

CONSTITUTION

OF

CENTRAL PLAINS WATER LIMITED

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1. CONSTITUTION

- 1.1 **Status of constitution:** This constitution sets out the rights, powers, duties and obligations of the Company, the Board, the Shareholders and each Director and Shareholder except to the extent that the provisions of the Act prevail. Where the Act permits a provision to be negated, altered, added to or adopted by a constitution then to the extent that this constitution negates, alters, adds to or adopts provisions as permitted by the Act they shall apply to the Company.

2. INTERPRETATION

- 2.1 **Definitions:** In this constitution unless the context otherwise requires:

- (a) **Act** means Companies Act 1993;
- (b) **Affected Group** means in respect of a Restricted Transfer each of:
- (i) the group comprised of persons who are not recipients (disregarding inadvertent non-receipt) of the offer or invitation which would implement the proposed Transfers;
 - (ii) if the Transfers are not of an equal proportion of all holdings which are offered for disposal, the groups comprised of Transferors whose Transfers represent substantially identical proportionate parts of the holdings offered by them; and
 - (iii) the group comprised of persons who are not members of the groups described in clauses 2.1(b)(i) and 2.1(b)(ii) and who are not the Transferees and other persons whose interests would be taken into account in determining whether the Transfer is a Restricted Transfer, but disregarding the proviso to the definition of Restricted Transfer;
- (c) **Associated Person** means in respect of any person, another person if:
- (i) the first person holds a legal or beneficial interest in the second person;
 - (ii) the first person is a company and the second person is:
 - (1) a director of that company;
 - (2) a related or associated company of that company; or
 - (3) a director of a related or associated company of that company;
 - (iii) the first person is a spouse, domestic companion, child or parent of the second person, or a nominee or trustee for any of them or for the second person;
 - (iv) the first person and the second person are acting jointly or in concert; or
 - (v) the first person and/or the second person propose to do, or are likely to do, anything which will cause them to become associated in terms of 2.1(c)(i) to 2.1(c)(iv);

- (d) **Auditor** means the auditors of the Company;
- (e) **Board** means the board of Directors of the Company;
- (f) **Business Day** means any day on which registered banks are open for business in Christchurch;
- (g) **Class** means a Class of Share or, as the context requires, the holders of a Class of Share;
- (h) **Company** means Central Plains Water Limited;
- (i) **Debt Security** means a Security having any interest in or right to be paid money that is, or is to be, deposited with, lent to, or otherwise owing by, any person (whether or not the interest or right is secured by a charge over any property);
- (j) **Default** means non-compliance with the provisions of clause 14 in this constitution by a Shareholder;
- (k) **Defaulter** means a person with a Relevant Interest in Shares of the Company who has acquired that Relevant Interest in breach of clause 14 (other than a breach committed by the Company itself or its Directors);
- (l) **Director** means a director of the Company;
- (m) **Dry Director** means a Director who is not a Wet Shareholder Director;
- (n) **Minimum Holding** means a minimum parcel or number of Shares as may be prescribed by the Board from time to time;
- (o) **Ordinary Resolution** means a resolution passed by a bare majority of Shareholders entitled to vote and voting on that resolution;
- (p) **Quota Shareholding** means, in relation to a Shareholder, the number of Shares, as determined by the Board in its sole discretion, required to give that Shareholder sufficient Water Rights to:
 - (i) irrigate land owned or controlled by that Shareholder in the Scheme Area; or
 - (ii) perform its obligations under a Water Rights Licence;
- (q) **Relevant Interest** has the meaning given in sections 235 to 238 of the Financial Markets Conduct Act 2013;
- (r) **Restricted Holding** means Shares which the Board has declared to be a Restricted Holding pursuant to clause 15.6;
- (s) **Restricted Shares** means Shares which the Board has declared to be Restricted Shares pursuant to clause 15.7;
- (t) **Restricted Transfer** means:

- (i) the Transfer which would, were it not prohibited by clause 15.5, result in the Votes controlled by any person or group of persons who are Associated Persons of each other, of any Class of Shares of the Company:
 - (1) exceeding 20% of the Votes attached to that Class; or
 - (2) if the person or group of persons controls 20% or more of the Votes attached to that Class, increasing by more than 5% in any period of 12 months excluding increases as a result of Transfers pursuant to a Restricted Transfer notice previously given by the person or group of persons,

together with:

- (ii) any other Transfer which is likely to be contemporaneous with, or subsequent to, the Transfer in sub paragraph 2.1(t)(i) of this definition and comprises with that Transfer part of a scheme or linked series of transactions,

provided that this definition shall not apply:

- (iii) where the Transfer is between two entities, one of which is directly or indirectly wholly owned beneficially by the other, or both of which are directly or indirectly wholly owned beneficially by the same entity; or
 - (iv) where the Transfer is in performance of the obligations of an underwriter pursuant to an underwriting agreement disclosed in a registered Prospectus for an offering of the relevant Class of Shares;
- (u) **Scheme** means the Central Plains Water Enhancement Scheme;
 - (v) **Scheme Area** means the area to be serviced by the Scheme as determined by the Directors;
 - (w) **Security** means any interest or right to participate in any capital, assets, earnings, royalties, or other property of any person and includes:
 - (i) any renewal or variation of the terms or conditions of any existing Security;
 - (ii) any Debt Security; and
 - (iii) any option or right to acquire a Security;
 - (x) **Share** means a share in the Company;
 - (y) **Shareholders** means the holders from time to time of Shares;
 - (z) **Share Register** means the Company's share register;
 - (aa) **Transfer** in relation to a Share includes sale of that Share, and the grant of rights or interests, whether conditional or not, which are intended to create for the recipient benefits which are substantially equivalent to ownership of that Share (or of an interest in that Share), and includes:

- (i) a transaction whereby one party disposes of, alienates, or proposes to dispose of or alienate (temporarily or permanently), any interest or right of title to any Share or in the Votes, dividends or income arising in respect of any Share;
- (ii) any agreement, arrangement or understanding in respect of Shares under which the Votes attaching to them may be exercised by a person other than the registered holder, alone or jointly with the registered Shareholder, or with other persons acting in concert, other than by reason of a bona fide appointment of a proxy or other representative for voting purposes under which the appointment may be terminated at will, and the appointor is entitled, if the appointor so wishes, to direct the proxy as to the manner in which Votes are to be cast;
- (iii) any transaction whereby the Shareholder enters into a commitment (whether conditional or unconditional) to sell the Shares, or to grant an option over them or any part thereof, or at any future time to grant any of the rights referred to above;
- (iv) the creation of a charge or other security interest enforceable by a right of possession or a power of sale or other disposition which would fall within other parts of this definition of Transfer, other than the creation of such an interest for bona fide financing purposes; or
- (v) any transaction, agreement or arrangement that has substantially the same effect as 2.1(aa)(i), 2.1(aa)(ii), 2.1(aa)(iii) or 2.1(aa)(iv) above,

but does not include the licensing of the Water Rights attached to a Share provided that such licensing of Water Rights is pursuant to a Water Rights Licence approved by the Board;

