

Nelson Marlborough Institute of Technology Limited

(the Company)

MEETING OF THE BOARD OF DIRECTORS

Date: 3 April 2020

Time: 1.00pm

Venue: By Zoom

Directors: Daryl Wehner, Tracy Johnston, Charles Newton, Judene Edgar, Kathy Grant, Toni Grant, Patrick Smith, Joanie Wilson.

OPEN AGENDA

Item	Subject
1.	Mihi and Karakia
2.	Welcome/Apologies
3.	Conflicts of interest
4.	NMIT COVID-19 Response and Update
5.	<p>Decision Items – Resolutions in proposed First Board Meeting Resolutions</p> <ul style="list-style-type: none">• Company administration matters (First Board Meeting Resolution 1)• Directors' matters (First Board Meeting Resolutions 2 to 7)• Existing Statutes and Regulations (First Board Meeting Resolution 8)• Confirmation and Updating of Existing Delegations (First Board Meeting Resolution 9)• Academic Committee (Resolution 10)• Board Committees/Sub-Committees (Resolution 11)• Execution of resolutions by electronic signature and counterparts (Resolution 12) <p>Appendices:</p> <ul style="list-style-type: none">○ Appendix 1 – Nelson Marlborough Institute of Technology Limited Constitution○ Appendix 2 – Operational and Financial Parameters Direction○ Appendix 3 – Notice of Approval○ Appendix 4 – Letter of Support
6.	General Business

COUNCIL MEMBER REGISTER OF INTERESTS

Daryl Wehner	<ul style="list-style-type: none"> • Port Nelson Ltd: Chief Financial Officer • Tasman Bay Stevedoring Co. Ltd: Director
Tracy Johnston	<ul style="list-style-type: none"> • TRC Tourism: Consultant • Dayvinleigh Limited: Executive Director • Wine Marlborough Ltd: Director • Institute of Directors: Nelson/Marlborough Committee Member • Eastern Institute of Technology: NZIST Appointee
Judene Edgar	<ul style="list-style-type: none"> • Nelson City Council: Deputy Mayor • Nelson Regional Transport Committee: Deputy Chair • Nelson Tasman Regional Landfill Business Unit: Chair • Network Tasman Ltd: Shareholder • Network Tasman Trust: Trustee • Network Tasman Charitable Trust: Trustee • NTT Investments Ltd: Director/Shareholder • Encompass Strategic Services Ltd: Director/Shareholder • David Verhagen Consulting Ltd: Director/Shareholder • Nelson Airport Ltd: Shareholder • Nelson Port Ltd: Shareholder • Tasman Bays Heritage Trust: Shareholder • Nelmac Ltd: Shareholder • Nelson Regional Development Agency: Shareholder • Bishop Suter Trust: Shareholder • City of Nelson Civic Trust: Shareholder • Nelson Municipal Band Trust: Shareholder
Toni Grant	<ul style="list-style-type: none"> • Rata Foundation Ltd: Director • Canterbury Direct Investments Ltd: Director • Canterbury Trust House Ltd: Director • Tama Asset Holding Company Ltd: Director • Kotato Ltd: Director • Tui GP Ltd: Chair • Central Districts Cricket Assn Inc: Director • The Basketball Development Nelson Trust: Trustee • Waikato 1B Ltd: Executive Director • Waikato 1C Ltd: Executive Director • Waikato 1D Ltd: Executive Director • Puramakau 2L Ltd: Executive Director • Puramakau 2M Ltd: Executive Director • Puramakau 2N Ltd: Executive Director • Puramakau 2O Ltd: Executive Director • Te Kumara 3L Ltd: Executive Director • Chathan Is Quota Holding Co Ltd: Director • Tasman District Council Port Tarakohe Governance Steering Group: Member

COUNCIL MEMBER REGISTER OF INTERESTS

	<ul style="list-style-type: none"> Wakatu Incorporation: Tamariki Shareholding <p>Iwi Affiliation</p> <ul style="list-style-type: none"> Ngati Raru and Ngati Rarua Atiawa Iwi Trust: Tamariki beneficiaries
Kathy Grant	<ul style="list-style-type: none"> Dunedin City Holdings Ltd: Deputy Chair Dunedin City Treasury Ltd: Deputy Chair Dunedin Stadium Property Ltd: Deputy Chair Whitireia Community Polytechnic Ltd: Director Wellington Institute of Technology Ltd: Director NZIST: Council Member
Charles Newton	<ul style="list-style-type: none"> Charles Newton Consulting Ltd: Director
Joanie Wilson	<ul style="list-style-type: none"> Ngati Koata Trust: Chair Ministry of Education NMWC Region: Strategic Advisor, Maori Te Tau Ihu Intergenerational Strategy: Iwi Steering Group Member
Patrick Smith	<ul style="list-style-type: none"> Patrick Smith Human Resources Ltd: Managing Director

REPORT TO NMIT COUNCIL | 3 APRIL 2020
ITEM 4

NMIT COVID-19 RESPONSE AND UPDATE

LIAM SLOAN: CHIEF EXECUTIVE

PURPOSE

To provide the NMIT Ltd Subsidiary Board with an update on the NMIT response to COVID-19.

SUMMARY

COVID-19 has been added to the Risk Register as the number one risk to NMIT, with the risk classified as 'extreme' and with a 'high' residual risk.

It is a rapidly evolving situation with announcements from the Government and instructions from the Ministry of Health guiding our actions along with a proactive approach to ensure business continuity, as much as possible. Accordingly, a verbal update will be provided at the meeting.

Communications have been established with all Chinese students and online learning opportunities are being provided for all students where possible.

There had been regular communication with all staff with regards to hygiene, cleaning, public health, their own health and wellbeing, online meetings, and ensuring working from home systems were operational prior to Alert Level 3 and 4 being announced. This preparatory work enabled a relatively smooth transition to working at home during the lockdown. Regular communications and online forums are continuing with staff.

Key messages to staff have been communicated on the Polly portal, NMIT's intranet, with the inclusion of a COVID-19 FAQ (Frequency Asked Questions) page which is being updated regularly as both the situation changes and questions are posed by staff.

The NMIT website has also been updated with key information for students
<https://www.nmit.ac.nz/covid-19/>

RECOMMENDATIONS

That the Board receives the COVID-19 Response and Update report.

Nelson Marlborough Institute of Technology Limited

(the Company)

Board Resolutions

Passed as written resolutions of the board of directors pursuant to the Companies Act 1993 (the **Act**)

NOTED

Background

The Education (Vocational Education and Training Reform) Amendment Act 2020 (the **Amendment Act**) has been enacted as part of the Reform of Vocational Education (**RoVE**), one of the four major reviews in the Government's Education Work Programme. The Amendment Act amends the Education Act 1989 (**Education Act**). The purpose of RoVE is to create a cohesive vocational education system in New Zealand with employers, learners, regions and communities at its centre.

The Amendment Act establishes the New Zealand Institute of Skills and Technology (**NZIST**) as a tertiary education institution under the Education Act and as a Crown entity under the Crown Entities Act 2004 (**CE Act**). The Amendment Act also converts the 16 current Institutes of Technology and Polytechnics, including Nelson Marlborough Institute of Technology (an **Existing Polytechnic**) to wholly-owned Crown entity subsidiary companies of NZIST (each, an **NZIST Subsidiary**).

The Company was incorporated pursuant to the Education Act on 1 April 2020 (the **Commencement Date**) as an NZIST Subsidiary, and the Registrar of Companies issued a certificate of incorporation for the Company on 1 April 2020. The Company wishes to deal with certain preliminary matters in relation to its incorporation.

Incorporation and administrative matters

Company details

- A. The Company was incorporated pursuant to the Amendment Act on 1 April 2020. The Registrar of Companies issued a certificate of incorporation for the Company on 1 April 2020.
- B. The Company has notified the Registrar that the registered office and address for service of the Company is:

322 Hardy Street, Nelson 7010

Private Bag 19, Nelson 7042
- C. Pursuant to section 41(3) of the Financial Reporting Act 1993, the balance date of the Company is fixed as 31 December, the last day of the academic year, as defined in section 159(1) of the Education Act.

Companies Act 1993 compliance obligations

- D. The Company authorises Finance Manager (**Nominated Individual**) to update the Company's statutory records, as further described in these resolutions

Shareholder

- E. NZIST consented to act as sole shareholder (the **Shareholder**) of the Company in accordance with section 12(1)(d)(i) of the Companies Act 1993 (the **Companies Act**) and was named as Shareholder in the application for registration of the Company (the **Application**).
- F. Pursuant to section 41(a) of the Companies Act, the Company has issued to the Shareholder the number of shares specified in the Application, being the number of shares to be issued to the

Shareholder pursuant to clause 29(1)(c) of Part 10 of Schedule 1 of the Education Act (being 100 shares).

- G. In accordance with section 87 of the Companies Act, the name, the number of shares and the other required details of the Shareholder have been or will be entered in the share register of the Company.

Constitution

- H. Pursuant to section 12(1)(f) of the Companies Act, the Application included a constitution of the Company (the **Constitution**), which was accordingly adopted by the Company on incorporation. The provisions of the Constitution:

- (i) include a list of "Reserved Matters" in Schedule 2 which require approval by the Shareholder as the parent company; and
- (ii) allow the Shareholder as the parent company to issue Operational and Financial Parameters Directions (**OFP Directions**) from time to time, which the Company must comply with. The Company has received an OFP Direction dated 1 April 2020 from the Shareholder (the **Initial OFP Direction**).

