Required

Recommended

Optional

**[COMPANY NAME] LIMITED**

**Written resolution of the shareholders of the Company**

**Date:**

The shareholders **resolve** by **special resolution**, under section 122(1) of the Companies Act 1993 that the attached constitution be **adopted** as the Company’s constitution pursuant to section 32(1) of the Companies Act 1993.

**Signed** by all of the shareholders:

) [name]

) [name]

) [name]

) [name]

) [name]

) [name]

**CONSTITUTION OF**

**[COMPANY NAME] LIMITED**

[1. WHAKAMĀRAMATANGA/INTERPRETATION 1](#_Toc471801880)

[2. WHAKATAKINGA/INTRODUCTION 1](#_Toc471801881)

[3. WHĀINGA/PURPOSE 2](#_Toc471801882)

[4. TE TUKU TOENGA RAWA /DISPOSITION OF SURPLUS ASSETS 2](#_Toc471801883)

[5. NGA HEA/SHARES 3](#_Toc471801884)

[6. NGA HUI O NGĀ KAIPUPURI HEA /MEETINGS OF SHAREHOLDERS 4](#_Toc471801885)

[7. NGĀ POARI WHAKATAKA/BOARD OF DIRECTORS 5](#_Toc471801886)

[8. ME WHAI PAINGA NGĀ MAHI A NGĀ POUWHAKAHAERE KI NGĀ KAUPAPA OHAOHA A TE KAMUPENE/DIRECTORS TO ACT IN THE BEST INTEREST OF THE CHARITABLE PURPOSES OF THE COMPANY 6](#_Toc471801887)

[9. HUI WHAKATAKA/DIRECTORS’ MEETINGS 6](#_Toc471801888)

[10. NGĀ UTU ME ĒTAHI ATU PAINGA/REMUNERATION AND OTHER BENEFITS 7](#_Toc471801889)

[11. NGĀ HOKINGA Ā-TAU/ ANNUAL RETURN 7](#_Toc471801890)

[12. TE WHAKATAU RARURARU/ DISPUTE RESOLUTION 8](#_Toc471801891)

[SCHEDULE A - Proceedings at Shareholder meetings i](#_Toc471801892)

[SCHEDULE B - Procedure at Board Meetings ix](#_Toc471801893)

**CONSTITUTION OF**

**[COMPANY] LIMITED**

# WHAKAMĀRAMATANGA/INTERPRETATION

* 1. In this Constitution, unless the context requires otherwise:

**“Act”** means the Companies Act 1993

**“Board”** means the board of directors of the Company

**“charitable purpose”** has the meaning given to it by section 5 of the Charities Act 2005

**“charitable entity”** means an entity that is registered as a charitable entity under the Charities Act 2005

**“purposes of the Company”** means the purposes listed in clause 3.1 of this Constitution

* 1. Headings are for ease of reference only and shall not be deemed to form any part of the context or to affect the interpretation of this Constitution.
  2. Unless defined in this clause, all terms that are defined in the Act have the meanings given to them in the Act.
  3. Any reference to the singular includes the plural and vice versa.
  4. Two persons, including legal entities, are **associated** persons if;

In the case of a natural person with a natural person;

* + - 1. they are within two degrees of blood relationship (e.g. mother, father, sister, brother, aunt, uncle, first cousin, grandparent, or grandchild);
      2. they are married, in a civil union, or in a de facto relationship; or
      3. one person is within two degrees of blood relationship to the other person’s spouse, civil union partner or de facto partner (e.g. mother, father, sister, brother, aunt, uncle, first cousin, grandparent, or grandchild);
      4. they share any other relationship that a reasonable person would consider would significantly influence their decisions.

In the case of a natural person with a legal entity, or a legal entity with a legal entity;

* + - 1. they are defined as associated under the Income Tax Act 2007.