- (bb) **Transfer** and **Transferee** have corresponding meanings;
- (cc) **Treasury Stock** means shares in the Company which have been acquired by the Company and are held by the Company as Treasury Stock pursuant to the Act;
- (dd) **Vote** means a right to vote at meetings of Shareholders other than:
 - (i) a right to Vote solely upon matters of a nature immaterial or inconsequential to the control of the Company, or to the control of any material part of the business or operations of the Company;
 - (ii) a right to Vote only when a payment in respect of the Shares in question is in arrears or some other default exists, or on a proposal to change the rights attaching to that Shares, or in other circumstances of a special or remote nature; or
 - (iii) a right to Vote attaching to securities which are not Shares, exercisable only at meetings of holders of those securities;
- (ee) **Water Rights** mean the rights to use water from the Scheme which may attach to the Shares;

- (ff) **Water Rights Licence** means an agreement between a Shareholder and another person approved by the Company under which that person may use the Water Rights attaching to the Shareholder's Shares to irrigate land in the Scheme Area;
- (gg) **Water Use Agreement** means an agreement under which the Company will supply water for irrigation purposes to the other party to the agreement;
- (hh) **Wet Shareholder** means a Shareholder who has entered into a Water Use Agreement with the Company;
- (ii) **Wet Shareholder Director** means a person who meets the requirements set out in clause 17.1; and
- (jj) **Board, Distribution, Interest Group, Ordinary Resolution, Share Register, Solvency Test** and **Special Resolution** have the meaning given to them by the Act.

2.2 **Statutory definitions:** Terms used in this constitution which have defined meanings in the Act and/or the Financial Markets Conduct Act 2013 shall have the same meanings in this constitution unless otherwise expressly provided or the context requires otherwise.

2.3 **Construction:** In this constitution:

- (a) references to sections are to sections of the Act and references to clauses are to clauses of this constitution;
- (b) unless the context requires otherwise:
 - (i) words importing the singular include the plural and vice versa, and a gender includes all other genders; and
 - (ii) words importing persons include firms, corporations, unincorporated associations and authorities and firm includes partnership;
- (c) powers conferred on the Company, the Board, a Director or a Shareholder may be exercised at any time and from time to time;
- (d) references to any legislation or provision of any legislation are deemed to be references to that legislation or provision as amended, substituted or re-enacted and unless the context requires otherwise include any statutory instruments issued under that legislation or provision; and
- (e) clause headings and other headings are for ease of reference only and shall be deemed not to form part of this constitution nor to affect the construction of this constitution.

3. SECURITIES

3.1 **Issue of securities:** The Company may issue Securities at any time, to any person and in such number as it determines for any consideration the Board considers appropriate. Section 45 of the Act is negated. The issue of further Securities ranking equally with, or in priority to, existing

Securities, whether as to voting rights, Water Rights or distributions, is not deemed to be action affecting the rights attached to the existing Securities.

3.2 Rights conferred: Any Securities issued by the Company:

- (a) may confer on the holder of that Security special or limited rights to votes, distributions (of capital or income) transferability or otherwise;
- (b) if they are options, shall not confer on the holders a right to vote except at a meeting of option holders; and
- (c) if they are convertible securities, may permit those convertible securities to participate in any offer of Securities made to the holders of the class of Securities into which those convertible securities are to convert.

3.3 Redeemable Shares: The Company may issue Shares that are redeemable by the Company:

- (a) at the option of the Company; or
- (b) at the option of the holder of the Shares; or
- (c) on a date specified or determined by the Board,

for a consideration that is:

- (d) specified or otherwise determined by the Board; or
- (e) to be calculated by reference to a formula; or
- (f) required to be fixed by a suitably qualified person who is not associated with or interested in the Company.

3.4 Shares conferring Water Rights: The Company may issue Shares which confer Water Rights on the holders of those Shares provided that such Water Rights may only be exercised if the relevant Shareholder has also entered into a Water Use Agreement.

3.5 Consolidation and subdivision of securities: The Board may consolidate Securities so that each holder holds, as near as is mathematically possible, a proportionally fewer number of Securities. The Board may subdivide Securities so that each holder holds a proportionately greater number of Securities.

4. CALL ON SHARES

4.1 Power to call: Subject to clause 4.2, the Board or any person authorised by the Board may make such calls as they think fit upon the Shareholders in respect of moneys unpaid on the Shares held by them respectively and not paid in accordance with the conditions of the issue of the Shares. Each Shareholder shall pay the amount of every call so made on them to the Company or person (if any) appointed for the purpose and at the times and places appointed by the Board. A call may be made payable by instalments and may be revoked or postponed as the Board may determine.

- 4.2 **Prior holders not liable for calls:** Where a Share renders its holder liable for calls, or otherwise imposes a liability on its holder, that liability attaches to the holder of the Share for the time being, and not to a prior holder of the Share, whether or not the liability became enforceable before the Share was registered in the name of the current holder.
- 4.3 **Call made:** A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed.
- 4.4 **Joint holders:** Joint holders of a Share shall be jointly and severally liable to pay all calls in respect of that Share.
- 4.5 **Interest:** If a sum called in respect of a Share is not paid before or on the day appointed for payment the person from whom the sum is due shall pay interest on the sum from the day appointed for payment to the time of actual payment at such rate as is specified in the terms of issue, or if not so specified as the Board may determine. The Board may, however, waive payment of that interest wholly or in part.
- 4.6 **When payable:** Any sum which by the terms of issue of a Share becomes payable on issue or at any fixed date shall, for the purposes of this constitution, be deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable. In the case of non-payment, all the relevant provisions of this constitution as to payment of interest and expenses, forfeiture or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.
- 4.7 **Proof of liability:** The amount of any unpaid call or instalment may be recovered as a debt due from the Shareholder to the Company by proceedings commenced at any time after the call became payable. In any such proceedings it shall be sufficient to prove that:
- (a) the name of the Shareholder sued is entered in the Share Register as the holder or one of the holders of the Shares in respect of which such debt accrued;
 - (b) the resolution making the call is duly recorded in the minute book of the Company; and
 - (c) notice of such call was duly given to the Shareholder,
- and it shall not be necessary to prove any other matter and the proof of the matters referred to in this clause 4.7 shall be conclusive evidence of the debt.

5. FORFEITURE AND LIEN

- 5.1 **Failure to pay:** If a Shareholder fails to pay:

- (a) any call or instalment of a call; or
- (b) any payment due to the Company under a Water Use Agreement,

on the day appointed for payment, the Board may serve a notice on the Shareholder requiring payment of the unpaid call or instalment together with any interest which may have accrued and any expenses that may have been incurred by the Company by reason of such non-payment.