Directors

- I. Pursuant to sections 152 and 153(1) of the Companies Act, the persons listed at Appendix A (the **Directors**, and each a **Director**):
- (i) have consented to act as Directors of the Company; and
 - (ii) were named as such in the Application and accordingly hold office as Directors of the Company.
- J. The Company has received the Shareholder's approval of the amount of director's fees payable to each Director of the Company for each financial year, which has been determined by the Shareholder in accordance with the Fees Framework (as defined in the Crown Entities Act 2004) (the **Directors' Fees Approval**). The Fees Framework also provides that each Director is entitled to be paid for all reasonable travel, accommodation and other expenses incurred by him or her in connection with his or her attendance at meetings, or otherwise in connection with the Company's business.
- K. In accordance with clause 12.5 of the Constitution, the Shareholder has appointed Daryl Wehner as Chairperson of the Board and Tracy Johnston as Deputy Chairperson of the Board.

Rights, assets and liabilities of Existing Polytechnic

- L. Pursuant to clause 36 of Part 10 of Schedule 1 of the Education Act, on and after 1 April 2020:
- (i) the rights, assets and liabilities of the Existing Polytechnic vest in the Company; and
 - (ii) unless the context requires otherwise, every reference to the Existing Polytechnic in any enactment (other than the Education Act), or instrument, agreement, deed, lease, application, notice or other document before 1 April 2020 must be read as a reference to the Company.

Same person for purposes of Inland Revenue Acts

- M. Pursuant to clause 37 of Part 10 of Schedule 1 of the Education Act, for the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), the Company must be treated as the same person as the Existing Polytechnic.

Employees of Existing Polytechnic

- N. Pursuant to clause 38 of Part 10 of Schedule 1 of the Education Act, on and after 1 April 2020, every employee of the Existing Polytechnic becomes an employee of the Company on the same terms and conditions that applied to that person immediately before they became an employee of the Company.

Chief Executive

- O. Pursuant to clause 38 of Part 10 of Schedule 1 of the Education Act, the Chief Executive of the Existing Polytechnic becomes the Chief Executive of the Company.

Existing Statutes and Regulations

- P. Clause 44 of Part 10 of Schedule 1 of the Education Act provides that, unless the context requires, a reference to the Existing Polytechnic in any enactment (other than the Education Act) must be read as a reference to the Company.
- Q. All existing statutes and regulations enacted by the Existing Polytechnic pursuant to section 194 of the Education Act will therefore continue to apply (to the extent that such statutes and regulations are not inconsistent with the provisions of the Education Act as amended by the Amendment Act).

Existing delegations, rules, policies, procedures and other documents of Existing Polytechnic

- R. The Company proposes to (and will procure that all and any Crown entity subsidiaries of the Company will) comply with, and confirm the continued application of, all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic, to the extent they are not inconsistent with:
- (i) the Education Act and the CE Act (each as amended by the Amendment Act);
 - (ii) the Companies Act 1993; and
 - (iii) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any OFP Direction provided by NZIST to the Company as contemplated by the Constitution, including the Initial OFP Direction.
- S. The Company proposes to (and will procure that all and any Crown entity subsidiaries of the Company will) update and amend all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic as required to reflect:
- (i) the Education Act and the CE Act (each as amended by the Amendment Act);
 - (ii) the Companies Act 1993; and
 - (iii) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any Operational and Financial Parameters Direction provided by NZIST to the Company as contemplated by the Constitution, including the Initial OFP Direction.

Academic Board and Academic Board Sub-Committees

- T. The Company proposes that the former:
- (i) Academic Board of the Existing Polytechnic continues as the Academic Committee of the Board. The Company proposes that the former members of such Academic Board will continue as the members of the new Academic Committee; and
 - (ii) Academic Board Sub-Committees of the Existing Polytechnic continue as Academic Committee Sub-Committees of the Board. The Company proposes that the former members

of such Academic Board Sub-Committees will continue as the members of the new Academic Committee Sub-Committees.

Existing Council Committees and Sub-Committees

- U. The Company proposes that the following Audit Committee of the Council of the Existing Polytechnic continue as committees of the Board with the purposes set out below:
 - (i) Audit Committee
 - a. The Objective of the Committee is to assist the Council in discharging its responsibilities relating to financial reporting and regulatory compliance.
- V. The Board will appoint the new members of each committee and/or subcommittee (as the case may be) at the next Board meeting.

Indemnities and insurance

- W. The Company proposes to enter into a deed of indemnity in respect of its Directors. Clause 14 of the Constitution provides for the Company to indemnify its directors for any costs referred to in section 162(3) of the Companies Act and any liability or costs referred to in section 162(4) of the Companies Act, subject to the Company obtaining the approval of its Shareholder and the directors of the Company (the **Indemnity Approval**).
- X. Pursuant to a meeting of the NZIST Council of 1 April 2020, the Shareholder has approved the form of deed of indemnity the Company proposes to enter into (the **Deed of Indemnity**), a copy of which has been circulated to the Directors.
- Y. Pursuant to a meeting of the NZIST Council of 1 April 2020, the Shareholder resolved to effect directors' and officers' insurance cover for the board of the Company under a group insurance policy, with effect from 1 April 2020. A summary of the terms of that cover is set out in the letter from Marsh dated 31 March 2020, which has been circulated to the Directors.

Disclosure of interests

- Z. The Directors have declared their interests (for the purposes of sections 139 and 140 of the Companies Act) to the Board in relation to the above matters (including the grant of the indemnity and the effecting of insurance referred to in paragraphs X to Z above) and generally in respect of other relationships that give rise to an interest (the **Directors' Interests**) and have directed that the nature and extent of their interests be entered into the Company's interests register.

Execution of written resolutions and approved documents by counterpart and electronic signature

- AA. It is proposed that these Board Resolutions and any other documents approved in such Board Resolutions which require signature by one or more directors (**Approved Documents**) may be signed:
 - (i) through the application of an individual signatory's electronic signature, where the individual has expressly authorised such use of his or her electronic signature; and/or
 - (ii) in any number of counterparts, including by PDF copy, each of which is be deemed to be an original and, when taken together, constitutes the same document.

RESOLVED (as a resolution in writing) that:

Incorporation and administrative matters

Company administration matters

1. The Nominated Individual is authorised to update the Company's statutory records, as further described in these resolutions.

Directors' matters

2. In accordance with section 161(1) of the Companies Act, the Board is satisfied that the payment by the Company of the Directors' fees as set out in the Directors' Fees Approval is fair to the Company.
3. The Directors are authorised to sign a certificate for the purposes of section 161(4) of the Companies Act, in the form attached as Appendix B.
4. The Company will pay the Directors' fees as set out in the Directors' Fees Approval and any reasonable travel, accommodation and other expenses incurred by each Director in connection with their attendance at meetings, or otherwise in connection with the Company's business, and the Nominated Individual be authorised to enter the particulars of such payments into the interests register of the Company.
5. The Company enter into, execute, deliver and perform its obligations under the Deed of Indemnity, and any two or more members of the board be authorised to execute the Deed of Indemnity.
6. The Nominated Individual be authorised to enter particulars of the Deed of Indemnity in the interests register in accordance with section 162(7) of the Companies Act and report this to the Shareholder for the purposes of section 152(1)(E) of the CE Act.
7. The Nominated Individual be authorised to enter in the Company's interests register any interests declared by the Directors in writing to the Board in relation to the matters the subject of this meeting.

Existing Statutes and Regulations

8. The Company will (and will procure that all and any Crown entity subsidiaries of the Company will) comply with, and confirms the continued application of, all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic, to the extent they are not inconsistent with:
 - (iii) the Education Act and the CE Act (each as amended by the Amendment Act);
 - (iv) the Companies Act 1993; and
 - (v) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any OFP Direction provided by NZIST to the Company as contemplated by the Constitution.

Existing delegations, policies, etc.

9. The Company will (and will procure that all and any Crown entity subsidiaries of the Company will) update and amend all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic as required to reflect:
 - (i) the Education Act and the CE Act (each as amended by the Amendment Act);
 - (ii) the Companies Act 1993; and

- (iii) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any OFP Direction provided by NZIST to the Company as contemplated by the Constitution.

Academic Committee and Academic Board Sub-Committees

10. The former:

- (i) Academic Board of the Existing Polytechnic will continue as the Academic Committee of the Board, and the former members of such Academic Board will continue as the members of the new Academic Committee; and
- (ii) Academic Board Sub-Committees of the Existing Polytechnic will continue as Academic Committee Sub-Committees of the Board. The Company proposes that the former members of such Academic Board Sub-Committees will continue as the members of the new Academic Committee Sub-Committees.

Board committees/sub-committees

11. The Audit Committee of the Council of the Existing Polytechnic listed in paragraph U above will continue as committees of the Board with the name(s) and purposes set out in that paragraph, on the basis that the Board will appoint the new members of each committee and/or subcommittee (as the case may be) at the next Board meeting.

Execution of written resolutions and Approved Documents by counterpart and electronic signature

12. These resolutions and the Approved Documents may be signed:

- (i) through the application of an individual signatory's electronic signature, where the individual has expressly authorised such use of his or her electronic signature; and/or
- (ii) in any number of counterparts, including by PDF copy, each of which is be deemed to be an original and, when taken together, constitutes the same document.

