

## Notice of Annual Meeting of Shareholders

Notice is given that the Annual Meeting of the Shareholders of Cynotech Holdings Limited for the year ended 31 December 2004 will be held at The Institute of Chartered Accountants Conference Centre, 27-33 Ohinerau St, Remuera, Auckland on Thursday 12 May 2005, commencing at 11.00 a.m.

### Ordinary Business of the Meeting

1. To consider the Company's financial statements, the group's financial statements and the Auditors' Report for the year ended 31 December 2004.
2. To elect four directors –  

Richard Hugh Cleveland Guy retires by rotation in accordance with the Company's Constitution and, being eligible, offers himself for re-election.

Allan Robert Hawkins, Paul James Hutchinson and Kevin Patrick McDonald, having been appointed by the Board during the year, retire in accordance with the Company's Constitution and, being eligible, each offer themselves for re-election.
3. To reappoint BDO Spicers as auditors of the Company and to authorise the directors to fix their remuneration for the coming year.
4. To authorise total directors' fees of \$18,000 per annum for the year ending 31 December 2005 and subsequent years – that sum to be allocated amongst the directors as they determine. (This is a decrease in the total directors' fees approved for the year ended 31 December 2004, which were \$55,000).**Special Business of the Meeting**

5. To consider and, if thought fit, pass the following resolutions as special resolutions:
  - (a) The existing Constitution of the Company be revoked, and the Company adopt a replacement Constitution in the form tabled at the meeting and signed by the Chairman for the purpose of identification.
  - (b) The Company is authorised to purchase from Cynotech Securities Limited all of the shares in Merlin Foods Limited (previously known as Beta Foods (NZ) Limited) for a purchase price not to exceed \$3.89 million.
  - (c) The Company is authorised to borrow up to \$2.95 million on such terms and from such sources as the Board decides, for the purpose of funding the purchase of the shares in Merlin Foods Limited.

6. To consider and, if thought fit, pass the following resolutions as ordinary resolutions:

- (a) The Company is authorised to convert the 7,975,286 Convertible Notes held by each of Cynotech Securities Limited and Newmarket Securities Limited into 7,975,286 fully paid ordinary shares in the capital of the Company (a total of 15,950,572 shares).
- (b) The Company issue 1,812,121 ordinary shares to Richard Hugh Cleveland Guy and Lynda Katrina Moore (Cleveland No. 3 Trust) as follows:

866,666 fully paid shares as a result of converting 173,000 Convertible Notes in the Company held by them (5 shares:1 Convertible Note basis).

866,666 shares at an issue price of 5 cents per share, in terms of the non-tradeable rights attached to those Convertible Notes.

78,789 shares at an issue price of 15 cents per share in satisfaction of the Company's obligation to pay interest on those Convertible Notes.

1,812,121 shares

(These resolutions are required to satisfy the requirements of Rule 7(d) of the Takeovers Code)

7. The Company issue up to 20 million shares at an issue price of 17.5 cents per share (new shares) together with 1 share warrant with every 2 new shares issued.

**The terms of issue of the share warrants referred to in Resolution 7 are set out on page 11 & 12 of this Notice.** Application will be made to New Zealand Exchange Limited to have the warrants quoted on the NZAX.

By order of the Board.  
A. R. Hawkins  
Chairman

## **Explanatory Notes to Special Business Resolutions**

### ***Resolution 5(a) - Adoption of a New Constitution***

The Company's existing Constitution was adopted on 12 August 2000, at the time the Company was listed on the New Zealand Stock Exchange as a New Capital Market issuer. When the NZAX market was established by New Zealand Exchange Limited in 2004, the Company became listed on that market. In order to ensure that the Company's Constitution reconciles with the NZAX Listing Rules, changes to the Constitution are required.

The Company has the option of making the changes by way of amendments to the existing Constitution or by adopting a completely new Constitution. Because the existing Constitution is now outdated, the Board has recommended that the Company revoke its existing Constitution and adopt a new Constitution.

The Board has also decided that this new Constitution should incorporate the Listing Rules by reference only, rather than by including extracts from the Listing Rules directly into the Constitution (clause of the proposed Constitution). This is permitted by NZAX Listing Rule A3.1.1. As a result, shareholder approval will not be required in future for Constitution amendments that reflect NZAX Listing Rule changes. The special resolution to be put to shareholders will give effect to this recommendation.

