

Constitution of Wairarapa Tararua Water Limited

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1. DEFINITIONS AND INTERPRETATION

1.1 In this Constitution, unless the context otherwise requires:

"Board" means Directors who number not less than the required quorum, acting together as a board of Directors.

"Board Skills Requirements" means the skills set out in Schedule 3, as may be amended from time to time in accordance with clause 12.5(c).

"Business Day" means a day (other than a Saturday, a Sunday or a public holiday) on which registered banks are open for business in Carterton, Masterton, South Wairarapa and Tararua, New Zealand.

"Chair" means the chair of the Board appointed in accordance with clause 12.8.

"Companies Act" means the Companies Act 1993.

"Company" means Wairarapa Tararua Water Limited.

"Constitution" means this constitution of the Company (including the Schedules) and all amendments to it from time to time.

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

"Financial Year" has the meaning set out in the LG(WS) Act.

"Independent Director" means a person who, in the determination of the Stakeholders' Forum, is free from any association that could materially interfere with the exercise of their independent judgement as a director of the Company, including that the person:

- (a) is not an elected member of any Shareholder;
- (b) is not employed, and has not previously been employed, in an executive capacity by any Shareholder unless there has been a period of at least two years between ceasing such employment and serving on the board;
- (c) is not employed, and has not previously been employed, in an executive capacity by the Company unless there has been a period of at least two years between ceasing such employment and serving on the board;
- (d) does not currently have (and has not within the last two years had) a material business or contractual relationship (for example, supplier or customer) with a Shareholder or the Company; and
- (e) does not have close family ties or personal relationships (including close social or business connections) with anyone in paragraphs (a) to (d) above.

"LGA" means the Local Government Act 2002.

"LG(WS) Act" means the Local Government (Water Services) Act 2025.

"Local Authority" has the meaning set out in the LGA.

"Reserved Matters" has the meaning given to it in the Shareholders' Agreement.

"Service Area" has the meaning set out in the LG(WS) Act.

"Shares" means the shares in the Company on issue from time to time.

"Shareholder" means any person for the time being registered in the Company's share register as the holder of one or more Shares in the Company.

"Shareholders' Agreement" means the shareholders' agreement relating to the Company between the Company and the Shareholders (as amended from time to time).

"Special Resolution" means a resolution that is approved by a majority of 75% of the votes of those Shareholders entitled to vote and voting on the question.

"Stakeholders' Forum" has the meaning set out in the Shareholders' Agreement.

"Statement of Expectations" has the meaning given to it in the LG(WS) Act.

"Subsidiary" has the meaning set out in the Companies Act.

"Water Organisation" has the meaning set out in the LG(WS) Act.

"Water Services" has the meaning set out in the LG(WS) Act, which shall be the water services in respect of which responsibility is transferred by the Shareholders to the Company in accordance with the Transfer Agreement between each Shareholder and the Company.

"Water Services Annual Budget" has the meaning set out in the LG(WS) Act.

"Water Services Annual Report" has the meaning set out in the LG(WS) Act.

"Water Services Half-yearly Report" means the report referred to in section 248 of the LG(WS) Act.

"Water Services Strategy" has the meaning set out in the LG(WS) Act.

1.2 **Interpretation:** In this Constitution, the following rules of interpretation apply, unless the context requires otherwise:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;
- (d) words in this Constitution have the same meaning as in the Companies Act unless inconsistent with the context;

- (e) a reference to a party, person or entity includes:
 - (i) an individual, firm, company, trust, partnership, joint venture, association, corporation, body corporate, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
 - (ii) an employee, agent, successor, permitted assign, executor, administrator and other representative of such party, person, entity;
- (f) a reference to dollars or \$ is to New Zealand currency and excludes every tax and duty;
- (g) a reference to a clause or schedule is to a clause or schedule of this Constitution;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) references to the word 'include' or 'including' are to be construed without limitation;
- (j) references to any form of law is to New Zealand law, including as amended or re-enacted;
- (k) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (l) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (m) any obligation falling due for performance on or by a day other than a Business Day shall be performed on or by the Business Day immediately following that day; and
- (n) an obligation not to do something includes an obligation not to allow or cause that thing to be done.