DATED 3 APRIL 2020

Signed by

Chairperson

Deputy Chairperson

Director

Director

Director

Director

Director

Director

Appendix A - Directors of the Company

	Name of Director
1.	<i>Daryl Wehner</i>
2.	<i>Tracy Johnston</i>
3.	<i>Charles Newton</i>
4.	<i>Kathy Grant</i>
5.	<i>Patrick Smith</i>
6.	<i>Antonina Grant</i>
7.	<i>Judene Edgar</i>
8.	<i>Joanie Wilson</i>

Nelson Marlborough Institute of Technology Limited

(the Company)

Directors' certificate relating to payment of remuneration or benefits to directors insurance

(Sections 161(4) Companies Act 1993)

Payment of remuneration or benefits to directors

The persons named below, being all of the directors of the Company who voted in favour of resolutions dated on or about the date of this certificate (the **Board Resolutions**) authorising, amongst other things, the Company to pay directors fees as follows (with effect from 1 April 2020 for each financial year):

	Name of Director	Remuneration
1.	<i>Daryl Wehner</i>	\$33,490
2.	<i>Tracy Johnston</i>	\$20,931
3.	<i>Charles Newton</i>	\$16,745
4.	<i>Kathy Grant</i>	\$16,745
5.	<i>Patrick Smith</i>	\$16,745
6.	<i>Antonina Grant</i>	\$16,745
7.	<i>Judene Edgar</i>	\$16,745
8.	<i>Joanie Wilson</i>	\$16,745

certify that, in their opinion the provision of such remuneration is fair to the Company, upon the following grounds:

- (a) the remuneration has been determined by the Shareholder in accordance with the Fees Framework (as defined in the Crown Entities Act 2004) and has been approved by the Shareholder;
- (b) the remuneration is reasonable and fair to the Company and is appropriate;
- (c) the fees appropriately reflect the time and effort devoted to the Company by the directors, taking into account their role on the board;
- (d) the directors have extensive expertise and experience in the industry in which the Company operates, or otherwise relevant to the industry in which the Company operates; and
- (e) it is beneficial to the Company and its shareholders to remunerate and incentivise directors to encourage and motivate performance by the directors, and align individual director goals with Company goals.

Execution of certificate by counterpart and electronic signature

This certificate may be signed:

- (a) through the application of an individual signatory's electronic signature, where the individual has expressly authorised such use of his or her electronic signature; and/or

(b) in any number of counterparts, including by PDF copy, each of which is be deemed to be an original and, when taken together, constitutes the same document.

DATED 3 APRIL 2020

Signed by

Chairperson

Deputy Chairperson

Director

Director

Director

Director

Director

Director

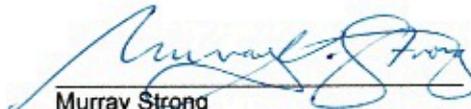
(being all the directors of the Company)

Constitution

Nelson Marlborough Institute of Technology Limited (a wholly-owned subsidiary of New Zealand Institute of Skills and Technology)

This document is the Constitution of Nelson Marlborough Institute of Technology Limited, as certified as such on 26 March 2020 by Murray Strong, the Applicant for registration of the Company pursuant to the Companies Act 1993.

Certified as the Constitution of the Company.



Murray Strong
Applicant

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Constitution of Nelson Marlborough Institute of Technology Limited

1. Interpretation

1.1 Definitions

In this Constitution, unless the context otherwise requires:

Alternate Director means a person appointed as an alternate of a Director pursuant to clause 9.5;

Board means Directors who number not less than the required quorum acting together as the board of directors of the Company;

Companies Act means the Companies Act 1993;

Company means Nelson Marlborough Institute of Technology Limited;

Constitution means this constitution, as amended from time to time;

Crown Entities Act means the Crown Entities Act 2004;

Crown Entity has the meaning given in the Crown Entities Act;

Crown Entity Subsidiary has the meaning given in the Crown Entities Act;

Director means a person appointed as a director of the Company;

Education Act means the Education Act 1989;

Fees Framework has the meaning given to it in the Crown Entities Act;

Interested has the meaning set out in section 139 of the Companies Act (and **Interest** shall be interpreted accordingly);

LGOIMA means the Local Government Official Information and Meetings Act 1987;

NZIST means New Zealand Institute of Skills and Technology, a tertiary education institution and Crown entity formed under the Education Act;

NZIST's Charter means NZIST's Charter as set out in Schedule 22 of the Education Act, which at the date that this Constitution is adopted is as set out in Schedule 3 to this Constitution;

Operational and Financial Parameters Direction has the meaning given in clause 7.2 of this Constitution;

Reserved Matter means a matter specified in Schedule 2;

Secretary has the meaning given in the Education Act;

Share means a share issued, or to be issued, by the Company; and

Shareholder means the sole holder of the Shares in the Company, NZIST.

1.2 **Construction**

In this Constitution, unless the context otherwise requires:

- (a) the headings appear as a matter of convenience and shall not affect the construction of this Constitution;
- (b) in the absence of an express indication to the contrary, references to clauses or paragraphs are to clauses and paragraphs of this Constitution;
- (c) a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted;
- (d) the singular includes the plural and vice versa and one gender includes the other genders;
- (e) the words written and writing include facsimile communications and any other means of communication resulting in permanent visible reproduction;
- (f) the word person includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality; and
- (g) words or expressions defined in the Companies Act have the same meaning in this Constitution.

2. **Companies Act 1993**

2.1 **Effect of Constitution**

The Company, the Board, each Director and the Shareholder each have the rights, powers, duties and obligations set out in the Companies Act except to the extent that they are negated or modified by the Constitution. This Constitution has no effect to the extent it contravenes the Companies Act, or is inconsistent with it. The Shareholder may alter or revoke this Constitution by special resolution.

3. **Company a Crown entity**

3.1 **Crown entity**

- (a) The Company is a Crown Entity for the purpose of the Crown Entities Act. The capacity, rights, powers and privileges of the Company are no broader than those of NZIST, and the Company must not carry on or undertake any business or activity, do any act, or enter into any transaction that is outside the functions of NZIST as set out in the Education Act.
- (b) Without limiting the generality of clause 3.1(a), as a Crown Entity Subsidiary of NZIST, the Company:
 - (i) must not do anything that NZIST does not have the power to do;

- (ii) must act consistently with any letter of expectations provided by NZIST to the Company from time to time and with NZIST's objectives and current statement of intent (to the extent they relate to the Company);
- (iii) must exercise its powers only for the purpose of performing, or assisting NZIST to perform, NZIST's functions;
- (iv) must not contravene the Crown Entities Act or the Education Act to the extent it relates to the Company;
- (v) must comply with a direction given by a relevant Minister to NZIST (to the extent the direction relates to the Company);
- (vi) may pay remuneration to its directors only at a rate and a kind determined by NZIST in accordance with the Fees Framework;
- (vii) must not pay directors of the Company any compensation or other payment or benefit, on any basis, for ceasing for any reason to hold office (and section 161(1)(b) of the Companies Act shall not apply to the Company);
- (viii) must not perform any of NZIST's statutorily independent functions;
- (ix) must comply with the statutory requirements as to employees that apply to NZIST;
- (x) must not have a member of Parliament as a director; and
- (xi) must perform its functions:
 - (A) efficiently and effectively;
 - (B) in a manner consistent with the spirit of service to the public; and
 - (C) in collaboration with other public entities (within the meaning of that term in the Public Audit Act 2001) where practicable.

3.2 Crown Entity Act obligations

For as long as the Company remains a Crown Entity Subsidiary, it shall be subject to, must comply with, and shall not contravene, the Crown Entities Act to the extent that such Act applies to the Company.

3.3 Education Act obligations

The Company is a corresponding NZIST subsidiary for the purposes of the Education Act. It shall be subject to, must comply with, and shall not contravene, the Education Act to the extent that such Act applies to the Company.

3.4 Delegations and policies

- (a) The Company must comply with, and give effect to any written notice of delegation by NZIST of its functions or powers pursuant to section 73 of the Crown Entities Act.
- (b) The Company must comply with, adopt and give effect to any NZIST policies and procedures as notified by NZIST to the Company from time to time.

4. Company to give effect to NZIST's functions and Charter

The Company must, to the extent practicable, give effect to:

- (a) NZIST's Charter; and
- (b) NZIST's functions as set out in section 222B of the Education Act, which are as follows (at the date that this Constitution is adopted):
 - (i) to provide or arrange, and support, a variety of education and training, including vocational, foundation, and degree-level or higher education and training;
 - (ii) to conduct research, with a focus on applied and technological research;
 - (iii) to be responsive to and to meet the needs of the regions of New Zealand and their learners, industries, employers, and communities by utilising NZIST's national network of tertiary education programmes and activities;
 - (iv) to improve the consistency of vocational education and training by using skill standards and working in collaboration with workforce development councils;
 - (v) to improve outcomes in the tertiary education system as a whole, including (without limitation) by making connections with schools and other organisations involved in tertiary education and by promoting and supporting life-long learning;
 - (vi) to improve outcomes for Māori learners and Māori communities in collaboration with Māori and iwi partners, hapū, and other stakeholders; and
 - (vii) to carry out any other functions consistent with NZIST's role as a tertiary education institution.