Other than the restructuring described above, the proposed new Constitution does not represent a substantial departure from the existing Constitution. The more significant changes reflected in the new Constitution are summarised on pages 13 & 14 of this Notice.

The proposed changes reflected in the new Constitution have been approved by New Zealand Exchange Ltd (NZAX Listing Rule A 5.1.5)

A full copy of the new Constitution will be available at the meeting. If you would like a copy in advance of the meeting, please contact

Allan Hawkins

Phone: 09 5206073

Fax: 09 9122142

Email: [finance@cynotech.co.nz](mailto:finance@cynotech.co.nz)

You can also view the full NZAX Listing Rules at [www.nzx.com](http://www.nzx.com).

### ***Resolution 5(b) – Purchase of Merlin Foods Limited***

Shareholder approval of the purchase is required for the following reasons:

- (a) The transaction is a major transaction as defined in section 129 Companies Act 1993, and therefore requires the approval of a special resolution of shareholders.

- (b) The transaction is a major transaction as defined in NZAX Listing Rule 9.1 – that Rule requires such transactions to be approved by shareholders.
- (c) Cynotech Securities Limited, the seller of the shares in Merlin Foods Limited, and the Company are related parties as defined in NZAX Listing Rule B4.3, the transaction is a material transaction as defined in NZAX Listing Rule B4.2 and therefore the transaction requires shareholder approval in terms of NZAX Listing Rule B4.1.

In March 2005, Cynotech Securities Limited, a company associated with the Company's Chairman Mr Allan Hawkins, entered into an agreement with Betta Foods Group Pty Limited (and the General Manager of Betta Foods (NZ) Limited) to purchase all the shares in Betta Foods (NZ ) Limited. That transaction was settled in March 2005. Betta Foods (NZ) Limited subsequently changed its name to Merlin Foods Limited.

#### *About Merlin Foods Limited*

Merlin Foods Limited is a Hamilton based manufacturer in the food industry and is a specialist in the manufacture and wholesaling of ice cream cones and other specialty cone and wafer products.

Merlin Foods Limited enjoys market dominance in its core specialty products, and it has contracts for supply to its major customers.

Merlin Foods Ltd's earnings before tax, after adjusting for management and other fees paid to the Australian parent company, were as follows for the last 3 years:

2004	\$653,138
2003	\$696,954
2002	\$680,016

The net earnings of Merlin Foods Limited have been consistent and are expected to continue at levels in line with or in excess of historical profits. By structuring the purchase of Merlin Foods on the basis proposed with a balance between bank funding and equity funds the net contribution to the Cynotech Group will be positive. Funding costs at normal bank rates can be expected to cost approximately \$200,000 per annum

Betta Foods Group Pty Limited has warranted that the net tangible assets of Merlin Foods at the time of the acquisition by Cynotech Securities Limited will be \$1,600,000.

The acquisition of Merlin Foods can be seen to be a part of the Directors strategy to add bottom line earnings to the Group in the short term and to gradually build a diversified investment group with a range of 100% owned activities.

#### *Further information*

Your Board wished the Company to purchase Merlin Foods Limited direct from Betta Foods Group Pty Limited. However, Betta Foods Group Pty Limited's timing requirements for the sale and settlement of the sale were such that there was insufficient time for the Company to obtain shareholder approval to purchase Merlin Foods Limited direct from that company. To secure the investment for consideration by shareholders of the Company, it was necessary to negotiate the share purchase through Cynotech Securities Limited. If shareholders approve the purchase, the Company will have all the rights and benefits of the shares in Merlin Foods Limited accruing since Cynotech Securities Limited purchased those shares.

The resolution authorises the Company to purchase the shares in Merlin Foods Limited for a purchase price of not more than \$3.89 million. The heads of agreement between Cynotech Securities Limited and the Company relating to the transaction state that the purchase price is to be an amount equivalent to the aggregate of the price at which Cynotech Securities Limited purchased the shares, the legal and other costs it incurred in relation to that purchase, the costs of securing the contract, the costs of financing the purchase and the costs of holding the investment. Some of the components of the purchase price will not be known until the date of settlement of the sale (if it is approved by shareholders). However, the purchase price will not exceed \$3.89 million.