1.3 If there is any conflict:

- (a) between a provision of this Constitution and the provisions of the Shareholders' Agreement, the terms of the Shareholders' Agreement will prevail (other than to the extent prohibited by the Companies Act) and the Shareholders must pass such resolutions as may be necessary to amend the provisions of this Constitution to make it consistent with the Shareholders' Agreement;
- (b) between a provision in this Constitution and a mandatory provision in the Companies Act, the LG(W)S Act or the LGA, then the mandatory provision in the Companies Act, the LG(W)S Act or the LGA will prevail; and
- (c) between:
 - (i) a provision in this Constitution and a provision in the Companies Act which is expressly permitted to be altered by this Constitution; or

- (ii) a word or expression defined or explained in the Companies Act and a word or expression defined or explained in this Constitution,

then the provision, word or expression in this Constitution will prevail.

2. CAPACITY AND OBJECTIVES

- 2.1 As at the date of its incorporation, the Company is a Water Organisation.
- 2.2 The Company must not carry on any business other than the provision of Water Services and activities that are related to, or necessary for, the provision of Water Services. Such business must be carried on in order to:
 - (a) meet the objectives set out in section 17 of the LG(WS) Act for the Service Area;
 - (b) maximise the cost efficiency of providing the Water Services; and
 - (c) except where otherwise permitted by the Shareholders' Agreement, apply appropriate price differentials in setting charges for water users within a Service Area or in different Service Areas, so that those charges reflect the corresponding costs to serve those water users.
- 2.3 Subject to the Shareholders' Agreement, this Constitution, the Companies Act, the LG(WS) Act, the LGA and the Statement of Expectations, the Company has full capacity, rights, powers and privileges to carry on or undertake any business or activity, do any act, or enter into any transaction.

3. WATER ORGANISATION REQUIREMENTS

- 3.1 The Company must comply with:
 - (a) its obligations under the LGA and LG(WS) Act, including preparing, adopting and publishing its Water Services Strategy, Water Services Annual Budget and Water Services Half-yearly Report;
 - (b) the obligation in the LG(WS) Act to act in a manner that is consistent with Treaty settlement obligations (including the Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017, the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022 and the Te Rohe o Rongokako Joint Redress Act 2022); and
 - (c) the applicable parts of the Local Government Official Information and Meetings Act 1987.
- 3.2 In preparing the Company's Water Services Strategy and Water Services Annual Budget, the Stakeholders' Forum will be able to provide comments on each of the draft strategy and draft budget, but will not have the power to require changes or approve the final strategy or final budget.
- 3.3 In accordance with the LGA, the auditor for the Company shall be the Auditor-General.

4. SHARES

4.1 **Initial shares:** The Shares on issue at the date of adoption of this Constitution are ordinary shares. Subject to the Shareholders' Agreement and the rights of Shares which confer special rights, each Share confers on the holder the right to:

- (a) one vote on a poll at a meeting of the Shareholders on any resolution, including any resolution to:
 - (i) appoint or remove a Director or auditor; or
 - (ii) adopt a constitution; or
 - (iii) alter the Company's constitution; or
 - (iv) approve a major transaction; or
 - (v) approve an amalgamation of the Company under section 221 of the Companies Act; or
 - (vi) put the Company into liquidation;
- (b) an equal share in dividends authorised by the Board; and
- (c) an equal share in the distribution of the surplus assets of the Company.

4.2 **Issue of Shares:** Subject to this Constitution, the Shareholders' Agreement and the LG(WS) Act, the Board may:

- (a) issue Shares at any time, to any person listed in clause 7.4 or any other person permitted to hold Shares in accordance with the LG(WS) Act and in such numbers as it thinks fit;
- (b) issue Shares in different classes which have different rights;
- (c) issue Shares which are redeemable (as defined in section 68 of the Companies Act); and
- (d) divide existing Shares into different classes which have different rights,

provided that no Shares may be issued unless the issue is first approved by written resolution of all Shareholders.