5. Rights attaching to Shares in the Company

5.1 Shares to be held by NZIST

Every Share in the Company must be held by NZIST.

5.2 Rights attaching to Shares

The Shares at the date of certification of this Constitution will be issued to NZIST. Each Share confers on NZIST the right to:

- (a) one vote on a poll at a meeting of the Shareholder on any resolution;
- (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.

The sole Shareholder has the right to receive notice of and attend every meeting of the Shareholder.

6. Issue, consolidation, subdivision and repurchase of Shares

6.1 Issue of new Shares

Neither the Board nor any other person may issue further Shares in the Company (including different classes of Shares), or securities convertible into Shares, or options to acquire Shares in the Company unless the issue (including the terms of the issue) is expressly authorised in writing by NZIST.

6.2 Consolidation and subdivision of Shares

The Board may, with the prior approval of NZIST in writing:

- (a) consolidate and divide the Shares in proportion to those Shares; or
- (b) subdivide the Shares in proportion to those Shares.

7. Exercise of powers of Shareholder

7.1 Matters to be determined by sole Shareholder

In addition to any approval requirements under the Companies Act, each Reserved Matter shall require the prior written approval of NZIST. The Company shall seek such written approval for any Reserved Matter from the Chief Executive of NZIST.

7.2 Power of Shareholder to issue written directions

NZIST may from time to time issue to the Company a written operational and financial parameters direction (**Operational and Financial Parameters Direction**), which specifies:

- (a) the applicable thresholds or financial limits for categories of transactions or actions which require approval by NZIST as Reserved Matters;
- (b) restrictions or parameters applicable to the Company in respect of operational matters; and/or
- (c) matters in respect of which the Company must give NZIST reasonable notice, consult with NZIST and have due regard to NZIST's comments.

Each Operational and Financial Parameters Direction issued by NZIST shall be binding on the Company, until it is revoked by NZIST or superseded by another Operational and Financial Parameters Direction.

7.3 Methods of holding meetings

A meeting of the Shareholder may be held by the sole Shareholder (who constitutes a quorum):

- (a) assembling at the time and place appointed for the meeting; or
- (b) if determined by the Board:
 - (i) participating in the meeting by means of audio, audio and visual, or electronic communication; or

- (ii) by a combination of both of the methods described in clauses 7.3(a) and 7.1(b)(i).

7.4 Exercise of powers by meeting, written resolution or written notice

A power reserved to the Shareholder by the Companies Act or by this Constitution may be exercised either:

- (a) at a meeting of the Shareholder; or
- (b) by a resolution in writing signed by the Shareholder in accordance with section 122 of the Companies Act; or
- (c) with respect to shareholder powers set out at clauses 7.1 and 7.2, by written notice to the Company.

7.5 Powers of Shareholder

Unless otherwise specified in the Companies Act or this Constitution, any power reserved to the Shareholder may be exercised and any approval of the Shareholder may be given by ordinary resolution.

8. Meetings of the Shareholder

8.1 Annual meetings

Subject to clause 8.4, the Company must hold an annual meeting not later than:

- (a) six months after the balance date of the Company; and
- (b) fifteen months after the previous annual meeting.

The Company need not hold its first annual meeting in the calendar year of its registration but shall hold that meeting within 18 months of its registration.

8.2 Time and place of annual meeting

Each annual meeting must be held at such time and place as the Board appoints.

8.3 Majority required to approve a special resolution

For the purposes of the Companies Act, a “special resolution” of the Company may be passed by NZIST as the sole Shareholder voting on the resolution.

8.4 Resolution in lieu of annual meeting

It is not necessary for the Company to hold an annual meeting if everything required to be done at the meeting (by resolution or otherwise) is done by resolution in writing signed in accordance with section 122 of the Companies Act.

8.5 Special meetings

All meetings other than annual meetings are to be called special meetings.

8.6 Calling of special meetings

A special meeting of the Shareholder:

- (a) may be called by the Board at any time; and
- (b) by NZIST as the sole Shareholder.

8.7 Meeting procedures

The provisions of the First Schedule to the Companies Act govern proceedings of meetings of the Shareholder, provided that clause 1 and clause 12 of the First Schedule of the Companies Act does not apply to the Company. The Shareholder present may appoint a person to be Chairperson at a meeting of the Shareholder.

9. Appointment and removal of Directors

9.1 Board composition

Subject to the Education Act:

- (a) the number of Directors must not at any time be less than four or more than eight; and
- (b) at least half of the persons appointed as Directors from time to time must reside in the region in which the Company predominantly operates.

9.2 Initial Directors

On registration of the Company, the first Directors are the persons named as Directors in the application for registration of the Company.

9.3 Appointment and removal of Directors

Subject to clause 9.1, NZIST may, from time to time by notice in writing delivered to the Company, appoint, remove and replace any Director.

9.4 Vacation of office

A Director will cease to hold office as a Director if the Director:

- (a) becomes bankrupt or makes an arrangement or compromise with the Director's creditors generally; or
- (b) becomes disqualified from:
 - (i) being a Director pursuant to section 151 of the Companies Act; or
 - (ii) being appointed as a member of a statutory entity under section 30 of the Crown Entities Act; or
 - (iii) being appointed as a member of the council of an institution pursuant to section 171A of the Education Act,

being, as at the date of the adoption of this Constitution, as summarised in Schedule 1;

- (c) resigns from office by notice in writing to the Company; or
- (d) is removed from office pursuant to this Constitution, the Companies Act or any other Act.

9.5 Appointment and removal of Alternate Directors

NZIST may, by notice in writing to the Company, appoint any person to be an Alternate Director of a Director and may by notice in writing to the Company remove or replace any Alternate Director. The appointment of the Alternate Director is automatically revoked when the Director in whose place the Alternate Director acts vacates office.

9.6 Rights of Alternate Director

Each Alternate Director will be entitled to:

- (a) receive notices of all meetings of the Board if the Director for whom he or she is an Alternate Director is known to be either outside of New Zealand or otherwise unavailable to attend meetings;
- (b) attend and vote at any such meeting at which the Director for whom he or she is an Alternate Director is not personally present; and
- (c) in the absence of the Director for whom he or she is an Alternate Director, perform all the functions, and exercise all the powers, of that Director.

10. Powers of Directors

10.1 Management of Company

Except as provided in this Constitution, the business and affairs of the Company must be managed by, or under the direction or supervision of, the Board.

10.2 Exercise of powers by Board

Subject to the provisions of this Constitution, the Board may exercise all the powers of the Company which are not required, either by the Companies Act or this Constitution, to be exercised by the Shareholder.

10.3 Delegation of powers

The Board may delegate to a committee of Directors, a Director, the Chief Executive, an employee of the Company or to any other person approved by NZIST, any one or more of its powers by resolution and written notice to the person or persons, other than:

- (a) a power set out in the Second Schedule to the Companies Act;
- (b) any functions or powers specified in the Education Act as not being capable of delegation; and
- (c) the general power of delegation.

10.4 Appointment of attorney

Subject to the provisions of this Constitution, the Company may exercise the power conferred by section 181 of the Companies Act to appoint a person as its attorney, either generally or in relation to a specified matter. Any such power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

10.5 Ratification by Shareholder

Subject to the provisions of section 177 of the Companies Act (relating to ratification of directors' actions), the Shareholder, or any other person in whom a power is vested by this Constitution or the Companies Act, may ratify the purported exercise of that power by a Director or the Board in the same manner as the power may be exercised. The purported exercise of a power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that power.

11. Proceedings of the Board

11.1 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.

11.2 Notice of meeting

A Director or, if requested by a Director to do so, an employee of the Company approved by the Board for this purpose, may convene a meeting of the Board. Notice of a meeting of Directors must be:

- (a) given to every Director who is in New Zealand;
- (b) given to any Alternate Director who is in New Zealand who is an Alternate Director of a Director who is known to be either outside of New Zealand or otherwise unavailable to attend the meeting; and
- (c) publicly notified by the Board in accordance with the requirements of Part 7 of the LGOIMA.

11.3 Waiver of irregularity

An irregularity in a notice of meeting is waived if all the Directors entitled to receive notice of the meeting attend or participate in the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.

11.4 Quorum

A quorum for a meeting of the Board shall be a majority of the Directors that are entitled to vote at that meeting.

11.5 Chairperson and Deputy Chairperson

- (a) NZIST may appoint one of the Directors as chairperson of the Board and determine the period for which the chairperson is to hold office. If no chairperson is appointed, or if at any meeting the chairperson 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 chairperson of the meeting.
- (b) In addition to the appointment of a chairperson of the Board, NZIST may elect to appoint one of the Directors as a deputy chairperson of the Board and determine the period for which that deputy chairperson is to hold office.

11.6 Votes

Every Director has one vote. In the case of an equality of votes, the chairperson does not have a casting vote. 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. 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 from or expressly abstains from voting on, or votes against, the resolution.

11.7 Resolutions in writing

A resolution in writing, signed or assented to by a majority of the Directors, 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 PDF, 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 or kept with the records of Board proceedings. The Company must within seven days after any resolution is passed in accordance with this clause, send a copy of the resolution to each Director who has not signed or assented to the resolution but failure to do so will not invalidate the resolution.

11.8 Minutes

The Board must ensure that minutes are kept of all proceedings at meetings of the Board, having regard to Part 7 of the LGOIMA.