Cynotech Securities Ltd and/or Allan Hawkins will directly benefit from the transaction in the following ways:

- Cynotech Securities Limited will receive a merchant banking fee of \$20,000. This fee is included in the purchase price. The fee is payable for the initial introduction of the opportunity to acquire Merlin Foods Limited and for Cynotech Securities Limited's involvement in the negotiation and structuring of the purchase and the necessary funding arrangements.
- Cynotech Securities Ltd and/or Allan Hawkins have provided direct funding for the purchase and during the holding period funds are costed into the transfer price at a rate of 12% per annum
- Allan Hawkins is providing an ongoing guarantee in respect of the banking facilities at a guarantee fee of 2% per annum.

Any other benefits received from the transaction by Cynotech Securities Limited and/or Allan Hawkins will be in their capacity as shareholders of the Company (if applicable) and will be the same benefits as all other shareholders.

NZAX Listing Rule B4.5 requires that where transactions are material transactions with related parties as the transaction referred to in this Resolution is, the Directors (other than any Director who is interested in the transactions) must certify that the transactions are fair and reasonable to shareholders and in the best interests of the Company. Attached is a certificate from the Directors of the Company (other than Mr Hawkins) to this effect.

In terms of NZAX Listing Rule B4.6, if they held shares in the Company Cynotech Securities Limited and Allan Hawkins could not vote on this Resolution, as they are direct or indirect parties to the purchase transaction.

***Resolution 5(c) – Borrowing to enable purchase of Merlin Foods Limited***

Shareholder approval of the purchase by Special Resolution is required because the borrowing is a major transaction as defined in section 129 Companies Act 1993.

The Company proposes to fund the purchase in the following way:

A loan from Merlin Foods Limited	\$2,140,000
The assumption of Cynotech Securities Limited's obligation in relation to a loan from Betta Foods Group Pty Limited to that company	<u>\$800,000</u>
	\$2,940,000
Cash (estimated)	<u>\$950,000</u>
	<u>\$3,890,000.00</u>

Merlin Foods Limited will source the \$2.14 million of loan funds from a bank. The bank loan will be guaranteed by the Company and by Allan Hawkins and the other directors of the Company. The loan from Merlin Foods to the Company will be on the same general terms (including interest rates and payment schedules) as the loan from the bank to Merlin Foods Limited).

The \$800,000 loan from Betta Foods Group Pty Limited (their liability) is due to be repaid by 30 June 2005. Funds required to repay this loan will be sourced by the Company from part of the proceeds of the proposed placement of up to 20 million shares at an issue price of 17.5 cents per share (see Explanatory Note to Resolution 6(c) (share placement)).

The cash component will be sourced by the Company from part of the proceeds of the share placement.

***Resolution 6(a) - Conversion of Convertible Notes held by Cynotech Securities Limited and Newmarket Securities Limited.***

This Resolution is required to satisfy the requirements of the Takeovers Code (see below).

At a special meeting of shareholders of the Company on 15 October 2004, shareholders approved the issue of 7,500,000 Convertible Notes to each of Cynotech Securities Limited (CSL) and Newmarket Securities Limited (NSL) at 5 cents per Convertible Note (a total of 15,000,000 Convertible Notes). Both these companies are associated with Allan Hawkins, the Company's Executive Chairman. Paul Hutchinson, one of the Company's Directors, has a shareholding interest in NSL.

Shareholders also approved an underwriting agreement between the Company and CSL and NSL, for underwriting the then proposed 1:1 rights issue to shareholders. In terms of the underwriting agreement, the Company issued to each of CSL and NSL 475,286 Convertible Notes (a total of 950,572).

As a result of these transactions, CSL and NSL each hold 7,975,286 Convertible Notes (a total of 15,950,572).

The terms of issue of the Convertible Notes, which are unsecured and non-voting, gave the holder the right to convert each Convertible Note into one ordinary share in the capital of the Company. This could be done in multiples of 250,000 Convertible Notes during the period 31 October 2004 to 31 October 2009 (*Conversion Period*). The Company has no obligation to comply with a notice of conversion issued by the holder unless it is satisfied that the provisions of the Takeovers Code, if applicable, have been complied with or exemption from compliance has been obtained.