- 5.2 **Notice:** The notice shall name a further day (not earlier than the expiration of 10 Business Days from the date of service of the notice) on or before which the payment required by the notice is to be made. The notice shall state that in the event of non-payment by the time appointed the Shares in respect of which the call was made or by virtue of which the Shareholder was able to enter into a Water Use Agreement with the Company will be liable to be forfeited. The notice shall also state the place at which payment is to be made.
- 5.3 **Non-compliance:** If the requirements of any such notice are not complied with, any Share in respect of which the notice has been given may, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all distributions authorised in respect of the forfeited Shares and not actually paid or made before the forfeiture.
- 5.4 **Entry of forfeiture:** When any Share is so forfeited:
- (a) notice of the resolution shall be given to the Shareholder in whose name it stood immediately prior to the forfeiture;
 - (b) an entry of the forfeiture, with the date thereof, shall forthwith be made in the Share Register;
 - (c) the share certificate of any such Shares shall be immediately cancelled by the Company and the Shareholder in whose name such cancelled Share stood immediately prior to such cancellation shall return such share certificate to the Company within 10 Business Days of receiving notice of such resolution; and
 - (d) as soon as it is sold or disposed of, an entry of the date and manner of the sale or disposition, shall be made in the Share Register.
- 5.5 **Forfeited share:** A forfeited Share shall be deemed to be the property of the Company and may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. The Board may, at any time before a sale or disposition, annul the forfeiture on such terms as the Board thinks fit.
- 5.6 **Ceasing to be Shareholder:** A person whose Shares have been forfeited shall cease to be a Shareholder in respect of the forfeited Shares, but shall remain liable to pay to the Company all money which at the date of forfeiture was payable by the Shareholder to the Company in respect of the Shares. The Shareholder's liability shall cease if and when the Company receives payment in full of all such money in respect of the Shares whereupon the Board may exercise the right to annul the forfeiture pursuant to clause 5.5.
- 5.7 **Fixed time payments:** The provisions of this constitution as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a Share becomes payable at a fixed time as if the same had been payable by virtue of a call duly made and notified.

- 5.8 **Lien on shares:** The Company shall have a first lien upon each Share registered in the name of each Shareholder (whether solely or jointly) and upon the proceeds of sale of such Share for:
- (a) any amount due to the Company under the terms of the Water Use Agreement between the Company and the Shareholder;
 - (b) unpaid calls, instalments, premiums or other amounts, and any interest payable on such amounts, relating to the Share; and
 - (c) such amounts as the Company may be called upon to pay under any legislation in respect of the Share.
- 5.9 **Distributions:** The Company's lien under clause 5.8 shall extend to all distributions from time to time authorised in respect of the Share.
- 5.10 **Sale of shares:** The Board, on behalf of the Company, may sell any Shares on which the Company has a lien if:
- (a) a sum in respect of which the lien exists is presently payable; and
 - (b) 10 Business Days' notice in writing demanding payment of such sum has been given to the Shareholder or to the person entitled exercise rights in relation to such shares by reason of the Shareholder's death or bankruptcy.
- 5.11 **Execution:** To give effect to any sale or disposition pursuant to clause 5.5 or 5.10 a Director, on behalf of the Company, may execute a transfer of the Shares to the purchaser.
- 5.12 **Discharge from calls:** Upon registration of the transfer to the purchaser of Shares sold or disposed of by the Company pursuant to clause 5.5 or 5.10 (**Transferee**) the Transferee shall hold such Shares free from all calls due prior to such purchase.
- 5.13 **Purchase money:** The Transferee shall not be bound to see to the application of the purchase money nor shall the Transferee's title to the Shares be affected by any irregularity or invalidity in the sale procedure.
- 5.14 **Former Shareholder's remedy:** The remedy of the former Shareholder and of any person claiming under or through the former Shareholder shall be against the Company exclusively and in damages only.
- 5.15 **Proceeds:** The net proceeds of the sale of any forfeited Share which is sold pursuant to forfeiture or for the purpose of enforcing a lien shall be applied:
- (a) first, in or towards satisfaction of any unpaid amounts under the terms of a Water Use Agreement, calls or instalments and interest thereon;
 - (b) secondly, in or towards satisfaction of expenses and any other moneys (if any) in respect of which the lien existed; and

- (c) thirdly, in payment to the previous holder of the Share or to the executors, administrators or assigns of the previous owner.

5.16 **Evidence:** A certificate by a Director and countersigned by an authorised person that the power of sale has arisen and is exercisable by the Company under this constitution, or that a Share has been duly forfeited on the date stated, shall be conclusive evidence of the facts stated in that certificate.

6. REPURCHASE OR TRANSFER OF SHARES AT COMPANY'S OPTION

6.1 **Repurchase or Transfer:** If the Scheme has excess capacity and the Board determines that:

- (a) there is genuine and unsatisfied demand for water from the Scheme within the Scheme Area; and

- (b) the non usage of Scheme capacity will jeopardise the overall viability of the Scheme,

the Company may:

- (c) repurchase as treasury stock; or

- (d) require the transfer to the Company's nominee of,

all or any of the Shares held by a Shareholder in excess of that Shareholder's Quota Shareholding.

6.2 **Consideration for Shares Repurchased or Transferred:** The consideration for the repurchase or transfer of each Share transferred pursuant to clause 6.1 shall be the fair value of such Share as determined by an independent valuer using methodology which is appropriate having regard to:

- (a) the current:

- (i) market price of Shares; and

- (ii) market price of the Water Rights,

at the commencement of the relevant period; and

- (b) any other matters which the Board considers have a bearing on the value of the Shares to be transferred.

6.3 **Independent valuer:** For the purposes of this clause, the independent valuer shall be a valuer selected by the Company who does not have any significant commercial relationship with the Company which might give rise to a perception, reasonably held, that the valuer is compromised in that valuer's ability to give an independent view as to the fair value of the Share or Shares.

6.4 **Attorney:** For the purpose of giving better effect to the provisions of this clause each Shareholder irrevocably appoints the Company and each officer of the Company their attorney authorising the Company to execute a transfer of Shares pursuant to clause 6.1 to the Company's nominee and the Shareholders agree to ratify and confirm any act carried out by the Company in that behalf.

7. COMPANY MAY ACQUIRE ITS OWN SHARES

7.1 **Authorisation:** In accordance with the Act the Company is permitted to:

- (a) purchase or otherwise acquire its own Shares; and
- (b) purchase or make an offer to purchase Shares from one or more Shareholders (including if required to do so pursuant to section 110 or 118 of the Act).

8. TREASURY STOCK

8.1 **Company can hold its own shares:** The Company is permitted to hold its own Shares as Treasury Stock.

9. REDEMPTION OF SHARES

9.1 **Power to Redeem:** Subject to the Act, the Company may redeem any Shares which, by their terms of issue, are redeemable.

9.2 **Cancellation of Shares redeemed:** Shares that are redeemed by the Company are deemed to be cancelled immediately on redemption.

9.3 **Selective Redemption:** Subject to this constitution and the terms of issue where redeemable Shares can be redeemed at the option of the Company the Company can elect the Shares to be redeemed and exercise its rights in respect of one or more holders.

10. CONVERSION OF SHARES

10.1 **Power to Convert:** Subject to the Act the Company may convert any Shares which, by their terms of issue, are convertible to another type of Share carrying different rights.