# WHAKATAKINGA/INTRODUCTION

* 1. **Constitution and the Act** 
     1. The Company, the Board, each director and each shareholder have the rights, powers, duties, and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this Constitution.
     2. This Constitution has no effect where it contravenes, or is inconsistent with, the Act.
  2. **Te Ingoa/Name**
     1. The name of the Company is **[COMPANY NAME]**.

The name of your company must end with the word “Limited” or the words “Tāpui (Limited)”.

The name of the Company should not be identical or almost identical to the name of another company, or offensive. We recommend you check the Charities Register, and the Companies Office for similar names: http://www.business.govt.nz/companies/learn-about/reserving-company-names/check-availability. You can use tohutō (macrons) in your name.

* + 1. For the purposes of this Constitution and the Act, an application to change the name of the Company is an amendment of this Constitution, and must be made by special resolution of the shareholders.

# WHĀINGA/PURPOSE

* 1. All capacity, rights, powers and privileges of the Company must be exercised exclusively for furthering the following charitable purposes:
     1. [Charitable Purpose]
     2. [Charitable Purpose]
     3. Any non-charitable purpose that is merely ancillary or subordinate to a charitable purpose of the Company.

A charitable purpose is defined in section 5 of the Charities Act as including the relief of poverty, advancement of education or religion, or any other matter beneficial to the community. [More information on purposes, including example wording, is available on the Charities Services website.](https://www.charities.govt.nz/ready-to-register/need-to-know-to-register/charitable-purpose/)

* 1. The purposes of the Company are limited to New Zealand.

If you intend to operate overseas, there may be [tax consequences](https://www.ird.govt.nz/roles/non-profits/not-for-profit-and-charitable-organisations-working-overseas).

* 1. All income, benefit or advantage must be used to advance the purposes of the Company.
  2. No alterations can be made to the Company’s purposes if those alterations mean the Company will not be maintained exclusively for charitable purposes or will be carried on for the private profit of any individual.

# TE TUKU TOENGA RAWA / DISPOSITION OF SURPLUS ASSETS

The following clauses are three alternative options for distribution of surplus assets when the Company is wound up or dissolved or put into liquidation: (1) to charitable purposes; (2) to an unspecified charitable entity; and (3) to a named or specific entity. You should choose only one of these options.

***# Distributions to charitable purposes***

* 1. If, upon the winding up or dissolution of the Company any property remains after the satisfaction of the Company’s debts and liabilities, that property must be used to further a charitable purpose that is as close as possible to the Company's charitable purposes.
  2. If the Company is put into liquidation for any reason, and if, after paying all claims as required by the Act, any assets remain, the liquidator must distribute all surplus assets to further a charitable purpose that is as close as possible to the Company's charitable purposes.

# Distributions to charitable entities

* 1. If, upon the winding up or dissolution of the Company any property remains after the satisfaction of the Company’s debts and liabilities, that property must be distributed to a charitable entity whose charitable purposes are as close as possible to those of the Company, to further such purposes.
  2. If the Company is put into liquidation for any reason, and if, after paying all claims as required by the Act, any assets remain, the liquidator must distribute all surplus assets to a charitable entity whose charitable purposes are as close as possible to those of the Company, to further such purposes.

# Distributions to a specific entity

* 1. If, upon the winding up or dissolution of the Company any property remains after the satisfaction of the Company’s debts and liabilities, that property must be distributed to [NAMED ENTITY] for charitable purposes.
  2. If the Company is put into liquidation for any reason, and if, after paying all claims as required by the Act, any assets remain, the liquidator must distribute all surplus assets to [NAMED ENTITY] for charitable purposes.
  3. If, for any reason, at the time the Company is wound up, dissolved or liquidated, [NAMED ENTITY] has ceased to exist, the surplus assets of the Company must be distributed to further a charitable purpose.

# NGA HEA/SHARES

The following are two options for preventing private benefit to shareholders: restricting payment of dividends and other distributions to charitable shareholders **or** restricting the issue and transfer of shares to charities. You should choose the option that is right for your circumstances; for example, if the Company’s shares are held by individuals, you will need to choose the option that restricts distributions to any shareholders except charities.