CSL and NSL wish to be in a position to have the Convertible Notes converted into shares. It is likely that the conversion process will take place in tranches over the Conversion Period. CSL and NSL have advised the Company that they intend to exercise their conversion rights as far as possible at times and in a manner that will not adversely impact on the Company.

If all Convertible Notes are converted into shares, the effect will be that CSL and NSL will have a substantial shareholding in the Company at well below current market price and could have effective control of the Company. The shareholdings of existing shareholders would be significantly diluted. However, CSL and NSL are unable to convert the Convertible Notes into shares if as a result they will hold or control greater than 19.9% of the voting rights of the Company, without first complying with the provisions of the Takeovers Code. In general terms, the Takeovers Code requires shareholder approval of the conversion or the obtaining of an exemption from the Takeovers Panel.

Further, it is possible that CSL and NSL could be deemed to be associates of Mr Richard Guy and Mr Richard Guy's family trust, the Cleveland No. 3 Trust (*Cleveland*) under the Takeovers Code. Mr Guy holds 408,400 shares and Cleveland 8,893,968 shares in the capital of the Company, being in total 30.50% of the 30,498,115 shares currently on issue. If CSL and NSL are associates of Mr Guy and Cleveland in terms of the Takeovers Code, neither CSL and NSL nor Cleveland will be able to convert into shares any of the Convertible Notes referred to in Resolutions 6(a) and 6(b) without complying with the Takeovers Code.

If all of CSL's and NSL's Convertible Notes, and the Convertible Notes (and other rights) held by Cleveland referred to in Resolution 6(b) were converted into shares, their respective holdings and percentage holdings of the total shares then on issue would be as follows:

**No. Shares      % of Total \***

Shares currently on issue	30,498,115	
Issue of shares to CSL	7,975,286	16.53
Issue of shares to NSL (Resolution 6(a))	7,975,286	16.53
Issue of shares to Cleveland (Resolution 6(b))	1,812,121	3.75
<b>Total</b> * shares on issue, following the allotments	<u>48,260,808</u>	

	<b>No. Shares</b>	<b>% of Total *</b>
CSL	7,975,286	16.53
NSL	7,975,286	16.53
Cleveland	10,706,089	22.18
Mr Guy	408,400	0.85
	<u>27,065,061</u>	<u>56.09</u>

If shareholders approve the issue of shares to CSL and NSL but do not approve the conversion of Convertible Notes and other issue of shares to Cleveland in terms of Resolution 6(b), the position would be as follows:

	<b>No. Shares</b>	<b>% of Total *</b>
Shares currently on issue	30,498,115	
Issue of shares to CSL (Resolution 6(a))	7,975,286	17.17
Issue of shares to NSL (Resolution 6(a))	7,975,286	17.17
<b>Total</b> * shares on issue, following the allotments	<u>46,448,687</u>	

	<b>No. Shares</b>	<b>% of Total *</b>
CSL	7,975,286	17.17
NSL	7,975,286	17.17
Cleveland	8,893,968	19.15
Mr Guy	408,400	0.88
	<u>25,252,940</u>	<u>54.37</u>

*Calculations based on certain assumption*

CSL and NSL intend converting the Convertible Notes in tranches throughout the Conversion Period (approximately 4 ½ years). The calculations set out above are based on the assumption that no bonus issue or other issue of voting securities, or any other capital adjustment occurs before all of CSL's and NSL's Convertible Notes are converted into shares.

***Resolution 6(b) - Conversion of Convertible Notes and other rights held by R C Guy and L K Moore***

This Resolution is required to satisfy the requirements of the Takeovers Code (see below).

Richard Hugh Cleveland Guy and Lynda Katrina Moore are the Trustees of Mr Guy's family trust, the Cleveland no. 3 Trust (*Cleveland*). Mr Guy is a director of the Company and a shareholder of the Company in his own right.

Under an agreement dated 13 October 2003, in respect of which all necessary waivers were obtained from NZX under the then applicable Listing Rules, the Company issued Cleveland 173,333 Convertible Notes of 75 cents each. Those Convertible Notes were non-voting and unsecured. The Company had an obligation to pay interest on each Convertible Note at the 90-day bill rate from time to time offered by Company's bank compounded quarterly. The Company had the option to either pay accrued interest in cash or issue shares to the holder of the Convertible Notes, in satisfaction of the obligation to pay interest – the conversion rate to be one share for each 15 cents of interest.