10.2 **Selective Conversion:** Subject to this constitution and the terms of issue where convertible Shares can be converted at the option of the Company the Company can elect the Shares to be converted and exercise its rights in respect of one or more holders.

11. FINANCIAL ASSISTANCE BY THE COMPANY

11.1 **Financial Assistance:** The Company may give financial assistance to any person for the purposes of, or in connection with, the purchase of any Shares issued, or to be issued, by the Company in accordance with the requirements of the Act.

12. TRANSFER OF SHARES

12.1 **Right to transfer:** A Shareholder may transfer Shares by a form of transfer complying with clause 12.4 or in accordance with a transfer system approved under section 376 of the Financial Markets Conduct Act 2013.

12.2 **Permitted restrictions:** The Company may decline to accept or register a transfer of a Share where:

- (a) the Company has a lien on the Share;
- (b) the Share is not fully paid up;
- (c) the transferee is a person of unsound mind;
- (d) the registration of the transfer of the Share together with the registration of any further transfer or transfers then held by the Company and awaiting registration, would result in the proposed transferee holding less than the Minimum Holding;
- (e) the Board in its absolute discretion considers that the transfer is not in the best interests of the Company or the Shareholders;
- (f) the Board in its absolute discretion is of the opinion that the proposed transferee is not a desirable person to become a Shareholder;
- (g) the requirements of this constitution with regard to the transfer of Shares have not been complied with; or
- (h) permitted to do so by the Act.

12.3 **No obligation to give reasons:** The Board shall be under no obligation to give reasons for its decision to decline or accept a transfer of a Share.

12.4 **Transfer form:** Every instrument of transfer of Shares shall:

- (a) be in any usual or common form or any other form which the Directors may approve; and
- (b) be signed or executed by or on behalf of the transferor; and
- (c) if registration as holder of the Share imposes a liability to the Company on the transferee, be signed or executed by or on behalf of the transferee.

12.5 **Transmission on death of Shareholder:** If a Shareholder dies the survivor, if the deceased was a joint Shareholder, or the personal representative, shall be the only persons recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder but nothing in this clause shall release the estate of a deceased joint Shareholder from any liability in respect of any Share or constitute a release of any lien which the Company may have in respect of any Share.

12.6 **Rights of Personal Representatives:** A personal representative of a Shareholder:

- (a) is entitled to exercise all rights (including without limitation the rights to receive distributions, to receive notices of and attend meetings and to vote in person or by representative), and is subject to all limitations, attached to the Shares held by that Shareholder; and
- (b) is entitled to be registered as holder of those Shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the personal representative.

12.7 **Joint Personal Representatives:** Where a Share is subject to the control of two or more persons as personal representatives, they shall, for the purposes of this constitution, be deemed to be joint holders of the Share.

12.8 **Definition:** For the purposes of this clause, Personal Representative means:

- (a) in relation to a deceased individual Shareholder, the executor, administrator or trustee of the estate of that Shareholder;
- (b) in relation to a bankrupt individual Shareholder, the assignee in bankruptcy of that Shareholder; and
- (c) in relation to any other individual Shareholder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed under that Act, and a donee of an enduring power of attorney complying with that Act, or any person in the nature of such persons.

12.9 **Application:** Clause 12 shall apply to all transfers of Securities with any necessary modifications for securities which are not Shares provided that clauses 12.2 and 12.3 shall not apply in relation to transfers of Debt Securities.

13. SALE OF MINIMUM HOLDINGS

13.1 **Power to sell:** The Company may sell the Shares held by a Shareholder of less than a Minimum Holding.

13.2 **Notice:** The Company shall give notice to such a Shareholder of its intention to exercise its powers under this clause. If the Shareholder to whom notice has been given has not, within 60 Business Days after that notice, lodged with the Company for registration a transfer of Shares which, together

with Shares already registered in the Shareholder's name, will result in at least a Minimum Holding the Company may arrange the sale of such Shares as are registered in the holder's name.

13.3 **Attorney:** For the purpose of this clause, Shareholders are deemed to have appointed the Company as their attorney for the sale of those Shares and to do all acts and execute all documents relating to the sale and transfer of the Shares.

13.4 **Proceeds:** The net proceeds of sale (after deducting reasonable sale expenses) will be held on trust by the Company for and paid to the holder on surrender of all certificates (if any) for the Shares sold.

13.5 **Unclaimed money:** Any money held by the Company and remaining unclaimed for three years shall become the property of the Company provided that where a claimant produces evidence of entitlement, the Company shall pay such amount to the claimant.

14. TAKEOVER PROVISIONS

14.1 **Notice requirements:** No Restricted Transfer of Shares shall take place unless notice is given to the Company containing the following particulars:

- (a) the price or consideration, either specified as a fixed amount or expressed as a range with the higher price or consideration being not greater than 20% more than the lower price or consideration of that range;
- (b) any conditions or arrangements directly or indirectly associated with the Transfer which could be material to the assessment of the price or price range by prospective Transferors of the Shares;
- (c) identification of the Class, and the maximum number of Shares and percentage of the relevant Class, to which the Transfer proposal relates;
- (d) the identity of all persons reasonably expected to acquire Relevant Interests in the Shares as a result of the Transfer proposal;
- (e) the number of Shares (expressed in each case as a percentage of the total number in each relevant Class of Securities) which will be held, or in which Relevant Interests will be held, upon completion of the proposed transactions, by each Transferee and Associated Persons of each Transferee;
- (f) the times within which the Transfers are intended to occur;
- (g) how the Transfers are to be effected (for example, by widespread direct offer, private treaty, etc); and
- (h) the date the notice is given.

14.2 **Time for Initial Notice:** Each notice referred to in clause 14.1 shall be given, subject to clause 14.4, at least 15 Business Days before the Transfer.

- 14.3 **Notice of change:** Any change in, or addition to, particulars notified under clause 14.1 shall be made by giving a notice of change. Each such notice shall be given, subject to clause 14.4, at least 2 Business Days before the change takes effect in the case of a change to price or other consideration, and at least 15 Business Days before the change takes effect in the case of a change to any other particulars listed in clause 14.1.
- 14.4 **Immediate response requirement:** If any Shares of the Company are the subject of a notice under clause 14.1, the Directors shall give notice as soon as can be achieved, and before the expiry of the notice periods referred to in clause 14.2:
- (a) whether any Director or Associated Person of a Director is expected by any Director to be a Transferee in the notified transaction; and
 - (b) a statement as to the timing, and expected significance of any further action, investigation, report, or disclosure which the Directors or any of them, intend to make in response to the relevant proposals for Transfers.
- 14.5 **General response requirement:** If any Shares of the Company are the subject of a notice under clause 14.1, or if the Directors become aware that a Restricted Transfer proposal is more likely than not in the immediate future, they shall:
- (a) take all steps necessary to ensure that they and the Company are in a position to respond to the offer as required by this clause 14;
 - (b) not be relieved of their disclosure obligations under this clause 14 by reason of a conflict of interest arising from involvement as or with a prospective Transferee or Transferor, but such Directors shall disclose in any notice or statement the nature of their possible conflict; and
 - (c) ensure that holders of the relevant Shares are well informed to consider competitive offers for the control of Votes attached to the Shares where there is any reasonable prospect of competition emerging to the completion of a Restricted Transfer proposal.
- 14.6 **Restricted Transfer status report:** If a Restricted Transfer is not completed within 60 Business Days of the notice required to be given under clause 14.1, or any status report given under this clause 14.6 then, before continuing with the Restricted Transfer, additional market information on the status of the Restricted Transfer must be provided to the Company including:
- (a) when the Restricted Transfer is intended to be completed; and
 - (b) details of the Transfer(s) that comprise the Restricted Transfer which have not been completed.
- 14.7 **Additional requirements:** Notwithstanding any of the foregoing provisions of this clause 14, except with the sanction of resolutions passed by a simple majority of Votes of each Affected Group, all Transfers involved in a Restricted Transfer shall be pursuant to an offer in writing to all holders of Shares of any Class which is the subject of the proposed Restricted Transfer, on the same terms.