5. CALLS ON SHARES

5.1 **Board may make calls:** Subject to the Shareholders' Agreement, the Board may make calls on any Shareholder in respect of any money unpaid on their Shares, and not previously made payable at a fixed time, by prior written notice to the relevant Shareholder specifying the time and date for payment (such time and date to be no earlier than 10 Business Days after the notice is given to the relevant Shareholder). The relevant Shareholder must comply with the terms of any call made by the Board. A call may be payable by instalments. The Board may revoke or postpone a call.

- 5.2 **Interest and expenses:** A person who fails to pay a call on the due date must pay:
- (a) interest on that money from the day payment was due to the day of actual payment at a rate fixed by the Board; and
 - (b) all expenses which the Company has incurred or may incur because of non-payment,

provided that the Board may waive payment of all or part of that interest or those expenses.

- 5.3 **Joint Shareholders:** Joint Shareholders are jointly and severally liable to pay all calls in respect of Shares registered in their names.

6. LIEN OVER SHARES

- 6.1 **Existence and subject matter of lien:** If a Shareholder fails to pay any call on the due date, the Board may at any time by written notice to the Shareholder require payment of the unpaid amount together with any amount payable under clause 5.2. Such notice must specify a further date (not earlier than 10 Business Days from the date of the notice) by which payment is required to be made, and must state that if such payment is not made on or before the specified date, clause 6.2 will apply.

- 6.2 **Company has first lien:**

- (a) The Company has a first lien over:
 - (i) each Share and the proceeds of sale of the Share; and
 - (ii) all distributions made in respect of the Share,for:
 - (iii) all unpaid calls owing in respect of the Shares and any amount payable under clause 5.2; and
 - (iv) sale expenses owing to the Company in respect of the Shares.
- (b) The registration of any transfer of a Share will not operate as a waiver of any lien the Company may have on that Share, unless notice to the contrary is given by the Company to the transferee.

7. TRANSFER OF SHARES

- 7.1 **Right to transfer:** Subject to any restrictions set out in this clause 7, the LGA, the LG(WS) Act and the Shareholders' Agreement, a Share may be transferred by entry of the name of the transferee in the share register for the Company following receipt by the Company of a validly signed form of transfer.
- 7.2 **Prior approval required:** No Shareholder may sell, assign, transfer or dispose of, directly or indirectly, the legal or beneficial ownership of any of its Shares except in accordance with the provisions of this clause 7 and unless such sale, assignment, transfer or disposal:

- (a) has first been approved in writing by all Shareholders; or
- (b) is a permitted transfer in accordance with clause 7.4.

7.3 **No delay:** The Board may not exercise any powers conferred by this Constitution to refuse or delay the registration of any sale, assignment, transfer or disposal of Shares completed in accordance with clause 7.2.

7.4 **Permitted transfers:** Subject to the LG(WS) Act, the restrictions in this clause 7 do not apply to the transfer of Shares by a Local Authority to:

- (a) any successor Local Authority to that Local Authority; or
- (b) a consumer trust established for the purpose of providing water services to the public.

7.5 **Board may refuse to register:** The Board may refuse or delay the registration of any transfer of a Share to any person if:

- (a) the transfer would result in a breach of law, this Constitution or the Shareholders' Agreement;
- (b) any money payable on that Share is due for payment and has not been paid;
- (c) the Shares are not fully paid and the Board is not satisfied in its sole discretion with the ability of the transferee to pay any call that may be made in the future (whether or not contemplated at that time);
- (d) the Company has an unsatisfied lien on that Share or the proceeds of sale of that Share;
- (e) the transferee is a person without legal capacity to contract or the transfer has not been properly executed;
- (f) the transfer is not accompanied by proof (reasonably required by the Directors) of the right of the transferor to make the transfer;
- (g) the Directors acting in good faith determine that registration of the transfer would not be in the best interests of the Company; or
- (h) the transfer document is not in the usual or common form or otherwise in the form prescribed by the Board from time to time (if any),

provided that the Board must at all times comply with section 84 of the Companies Act.