11.9 Validity of acts

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

- (a) any defect in the appointment of any Director or person acting as a Director; or
- (b) that they or any of them were disqualified; or
- (c) any irregularity in a notice of meeting.

11.10 Application of the Local Government Official Information and Meetings Act 1987

The Company is a local authority for the purposes of Part 7 of the LGOIMA. The requirements of Part 7 of the LGOIMA apply to meetings of the Board, including the following provisions:

- (a) section 46, which provides that meetings of the Board shall be publicly notified in accordance with the requirements of that section;

- (b) section 46A, which provides that agendas and reports for a Board meeting shall be made available for inspection by the public, subject to specified exceptions;
- (c) sections 47 and 48, which provide that every Board meeting shall be open to the public, unless the public may be excluded (in whole or in part) in accordance with section 48;
- (d) section 49, which sets out provisions that apply where all or part of the Board meeting is open to the public;
- (e) section 50, which sets out provisions for the maintenance of order at a Board meeting;
- (f) section 51, which provides that members of the public may inspect the minutes of a Board meeting in accordance with the provisions of that section;
- (g) section 51A, which sets out provisions relating to resolutions passed at extraordinary or emergency meetings; and
- (h) sections 52 to 54.

11.11 Other procedures

Except as set out in this clause 11 and subject to the provisions of Part 7 of the LGOIMA, the Board may regulate its own procedure. The provisions of the Third Schedule of the Companies Act do not apply to proceedings of the Board except to the extent that those provisions are included in this Constitution.

12. Directors' Interests

12.1 Disclosure of Interests

A Director must comply with the provisions of section 140 of the Companies Act (relating to disclosure of Interests of directors) but failure to comply with that section does not affect the operation of clause 12.2.

12.2 Personal involvement of Directors

Notwithstanding any rule of law or equity to the contrary, but subject to sections 107(3) and 141 of the Companies Act (relating to avoidance of transactions in which a director is Interested) and section 36 of the Financial Reporting Act 2013 (prohibiting a director of a company from acting as auditor of that company), a Director may:

- (a) contract with the Company in any capacity;
- (b) be a party to any transaction with the Company;
- (c) have any direct or indirect personal involvement or Interest in any transaction or arrangement to which the Company is a party or in which it is otherwise directly or indirectly interested or involved;
- (d) become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be directly or indirectly interested as a Shareholder or otherwise; and
- (e) retain any remuneration, profit or benefits in relation to any of the foregoing,

and no contract or arrangement of any kind referred to in this clause may be avoided by reason of a Director's Interest.

12.3 Interested Directors must not vote

- (a) Subject to clause 12.3(b), a Director who is Interested in a transaction entered into, or to be entered into, by the Company must not:
- (i) vote on any matter relating to the transaction;
 - (ii) attend a meeting of the Board at which any matter relating to the transaction arises and be included among the Directors present at the meeting for the purposes of a quorum;
 - (iii) sign a document relating to the transaction on behalf of the Company; and
 - (iv) do any other thing in his or her capacity as a Director in relation to the transaction.
- (b) The Director who is Interested in a transaction entered into, or to be entered into, by the Company under clause 14 may take any action set out in clauses 12.3(a)(i) to 12.3(a)(iv) as if the Director were not Interested in the transaction.

12.4 Interests of NZIST

For as long as the Company is a wholly owned subsidiary of NZIST, any Director may, when exercising powers or performing duties as a Director, act in a manner which he or she believes is in the best interests of NZIST, even though it may not be in the best interests of the Company.

13. Directors' remuneration and other benefits

13.1 Remuneration and benefits

- (a) The Board may, with prior written approval of NZIST, 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 in accordance with the Fees Framework, provided that no Director will be entitled to any compensation or other payment or benefit on any basis for ceasing for any reason to hold office.
- (b) Subject to clause 13.1(a), the Board may exercise the power conferred by section 161 of the Companies Act to authorise any payment or other benefit of the kind referred to in that section (other than a payment as compensation for loss of office described in section 161(b)) with the prior written approval of NZIST.

13.2 Expenses

Each Director is entitled in accordance with the Fees Framework to be reimbursed, out of the funds of the Company, for actual and reasonable travelling and other expenses incurred by the Director in carrying out the office as Director.

14. Indemnity and insurance for Directors and employees

14.1 Indemnity for Directors

Subject to obtaining the prior written approval of NZIST, every Director may be indemnified by the Company for any costs referred to in section 162(3) of the Companies Act and any liability or costs referred to in section 162(4) of the Companies Act.

14.2 Indemnities and insurance

In addition to the indemnity set out in clause 14.1, the Company may, with the prior written approval of NZIST and the Board:

- (a) indemnify a director or employee of the Company or a related company for any costs referred to in section 162(3) of the Companies Act;
- (b) indemnify a director or employee of the Company or a related company in respect of any liability or costs referred to in section 162(4) of the Companies Act; and
- (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 Companies Act.

14.3 Interpretation

Words given extended meanings by section 162(9) of the Companies Act have those extended meanings in this clause 14.

15. Dividends

The Board may, subject to the Companies Act and this Constitution, authorise the payment of dividends 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 the payment of such dividends. Prior to authorising the payment of a dividend, the Board must be satisfied on reasonable grounds that the Company will immediately after payment of the dividend satisfy the solvency test.

16. Notices

All notices, reports, accounts or documents required to be sent to a Shareholder must be sent in the manner set out in section 391 of the Companies Act. Notices to any other person must be sent in the same manner as if that person was a Shareholder.

17. Dissolution

17.1 Education Act to apply

On the dissolution of the Company, the relevant provisions of the Education Act shall apply.

18. Method of contracting

18.1 Deeds

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; or
- (b) one or more attorneys appointed by the Company.

18.2 Other written contracts

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 a person acting under the express or implied authority of the Company.

18.3 Other obligations

Any other obligation or contract may be entered into on behalf of the Company in writing or orally by a person acting under the express or implied authority of the Company.

Schedule 1: Director appointment disqualification criteria

To be eligible for appointment as a director of the Company, a person must not be disqualified from appointment under:

- section 151 of the Companies Act 1993;
- section 30 of the Crown Entities Act 2004; or
- section 171A of the Education Act 1989.

As at the date of adoption of this Constitution, a person is disqualified from being appointed as director of the Company for the purposes of those provisions if the person is:

- (a) under 18 years of age;
- (b) an undischarged bankrupt;
- (c) prohibited from being a director or promoter of a company, or being concerned or taking part in the management of a company, due to being convicted of certain offences or crimes involving dishonesty specified in the Companies Act 1993, disqualified by the Court or prohibited by the Registrar of Companies or the Financial Markets Authority;
- (d) prohibited from being a general partner or promoter of a limited partnership, or being concerned or taking part in the management of a limited partnership, due to being convicted of certain offences or crimes involving dishonesty specified in the Limited Partnerships Act 2008, disqualified by the Court or prohibited by the Registrar of Companies or the Financial Markets Authority;
- (e) prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Financial Markets Conduct Act 2013 or the Takeovers Act 1993;
- (f) in the case of a company that is an employer, prohibited from being an officer of an employer under sections 142M and 142N(1)(b) of the Employment Relations Act 2000;
- (g) prohibited from 1 or more of the following under an order made, or a notice given, under a law of a prescribed country, State, or territory outside New Zealand:
 - (i) being a director of an overseas company;
 - (ii) being a promoter of an overseas company; or
 - (iii) being concerned or taking part in the management of an overseas company;
- (h) prohibited from 1 or more of the following under an order made, or a notice given, under a law of a prescribed country, State, or territory outside New Zealand:
 - (i) being a general partner of an overseas limited partnership;
 - (ii) being a promoter of an overseas limited partnership; or
 - (iii) being concerned or taking part in the management of an overseas limited partnership;
- (i) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988;

- (j) a person in respect of whom a personal order has been made under the Protection of Personal and Property Rights Act 1988 that reflects adversely on the person's –
 - (i) competence to manage his or her own affairs in relation to his or her property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of his or her personal care and welfare;
- (k) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person;
- (l) a member of Parliament;
- (m) a person who is disqualified under any other Act from being a member of a statutory entity; or
- (n) a person who has at any time after the commencement of section 7 of the Education Amendment Act 2015 been removed as a member of the council of any institution of any kind.

