

CONSTITUTION

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FLETCHER BUILDING INDUSTRIES LIMITED **(formerly known as Fletcher Building Finance Limited)**

This document is the Constitution of **FLETCHER BUILDING INDUSTRIES LIMITED**, certified as such on 8 March 2011 by MARTIN CLIVE FARRELL, the Applicant, for the Company.

Certified as the Constitution of the Company.



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MARTIN CLIVE FARRELL
Applicant

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FLETCHER BUILDING INDUSTRIES LIMITED

1. INTERPRETATION

1.1 **Definitions:** In this Constitution:

"**Act**" means the Companies Act 1993, including any statutory modification or re-enactment of it;

"**Board**" means Directors who number not less than the required quorum acting together as the board of directors of the Company or, if the Company has only one Director, that Director;

"**Company**" means Fletcher Building Industries Limited;

"**Constitution**" means this constitution, as altered from time to time;

"**Director**" means a person appointed as a director of the Company; and

"**Holding Company**" means Fletcher Building Limited.

1.2 **Construction:** In this Constitution, unless the context otherwise requires:

(a) the singular includes the plural and vice versa; and

(b) words and expressions have the same meaning as in the Act.

Headings and the table of contents are for convenience only and do not affect the construction of this Constitution.

2. THE COMPANIES ACT

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 added to, negated or modified by this Constitution.

3. SHARES

- 3.1 **Rights of Existing Shares:** Shares in the Company at the date of certification of this Constitution confer on the holder the rights set out in Schedule 1.
- 3.2 **Issue of New Shares:** Any further shares in the Company may be issued at any time, to any person, and in any number authorised in writing by the Holding Company.
- 3.3 **Types of New Shares:** Further shares in the Company may be issued (including different classes of shares) which:
- (a) rank equally with, or in priority to, existing shares in the Company; or
 - (b) have deferred, preferred or other special rights or restrictions, whether as to voting rights or distributions or otherwise.
- 3.4 **Share Repurchases:** The Company may purchase or otherwise acquire shares issued by it and hold its own shares.

4. SHAREHOLDERS' MEETINGS

- 4.1 **Meeting Procedures:** The provisions of the First Schedule to the Act govern proceedings at meetings of shareholders.
- 4.2 **Resolutions in lieu of Meeting:** A shareholders' resolution in lieu of meeting passed in accordance with section 122 of the Act may consist of several documents (including documents sent by facsimile or other similar means of communication) in like form, each signed or assented to by one or more shareholders.

5. DIRECTORS

- 5.1 **Appointment and Removal:** The Holding Company may from time to time appoint, remove or replace any Director by notice in writing delivered to the Company.
- 5.2 **Interests of Holding Company:** When exercising powers or performing duties as directors, the directors are authorised to act in a manner which they believe is in the best interests of the Holding Company or any other company which is the Company's holding company, even though it may not be in the best interests of the Company.
- 5.3 **Proceedings:** The provisions of Schedule 2 govern proceedings of the Board. The provisions of the Third Schedule to the Act do not apply.
- 5.4 **Indemnity for Directors:** Every Director shall be indemnified by the Company for any costs referred to in section 162(3) of the Act and any liability or costs referred to in section 162(4) of the Act.

- 5.5 **Indemnity and Insurance:** In addition to the indemnity set out in clause 5.4, the Company may:
- (a) indemnify a director or employee of the Company or a related Company for any costs referred to in section 162(3) of the Act;
 - (b) indemnify a director or employee of the Company or a related company in respect of any liability costs referred to in section 162(4) of the Act;
 - (c) effect insurance for a director or employee of the Company or a related company in respect of any liability or costs referred to in section 162(5) of the Act.

Words given extended meanings by section 162(9) of the Act have those extended meanings in this clause.

- 5.6 **Remuneration:** The Board must not, and the Holding Company may, authorise the payment of remuneration or the provision of other benefits by the Company to a Director for services as a Director or in any other capacity, the payment by the Company to a Director or former Director of compensation for loss of office, the making of loans by the Company to a Director, the giving of guarantees by the Company for debts incurred by a Director or the entering into contracts for any of the above.
- 5.7 **Method of contracting:** In addition to the methods permitted by the Act, a contract or other enforceable obligation of the Company which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by a Director or any two or more persons who are designated as "Authorised Signatories" from time to time by the Board, whose signature or signatures must be witnessed (if required by law).