The agreement provided that the Convertible Notes were to be converted into shares on 31 March 2005 on the basis of 5 shares for each of the Notes. This values a share at 15 cents.

In terms of the agreement and as a result of the rights issue for shares which took place in late 2004, 5 non-tradeable rights - each entitling the holder to purchase 1 share in the capital of the Company - attached to each Convertible Note. Cleveland thus became the holder of 866,666 non-tradeable rights. The shares the subject of those rights are to be issued to the holder at the time of conversion of the Convertible Notes – the issue price of 5 cents per share is to be paid on or before the issue of these shares.

Cleveland and Mr Guy already hold 9,302,368 shares comprising 30.50% of the 30,498,115 shares in the Company currently on issue. Because of this, the Company is unable to convert the Convertible Notes into shares, or issue the additional shares to Cleveland, referred to in Resolution 6(b) without complying with the Takeovers Code.

If the Convertible Notes (and other rights) held by Cleveland referred to in Resolution 6(b) were converted into shares, and the shareholders approved conversion of CSL's and NSL's Convertible Notes (Resolution 6(a)), the respective holdings of those parties and their associates and percentage holdings of the total shares then on issue would be as set out in the first calculation under the Explanatory Notes to Resolution 6(a).

If shareholders approve the issue of shares to Cleveland,

- (i) but do not approve the issue of shares to CSL and NSL in terms of Resolution 6(a),
- (ii) and approve the issue of shares to CSL and NSL, but CSL and NSL do not exercise their right to convert their Convertible Notes or all of them.

the maximum holding Cleveland and Mr Guy could obtain would be as follows:

	<b>No. Shares</b>	<b>% of Total *</b>
Shares currently on issue	30,498,115	
Issue of shares to Cleveland Resolution 6(b)	1,812,121	5.6
<b>Total</b> * shares on issue, following the allotment	32,310,236	
	<b>No. Shares</b>	<b>% of Total *</b>
CSL	-	-
NSL	-	-
Cleveland	10,706,089	33.14
Mr Guy	408,400	1.26
	11,114,489	34.40

***General comments on Resolutions 6(a) and 6(b)***

The issue and allotment of the shares referred to in Resolutions 6(a) and 6(b) respectively, if approved by shareholders, will be permitted under Rule 7(d) of the Takeovers Code as an exception to Rule 6 of the Takeovers Code.

CSL, NSL, Cleveland and the Company have obtained Exemptions from the Takeovers Panel because they are unable to strictly comply with Rule 16(b) and consequently Rule 7(d) of the Takeovers Code. The Exemptions were required because it is not possible to provide with certainty in this Notice of Meeting the percentages of shares to be issued to those parties, and consequently their percentage shareholding in the Company, in the terms required by Rules 16(b)(i), (ii) and (iii) of the Takeovers Code because of:

- (i) the lengthy conversion period in which CSL and NSL could convert their Convertible Notes into shares;
- (ii) the possibility that shareholders may approve only one of Resolutions 6(a) and 6(b)); and
- (iii) the possibility that shareholders approve both Resolutions 6(a) and 6(b) but CSL and NSL do not exercise their right to convert their Convertible Notes, or all of them.

A condition of the Exemptions is that these Explanatory Notes contain the calculations which appear on pages 7,8 & 9. A further condition is that the shares must be allotted to CSL, NSL and Cleveland on or before 31 October 2009.

An independent adviser has been instructed to provide a report on the merits of the allotment. A full copy of the report is attached.

***Directors' Statement Under Rule 19 of the Takeovers Code***

The Directors of the Company recommend that the shareholders approve the proposed issue and allotment of shares referred to in Resolutions 6(a) and 6(b).

The directors believe the transactions referred to in Resolutions 6(a) and 6(b) to be fair and reasonable and in the best interests of the Company and the shareholders for the following reasons:

- The Convertible Notes were issued to the holders after approval was given to their issue at a duly constituted meeting of the Shareholders of the Company.
- The terms of issue of the Convertible Notes was such that in financial terms they mirrored the ordinary shares in the Company in all respects.
- There are no adverse effects on the Company arising from the Conversion.

*Statements under Rule 16(g) of the Takeovers Code*

Accompanying this Notice of Meeting are statements by each of CSL, NSL and Cleveland as required by Rule 16(g) of the Takeovers Code.