Schedule 2: Reserved Matters

Without limitation to the other matters in this Constitution or under any enactment which require the approval of NZIST or any other person, the Company must obtain the prior written consent of NZIST for the following matters, or agreeing to or committing to such matters:

Restricted Thresholds

- (a) **expenditure:** the incurring by the Company (in a transaction, or series of related transactions) of any expenditure in excess of the thresholds and/or financial limits specified in its current Operational and Financial Parameters Direction;
- (b) **new borrowings:** the incurring by the Company of any new borrowing or any other indebtedness or liability in the nature of borrowing (including entering into any finance leases) in excess of the thresholds and/or financial limits specified in its current Operational and Financial Parameters Direction;
- (c) **drawdown on existing debt facilities:** drawing-down from any debt or borrowing facilities (in a transaction, or series of related transactions) in excess of the thresholds and/or financial limits, or in advance of the budgeted draw-downs, in each case as specified in its current Operational and Financial Parameters Direction;
- (d) **disposal of assets:** the leasing or sale, assignment, gifting, transfer (including to any trust), lending or any other disposal of assets, or interests in assets, by the Company (in a transaction, or series of related transactions) in excess of the thresholds and/or financial limits specified in its current Operational and Financial Parameters Direction;
- (e) **charging of assets:** the mortgaging or otherwise charging of assets, or interests in assets, by the Company (in a transaction, or series of related transactions) in excess of the thresholds and/or financial limits specified in its current Operational and Financial Parameters Direction;
- (f) **leases and licences:** the entry of the Company into any lease or licence that exceeds the thresholds and/or financial limits specified in its current Operational and Financial Parameters Direction;

Restricted Actions

- (g) **receipt of gifts:** the receipt of any gift of the following types: land, interests in land, buildings, easements, licences, shares, securities convertible into shares, options to acquire shares, interests in any partnership, joint venture or other association of persons, beneficial interests in a trust or any other asset, real property or personal property that has material or long-term operating or capital costs or liabilities (including contingent liabilities);
- (h) **annual academic programme:** any development of, or changes to, any qualifications, programmes or related course material outside of any annual academic programme agreed with NZIST from time to time;
- (i) **change of name of Company:** changing the name of the Company;
- (j) **acquiring shares or interests:** acquiring shares in any company or acquiring an interest in any partnership, joint venture or other association of persons, or an interest in a company other than in its shares;
- (k) **trusts:** settling or being or appointing a trustee of, a trust;
- (l) **subsidiary companies:** the incorporation, establishment or acquisition of a subsidiary company;

- (m) **ring-fenced amounts:** expending, drawing-down or otherwise dealing with any amounts that have been ring-fenced by the Company in accordance with any ring-fencing policy of NZIST;
- (n) **borrowing limits:** the approval of new borrowing limits in relation to any existing debt or borrowing facilities;
- (o) **Director remuneration:** the approval of Director remuneration;
- (p) **asset management plans:** the approval of an asset management and utilisation plan for the Company;
- (q) **budget guidelines:** the adoption of budget guidelines;
- (r) **annual budget:** the approval of an annual budget and funding and delivery proposal in respect of the financial years / academic years on and from 1 January 2021;
- (s) **out of scope transactions and activities:** the approval of any transaction (or series of related transactions) or activity which is inconsistent with the scope and/or nature of the Company's activities set out in the approved annual budget and funding proposal; and
- (t) **operational matters:** a decision on any operational matter which is specified to be a Reserved Matter in an Operational and Financial Parameters Direction, from time to time.

Schedule 3: NZIST's Charter

1. The New Zealand Institute of Skills and Technology (NZIST) exists to perform the functions set out in section 222B of the Education Act.
2. NZIST will be responsive to the needs of all regions of New Zealand, their learners, industries, employers, and communities.
3. To meet the needs of regions throughout New Zealand, NZIST must—
 - (a) offer in each region a mix of education and training, including on-the-job, face-to-face, and distance delivery that is accessible to the learners of that region and meets the needs of its learners, industries, and communities; and
 - (b) operate in a manner that ensures its regional representatives are empowered to make decisions about delivery and operations that are informed by local relationships and to make decisions that meet the needs of their communities; and
 - (c) ensure that international learners are attracted to train and study in regions throughout New Zealand; and
 - (d) ensure that there is collaboration across its national network; and
 - (e) maintain a high-quality coherent network of infrastructure that meets regional skills needs.
4. NZIST must operate in a way that allows it to—
 - (f) empower students and staff on academic, non-academic, and well-being matters and matters relating to the organisation's practices and services; and
 - (g) develop meaningful partnerships with—
 - (i) industry across the country, including Māori and Pacific employers, smaller employers, and those operating in niche sectors; and
 - (ii) communities at a local level, including hapū and iwi, and Pacific communities; and
 - (h) use the insights gained through partnerships to—
 - (i) develop and provide vocational education and training that meets short-term and long-term skills needs; and
 - (ia) expand industry training into smaller employers and niche sectors; and
 - (ii) align education and training delivery to support the unique social and economic goals of local communities;
 - (iii) work towards equity for learners and staff of different genders, ethnicities, cultures, and abilities; and
 - (i) reflect Māori-Crown partnerships in order to—
 - (i) ensure that its governance, management, and operations give effect to Te Tiriti o Waitangi; and

- (ii) recognise that Māori are key actors in regional social, environmental, and economic development; and
 - (iii) respond to the needs of and improve outcomes for Māori learners, whanau, hapū and iwi, and employers; and
 - (j) hold inclusivity and equity as core principles, recognising and valuing the diversity of all of its learners, and providing the unique types of support different learners need to succeed; and
 - (k) meet the needs of all of its learners, in particular those who are under-served by the education system, including, but not limited to, Māori, Pacific, and disabled learners; and
 - (fa) promote equitable access to learning opportunities for learners across all regions; and
 - (l) have culturally responsive delivery approaches, whether on campus, in the workplace, online, or otherwise; and
 - (m) work collaboratively with schools, wānanga, and other tertiary education organisations (including workforce development councils) to improve the outcomes of the education system as a whole, including the transition of learners into employment.
5. In giving effect to clause 4, NZIST must ensure that—
- (n) students and employers can transition seamlessly between delivery sites and educational modes, including between workplaces and other forms and places of learning; and
 - (o) programmes of study and qualifications are portable and consistent, yet flexible enough to meet local needs; and
 - (ba) the academic integrity of the education and training programmes it delivers is protected; and
 - (p) New Zealand's reputation as a quality study destination for international learners is sustained; and
 - (q) the range of education and training options available to learners and employers is appropriately broad and current; and
 - (r) future skill needs are anticipated and quickly responded to; and
 - (s) teaching and learning is supported by research, evidence, and best practice; and
 - (t) learning pathways provide learners with a range of opportunities to progress to higher levels of education and training, and also into employment; and
 - (u) the needs of adult and second-chance learners are afforded high priority.

New Zealand Institute of Skills and Technology
(NZIST)

**Operational and Financial Parameters Direction - Nelson
Marlborough Institute of Technology Limited**

(the Company)
(Clause 7.2 of the constitution of the Company)

Dated **1 April 2020** **(Effective Date)**

Introduction

- A. The Company is a wholly-owned subsidiary of the New Zealand Institute of Skills and Technology (NZIST).
- B. Pursuant to clause 7.2 of the constitution of the Company (the **Constitution**), NZIST may from time to time issue to the Company a written Operational and Financial Parameters Direction (an **OFP Direction**), which specifies:
- (i) the applicable thresholds or financial limits for categories of transactions which require approval as Reserved Matters (as that term is defined under the Constitution) by NZIST as the sole shareholder of the Company;
 - (ii) restrictions or parameters applicable to the Company in respect of operational matters; and/or
 - (iii) matters in respect of which the Company must give NZIST reasonable notice, consult with NZIST and have due regard to NZIST's comments.
- C. This OFP Direction has been prepared by NZIST in the context of the open, transparent and continuous reporting and ongoing communication expected between the Company and NZIST, as further set out in the letter of expectations from NZIST to the Company dated 1 April 2020.

OFP Direction

NZIST hereby gives notice to the Company that with effect on and from the Effective Date:

Financial Parameters

1. In accordance with clause 7.2(a) and paragraphs (a) to (f) of Schedule 2 of the Constitution, where the Company proposes to make a decision on any of the following matters (including agreeing to or committing to do such matters), it must first obtain the prior written consent of NZIST (and where consent of the Secretary (as defined in the Education Act 1989 (the **Secretary**)) is also required for the relevant matter, NZIST will seek consent from the Secretary for and on behalf of the Company if NZIST considers it is appropriate to give its prior written consent to the relevant matter):

	Decision	Threshold Amount	Relevant Reserved Matter
(a)	Capital expenditure The incurring by the Company (in a transaction, or series of related transactions) of any capital expenditure: <ul style="list-style-type: none">• which will, or is likely to, result in the Company	An amount equal to or greater than the threshold amount (or level of risk) set by the Secretary pursuant to section 222N of the Education Act	Schedule 2, paragraph (a) of the Constitution

	Decision	Threshold Amount	Relevant Reserved Matter
	<p>exceeding its capital expenditure budget in the annual budget; and/or</p> <ul style="list-style-type: none"> • if the cost of, or level of risk of, the capital project is equal to or above the Threshold Amount specified in the next column and: <ul style="list-style-type: none"> i. the capital project is not within a capital plan of NZIST approved in writing by the Secretary; or ii. NZIST has not already obtained the written consent of the Secretary for the capital project. 		
(b)	<p>New Debt</p> <p>The incurring by the Company of any new borrowing or any other indebtedness or liability in the nature of borrowing (including entering into any finance leases) in excess of the Threshold Amount specified in the next column.</p>	Zero	Schedule 2, paragraph (b) of the Constitution
(c)	<p>Drawdown on existing debt facilities</p> <p>The Company drawing-down on any debt or borrowing facilities (in a transaction, or series of related transactions) in:</p> <ul style="list-style-type: none"> i. advance of the budgeted draw-downs for the academic year; and/or ii. excess of the budgeted debt draw-downs for the academic year by the Threshold Amount specified in the next column. 	An amount equal to or greater than 5% of total budgeted debt draw-downs for the academic year	Schedule 2, paragraph (c) of the Constitution
(d)	<p>Disposal of property assets</p> <p>The leasing or sale, assignment gifting, lending, transfer (including to any trust) or any other disposal (including any demolition of a building) of property assets or interests in property assets (in a transaction, or series of related transactions) by the Company where the value</p>	An amount equal to or greater than the property asset disposal threshold determined by the Minister of Education pursuant to section 192(5) of the Education Act. See further: https://www.tec.govt.nz/teo/working-with-teos/tei/asset-management-teis/land-buildings/	Schedule 2, paragraph (d) of the Constitution