14.8 **Right to enforce:** The Company may, following a Default, exercise a power described in clause 14.9(a) or 14.9(b) in respect of all or any Shares in which the Defaulter has a Relevant Interest (Defaulter's Securities).

14.9 **Default consequences:** In the event of a Default:

- (a) no Vote may be cast on a poll, and if it is cast it shall be disregarded, on Defaulter's Securities while the Default is unremedied;
- (b) a Defaulter's Securities may be sold by the Company provided that this power may not be exercised until 20 Business Days after the Company has given notice to the Defaulter of its intention to exercise this power and it shall not be exercised if, during those 20 Business Days:
 - (i) the Defaulter has remedied the Default (where it can be remedied); or
 - (ii) the Defaulter has transferred its Relevant Interest in the Securities to a person who is not a Defaulter,

and the Company shall be deemed to be authorised to take all steps, and sign all documents, necessary to effect the sale of the Defaulter's Securities;

- (c) neither the Company nor its Directors shall be liable to a Defaulter or apparent Defaulter for or in connection with the exercise or purported exercise of the powers permitted by this clause 14.9;
- (d) the Company shall have a lien on the Defaulter's Securities for, and deduct from the proceeds of sale pursuant to clause 14.9(b), any costs to the Company of determining whether a person is a Defaulter and exercising powers permitted by this clause 14.9; and
- (e) the Company may treat as its costs for the purposes of clause 14.9(d) preceding, reimbursement by it of expenses of members of any Affected Group acting pursuant to clause 14.10.

14.10 **Powers of Affected Group:** The Directors of the Company shall, if so directed by a resolution of an Affected Group (passed by a simple majority of Votes) exercise the power referred to in clause 14.9(b), if that power has become exercisable. The holders of 5% or more of the Securities of an Affected Group may, by notice to the Directors, require the Directors to convene a meeting of the Affected Group for the purpose of considering such a resolution.

14.11 **Voting Restriction:** The Company shall use reasonable endeavours to ascertain for the purposes of clause 14.9(a) whether any Shares are Defaulter's Securities, and accordingly whether a holder of those Shares is entitled to vote. If any holder of Shares of the Company alleges that any Shares are Defaulter's Securities, the Company shall properly consider and investigate that allegation.

14.12 **Proceedings at meeting:** The ruling of the chairperson of any meeting as to whether any holder of Shares is, or is not, entitled to vote at that meeting pursuant to clause 14.9(a) shall, for the purposes of proceedings at that meeting, be conclusive, and the proceedings of, or any resolution

passed at, any meeting shall not be impugned by reason of a breach of clause 14.9(a). This clause shall not prejudice any action which any person may have against the holder of any Shares by reason of that holder having cast a Vote at any meeting in breach of clause 14.9(a).

14.13 Limitation of remedies: Subject to clause 14.14, the sole remedy of the Company, a holder of Shares of the Company, a Director, or any other person, in respect of a breach or alleged breach of this clause 14, shall be to exercise, or require the Company or its Directors to exercise, the powers referred to in clause 14.9(a) and 14.9(b). Without limiting the preceding sentence, no person shall be entitled to seek any injunction or other remedy to prevent a transaction alleged to be in breach of the provisions referred to in that sentence.

14.14 Exception: Nothing in clause 14.13 shall affect the remedies of a holder of Shares of the Company against the Directors in respect of a breach of this clause 14, or the provisions of this constitution referred to in clause 14.13, by that Director.

14.15 Holding by Bare Trustee: For all purposes of this clause 14, and notwithstanding anything in this clause 14:

- (a) the Transfer of Shares, or of any interest in Shares, to a bare trustee shall be deemed to be a Transfer to the person or persons for whom that bare trustee holds those Securities or that interest as trustee (the Beneficial Owners);
- (b) Shares, or any interest in Shares, held by a bare trustee shall be deemed to be held by the Beneficial Owners; and
- (c) a trustee may be a bare trustee notwithstanding that that trustee is entitled as a trustee to be remunerated out of the income or property of the relevant trust.

14.16 Specific issues: Without limiting clause 14.15:

- (a) a bare trustee and a Beneficial Owner shall not, by reason solely of their relationship as bare trustee and Beneficial Owner, be Associated Persons;
- (b) a bare trustee of Shares shall not, solely by reason of its position as bare trustee for the Beneficial Owner, have a Relevant Interest in those Shares; and
- (c) a Beneficial Owner of Shares shall not have a Relevant Interest in the Shares of another Beneficial Owner solely because the same bare trustee acts as trustee for both of those Beneficial Owners.

14.17 Separate registration of Defaulter's Securities: In the event of a Default, if any Shares held by a person as bare trustee on behalf of different Beneficial Owners include any Defaulter's Securities:

- (a) the bare trustee shall, on request by the Company, provide to the Company details of the Beneficial Owners of those Defaulter's Securities; and

- (b) the Company may at any time, and shall upon request by the bare trustee or any Beneficial Owner, take appropriate steps to ensure that those Defaulter's Securities are separately designated in the register recording those Shares.

15. SHAREHOLDERS' MEETINGS

- 15.1 **Schedule 1 to apply:** Except as otherwise provided by this clause 15, the provisions of Schedule 1 of the Act shall apply to Shareholder meetings.
- 15.2 **Quorum:** A quorum for a meeting of Shareholders is present if Shareholders or their proxies or Shareholders able to exercise votes on 10% of the Shares on issue are present.
- 15.3 **Voting:** Unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting:
 - (a) voting by voice; or
 - (b) voting by show of hands.
- 15.4 **Casting vote:** The chairperson of a Shareholders' meeting is entitled to a casting vote.
- 15.5 **Voting cap:** The maximum number of votes which may be exercised by any single Shareholder and any Associated Person (taken together) shall not exceed in aggregate 5% of the total number of votes able to be exercised on the relevant resolution.
- 15.6 **Declaration of Restricted Holding:** For the purpose of giving additional effect to clause 15.5, the Board shall declare any Shares exceeding 5% of the total Shares in the Company held by Shareholders or other persons (other than the Company), to constitute a Restricted Holding, if the Board is satisfied that one person may exercise or control the exercise of the votes attributable to those Shares. The Board shall determine, on such basis as it sees fit, the particular Shares (whose votes may be so exercised or controlled by one person) which shall comprise the Restricted Holding.
- 15.7 **Declaration of Restricted Shares:** If the Board declares Shares to constitute a Restricted Holding, the Board shall:
 - (a) declare Shares in that Restricted Holding to be Restricted Shares; and
 - (b) if the Shares in that Restricted Holding are held by more than one person, determine, on such basis as the Board sees fit, the number of Shares held by such person which are Restricted Shares, but so that the total number of Restricted Shares held by all of those persons does not exceed the number declared by the Board under (a) to be Restricted Shares.
- 15.8 **No vote on Restricted Shares:** For as long as any Shares are Restricted Shares, they shall carry no vote, and accordingly no vote shall be cast at any meeting of Shareholders (including a meeting of an interest group) on any postal ballot (including for the election of Directors) or otherwise in respect of any Restricted Shares.