***Resolution 6 (c) – The issue of up to 20 million new shares with share warrants***

Shareholder approval is required to the issue, in terms of NZAX Listing Rule 7.3.1

The new shares will rank equally in all respects with the existing fully paid ordinary shares in the capital of the Company. The share issue is not underwritten.

As stated in the Explanatory Note to Resolution 4(b), the Company needs to raise funds to enable it to purchase Merlin Foods Limited. The funds needed are \$950,000 initially, and a further \$800,000 to repay a loan from Betta Foods Group Pty Limited (which the Company is assuming as part of the purchase transaction) by 30 June 2005.

If the share issue is fully taken up, this will raise \$3,500,000. The proceeds not needed for the Merlin Foods Limited purchase will be used to fund the expansion of the Cynotech Holdings group's finance activities.

The directors have decided that the new share issue be priced at 17.5 cents per share. This is the figure at which the Company's advisors have indicated a successful placement can be achieved. The issue price also includes some consideration for the associated warrant issue. The directors are of the opinion that this price and the terms of issue of the shares are fair and reasonable to the Company and to all existing shareholders.

The Company intends to place the new shares with NZX firms. The share issue is not a rights issue to existing shareholders/Convertible Note holders. But existing shareholders and Convertible Note holders can apply for shares if they wish and will receive priority up to the level of their existing shareholding/Convertible Note holding on a 1:2 basis (1 new share for every 2 shares/Convertible Notes held).

CSL and NSL have advised the Company that they intend to participate in the placement by applying for 600,000 shares.

*Terms of issue of share warrants*

The terms of issue of the share warrants are:

- A share warrant gives the holder the right but not the obligation to subscribe for a new share in the Company at a price of 25 cents per share, that right to be exercised either on 27 May 2006 or 27 May 2007.
- A share warrant will entitle the holder to attend (but not vote) at any general meetings of the Company, and to certain information from the Company. It will not entitle the holder to participate in any dividends declared by the Board.
- Each share issued on conversion of a warrant will rank equally in all respects with the existing fully paid ordinary shares in the Company at the time of conversion.
- Any share splits or consolidations following the issue of the share warrants and prior to conversion to fully paid shares will be taken into account in converting share warrants to fully paid shares (fractions will be disregarded).
- If before the exercise or lapse of warrants the Company makes a pro rata rights issue to holders of the Company's shares, the exercise price of the warrant will be reduced by the Directors according to the formula prescribed in NZAX Listing Rule A4.1.5(b) so as to take into account the market price for the shares and the subscription price of the shares under the rights issue – there will be no change in the number of shares at to which a warrant holder is entitled to upon the exercise of their warrants.

The consideration for the warrants is included in the issue price of the associated shares. The warrants have a value related to the expected market price of the head shares as at each of the exercise dates for the warrants, discounted back to a present value.

#### *Issue of bonus share warrants*

Subject to shareholder approval of Resolution 6(c), the Directors of the Company have resolved to issue 1 bonus share warrant to shareholders of the Company (other than the holders of the new shares the subject of Resolution 6 (c)) and holders of Convertible Notes issued by the Company, on the basis of 1 bonus share warrant for every 2 existing shares or Convertible Notes. The ex-date for existing shares and Convertible Notes to participate in the bonus share warrant issue is 27 May 2005.

The terms of issue of the bonus share warrants will be the same terms as the share warrants to be issued with the new shares.

The Directors have resolved to make the bonus issue of warrants to existing shareholders in order that the existing shareholders may derive a benefit to compensate them for their loyalty to the Company. The warrants have a theoretical value related to the expected market price of the head shares as at each of the exercise dates for the warrants, discounted back to a present value.

***Persons entitled to vote***

The only persons entitled to exercise votes at the Annual Meeting will be those persons who are registered shareholders at 5pm on 10<sup>th</sup> May 2005 and only the shares registered in those shareholders' names at that time will carry a right to vote at the meeting. This does not limit the right of eligible shareholders to appoint a proxy (or, if you are a company, a corporate representative).

CSL, NSL, Cleveland and Mr Richard Guy and shareholders associated with them either cannot vote or will not be voting on Resolutions 6(a) and 6(b). Persons disqualified from voting are also not able to vote pursuant to any discretionary proxy.

