

# CONSTITUTION

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nib nz limited

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**(Company)**  
**CONSTITUTION**

**1. COMPANIES ACT**

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The provisions of the Companies Act 1993 (**Act**) are negated, modified, adopted and extended as provided in this constitution. Words and phrases defined in the Act will bear the same meaning in this constitution unless the context indicates otherwise.

**2. SHARES IN THE COMPANY**

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At the time of adoption of this constitution there are 32,000,000 shares in the Company. No money is payable for calls or otherwise on those shares.

**3. ISSUE OF SHARES**

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**3.1** The board of directors of the Company (**Board**) may issue shares (including redeemable shares) ranking equally with or in priority to existing shares. Any issue of shares made in accordance with this clause will be deemed not to be an action affecting the rights attached to the existing shares in the Company. The Company is expressly authorised to issue redeemable shares for the purposes of section 68 of the Act.

**3.2** Notwithstanding any other provision of this constitution, the Board may not refuse or delay any transfer of shares where that transfer is pursuant to or otherwise arises as a direct result of the enforcement of any security interest over or in respect of those shares by any person.

**4. CALLS ON SHARES**

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The Board may from time to time make such calls as it thinks fit on the shareholders of the Company (**Shareholders**) in respect of any amount unpaid on their shares in the Company (**Shares**) and not by the conditions of issue made payable at a fixed time or times, and each Shareholder must, subject to receiving at least 14 days' written notice specifying the time or times and place of payment, pay to the Company at the time or times and place so specified the amount called. A call may be revoked or postponed as the Board may determine.

**5. SHAREHOLDERS' WRITTEN RESOLUTION**

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A Shareholders' resolution in writing under section 122 of the Act may consist of one or more documents in similar form (including letters, facsimiles, email or other similar means of communication) each signed or assented to by or on behalf of one or more of the Shareholders.

**6. DIRECTORS**

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**6.1 Number of Directors:** The minimum number of directors of the Company (**Directors**) will be two and there will be no maximum number of Directors.

**6.2 Tenure of Office:** Each Director will hold office until:

**(a) Removal:** removal in accordance with this constitution; or

(b) **Vacation:** vacation of office pursuant to section 157 of the Act.

- 6.3 Appointment and Removal of Directors by Shareholders:** The Directors will be such person or persons as may from time to time be appointed either by ordinary resolution or by notice in writing to the Company signed by or on behalf of the Company's holding company. Every Director will hold office subject to the provisions of this constitution and may at any time be removed from office by ordinary resolution or by notice in writing to the Company signed by or on behalf of the Company's holding company. Directors may be appointed together unless an ordinary resolution requires any Director's appointment to be voted on individually.
- 6.4 Cross Directorships:** A Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, and no such Director will be accountable to the Company for any remuneration or other benefits received by him or her as a director or officer of, or from his or her interests in, any such other company unless the Company otherwise directs or the law requires.
- 6.5 Professional Directors:** Any Director may act by himself or herself or his or her firm in a professional capacity for the Company, and a Director or firm will be entitled to remuneration for professional services as if he or she were not a Director, provided that nothing in this constitution authorises a Director or his or her firm to act as auditor of the Company.
- 6.6 Directors' Remuneration and Other Benefits:** The Board must not exercise any of the powers contained in or implied by section 161 of the Act without the prior written approval of the Company's holding company.