8. DISTRIBUTIONS

8.1 **Distributions:** The Board, if satisfied on reasonable grounds that the Company will, immediately after the Distribution, satisfy the solvency test under section 4 of the Companies Act, may, subject to the Companies Act, the Shareholders' Agreement and the LG(WS) Act, authorise Distributions by the Company at times, and of amounts, and in such form, as it thinks fit and may do everything which is necessary or expedient to give effect to any such Distribution.

9. COMPANY ACQUIRING ITS OWN SHARES

- 9.1 **Company may acquire its own Shares:** The Company may purchase or otherwise acquire its own Shares only if it has first been authorised to do so by Special Resolution or any higher threshold specified in the Shareholders' Agreement in which case the Shares purchased or otherwise acquired shall be deemed to be cancelled immediately on acquisition.

10. SHAREHOLDER MEETINGS

- 10.1 **Annual meeting:** The Board must hold an annual Shareholders' meeting in accordance with section 120 of the Companies Act unless in the case of any annual meeting, everything required to be done at that meeting (whether by way of resolution or otherwise) is done by written resolution in accordance with section 122 of the Companies Act.
- 10.2 **Special meetings:** A special Shareholders' meeting:
- (a) may be called at any time by the Board; and
 - (b) must be called by the Board on the written request of the Stakeholders' Forum.
- 10.3 **Proceedings at Shareholders' meetings:** The provisions of Schedule 1 to the Companies Act as modified by this Constitution, including the rules set out in Schedule 1 to this Constitution, govern proceedings at Shareholders' meetings.

11. REPORTING REQUIREMENTS

- 11.1 The Board must prepare the reports required by the Stakeholders' Forum by notice in writing to the Company (such notice must comply with the requirements in section 249(4) of the LG(WS) Act), in accordance with the requirements specified in that notice.
- 11.2 Within eight months of the start of each Financial Year of the Company, the Board must prepare and adopt a Water Services Half-yearly Report in accordance with the LG(WS) Act, which must include information required to be included by the Statement of Expectations.
- 11.3 Within three months of the end of each Financial Year of the Company, the Board must prepare, adopt and deliver to the Shareholders, and publish in accordance with the LG(WS) Act, its Water Services Annual Report for that Financial Year, which must be consistent with Treaty settlement obligations (including obligations under the Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017, the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022 and the Te Rohe o Rongokako Joint Redress Act 2022) and include the information required to be included by:
- (a) the Statement of Expectations;
 - (b) the Companies Act; and
 - (c) sections 245 to 248 of the LG(WS) Act.

12. DIRECTORS

- 12.1 **Independent Directors:** All Directors will be Independent Directors. A Director who ceases to be an Independent Director must be replaced promptly in accordance with the Shareholders' Agreement by another person who is an Independent Director.
- 12.2 **Number of Directors:** On and from 1 July 2027, the minimum number of Directors will be five and the maximum number of Directors will be seven. Before that date, the minimum number of Directors will be two and the maximum number of Directors will be seven.
- 12.3 **Appointment and removal by Stakeholders' Forum:**
- (a) Subject to clause 12.1, the Stakeholders' Forum will appoint up to the number of Directors set out in clause 12.2, by notice in writing to the Company. Directors may be removed and replaced by the Stakeholders' Forum in the same way. The Stakeholders' Forum will ensure that there is always at least the minimum number of Directors required by clause 12.2.
 - (b) The Shareholders and the Company shall promptly take such steps as may be necessary to effect the appointment, replacement or removal of any individual (including if a Director fails to vacate office when required to do so) in accordance with this clause 12.3 if applicable, including, in the case of the Shareholders, by exercising their voting rights in the relevant Shareholders' meeting (or by way of written resolution).
- 12.4 **Insufficient number of Directors:** The Directors may act notwithstanding any vacancy in their body, but if and so long as the number of Directors holding office is less than the minimum number fixed by clause 12.2, the continuing Directors may act only for the purposes of calling a meeting of the Shareholders to appoint Directors.
- 12.5 **Skills of Directors:**
- (a) A person may only be appointed to be a Director if the person has, in the opinion of the Stakeholders' Forum, the skills, knowledge, or experience to:
 - (i) guide the Company, given the nature and scope of its activities; and
 - (ii) contribute to the achievement of the objectives of the Company.
 - (b) The Stakeholders' Forum must, prior to exercising its right to select and appoint or reappoint a Director, have reasonable regard to the extent to which any candidate for appointment:
 - (i) satisfies some or all of the Board Skills Requirements; and
 - (ii) will contribute the Board, collectively, having an appropriate mix and depth of the Board Skills Requirements.
 - (c) The Stakeholders' Forum may, by unanimous agreement, from time to time amend the Board Skills Requirements or adopt a formal skills matrix which specifies additional criteria, weightings or other factors which must be considered or complied with in selecting and appointing or reappointing a Director. Any such