***# Where shares will be issued to non-charitable entities/persons***

* 1. **No benefit to shareholders that are not charities**
     1. A shareholder has no right to a dividend or distribution unless they are registered charities or shareholders holding shares on trust for charitable purposes and are authorised to receive such a dividend or distribution by the Board or otherwise under the Constitution.

***# Where shares will be issued to charitable entities/persons to hold on trust for charitable purposes***

* 1. **No issue of shares to non-charitable entities**
     1. The Company may only issue shares to entities that are registered as charitable entities or trustees who hold the share on trusts exclusively for charitable purposes.
     2. The Board may only seek shareholder approval under section 44 of the Act to issue shares to entities that are registered as charitable entities or trustees who hold the share on trusts exclusively for charitable purposes.
  2. **No transfer of shares to non-charitable entities**
     1. Shares in the Company may only be transferred to an entity that is a registered charitable entity or trustees who hold the share on trusts exclusively for charitable purposes.
     2. Should the Board receive a form of transfer of shares where the transferee is not a registered charitable entity, or trustees who hold the share on trusts exclusively for charitable purposes, the Board must refuse to register the transfer on the share register.
  3. **Benefit to shareholders**
     1. For the avoidance of doubt, the Board may only authorise distributions (dividends or otherwise) to shareholders that are registered charities or entities established for exclusively charitable purposes.

# NGA HUI O NGĀ KAIPUPURI HEA/ MEETINGS OF THE SHAREHOLDERS

* 1. Annual Meetings
     1. The Board must call an annual meeting of shareholders on a date that is:
        1. not later than six months after the balance date of the Company; and
        2. not later than 15 months after the previous annual meeting.
     2. Notwithstanding clause 6.1.1., the first annual meeting:
        1. does not need to be held within the calendar year within which the Company is registered; but
        2. must be held within the first 18 months of the Company’s registration.
     3. The Company must hold the annual meeting on the date that the Board called it to be held.
  2. Special Meetings

6.2.1 A special meeting of the shareholders may be called at any time by :

* + - 1. the Board; or
      2. [INSERT NAME OF PERSON/ENTITY AUTHORISED TO CALL THE MEETING HERE].
    1. A special meeting of the shareholders must be called on receipt of a written request from shareholders who together hold shares that carry at least 5% of the voting rights entitled to be exercised in a vote on the issue to be discussed at the special meeting.
  1. Procedure at meetings
     1. Annual meetings and special meetings must be carried out in accordance with the procedure in Schedule A of this Constitution.

# NGĀ POARI WHAKATAKA/BOARD OF DIRECTORS

* 1. **Composition of the Board**
     1. The Company must have at least [x] directors.

OR

The Company must at all times have between [x] and [x] directors.

* + 1. A person is not qualified to be a director of the Company if they are disqualified from being appointed or holding office as a director of a company under section 151(2) of the Act or if they are disqualified from being an officer of a charitable entity under section 16(2) of the Charities Act 2005.
  1. **PĀNGA RONGORUA/CONFLICTS OF INTEREST**

|  |
| --- |
| It is up to the charity to decide how it maintains its interests register. One way to maintain an interests register is by reviewing and updating the Company’s share register as necessary at every Board meeting. |

* + 1. The Board shall maintain an interests register.
    2. Where a director becomes aware of the fact that the director or a person associated with the director is interested in a transaction, the director must enter the value, nature and extent of the interest in the interests register.
    3. Where a director or a person associated with a director is interested in a transaction, that director must not:
       1. vote on a matter relating to the transaction;
       2. unless approved by the other Board members, be present at, or be counted in the quorum of, a meeting during any discussion of the transaction; or
       3. otherwise materially influence the decision of the Board in relation to the transaction.