## **7. PROCEEDINGS OF THE BOARD**

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- 7.1 Third Schedule Deleted:** The provisions of the third schedule to the Act are deleted and replaced as provided in this section 7.
- 7.2 Regulation of Meetings, Quorum and Convening:** The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The quorum necessary for the transaction of business by the Board may be fixed by the Board and, unless so fixed, will be the majority of the Directors. A Director may, and an employee at the request of a Director must, at any time, by any means of communication, summon a meeting of the Board.
- 7.3 Voting:** Questions arising at any meeting of the Board will be decided by a majority of votes. In cases of an equality of votes, the chairperson will have a second or casting vote, provided that where two Directors form a quorum and only two Directors entitled to vote are present at a meeting, the chairperson of such meeting will not have a second or casting vote. No business will be transacted when a quorum is not present.
- 7.4 Vacancies:** The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number necessary for a quorum, the continuing Directors or Director may act only for the purpose of increasing the number of Directors to the number necessary for a quorum or for the purpose of summoning a special meeting of the Company.
- 7.5 Chairperson:** The Company's holding company may appoint, but in the event of it not doing so the Directors may elect, a chairperson of their meetings and determine the period for which he or she is to hold office; but if no such chairperson is elected or, if at any meeting the chairperson is not present within five minutes after the time appointed for the meeting, the Directors present may choose one of their number to be chairperson of the meeting.

**7.6 Resolution in Writing:** A resolution in writing, signed by a majority of the Directors for the time being entitled to receive notice of a meeting of the Board, will be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Directors. A signed resolution that is received by facsimile or via email in PDF or other document reproduction format will be as valid and effectual as the original signed document with effect from completion of its transmission.

**7.7 Method of Meeting:** A meeting of the Board may be held either:

(a) **Physical Meeting:** by a number of the Directors who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or

(b) **Other Means:** 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.

**7.8 Minutes:** The Board will ensure that minutes are kept of all proceedings at meetings of the Board.

## **8. DIRECTORS' INDEMNITIES AND INSURANCE**

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The Company is expressly authorised to indemnify and/or insure any Director or employee against liability for acts or omissions, and/or costs incurred in connection with claims relating to liability, of the type specifically contemplated by sub-sections (3), (4) and (5) of section 162 of the Act to the maximum extent permitted by those sub-sections.

## **9. NOTICES**

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**9.1 Service:** A notice may be served by the Company on any Director or Shareholder either personally or by posting it by fast post in a prepaid envelope addressed to such Director or Shareholder at such person's last known address or by facsimile or email to the facsimile number or email address of such Director or Shareholder.

**9.2 Service by Post:** A notice sent by post will be deemed to have been served:

(a) **In New Zealand:** in the case of a person whose last known address is in New Zealand, at the expiration of 48 hours after the envelope containing the same was duly posted in New Zealand; and

(b) **Outside New Zealand:** in the case of a person whose last known address is outside New Zealand, at the expiration of seven days after the envelope containing the same was duly posted by fast post in New Zealand.

In proving service by post, it will be sufficient to prove that the envelope containing the notice was properly addressed and posted with all attached postal or delivery charges paid.

**9.3 Service by Facsimile:** A notice served by facsimile will be deemed to have been served at 5.00 pm on the day following completion of transmission or, if such day is a Saturday or a Sunday or a day on which major trading banks are closed for usual business in the place of intended receipt, then on the next day (not being a Saturday or a Sunday) on which such banks are open for usual business. In proving service by facsimile, it will be sufficient to prove that the document was properly addressed and sent by facsimile.

**9.4 Service by Email:** A notice served by email will be deemed to have been served on the day following completion of its transmission or, if such day is a Saturday or a

Sunday or a day on which major trading banks are closed for usual business in the place of intended receipt, then on the next day (not being a Saturday or a Sunday) on which such banks are open for usual business. In proving service by email, it will be sufficient to prove confirmation of delivery to the recipient's email address from the transmitting system.

- 9.5 Service on Joint Holders:** A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the share register in respect of the Share.

## **10. REMOVAL FROM THE NEW ZEALAND REGISTER**

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In the event that:

- 10.1 Cessation of Business:** the Company has ceased to carry on business, has discharged in full its liabilities to all its known creditors, and has distributed its surplus assets in accordance with this constitution and the Act; or
- 10.2 No Surplus Assets:** the Company has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court under section 241 of the Act for an order putting the Company into liquidation,

the Board may, in the prescribed form, request the Registrar to remove the Company from the New Zealand Register of Companies.