skills matrix is subject to the terms of this Constitution and the Shareholders' Agreement (unless otherwise agreed).

12.6 Term of Appointment:

- (a) No person may be appointed as a Director for a term of more than three consecutive years ("**Term**").
- (b) A Director may be reappointed at the expiry of his or her Term of appointment, provided that no Director may be appointed for more than three Terms unless otherwise approved by the Stakeholders' Forum in what the Stakeholders' Forum determines to be exceptional circumstances.

12.7 Vacation of office: A Director vacates office if that Director:

- (a) resigns by written notice of resignation to the Company. The notice is to be effective when it is received at that address or at a later time specified in the notice;
- (b) is removed from office in accordance with clause 12.3;
- (c) holds office as a Director for a period of longer than three years since the date of their last appointment or re-appointment;
- (d) becomes disqualified from being a Director pursuant to section 151 of the Companies Act; or
- (e) dies.

12.8 Appointment of Chair:

- (a) The Board must appoint a Chair by majority vote of the Board.
- (b) The Chair will hold office until:
 - (i) they cease to be a Director of the Company; or
 - (ii) a new Chair is appointed by the Board.

12.9 Powers of the Board:

- (a) Subject to clause 12.9(b) and any restrictions in the Companies Act, the LG(WS) Act, the Shareholders' Agreement and this Constitution, the business and affairs of the Company must be managed by or under the direction or supervision of the Board.
- (b) The Board has, and may exercise, all the powers necessary for managing, directing and supervising the management of the business and affairs of the Company except to the extent that this Constitution, the Shareholders' Agreement, the Companies Act or the LG(WS) Act expressly requires those powers to be exercised by the Shareholders or any other person.

12.10 Shareholder Reserved Matters: Notwithstanding clause 12.9(b), but subject to any restrictions in the LG(WS) Act, the Board must not, and must not cause the Company to

enter into any transaction or matter that is a Reserved Matter, unless first approved in writing by the Shareholders in accordance with the Shareholders' Agreement.

- 12.11 **Solvency test:** The Board must not cause the Company to borrow or raise any money, or enter into or incur any guarantee or other liability of any nature, if the effect of doing so would be that the Company will not satisfy the solvency test (as that term is defined in the Companies Act).
- 12.12 **Proceedings of the Board:** The provisions of Schedule 3 to the Companies Act as modified by this Constitution, including the rules set out in Schedule 2 to this Constitution, govern proceedings at meetings of Directors.
- 12.13 **Directors' duties:** In addition to the duties set out in the Companies Act, the Directors must assist the Company to meet the objectives set out in clause 2.2 and any other requirements set out in the Statement of Expectations or the LG(WS) Act.
- 12.14 **Directors to act in good faith:** A Director, when exercising powers or performing duties, must act in a manner which that Director believes to be in the best interests of the Company (notwithstanding that it may not be in the best interests of any particular Shareholder).
- 12.15 **Indemnity and insurance of Directors and employees:** The Company may indemnify and directly or indirectly effect insurance for any director or employee of the Company or a related company to the maximum extent permitted by section 162 of the Companies Act. For the purposes of this clause 12.15, "director" includes any former director, "employee" includes any former employee and "Company" includes any related company.
- 12.16 **Disqualification of Directors:** A person will be disqualified from holding the office of Director if he or she:
- (a) is or becomes disqualified from being a Director under any provision of the Companies Act or the LG(WS) Act; or
 - (b) dies; or
 - (c) becomes a protected person under the Protection of Personal and Property Rights Act 1988; or
 - (d) is an undischarged bankrupt.
- 12.17 **Remuneration of Directors:**
- (a) The Stakeholders' Forum shall determine the total sum available to the Board each year to make reasonable market-based remuneration payments in accordance with clause 12.17(b).
 - (b) The Board may not authorise any form of remuneration to be paid to a Director without Board approval and unless such payment is made and authorised in accordance with the provisions of the Companies Act and with the approval of the Stakeholders' Forum.
 - (c) The Board may authorise the reimbursement by the Company of reasonable travelling, hotel and other expenses incurred by Directors in attending Board meetings, Shareholder meetings or in relation to any other affairs of the Company.