|  |
| --- |
| It is recommended as best practice that companies include the clause preventing directors from being present and counted in the quorum of a meeting where a conflict transaction is discussed, as it provides further protection against conflicts of interest, and the perception of conflicts of interest. There may be circumstances, however, where it is appropriate for the Board to authorise an interested director to be present and counted in the quorum; for example, to answer questions in an area within their expertise, or where the conflicted director may have an indirect benefit in a transaction involving a large beneficiary group, and they are required to achieve quorum.  The company must ensure that its interests register is updated as necessary. We recommend that and that any decision for an interested director to be present and be counted in quorum is recorded in the minutes with an explanation of why it is necessary for the interested person to attend. |

# ME WHAI PAINGA NGĀ MAHI A NGĀ POUWHAKAHAERE KI NGĀ KAUPAPA OHAOHA A TE KAMUPENE/DIRECTORS TO ACT IN THE BEST INTEREST OF THE CHARITABLE PURPOSES OF THE COMPANY

* 1. Directors to act in the best interest of the charitable purposes of the Company.
     1. Subject to the subclauses contained below, a director, when exercising his/her powers or performing duties, must act in good faith and to achieve the charitable purposes of the Company.
  2. Wholly owned subsidiary
     1. If the Company is a wholly owned subsidiary, a director may when exercising his/her powers or performing duties as a director, act in a manner which he or she believes is in the best interests of the Company’s holding company even though it may not be in the best interests of the Company.
     2. The directors can only act in the manner prescribed under clause 6.2.1 if the Company’s holding company is a registered charitable entity under the *Charities Act 2005*.
  3. Partly owned subsidiary
     1. If the Company is a subsidiary (but not a wholly owned subsidiary), a director may when exercising powers or performing duties as a director with a prior agreement of the shareholders (other than its holding company), act in a manner which he or she believes is in the best interests of the Company’s holding company even though it may not be in the best interests of the Company.
     2. The directors can only act in the manner prescribed under clause 8.3.1 if the Company’s holding company is a registered charitable entity under the *Charities Act 2005*.

# HUI WHAKATAKA/DIRECTORS’ MEETINGS

* 1. Meetings
     1. The Board shall meet—
        1. [insert how many times you want to meet]; and
        2. At such times as are determined by the Board as necessary.
  2. Procedure at meetings
     1. Meetings of the Board must be carried out in accordance with the procedure in Schedule B of this Constitution.

Unlike the procedures of the shareholder meetings under Schedule A, the entire Schedule B can be altered. See further guidance notes below.

# NGĀ UTU ME ĒTAHI ATU PAINGA/ REMUNERATION AND OTHER BENEFITS

10.1 **No private pecuniary profit**

* + 1. No private pecuniary profit shall be made by any person from the operation of the Company, except that:
       1. the directors may pay reasonable and proper remuneration to any person or entity (including the director) in return for services actually rendered to the Company; and
       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.
    2. No influence
       1. The directors, in determining all reimbursements, remuneration and charges payable under this Constitution, must at all times strictly observe the restrictions imposed by clause 7.2.3

# NGĀ HOKINGA Ā-TAU/ANNUAL REPORTING

* 1. Performance reports must be prepared
     1. The Company will ensure that, within 6 months after the balance date each year, performance reports are prepared for the year up to the balance date.
     2. If the Company is registered under the Charities Act, the performance report must comply with the relevant reporting and assurance requirements.

Registered charities must file annual returns with Charities Services, including a performance report that meets reporting standards set by the External Reporting Board. The performance report must be reviewed or audited by a qualified auditor in some cases. [More information is available on Charities Services website.](https://www.charities.govt.nz/reporting-standards/about/)

# TE WHAKATAU RARURARU/DISPUTE RESOLUTION

* 1. No director or shareholder shall commence any court or arbitration proceedings relating to an unresolved dispute or difference unless they have first complied with this clause 12.
  2. The directors and shareholders agree to mediate any unresolved dispute or difference by agreeing to mediate such unresolved dispute or difference. All parties to a dispute must act in good faith and a timely manner.
  3. Should the parties not be able to agree the selection of a mediator or terms and or fees within five (5) working days from the date one party delivers written notice to the other party that they wish the dispute or difference to be resolved by mediation, then either party may request the appointment of the mediator and its standard terms including fees by the President for the time being of the Arbitrators’ and Mediators’ Institute of New Zealand Inc or their nominee. Should a party fail to attend the mediation under clause 12.2 above, then that party shall be responsible for all the costs of the meditation.