6. LIQUIDATION

- 6.1 **Distribution of Surplus:** Subject to the rights or restrictions any shares in the Company confer on the holder, and to clauses 6.2 and 6.3, upon the liquidation of the Company, the surplus assets of the Company (if any), must be distributed among the shareholders in proportion to their shareholding.
- 6.2 **Distribution in Kind:** With the approval of the shareholders by ordinary resolution, the liquidator of the Company may divide amongst the shareholders in kind the whole or any part of the assets of the Company (whether or not they are of the same kind) and for that purpose the liquidator may:
- (a) attribute values to assets as the liquidator considers appropriate; and
 - (b) determine how the division will be carried out as between the shareholders or different classes of shareholders.
- 6.3 **Trusts:** With the approval of the shareholders by ordinary resolution, the liquidator may vest the whole or any part of any surplus assets of the Company in trustees upon trust for the benefit of shareholders. The liquidator may determine the terms of the trust.

SCHEDULE 1

RIGHTS OF HOLDERS OF EXISTING SHARES (Clause 3.1)

A. ORDINARY SHARES

The ordinary shares in the Company at the date of certification of this Constitution confer on the holder the rights as set out below:

1. Notice and Attending Meetings

The right to receive notice of, and attend, every meeting of the shareholders.

2. Voting

2.1 **Voting Rights:** The right to vote at a meeting of the shareholders of the Company on any resolution, including any resolution to:

- (a) appoint or remove an auditor;
- (b) adopt a constitution;
- (c) alter the Company's constitution;
- (d) approve a major transaction;
- (e) approve an amalgamation of the Company under section 221 of the Act; and
- (f) put the Company into liquidation.

2.2 **Number of Votes:** On a vote by voices or a show of hands, each holder of ordinary shares will have one vote, and on a poll, will have one vote per share.

3. Dividends

Subject to the rights of shareholders which confer special rights as to dividends, the right to an equal share in dividends authorised by the Board on a per share basis.

4. Surplus Assets

Subject to the rights of shareholders which confer special rights as to surplus assets, the right to an equal share in the distribution of the surplus assets of the Company on a per share basis.

SCHEDULE 2
BOARD PROCEEDINGS
(Clause 5.3)

1. NOTICE OF MEETINGS

A Director or, if requested by a Director to do so, an employee of the Company, may convene a meeting of the Board. Notice of a meeting of Directors must be given to every Director who is in New Zealand at the time notice is given.

2. METHODS OF HOLDING MEETINGS

A meeting of the Board may be held either:

- (a) 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) 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.

3. QUORUM

3.1 **Fixed by Board:** A quorum for a meeting of the Board is two Directors.

3.2 **Insufficient Directors:** If and so long as the number of Directors is reduced below the number fixed by or pursuant to the Constitution as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of summoning a shareholders' meeting to appoint more Directors, but for no other purpose.

4. CHAIRMAN

The Directors may elect one of their number as chairman of the Board and determine the period for which the chairman is to hold office. If no chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be chairman of the meeting.

5. VOTING

5.1 **Votes:** Every Director has one vote. The chairman does not have a casting vote.

5.2 **Board Resolutions:** A resolution of the Board is passed if it is agreed to by all Directors present without dissent or a majority of the votes cast on it are in favour of it.

5.3 **Presumption to Voting:** 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 that Director expressly dissents or expressly abstains from voting on, or votes against, the resolution.

6. MINUTES

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

7. UNANIMOUS RESOLUTIONS IN WRITING

A resolution in writing, signed or assented to by all Directors 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. Any such resolution may consist of several documents (including documents sent by facsimile or other similar means of communication) in like form, each signed or assented to by one or more Directors. A copy of any such resolution must be entered in the minute book of Board proceedings.

8. VALIDITY OF ACTS

All acts done by any meeting of the Board or a committee of the Board or by any person acting as a Director are valid notwithstanding:

- (a) that any Director was disqualified; or
- (b) any irregularity in a notice of meeting.

9. OTHER PROCEEDINGS

Except as provided in this Schedule, the Board may regulate its own procedure.