12.18 **Other offices with company held by Director:** Subject to clause 12.1, any Director may:

- (a) Act by himself or herself or by the Director's firm in a professional capacity for the Company, and the Director or the Director's firm will be entitled to remuneration for professional services as if the Director were not a Director. Nothing in this clause 12.18 authorises a Director or the Director's firm to act as auditor of the company.
- (b) Hold any other office or place of profit in the Company (other than the office of auditor) in conjunction with the Director's office of Director for such period and on such terms (as to remuneration and otherwise) as the Board may determine, subject to the necessary reporting disclosures and avoidance of conflicts of interest.

12.19 **Alternate Directors:**

- (a) Each Director will have the power from time to time by written notice to the Company to appoint any person who is already a Director to act as an alternate Director in his or her place. An alternate Director cannot be appointed for more than one Director at any given time. The following provisions will apply to an alternate Director:
 - (i) the alternate Director will not be entitled to any remuneration in his or her capacity as alternate Director in addition to that of the Director in whose place he or she acts, but will have the same rights as a Director to be reimbursed under clause 12.17(c);
 - (ii) unless otherwise provided by the terms of the appointment, the alternate Director:
 - (aa) has the same rights, powers and privileges (including the power to sign resolutions of Directors and the power to sign documents on behalf of the Company, but excluding the power to appoint an alternate Director under this clause 12.19); and
 - (bb) must discharge all of the duties and obligations of the Director in whose place he or she acts.
- (b) An alternate Director will cease to be an alternate Director:
 - (i) if the Director who appointed the alternate Director ceases to be a Director or revokes the appointment;
 - (ii) on the occurrence of any event relating to the alternate Director which, if the alternate Director were a Director, would disqualify the alternate Director from being a Director; or
 - (iii) if a majority of the other Directors resolve to revoke the alternate Director's appointment.

13. INTERESTS OF DIRECTORS

13.1 **Disclosure of interests:** A Director must disclose particulars of any interest in a transaction or proposed transaction of the Company in accordance with section 140 of the Companies Act.

13.2 **Interested Directors may act:** A Director who is interested in a transaction entered into, or to be entered into, by the Company must not do any of the following:

- (a) sign a document relating to that transaction on behalf of the Company; or
- (b) do any other thing in their capacity as a Director in relation to that transaction,

provided that a Director may vote, sign documents and otherwise do any other thing in their capacity as a Director with regard to any matter relating to the following:

- (c) any payment or other benefit of the kind referred to in section 161 of the Companies Act in respect of that Director in accordance with clause 12.17;
- (d) the entry into an indemnity or insurance arrangement in respect of that Director in their capacity as a director of the Company in accordance with clause 12.15; or
- (e) transactions in which a Director is interested solely in their capacity as a director of a Subsidiary of the Company.

13.3 **Interests register review:** The Board shall review the interests register at the beginning of every Board meeting.

13.4 **No prohibition re quorum:** No prohibition under this clause 13 will prevent the attendance of a Director at a Board meeting from counting for quorum purposes.

14. NOTICES

14.1 **Service:** Notices may be served by the Company upon any Director or Shareholder, either by personal delivery, by electronic means or by posting it in a prepaid envelope or package addressed to the recipient at his or her last known address (or, in the case of a company, its registered office). A notice may be given by the Company to joint Shareholders by giving the notice to the joint Shareholder named first in the Share Register in respect of the Share, or to such other person as the joint Shareholders may in writing direct.