# SCHEDULE A

**Proceedings at Shareholder meetings**

This schedule explains how shareholder meetings should happen under the Companies Act, with some amendments to reflect the special nature of charitable companies. Schedule 1 of the Companies Act governs proceedings at shareholder meetings.

You can include different provisions from Schedule 1 for procedure in shareholder meetings in only some specific areas. For example, you can have different rules governing the chairperson, quorum, whether the chairperson has a casting vote, postal votes, and other procedural matters not covered by Schedule 1.

**1. Chairperson**

1. If the Board has elected a chairperson of the Board, and he or she is present at a meeting of shareholders, he or she will chair the meeting.
2. 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 scheduled for the start of the meeting, the shareholders present may choose one of their number to be chairperson of the meeting.

**2. Notice of meetings**

1. Written notice of the time and place of a meeting of shareholders must be sent to every shareholder entitled to receive notice of the meeting and to every director and an auditor of the company not less than 10 working days before the meeting.
2. The notice must state—
   1. the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it; and
   2. the text of any special resolution to be submitted to the meeting; and
   3. in the case of special resolutions required by section 106(1)(a) or (b) of the Companies Act, the right of a shareholder under section 110 of the Companies Act.
3. An irregularity in a notice of a meeting is waived if all the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such shareholders agree to the waiver.
4. The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a shareholder does not invalidate the proceedings at that meeting.
5. The omission (whether accidental or otherwise) to give notice of a meeting to, or the failure to receive notice of a meeting by, a shareholder shall invalidate the proceedings at that meeting.

Under s122 of the Companies Act the shareholders can sign a resolution in lieu of a meeting if they wish if such a resolution is signed by not less than 75% of the shareholders or such other percentage as the Company’s constitution may require.

1. If a meeting of shareholders is adjourned for less than 30 days, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned.
2. If a meeting of shareholders is adjourned, notice of the time and place of the adjourned meeting must be given following the procedure in subclauses (a) and (b) above.

**3. Methods of holding meetings**

1. A meeting of shareholders may be held by a quorum of the shareholders—
   1. being assembled together at the time and place appointed for the meeting; or
   2. participating in the meeting by means of audio, audio and visual, or electronic communication; or
   3. by a combination of both of the methods described in paragraphs (i) and (ii).

**4. Quorum**

1. Subject to subclause (c), no business may be transacted at a meeting of shareholders if a quorum is not present.
2. A quorum for a meeting of shareholders is present if shareholders or their proxies are present or have cast postal votes who are between them able to exercise [a majority/] of the votes to be cast on the business to be transacted by the meeting.
3. If a quorum is not present within 30 minutes after the time appointed for the meeting, —
   1. in the case of a meeting called under clause 6.2.2, the meeting is dissolved:
   2. in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the directors may appoint, and, subject to the constitution of the company, if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders or their proxies present are a quorum.
4. To avoid doubt, a shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

**5. Voting**

1. In the case of a meeting of shareholders held under clause 3(a)(i), 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:
   1. voting by voice; or
   2. voting by show of hands.
2. In the case of a meeting of shareholders held under clause 3(a)(ii) or (iii), unless a poll is demanded, voting at the meeting shall be by any method permitted by the chairperson of the meeting.
3. A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with subclause (d).
4. At a meeting of shareholders, a poll may be demanded by—
   1. not less than 5 shareholders having the right to vote at the meeting; or
   2. a shareholder or shareholders representing not less than 10% of the total voting rights of all shareholders having the right to vote at the meeting; or
   3. a shareholder or shareholders holding shares in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all shares that confer that right; or
   4. the chairperson of the meeting.
5. A poll may be demanded either before or after the vote is taken on a resolution.
6. If a poll is taken, votes must be counted according to the votes attached to the shares of each shareholder present in person or by proxy and voting.
7. The chairperson of a shareholders' meeting is not entitled to a casting vote.