	Decision	Threshold Amount	Relevant Reserved Matter
	of the property asset or interest exceeds the Threshold Amount specified in the next column.		
(e)	<p>Disposal of non-property assets</p> <p>The leasing or sale, assignment, gifting, lending, transfer (including to any trust) or any other disposal of non-property assets or interests in non-property assets (including cash and any other financial assets) in a transaction, or series of related transactions by the Company in excess of the Threshold Amount specified in the next column.</p>	<p>An amount equal to or greater than the threshold amount for disposals of plant and equipment and financial assets as determined by the Minister of Education pursuant to section 192(5) of the Education Act. See further: https://www.tec.govt.nz/teo/working-with-teos/tei/asset-management-teis/sale-plant-equipment-financial-assets/</p> <p><i>Note that the definition of “non-property asset” for the purposes of this paragraph 1(e) is wider than the definition of asset referred to in the TEC guidance noted above. The threshold amount calculated pursuant to that guidance applies to the wider definition of non-property assets under this paragraph 1(e).</i></p>	Schedule 2, paragraph (d) of the Constitution
(f)	<p>Charging of assets</p> <p>The mortgaging or charging of assets or interests in assets (in a transaction, or series of related transactions) by the Company in excess of the Threshold Amount specified in the next column.</p>	An amount equal to or greater than \$500,000	Schedule 2, paragraph (e) of the Constitution
(g)	<p>Leases and licences</p> <p>Entering into any leases or licenses of land or buildings or parts of buildings by the Company (either as grantor or grantee):</p> <ul style="list-style-type: none"> • where the annual rent payable or receivable is in excess of the Threshold Amount specified in the next column; or • which is for a term in excess of three years. 	An amount equal to or greater than \$400,000	Schedule 2, paragraph (f) of the Constitution

Operational Parameters

2. In accordance with clause 7.2(b) and paragraph (s) of Schedule 2 of the Constitution, where the Company proposes to make a decision on any of the following operational matters, it must first obtain the prior written consent of NZIST:

Chief Executive

- (a) approval of any change to the remuneration of the Company's Chief Executive;
- (b) approval of any remuneration for any new Company Chief Executive;
- (c) approval of any proposed changes to the terms and conditions of employment of the Company's Chief Executive or approval of any proposed terms and conditions of employment of a new Chief Executive of the Company;

MECA

- (d) negotiation and agreement of any Multi Employer Collective Agreement;

Business Systems

- (e) any decision relating to the change, development and implementation of business systems which is materially inconsistent with the guidelines and material transaction limits adopted by NZIST, as notified to the Company from time to time;

Student fees, academic policies and programme delivery

- (f) setting student fees outside of the annual budget agreed by the Company with NZIST;
- (g) adoption of any academic policies or student regulations and statutes that are inconsistent with any model academic policies or model student regulations and statutes notified by NZIST to the Company from time to time;
- (h) any decision to change the scope of regional delivery of programmes, including the delivery of programmes outside the region in which the Company predominantly operates or the delivery of programmes outside New Zealand;

Marketing

- (i) any decision relating to the design or implementation of regional or international marketing which is materially inconsistent with the brand standards and/or the marketing approach adopted by NZIST, as notified to the Company from time to time.

Matters requiring notice and consultation

3. In accordance with clause 7.2(c) of the Constitution, the Company must give NZIST reasonable notice, must consult with NZIST and must have due regard to NZIST's comments in relation to any of the following matters in advance of the relevant decision or fact, matter or circumstance occurring:

Expenditure and revenue

- (a) the Company being likely to exceed, or exceeding, 2% of its total budgeted operating expenditure for a financial year;
- (b) the Company being likely to receive less than, or receiving less than, 98% of total budgeted revenue for a financial year;

Appointment and Performance Review of Chief Executive

- (c) appointment of the Company's Chief Executive and the performance review of that Chief Executive;

Student regulations and statutes

- (d) except where additional consent requirements apply under paragraph 2(g) above, adoption of any new student regulations and statutes and/or amendment to any existing student regulations and statutes;

Statement of Strategic Intent

- (e) the development and adoption of the Company's statement of strategic intent;

Employment

- (f) initiating bargaining for, bargaining, and entering into any Collective Employment Agreement (other than a Multi Employer Collective Agreement, which requires NZIST approval pursuant to paragraph 2(f) above) with employees of the Company on the basis that:
- (i) the Company is required to ensure that the terms of any concluded Collective Employment Agreement are within agreed parameters set by NZIST as notified to the Company from time to time, with approval required from NZIST if it is proposed to include terms in the Collective Employment Agreement which are not within the agreed parameters; and
 - (ii) the Company is required to advise NZIST if the parties are having difficulties in concluding a Collective Employment Agreement;
- (g) any proposed restructuring of the Company which would, if a decision was made to proceed, result in a reduced headcount at the Company, or a substantial change in roles at the Company;
- (h) any proposed changes to policies, employment agreement templates or the terms and conditions of employment of any employee of the Company where those changes would represent a material change to the policies or material departure from the standard terms and conditions of employment offered to other employees or the current terms and conditions of employment of the relevant employee.

Revocation of previous Operational and Financial Parameters Directions

4. Each Operational and Financial Parameters Direction previously issued by NZIST is revoked and replaced by this Operational and Financial Parameters Direction.

SIGNED for and on behalf of
New Zealand Institute of Skills and Technology
by:



Authorised signatory

Murray Strong, NZIST Council Chair

Name and position of authorised signatory

New Zealand Institute of Skills and Technology (NZIST)

Notice of Approval of Directors' Fees and Deed of Indemnity and Notification of Insurance Nelson Marlborough Institute of Technology Limited (the Company) (the Notice)

Dated: 1 April 2020

Introduction

- A. The NZIST Council held its inaugural meeting at 9.30am on 1 April 2020 (the **First Council Meeting**).
- B. Clause 13 of the Company's Constitution (**Constitution**) provides that the Board of the Company may, with the prior written approval of NZIST, authorise the payment of remuneration or the provision of other benefits by the Company to a Director for services as a Director.
- C. Clause 14 of the Constitution provides that every Director of the Company may be indemnified by the Company as provided in that clause of the Constitution, subject to obtaining the prior written approval of NZIST.
- D. At the First Council Meeting, the NZIST Council resolved to effect directors' and officers' insurance cover for the board of the Company under a group insurance policy, with effect from 1 April 2020.

Approval of Directors' Fees and Deed of Indemnity and Notification of Insurance

1. The NZIST Council resolved at the First Council Meeting to approve, and NZIST hereby approves, the remuneration of each Director of the Company as follows:
 - \$33,490 per annum for the Chair;
 - \$20,931 per annum for the Deputy Chair; and
 - \$16,745 per annum for the other Directors of the Company,for the purposes of clause 13 of the Constitution.
2. The NZIST Council resolved at the First Council Meeting to approve, and NZIST hereby approves, the form of the Deed of Indemnity circulated to the Director appointees of the Company by the NZIST Establishment Board on 19 March 2020 and attached to this Notice at Annexure 1 (**Deed of Indemnity**) for the purposes of clause 14 of the Constitution.
3. The NZIST Council resolved at the First Council Meeting to effect directors' and officers' insurance cover for the board of the Company under a group insurance policy, with effect from 1 April 2020.

A summary of the terms of that cover is set out in the letter from Marsh dated 31 March 2020 attached to this Notice at Annexure 2.

Signed for and on behalf of the NZIST Council



Signed

1 April 2020

Date

Murray Strong
Council Chair
murray.strong@vocationaleducation.ac.nz

Annexure 1: Form of Deed of Indemnity

Deed of Indemnity

relating to

Nelson Marlborough Institute of Technology Limited

Date 3 April 2020

BELL GULLY

This **Deed of Indemnity** is made by Nelson Marlborough Institute of Technology **Limited** (the **Company**) on 3 April 2020

BACKGROUND

The Company wishes to indemnify each Indemnified Person within the limits permitted by its constitution and the Companies Act 1993 (the **Act**)

1. Definitions

1.1 In this Deed:

Director means a director of the Company and includes a person who was a director of the Company at any time after 1 April 2020 but who is no longer a director of the Company;

Excluded Act or Omission means an act or omission by an Indemnified Person in good faith and in performance or intended performance of the Company's functions;

Indemnities means the indemnities given under clauses 2 and 3;

Indemnified Person means each person who, at or after the date of this Deed, holds the office of Director of the Company;

NZIST means the New Zealand Institute of Skills and Technology, established in accordance with section 222A of the Education Act 1989; and

Related Company means at any time a company related to the Company within the meaning of section 2(3) of the Act.