***Proxies***

You may exercise your right to vote at the meeting by:

- Being present in person; or
- Appointing a proxy to attend and vote in your place. A proxy need not be a shareholder of the company.

A form for appointing a proxy is enclosed. If you wish to appoint a proxy, please comply with the instructions on the form and return it to:

Cynotech Holdings Ltd  
PO Box 9846  
Newmarket  
Auckland

Or to the Company's registered office:  
Level 4  
187 Broadway  
Newmarket  
Auckland

***Summary of more significant changes reflected in the proposed new Constitution of the Company - Resolution 5(a)***

The more significant changes that will apply to the Company from the date on which the proposed Constitution is approved are:

*Changes arising from NZAX Listing Rules*

**NZAX Listing Rule 7.3.5:** The limit on the number of Equity Securities the Company may issue (other than to employees and directors and directors's associated persons) in any 12 month period without Shareholder approval has been increased from 10% to 20%

**NZAX Listing Rule 7.3.6:** The limit on the number of Equity Securities the Company may issue to employees (other than directors and directors' associated persons) in any 12 month period has been increased from 2% to 5%, and in any five year period has been increased from 5% to 10%, in both cases without shareholder approval.

**NZAX Listing Rule 7.6.1:** The percentage limit of its Equity Securities which may be repurchased by the Company in compliance with section 60(1)(b)(ii) of the Companies Act 1993 (other than from directors, associated persons of directors or from employees) in any 12 month period has increased from 10% to 20%.

**NZAX Listing Rule B4.2:** (Dealing with material transactions with or involving related parties). The material transactions threshold has changed so that it is now calculated on the basis of the Company's average market capitalisation (the previous test was based on the lesser of shareholders' funds or average market capitalisation).

**NZAX Listing Rule B2.3.2:** The Company cannot make lump sum or pension payments to a director upon retirement or cessation of office without shareholder approval – unless the payment is made to a director in office on or before 1 May 2004 (in that case the total amount of the payment cannot exceed the director's total remuneration in his or her capacity as a director in any three years chose by the Company). The restrictions do not apply to amounts paid to an executive director.

*Changes unrelated to the NZAX Listing Rules*

(References to sections or clauses are references to the proposed new Constitution).

**Minimum Shareholding:** The minimum shareholding of a Shareholder is set at 2,000 shares. If a holding falls below that level, the Board is entitled to give the Shareholder 3 months' notice in effect requiring the Shareholder to increase their shareholding to that level or dispose of the shares (the Board can dispose of them if the Shareholder does not).

**Meetings of Shareholders:** Subject to the provisions of the Act, the Constitution and the NZAX Listing Rules, the Chairperson (rather than the Shareholders) will now regulate the procedure at meetings of shareholders. In the Board's experience, this is the position most commonly found in the Constitutions of listed companies (see section 19).

**Restrictions on voting:** A shareholder is not entitled to vote at any meeting of Shareholders (including a meeting of an Interest Group) in respect of any share if any amount is due and payable on that share (clause 22.1). Under the old Constitution, the restriction did not extend to votes at a meeting of an Interest Group.

**Proxy votes:** No proxy is effective in relation to a meeting unless a copy of the Notice of Appointment of Proxy is received not later than 48 hours before the start of the meeting (clause 24.5). Previously, the Notice of Appointment could be produced at any time before the start of the meeting. The new requirement which has been adopted by a number of NZAX listed companies, has been imposed due to the number of shareholders and the administrative difficulties of checking proxies produced at or immediately before the meeting.

**Indemnity of Directors:** The Constitution provides that the Company shall indemnify a director or employee of the Company or of a related company for any liability of costs for which a director or employee may be indemnified under the Companies Act 1993 (clause 31.1). Under the existing Constitution, the Board has a discretion whether or not to indemnify.

**Managing Director / Executive Chairman does not retire by rotation:** The new Constitution makes it clear that the Managing Director (or Executive Chairman) does not retire by rotation (clause 29.3). This is consistent with the current NZAX Listing Rules. The position under the existing Constitution is not clear.

**No casting vote for Chairperson of the Board:** The Chairperson of the Board does not have a casting vote (clause 34.10). Under the existing Constitution, the Chairperson of the Board has a casting vote except in the case of inequality of votes where two directors form a quorum.