OR

1. The chairperson of a shareholders’ meeting is entitled to a casting vote.

A casting vote is a single vote by the person in charge of a meeting, which is used to decide a question if the number of votes on each side is equal. Model clause 5(g) includes an option for allowing the chairperson to have a casting vote, which modifies clause 5(7) of Schedule 1 of the Companies Act 1993.

1. For the purposes of this clause, the instrument appointing a proxy to vote at a meeting of a company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a shareholder has the same effect as a demand by the shareholder.

**6. Proxies**

1. A shareholder may exercise the right to vote either by being present in person or by proxy.
2. A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were the shareholder.
3. A proxy must be appointed by notice in writing signed by or, in the case of an electronic notice, sent by the shareholder and the notice must state whether the appointment is for a particular meeting or a specified term.
4. A shareholder may appoint more than 1 proxy for a particular meeting, provided that more than 1 proxy is not appointed to exercise the rights attached to a particular share held by the shareholder.
5. No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting.
6. A proxy is not effective unless it is produced by a [CHOOSE PERIOD LESS THAN 48 HOURS] before the start of the meeting.

A proxy is an authority to represent someone else. Model clause 6(f) includes an option to include a specific time period to produce a proxy, which is permitted by clause 6(5) of Schedule 1 of the Companies Act 1993

**7. Postal or electronic votes**

1. A shareholder may exercise the right to vote at a meeting by casting a postal vote in accordance with the provisions of this clause.
2. To avoid doubt, a postal vote may be cast using electronic means permitted by the board.

A “postal vote” can include using audio, audio and visual or electronic communication as permitted by the Board. This may include votes by video conference or email.

1. The notice of a meeting at which shareholders are entitled to cast a postal vote must state the name of the person authorised by the board to receive and count postal votes at that meeting.
2. If no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every director is deemed to be so authorised.
3. A shareholder may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which his or her shares are to be voted to a person authorised to receive and count postal votes at that meeting. The notice must reach that person not less than 48 hours before the start of the meeting.
4. It is the duty of a person authorised to receive and count postal votes at a meeting—
   1. to collect together all postal votes received by him or her or by the company; and
   2. in relation to each resolution to be voted on at the meeting, to count—
      1. the number of shareholders voting in favour of the resolution and the number of votes cast by each shareholder in favour of the resolution; and
      2. the number of shareholders voting against the resolution, and the number of votes cast by each shareholder against the resolution; and
   3. to sign a certificate that he or she has carried out the duties set out in paragraphs (i) and (ii) and which sets out the results of the counts required by paragraph (ii); and
   4. to ensure that the certificate required by paragraph (iii) is presented to the chairperson of the meeting.
5. If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting must—
   1. on a vote by show of hands, count each shareholder who has submitted a postal vote for or against the resolution:
   2. on a poll, count the votes cast by each shareholder who has submitted a postal vote for or against the resolution.
6. The chairperson of a meeting must call for a poll on a resolution on which he or she holds sufficient postal votes that he or she believes that if a poll is taken the result may differ from that obtained on a show of hands.
7. The chairperson of a meeting must ensure that a certificate of postal votes held by him or her is annexed to the minutes of the meeting.