15.9 **Cessation:** The Board may at any time determine that any Shares have ceased to form part of a Restricted Holding, or have ceased to be Restricted Shares, if the Board is satisfied that that is the case.

15.10 **Notice of Shareholders:** The Board shall, as soon as practicable after making a declaration or determination pursuant to clauses 15.6, 15.7, or 15.9, give notice of that declaration or determination to the persons holding the Shares affected by that declaration or determination.

15.11 **Provision of information:** The Board may at any time give written notice to any Shareholder requiring that Shareholder to provide to the Board, if so required by the Board in the form of a statutory declaration, such information as the Board may specify which the Board considers necessary or desirable to establish:

(a) whether clause 15.5, or 15.6 or 15.7 may apply to Shares held by that holder; or

(b) who are persons associated with that Shareholder for the purposes of clause 15.7,

or otherwise to enable the Board properly to administer the provisions of clauses 15.5, 15.6, 15.7, 15.8, or 15.9.

15.12 **Failure to provide information:** If any Shareholder fails to provide, to the satisfaction of the Board, the information requested by the Board pursuant to clause 15.11 within 10 Business Days after the Board gives notice under clause 15.11, the Board may, by notice to that Shareholder, determine that no votes shall be exercised in respect of the Shares held by that Shareholder (whether at a meeting of Shareholders or by postal vote or on election of Directors or otherwise) until such time as that information is provided to the satisfaction of the Board.

15.13 **Declaration conclusive:** Any declaration or determination made by the Board under clauses 15.6, 15.7, 15.9 or 15.12 shall be final and conclusive for all purposes, and not open to challenge.

16. DIRECTORS

16.1 **Number of Directors:** The maximum number of Directors shall be eight (excluding any Director or Directors appointed in accordance with clause 16.6).

16.2 **Removal:** All Directors shall be subject to removal from office as Directors by Ordinary Resolution.

16.3 **Maximum tenure:** Unless an exception listed in clause 16.4 applies, a Director must not hold office past the annual meeting closest to the date on which the Director has been or would have been in office for a total of nine consecutive years, and after that date will not be eligible for election or appointment as a Director provided that the calculation of a Director's years in office for the purposes of this clause 16.3 shall not include the years a Director has been in office prior to 31 October 2020.

16.4 **Exceptions to maximum tenure rule:** The rule in clause 16.3 shall not apply if:

(a) the Board agrees that exceptional circumstances apply and that it is in the best interests of the Company that the rule in clause 16.3 be waived; or

- (b) at least three years has elapsed since the former Director retired from the Board at the end of their nine consecutive years in office.

16.5 **Disqualification:** Without limiting section 157 of the Act, the office of Director shall be vacated if the Director:

- (a) being a Wet Shareholder Director, ceases to qualify as a Wet Shareholder Director and this results in there no longer being a majority of Wet Shareholder Directors;
- (b) absents themselves from the meetings of Directors for a period of 6 months or does not attend at least one-half of the meetings of Directors held in each year, without special leave of absence being granted by the other Directors; or
- (c) exceeds the maximum tenure permitted for Directors under clause 16.3.

16.6 Notwithstanding any other provision of this constitution, Te Rūnanga o Ngāi Tahu shall have the right at all times to appoint one Director to the Board. If the total number of Directors at any time exceeds nine, Te Rūnanga o Ngāi Tahu shall be entitled to nominate a second Director.

16.7 For so long as there is only one Director appointed by Te Rūnanga o Ngāi Tahu, that Director shall be entitled to have a further person nominated by Te Rūnanga o Ngāi Tahu attend all Directors' meetings, provided that such person will not be entitled to vote on any resolutions but shall have speaking rights at such meeting.

16.8 Te Rūnanga o Ngāi Tahu's express written consent is required:

- (a) to amend clauses 16.6 to 16.7 of the constitution; and
- (b) to allow for more than 12 Directors to be appointed to the Board.

16.9 Clauses 16.6 and 16.7 of the constitution can be amended only by an unanimous resolution of all shareholders at a meeting called specifically for such purpose, and Te Rūnanga o Ngāi Tahu must be given 40 Business Days' advance written notice of such meeting.

17. WET SHAREHOLDER DIRECTORS

17.1 **Qualifications of Wet Shareholder Directors:** A majority but no more than five of the Directors shall be persons who:

- (a) have:
 - (i) a direct, indirect or beneficial interest in; or
 - (ii) a right or entitlement to participate (directly or indirectly as a shareholder or otherwise) in the distributions of, or made by, a Shareholder which has entered into a Water Use Agreement with the Company;
- (b) have entered into a Water Use Agreement with the Company;

- (c) are partners in a partnership that is a Shareholder that has entered into a Water Use Agreement with the Company; or
- (d) are employed by, or are a director of, a Shareholder which has entered into a Water Use Agreement with the Company.

17.2 Board to determine: The Board must:

- (a) identify which:
 - (i) Directors; and
 - (ii) persons seeking nomination or election as a Director,
 the Board considers to meet the criteria to be Wet Shareholder Directors; and
- (b) advise the Shareholders in the notice of meeting or at the meeting how many Wet Shareholder Director vacancies there are.

If a Director or person seeking nomination or election as a Director does not provide sufficient information for the Board to make this determination the Board is entitled to draw the conclusion that that Director does not, or that person would not, qualify as a Wet Shareholder Director.

17.3 Nomination of Wet Shareholder Directors: Subject to clauses 16.1, 17.1, 18.1 and 16.3 and the Act:

- (a) no person (other than a Wet Shareholder Director retiring at the meeting) shall be elected as a Wet Shareholder Director at a meeting of Shareholders unless that person has been nominated by a Shareholder entitled to attend and vote at that meeting;
- (b) the:
 - (i) opening date for Wet Shareholder Director nominations shall not be later than 60 Business Days; and
 - (ii) closing date for nominations shall not be earlier than 40 Business Days, before the meeting at which the election is to take place; and
- (c) notice of every nomination of a person who would qualify as a Wet Shareholder Director (as determined in accordance with clause 17.2) received before the closing date for nominations shall be given by the Company to all persons entitled to attend the meeting at which the election is to take place together with, or as part of, the notice of meeting.