14.2 **Time of service:** Notices are deemed served at the following times:

- (a) when given personally, on delivery;
- (b) when sent by post or document exchange, five Business Days after (but exclusive of) posting; and
- (c) when sent by email, at the time of transmission, if (in the event receipt is disputed) the sender produces a printed copy of the email which evidences that the email was sent to the email address of the recipient.

Any notice which has been served on a Saturday, Sunday or public holiday is deemed to be served on the first Business Day after that day.

15. LIQUIDATION

- 15.1 If the Company is liquidated, the liquidator may, with the approval of the Shareholders by Special Resolution and any other approval required by the Companies Act or the LG(W.S) Act, but subject to the requirements of the Shareholders' Agreement (as notified by any Shareholder to the liquidator) and, if applicable, the rights or restrictions attached to the different classes of shares issued by the Company:
- (a) distribute to the Shareholders in kind the whole or any part of the assets of the Company; and
 - (b) vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the persons so entitled as the liquidator thinks fit, but so that the Shareholders are not compelled to accept any Shares or other securities on which there is any liability.

16. METHODS OF CONTRACTING

- 16.1 A deed which is to be entered into by the Company may be signed on behalf of the Company by:
- (a) two or more Directors;
 - (b) a Director, and any person authorised by the Board, whose signatures must be witnessed; or
 - (c) one or more attorneys appointed by the Company.
- 16.2 Subject to clause 16.1, an obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by two people acting under the express or implied authority of the Company.
- 16.3 Subject to clause 16.1, any other obligation or contract may be entered into on behalf of the Company in writing or orally by two people acting under the express or implied authority of the Company.

17. AMENDMENTS

- 17.1 The Shareholders may, by Special Resolution, alter or revoke this Constitution in accordance with the requirements of the Companies Act. Any alterations or replacements may be proposed by the Board to the Shareholders.

SCHEDULE 1

Rules for Shareholder Meetings

1. CHAIR

- 1.1 If the Chair is present at the meeting, he or she must chair the meeting.
- 1.2 If there is no Chair or if the Chair is not present at the meeting within 15 minutes of the start time, the Directors present may elect a chair for that meeting, failing which, the Shareholders (or their representatives) present may elect a chair for that meeting.

2. NOTICE OF MEETINGS

- 2.1 The provisions of clause 2 of Schedule 1 of the Companies Act apply.

3. METHODS OF HOLDING MEETINGS

- 3.1 The provisions of clause 3 of Schedule 1 of the Companies Act apply.

4. QUORUM

- 4.1 No business may be transacted at a Shareholder meeting if a quorum is not present.
- 4.2 A quorum for a Shareholder meeting is present if a majority of Shareholders (based on the number of Shares held) or their proxies:
 - (a) is present; or
 - (a) has completed postal votes (where permitted).
- 4.3 If a quorum is not present within the 30 minutes after the start time for the meeting:
 - (a) if the meeting is called under section 121(b) of the Companies Act, the meeting is dissolved;
 - (b) for any other meeting, the meeting is adjourned to:
 - (i) the same day in the following week at the same time and place, or
 - (ii) to another date, time and place to be fixed by the Directors.

5. ADJOURNMENTS

- 5.1 The Chair:

- (a) may adjourn the meeting from time to time and from place to place, but no business can be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place; and
- (b) must adjourn the meeting as above if directed to do so by the meeting.

6. VOTING

- 6.1 The provisions of clause 5 of Schedule 1 of the Companies Act apply.

7. PROXIES AND POSTAL VOTES

- 7.1 The provisions of clause 6 and clause 7 of Schedule 1 of the Companies Act apply.

8. MINUTES

- 8.1 The Board must ensure that minutes are kept of all proceedings at Shareholder meetings.
- 8.2 Minutes which have been signed correct by the Chair of the meeting are prima facie evidence of the proceedings.

9. SHAREHOLDER PROPOSALS

- 9.1 The Shareholders may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next Shareholder meeting. The provisions of clause 9 of Schedule 1 of the Companies Act apply to any notice given under this rule 9.1.
- 9.2 The Chair of a Shareholder meeting will allow a reasonable opportunity for the Shareholders to question, discuss or comment on the management of the Company.