**8. Minutes**

1. The board must ensure that minutes are kept of all proceedings at meetings of shareholders.
2. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

**9. Shareholder proposals**

1. A shareholder may give written notice to the board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote.
2. If the notice is received by the board not less than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board must, at the expense of the company, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
3. If the notice is received by the board not less than 5 working days and not more than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board must, at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
4. If the notice is received by the board less than 5 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board must, if practicable, and at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
5. If the directors intend that shareholders may vote on the proposal by proxy or by postal vote, they must give the proposing shareholder the right to include in or with the notice given by the board a statement of not more than 1 000 words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.
6. The board is not required to include in or with the notice given by the board—
   1. any part of a statement prepared by a shareholder that the directors consider to be defamatory (within the meaning of the Defamation Act 1992), frivolous, or vexatious; or
   2. any part of a proposal or resolution prepared by a shareholder that the directors consider to be defamatory (within the meaning of the Defamation Act 1992).
7. Where the costs of giving notice of the shareholder proposal and the text of any proposed resolution are required to be met by the proposing shareholder, the proposing shareholder must, on giving notice to the board, deposit with the company or tender to the company a sum sufficient to meet those costs.

**10. Corporations may act by representatives**

1. A body corporate which is a shareholder may appoint a representative to attend a meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy.

**11. Votes of joint holders**

1. Where 2 or more persons are registered as the holder of a share, the vote of the person named first in the share register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

**12. Loss of voting right if calls unpaid**

1. Subject to the constitution of a company, if a sum due to a company in respect of a share has not been paid, that share may not be voted at a shareholder's meeting other than a meeting of an interest group.

**13. Other proceedings**

1. Except as provided in this schedule, a meeting of shareholders may regulate its own procedure.

**14. Shareholder participation by electronic means**

1. For the purposes of this schedule, a shareholder, or the shareholder's proxy or representative, may participate in a meeting by means of audio, audio and visual, or electronic communication if—
   1. the board approves those means; and
   2. the shareholder, proxy, or representative complies with any conditions imposed by the board in relation to the use of those means (including, for example, conditions relating to the identity of the shareholder, proxy, or representative and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means).
2. To avoid doubt, participation in a meeting includes participation in any manner specified in this schedule or permitted by the constitution of the company.

Schedule B is the same as Schedule 3 of the Companies Act. You can modify any of these provisions to suit your circumstances.

# SCHEDULE B - Procedure at Board Meetings

##### **1. Chairperson**

* 1. The directors may elect one of their number as chairperson of the board.
  2. The director elected as chairperson holds that office until he or she dies or resigns, or the directors elect a chairperson in his or her place.
  3. If no chairperson is elected, or if at a meeting of the board the chairperson is not present within 5 minutes after the time appointed for the commencement of the meeting, the directors present may choose one of their number to be chairperson of the meeting.

##### **2. Notice of meeting**

1. A director or, if requested by a director to do so, an employee of the company, may convene a meeting of the board by giving notice in accordance with this clause.
2. Not less than 2 days' notice of a meeting of the board must be sent to every director who is in New Zealand, and the notice must include the date, time, and place of the meeting and the matters to be discussed.
3. An irregularity in the notice of a meeting is waived if all directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all directors entitled to receive notice of the meeting agree to the waiver.

##### **3. Methods of holding meetings**

1. A meeting of the board may be held either—
   1. by a number of the directors who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
   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.

##### **4. Quorum**

1. A quorum for a meeting of the board is a majority of the directors.
2. No business may be transacted at a meeting of directors if a quorum is not present.

##### **5. Voting**

1. Every director has 1 vote.
2. The chairperson does not have a casting vote.
3. 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.
4. A director present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless he or she expressly dissents from or votes against the resolution at the meeting.

##### **6. Minutes**

1. The board must ensure that minutes are kept of all proceedings at meetings of the board.

##### **7. Unanimous resolution**

1. A resolution in writing, signed or assented to by all directors then entitled to receive notice of a board meeting, is as valid and effective as if it had been passed at a meeting of the board duly convened and held.
2. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by 1 or more directors.
3. A copy of any such resolution must be entered in the minute book of board proceedings.

##### **8. Other proceedings**

1. Except as provided in this schedule, the board may regulate its own procedure.