17.4 Election of Wet Shareholder Directors: Subject always to clauses 16.1 and 16.3, Wet Shareholder Directors shall be elected by Ordinary Resolution at a meeting of Shareholders called for that purpose or an annual meeting of Shareholders or in accordance with the process set out in clause 22 provided that:

- (a) nothing in this clause 17.4 prevents the election of a Wet Shareholder Director by ballot or poll where there are more eligible Wet Shareholder Director candidates than there are Board vacancies and, in such a case:

- (i) the highest polling eligible candidate or candidates shall be elected; and
 - (ii) there shall be no need for such eligible candidate or candidates to be elected by a majority of votes cast in that ballot or poll; and
- (b) unless elected in accordance with clause 22, election of Wet Shareholder Directors shall be effective from the closing of the meeting at which they were elected.

17.5 Appointment of Wet Shareholder Directors by the Directors: The Directors may appoint any person to be a Wet Shareholder Director, either to fill a vacancy or as an addition to the existing Directors provided that:

- (a) such appointment does not result in the maximum:
 - (i) tenure of any Director; or
 - (ii) number of Directors,under this constitution being exceeded; and
- (b) any person who is so appointed shall retire from office at the next annual meeting of the Company, but shall be eligible for re-election at that meeting or in accordance with clause 22.

17.6 Rotation: One third of the Wet Shareholder Directors or, if their number is not a multiple of three, then the number nearest to one-third shall retire from office at the annual meeting each year (with immediate effect, if not re-elected at that meeting, immediately after that meeting) but shall be eligible for re-election at that meeting or, if the election of Wet Shareholder Directors is to occur in accordance with clause 22, the Wet Shareholder Directors' retirement from office shall be effective immediately prior to the commencement of the annual meeting (if not re-elected in accordance with clause 22). Those to retire shall be those who have been longest in office since they were last elected or deemed elected. If two or more Wet Shareholder Directors were last elected on the same day, the Wet Shareholder Directors to retire shall (unless they agree among themselves) be determined by lot.

17.7 Re-election: The Company at a meeting at which a Wet Shareholder Director retires may fill the vacated office by electing a person to it. In default, a retiring Wet Shareholder Director shall if offering themselves for the re-election be deemed to have been re-elected unless at that meeting it is expressly resolved not to fill the vacated office or unless a resolution for the re-election of that Wet Shareholder Director is put to the meeting and lost.

18. DRY DIRECTORS

18.1 Appointment of Dry Directors: The Directors may appoint any person to be a Dry Director for a term of no more than three years, either to fill a vacancy or as an addition to the existing Dry Directors provided that such appointment does not result in there no longer being a majority of Wet Shareholder Directors.

18.2 Approval of Dry Directors: Any person who is so appointed by the Directors in accordance with clause 18.1 shall retire from office:

- (a) at the next annual meeting of the Company unless their appointment is confirmed by Ordinary Resolution at that meeting; or
- (b) at the end of their term of appointment but, in such case, that person may subsequently be re-appointed in accordance with clause 18.1 in which case the provision of this clause 18.2 shall apply to that subsequent appointment.

18.3 **Dry Director retirement:** Without limiting clause 16.5, if the number of Dry Directors is, or becomes, half or more of the total number of Directors, such number of Dry Directors (not being Dry Directors appointed in accordance with clause 16.6) shall retire as required to ensure that there is a majority of Wet Shareholder Directors. If the Dry Directors cannot decide between themselves who is to retire pursuant to this clause 18.3 the matter shall be determined by lot.

19. DIRECTORS' REMUNERATION

19.1 **Disclosure of remuneration:** The annual remuneration pool for Directors shall be disclosed (for noting) at every annual meeting of the Company.

19.2 **Increasing remuneration:** Without limiting section 161 of the Act, the annual remuneration pool for Directors may not be increased without the approval of an Ordinary Resolution provided that if there is an increase in the number of Directors from the number when Directors' remuneration was last approved by an Ordinary resolution, the Board may, without an Ordinary Resolution, increase the remuneration pool payable to all Directors in aggregate to enable the additional Director or Directors to be paid the average amount then being paid to each non-executive Director (other than the chairperson).

19.3 **Expenses:** Without limiting section 161 of the Act:

- (a) the Directors shall be entitled to be paid reasonable travelling, hotel, entertaining and other expenses incurred in attendance at meetings of Directors and when, in any other manner, engaged on the business or affairs of the Company; and
- (b) the Directors may award special remuneration out of the funds of the Company by a fixed sum or salary to any Director or committee of Directors rendering any special services in going abroad or otherwise for any of the purposes of or in the interests of the Company or for undertaking any work additional to that required of Directors of a company similar to this and without any such award each Director shall be entitled to reasonable expenses as set out in clause 19.3(a) for, or in connection with, any journeys taken by them on the Company's business.

20. INDEMNITY AND INSURANCE

20.1 **Extent of Company's right to give indemnity and effect insurance:** The Company may give such indemnities and effect such insurances as are referred to in section 162 of the Act to the full extent permitted by section 162 of the Act.

21. DIRECTORS' MEETINGS

- 21.1 **Third Schedule excluded:** The provisions of the Third Schedule to the Act shall not apply, and the provisions of this clause 21 shall apply to proceedings of the Directors or a committee of the Directors.
- 21.2 **Procedure:** The Directors may meet together for the despatch of business, adjourn, or otherwise regulate their meetings and proceedings as, subject to this constitution, they may think fit.
- 21.3 **Notice of Meeting:**
- (a) Any Director may convene a meeting.
 - (b) Notice of every meeting stating the date time and place of the meeting must be given to all Directors in New Zealand. Notice need not be in writing.
 - (c) Any irregularity in the calling of a meeting may be waived if all Directors entitled to be given notice of the meeting waive the irregularity at the time or at a later date.
- 21.4 **Quorum:** Until otherwise determined by a majority of the Directors, four Directors shall be a quorum. The Directors shall not provide for the quorum to be less than four Directors. A meeting of the Directors at which a quorum is present shall be competent to exercise any of the powers under this constitution or the Act for the time being vested in or exercisable by the Directors generally.
- 21.5 **Vacancies and reduction of numbers:** Directors may act notwithstanding any vacancy in their body, but if and for so long as their number is reduced below the number fixed by this constitution as the minimum number of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a meeting of the Company, but for no other purpose.
- 21.6 **Chairperson:** The Directors may elect a chairperson of their meetings and determine the period for which they are to hold office. If no such chairperson is elected or if at any meeting the chairperson is not present within 5 minutes after the time appointed for holding the meeting the Directors present may choose one of their number to be chairperson of the meeting.
- 21.7 **Other meeting methods:** For the purposes of this constitution a meeting of Directors or a committee of Directors may be held by means of audio, or audio and visual, communication by which all the Directors participating and constituting a quorum, can simultaneously hear each other throughout the meeting and all the provisions in this constitution as to meetings of the Directors shall apply to such meetings so long as the following conditions are met:
- (a) all the Directors for the time being entitled to receive notice of the meeting (including any alternate Director) shall be entitled to notice of such a meeting and to be linked by such means for the purposes of such meeting and notice of any such meeting may be given by such means;

- (b) each of the Directors taking part in such a meeting must be able to hear each of the other Directors taking part at the commencement of the meeting;
- (c) at the commencement of the meeting each Director must acknowledge their presence for the purpose of the meeting to all the other Directors taking part; and
- (d) a Director may not leave the meeting by disconnecting unless they have previously obtained the express consent of the chairperson of the meeting and a Director is deemed to have been present and to have formed part of the quorum at all times during such a meeting unless they have previously obtained the express consent of the chairperson to leave the meeting.