10. OTHER PROCEEDINGS

- 10.1 Except as provided in this Schedule 1, and subject to this Constitution, a Shareholder meeting may regulate its own procedure.

SCHEDULE 2

Rules for Board Proceedings

1. NOTICE OF MEETING

- 1.1 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 rule 1.
- 1.2 At least five Business Days' notice of a meeting of the Board must be given to every Director. The notice must include the date, time and place of the meeting and the matters to be discussed.
- 1.3 An irregularity in the notice of the meeting is waived if all Directors attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.
- 1.4 Notice of a meeting may be given by any means, including by telephone or email. Notice given by a letter addressed to a Director at his or her last known residential address in New Zealand will be deemed to have been given on the next Business Day after the letter is posted.

2. METHOD OF HOLDING MEETINGS

- 2.1 The Board may meet in person or by any technological means that allow participating Directors to be in communication with other participating Directors in a manner that is relatively contemporaneous. Where Directors are not all in attendance in one place but are holding a meeting through such a system of communication:
 - (a) the participating Directors will be taken to be assembled together at a meeting and present at that meeting (including for the purposes of quorum requirements);
 - (a) the meeting will be taken to be held at the place agreed to by the participating Directors so long as at least one participating Director is physically present at that place; and
 - (b) all proceedings at meetings conducted in such a manner will be valid and effective as if conducted at a meeting at which all of them were physically present.

3. QUORUM

- 3.1 At any meeting of Directors:
 - (a) a quorum will only be present if at least a majority of Directors are present; and
 - (b) any resolution, unless otherwise specified in this Constitution or the Shareholders' Agreement, will be passed if a majority of the votes cast on it are in favour of it.

- 3.2 If a quorum is not present within 30 minutes of the time appointed for the commencement of the Board meeting, the Board meeting must be 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 Chair may appoint, and if at the adjourned meeting a quorum is not present within one hour after the time appointed for the commencement of the meeting, the Directors present (regardless of the person who appointed them) will constitute a quorum. No business may be transacted at a meeting of Directors if a quorum is not present.

4. VOTING

- 4.1 Every Director has one vote.
- 4.2 The Chair does not have a casting vote.
- 4.3 Subject to clause 12.10, 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.
- 4.4 A Director who abstains from voting is not presumed to have voted in favour of the relevant resolution of the Board.

5. MINUTES

- 5.1 The Board must ensure minutes are kept of all proceedings at meetings of the Board.

6. RESOLUTIONS

- 6.1 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.
- 6.2 A resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more Directors.
- 6.3 A copy of all resolutions must be entered in the minute book of Board proceedings.

7. NO NOTICE TO DIRECTORS OUTSIDE NEW ZEALAND

- 7.1 It is not necessary to give notice of a meeting of the Board to any Director temporarily absent from New Zealand.

8. OTHER PROCEEDINGS

- 8.1 Except as provided in this Schedule 2 and this Constitution, the Board may regulate its own procedure.

SCHEDULE 3

Skills Requirements

The skills and experience which the Stakeholders' Forum will have regard to in exercising their rights to select and appoint or reappoint a Director are as follows:

- 1) For Directors and the Chair of the Company prior to 1 July 2027, knowledge and experience in the formation of new entities and establishment of business processes and systems.
- 2) Governance and senior leadership experience.
- 3) Experience in utilities and infrastructure industries, preferably water.
- 4) Commercial and financial expertise, including Director(s) with relevant qualifications to chair an Audit and Risk Committee.
- 5) Understanding of the relevant public accountability, legislative and regulatory context.
- 6) Asset management experience.
- 7) Commitment to partnership and upholding the Treaty of Waitangi, tikanga and te ao Māori.
- 8) Knowledge and experience in te ao Māori and te taiao Māori and Treaty of Waitangi principles and implementation.
- 9) Understanding and commitment to the four communities the organisation serves.
- 10) Commitment to strong stakeholder engagement with the four Shareholders.