16 lapses following a takeover offer in respect of all or substantially all of the Company's shares, or a scheme of arrangement to similar effect, being made or announced and, notwithstanding clause 16.7, the procedure provided in this clause 16 may be started again after the close of any such takeover offer or scheme, or the lapsing or dis-continuance of such takeover offer or scheme.

LIEN ON SHARES

17 **Company's lien**

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

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

17.2 all dividends authorised in respect of such Shares; and

17.3 the proceeds of sale of such Shares,

for:

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

17.5 interest on any such calls or instalments; and

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

17.7 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.

18 **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.

19 **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:

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

19.2 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.

20 **Company may transfer Share and apply proceeds**

- 20.1 The Company may receive the consideration given for a Share sold under clause 19, 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.



- 20.2 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.
- 20.3 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.



SECOND SCHEDULE: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

INTERPRETATION

1 Construction

- 1.1 This Schedule is to be read together with Schedule 1 of the Act.
- 1.2 Unless stated otherwise, references to clauses are references to clauses in this Schedule.
- 1.3 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.

QUORUM

2 Quorum for shareholders' meeting

A quorum for a meeting of shareholders is present if 3 or more shareholders are present having the right to vote at the meeting.

CHAIRPERSON

3 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.

4 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 Directors present may elect one of their number to be chairperson of the meeting.

5 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.

6 Chairperson's power to adjourn meeting

The chairperson of a meeting at which a quorum is present:

- 6.1 may adjourn the meeting with the consent of the shareholders present who are entitled to attend and vote at that meeting; and
- 6.2 must adjourn the meeting if directed by the meeting to do so.

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.



7 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.

8 Dissolved meetings - unfinished business

If the chairperson proposes to dissolve a meeting pursuant to clause 7, 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

9 Chairperson not allowed 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.

10 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.

11 Declaration of poll result

11.1 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.

11.2 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.

PROXIES

12 Form of notice of proxy

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

13 Vote by proxy valid where no notification before meeting of disqualified proxy

Where:

13.1 the shareholder has died or become incapacitated; or

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

13.3 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

14 Postal votes permitted at Board's option

- 14.1 A shareholder may exercise the right to vote at a meeting by casting a postal vote only if the Board, prior to the giving of notice of a meeting, has so determined and, if the Board so determines, the provisions of clause 7 of the first schedule to the Act shall apply. To avoid doubt, a postal vote may be cast using electronic means permitted by the Board.

OTHER PROCEEDINGS

15 Chairperson may regulate other proceedings

Except as provided in Schedule 1 of the Act as modified by this Schedule, the chairperson of a meeting of shareholders may regulate the proceedings at the meeting.



THIRD SCHEDULE: 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 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 electronic mail address, is not provided, then a written notice to his or her last place of employment or residence 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 an 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:

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



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

7.3 by a combination of the methods described in clauses 7.1 and 7.2 of this Schedule.

8 Quorum for Board meeting

The quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

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 2 days. If no such adjournment is made the meeting will be adjourned automatically until the following working day 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 of the Board will chair all meetings of the Board. If no chairperson is elected, or if at a meeting of the Board the 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 the ASX Listing Rules or 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.

MINUTES

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.



OTHER PROCEEDINGS

- 14 **Board may regulate other proceedings**
Except as set out in this Schedule, the Board may regulate its own procedure.