21.8 **Voting:** the rules for voting at Director's meetings are:

- (a) questions arising at any meeting of the Directors shall be determined by a majority of votes of the Directors;
- (b) each Director shall have one vote and in the case of an equality of votes the chairperson shall have a second or casting vote; and
- (c) any Director who abstains from voting shall not be deemed to have voted in favour or against a resolution.

21.9 **Disclosure of interest:** Without in any way limiting their obligations under the Act or at law, a Director shall, immediately on learning that they are interested in a matter which concerns or may concern the Company, cause such interest to be entered on the Company's interest register provided that for the purposes of this clause 21.9 a general notice entered in the interests register and disclosed to the Board to the effect that the Director is a shareholder, director, officer or trustee of another named company or other person and is to be regarded as interested in any matter which may, after the date of the entry or disclosure, concern or benefit that company or person, is a sufficient disclosure of interest in relation to that matter.

21.10 **Interested Directors:** A Director shall not be counted in the quorum for the purposes of consideration of any matter in which that Director is interested, nor shall that Director vote in respect of that matter (unless that matter is one in respect of which, pursuant to an express provision of the Act, Directors are required to sign a certificate) provided that, for the purposes of this clause 21.10, a Director shall not be considered interested in any matter which the Board considers affects that Director together with a material proportion of other Shareholders.

21.11 **Proceedings of committees:**

Any committee of Directors shall in the exercise of the powers delegated to it conform to any regulation that may be imposed upon it by the Directors. A committee may elect a chairperson of its meetings. If no such chairperson is elected or if at any meeting the chairperson is not present within 5 minutes after the time appointed for holding the meeting the members present may choose one of their numbers to be chairperson of the meeting. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present. In the case of an equality of votes the chairperson shall have a second or

casting vote. However, the chairperson shall not have a casting vote unless the committee consists of a least three members and there are at least three members personally present.

21.12 **Defects:** All acts done by any meeting of the Directors, a committee of Directors or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director, committee or person or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

21.13 **Written resolutions:**

A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors shall be as valid and effective as if it had been passed at a meeting of the Directors duly called and constituted. Any resolution may be signed or assented to by facsimile signature. Any such resolution may consist of several documents in like form each signed by one or more Directors.

21.14 **Minutes:**

The Directors shall cause minutes to be kept for the purpose of recording:

- (a) the names of the Directors present at each meeting of the Director and of any committee of the Directors;
- (b) all resolutions and proceedings at all meetings of the Directors and of committees of Directors (including all appointments of officers made by Directors); and
- (c) any such minutes of any such meeting if purporting to be signed by the chairperson of such meeting or by the chairperson of the next succeeding meeting shall be prima facie evidence of the matters stated in such minutes.

21.15 **Self-regulation:** Except as otherwise provided in this constitution the Board may regulate its own meetings.

22. ELECTION BY POSTAL OR ELECTRONIC VOTE

22.1 **Election by postal or electronic vote permitted:** The Board may determine that the election of Wet Shareholder Directors in clause 17.4 be conducted by postal or electronic vote in accordance with the following provisions.

22.2 **Contents of notice:** The notice of an election of Wet Shareholder Directors at which Shareholders are entitled to cast a postal or electronic vote must state:

- (a) all of those persons qualifying as Wet Shareholder Directors (as determined in accordance with clause 17.2) who have been nominated as Wet Shareholder Directors in accordance with clause 17.3;
- (b) the number of Wet Shareholder Director vacancies there are;

- (c) the postal or electronic address to which votes must be sent or the means by which votes may otherwise be submitted and the name of the person authorised by the Board to receive and count postal or electronic votes; and
- (d) that the postal or electronic vote must be:
 - (i) received by the person; or
 - (ii) submitted by the process,
referred to in clause 22.2(c) at least 24 hours prior to the annual meeting at which the results of the election will be announced.

22.3 Results to be announced at annual meeting: The chairperson of the annual meeting will announce the results of the election, with the election of Wet Shareholder Directors being effective from the commencement of that meeting.

23. AUDITORS

23.1 Auditors generally: The Board must present audited financial statements of the Company to each annual meeting. The Auditors shall be appointed and removed in the manner provided in the Act and the amount of the Auditors' remuneration and the manner of remunerating Auditors shall be decided by the Board from time to time.

24. MISCELLANEOUS

24.1 Attorneys: Without limiting sections 128 or 130 of the Act, the Directors may by power of attorney appoint any person or body of persons, whether nominated directly or indirectly for such purposes and with such powers (not exceeding those vested in or exercised by the Directors) and for such period and subject to such conditions as they think fit. Such powers of attorney may contain such provisions for the protection and convenience of persons dealing with such attorney as the Directors think fit and may also authorise any such attorney to delegate all or any of the powers vested in them.

24.2 Sub-delegation: Without limiting sections 128 or 130 of the Act, any delegates or attorneys of the Directors may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in them.

24.3 Change of Name: A Director shall not make, and the Directors shall not approve, an application to change the name of the Company without the prior approval of Shareholders by Ordinary Resolution.

24.4 Manner of execution of contracts: A contract or other enforceable obligation may be entered into by the Company as follows:

- (a) 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:

- (i) two or more Directors;
 - (ii) one or more attorneys appointed by the Company; or
 - (iii) two or more persons expressly authorised by the Board for that purpose in respect of all transactions or particular transactions;
- (b) an obligation which, if entered into by a natural person, is by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and
- (c) an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company in writing or orally by a person acting under the Company's express or implied authority.

24.5 Vision and Principles: Wherever possible in the execution of their duties to the Company, the Directors shall ensure that any decisions made or actions taken in respect of the Scheme shall be consistent with the Vision and Principles agreed by the Company to apply to the Scheme as set out in the Agreement in relation to the Scheme between Te Rūnanga o Ngāi Tahu, Te Taumutu Rūnanga Inc, Te Ngāi Tūāhuriri Rūnanga Inc, Wairewa Rūnanga Inc, Te Rūnanga o Arowhenua Trust, Central Plains Water Trust and Central Plains Water Limited.

25. SURPLUS ASSETS

25.1 Distribution of surplus assets on liquidation: Subject to the terms upon which any Shares may have been issued, if on the liquidation of the Company there shall be surplus assets remaining the excess shall be distributed pro rata between each class of Share according to their respective rights and in proportion to the number of Shares held.