1.2 In this Deed, words importing the singular include the plural and vice versa.

2. Indemnity for costs in proceedings

Subject to the other provisions of this Deed, to the maximum extent permitted by law, the Company will indemnify each Indemnified Person against any costs which that Indemnified Person incurs in any proceeding:

(a) that relates to liability for any act done or omission made by the Indemnified Person after the date of this Deed in his or her qualifying capacity as an Indemnified Person; and

(b) in which the Indemnified Person is acquitted, or has judgment given in the Indemnified Person's favour, or which is discontinued.

3. Indemnity for liabilities incurred

Subject to the other provisions of this Deed, to the maximum extent permitted by law, the Company hereby indemnifies each Indemnified Person against:

- (a) any liability the Indemnified Person incurs to any person other than the Company for any act done or omission made after the date of this Deed in his or her qualifying capacity as an Indemnified Person; and
- (b) all costs the Indemnified Person incurs in defending or settling any claim or proceeding relating to such liability.

4. Application of Indemnities

In respect of each Indemnified Person who occupies the position of Director as at the date of this Deed, the Indemnities shall apply with effect on and from 1 April 2020. For each new Indemnified Person who occupies the position of Director after the date of this Deed, the Indemnities shall apply with effect on and from the date that the Indemnified Person is appointed to occupy the position of Director.

5. Limitation on Indemnities

The Indemnities do not extend to:

- (a) any liability of the Indemnified Person arising out of or in connection with the Indemnified Person's:
 - (i) gross negligence or wilful default;
 - (ii) wilful or negligent failure to comply with any express instructions properly given by the Company, any Related Company or NZIST;
 - (iii) deliberate action outside the scope of his or her delegated authority;
 - (iv) material breach of his or her employment contract with the Company or any Related Company (if the Indemnified Person is an employee of the Company, any Related Company or NZIST); or
 - (v) acts or omissions that are not an Excluded Act or Omission;
- (b) criminal liability of the Indemnified Person;
- (c) in the case of liability incurred in the Indemnified Person's capacity as a Director, liability for breach of section 131 of the Companies Act;
- (d) in the case of liability incurred in the Indemnified Person's capacity as an employee, liability for breach of any fiduciary duty of loyalty or honesty owed to the Company, any Related Company or NZIST; or
- (e) any other liability of the Indemnified Person for which the giving of an indemnity is prohibited by law.

6. Notification, consultation and assistance

As a pre-condition to the application of the Indemnities, the Indemnified Person must have (unless the Company determines otherwise in its discretion):

- (a) notified the Company immediately upon the Indemnified Person becoming aware of any actual or threatened actions, proceedings, claims or demands, or any facts or circumstances likely to give rise to a claim against the Indemnified Person for which the Indemnified Person may be entitled to the Indemnities;
- (b) first fully consulted with the Company on the steps to be taken, if any, in defending such actions, proceedings, claims or demands; and
- (c) given the Company and its insurers and their respective representatives (including legal representatives) such information and assistance and co-operation as may reasonably be required, having regard to the interests of the Indemnified Person, the Company and the Company's insurers.

7. Defence and settlement

- 7.1 An Indemnified Person must not incur any defence costs for which Indemnities will be sought or for which insurance will be claimed, or make any settlement or compromise without first obtaining the Company's written consent, which consent will not be unreasonably withheld. The Company is not liable under the Indemnities for any defence costs or settlements or compromises to which it has not given its written consent.
- 7.2 If the Company makes any payment under this Deed in respect of any matter for which an Indemnified Person is entitled to indemnification in accordance with this Deed, then the Company is to be subrogated to all of that Indemnified Person's rights (including, without limitation, any rights of recovery) in relation to or arising out of the act done or omission made which gave rise to the Indemnified Person's right of indemnification under this Deed.

8. Termination of indemnity

The Company may terminate this Deed of Indemnity in respect of an Indemnified Person on giving that Indemnified Person at least seven days' written notice. However, the termination will not affect that Indemnified Person's right to be indemnified under clause 2 or clause 3 for any otherwise indemnified liability in respect of an act or omission before the date of termination.

9. Notices to the Company

- 9.1 Any notice or other communication given under this Deed by an Indemnified Person to the Company must be in writing addressed to the Company at the address or email from time to time notified by the Company to the Indemnified Person (provided that, in relation to the email address of the Company, if the person to whom the email address relates is no longer employed by the Company, the email address shall be deemed to be the email address of the Chief Executive or acting Chief Executive employed at the relevant time and, in such circumstances, the Company shall be deemed to have

notified each Indemnified Person of the new email address for the purposes of this clause 9).

9.2 For notification purposes, the current address and email of the Company is as follows:

Address:	322 Hardy Street Nelson 7010
Attention:	Chief Executive
Email:	Ashleigh.Cooke@nmit.ac.nz

9.3 Delivery may be effected by hand, by post with postage prepaid, or by email:

- (a) a notice or other communication delivered by hand is deemed to have been received at the time of delivery;
- (b) a notice or other communication delivered by pre-paid post is deemed to have been received on the second day after posting; and
- (c) a notice or other communication sent by email is deemed to have been received on the date and time at which it enters the addressee's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the addressee notified for the purposes of this clause).

10. General

- 10.1 **Severability:** If a court or administrative body decides that part of this Deed is illegal, void or cannot be enforced, that decision will not make the rest of this Deed invalid.
- 10.2 **Third party rights:** For the purposes of subpart 1 of Part 2 of the Contract and Commercial Law Act 2017, the Company acknowledges that the promises in this Deed confer a legally enforceable benefit on each Indemnified Person, subject to the other terms of this Deed.
- 10.3 **Governing law:** This Deed is to be governed by and construed in accordance with New Zealand law.

Execution

Executed and delivered as a deed.

Signed by Nelson Marlborough Institute of Technology Limited by:

Director

Director

Print name

Print name

Annexure 2: Letter from Marsh



Richard Sheehan
Head of Corporate & Sales

Marsh Ltd
151 Queen Street
PO Box 2221, Shortland Street
Auckland 1140, New Zealand
Phone +64 9 928 3211
Fax +64 9 928 3001
richard.sheehan@marsh.com
www.marsh.co.nz

Murray Strong
Executive Director
NZIST
Via E-mail

31 March 2020

Dear Murray

Subject: New Zealand Institute of Skills and Technology- Directors & Officers Insurance

In line with New Zealand Institute of Skills and Technology's (NZIST) instructions we have placed a Directors & Officers policy with Vero Liability. This policy will cover New Zealand Institute of Skills and Technology's (NZIST) and therefore all subsidiary entities

Covered Entities

New Zealand Institute of Skills and Technology
Ara Institute of Canterbury Limited
Eastern Institute of Technology Limited
Nelson Marlborough Institute of Technology Limited
Northland Polytechnic Limited
Otago Polytechnic Limited
Southern Institute of Technology Limited
Tai Poutini Polytechnic Limited
Toi Ohomai Institute of Technology
Unitec New Zealand Limited
Universal College of Learning Limited
Waikato Institute of Learning Limited
Wellington Institute of Learning Limited
Western Institute of Technology at Taranaki Limited
Whitireia Community Polytechnic Limited
The Open Polytechnic of New Zealand Limited
Manukau Institute of Technology Limited

Limits

We have arranged this policy with the following limits

Policy \$10,000,000

Page 2
31 March 2020
Murray Strong
NZIST

Defence Costs \$ 2,000,000

The limit is in the annual aggregate and is provided across NZIST. Each individual ITP will therefore cease to have its own coverage with effect from 1st April and it will be replaced by this programme.

Run Off Coverage

Several differing run off options were reviewed and you have opted to include the run off cover within the programme limit of \$10,000,000. All ITPs will be included within this run off cover. This includes both Manukau Institute of Technology Limited and The Open Polytechnic of New Zealand Limited.

Policy Period

The initial period will be 1st April 2020 until 1st November 2020 to bring the policy in line with the renewal date of the main ITP insurance policies. The programme will then be placed annually.

We will review the sector insurance arrangements including the Directors & Officers coverage with you in the period running up to the next renewal date 1st November 2020 to ensure that adequate coverage and limits are provided.

The full policy wording will be provided shortly, but we have attached the endorsement confirming that coverage applies to all ITPs

I trust that this is in order but please advise if you require any further information.

Yours sincerely,



Richard Shehean
Head of Corporate & Sales

The Directors
Nelson Marlborough Institute of Technology Limited

1 April 2020

Dear Directors,

Letter of Support

The New Zealand Institute of Skills and Technology (**NZIST**) is the 100% shareholder of Nelson Marlborough Institute of Technology Limited (the **Company**).

In accordance with a resolution of the NZIST Council of 1 April 2020, this letter is to advise that NZIST intends to provide financial support to the Company sufficient to ensure that:

- (a) the Company is able to pay its debts as they become due in the normal course of business; and
- (b) the business of the Company may be carried on in a manner that is not likely to create a substantial risk of serious loss to the Company's creditors being created as a consequence of the financial position of the Company.

Such financial support may take the form (at the discretion of NZIST) of loans or the subscription of further share capital in the Company by NZIST and/or such other financial support as NZIST regards as appropriate.

This letter is provided to you personally and is not provided for the benefit of or intended to be enforceable by any other person. This letter of support is not, and is not to be construed as, a guarantee, indemnity or similar obligation.

This letter of support is to be governed and interpreted by the laws of New Zealand and may be amended or revoked by NZIST from time to time, upon providing reasonable notice to the Company.

Yours faithfully



Murray Strong
Council Chair
murray.strong@vocationaleducation.ac.nz