

CONSTITUTION

MOVE LOGISTICS GROUP LIMITED
(FORMERLY TIL LOGISTICS GROUP LIMITED)

ADOPTED 23 OCTOBER 2019

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CONSTITUTION OF TIL LOGISTICS GROUP LIMITED

1. PRELIMINARY

1.1 **Definitions**: In this Constitution, unless the context otherwise requires:

"**Act**" means the Companies Act 1993.

"**Alternate Director**" means a person appointed by a Director as his or her alternate under section 26.

"**ASX**" means ASX Limited ACN 008 624 691 or the Australian Securities Exchange operated by it (as the context requires).

"**ASX Listed**" means, in respect of the Company, while the Company is admitted to the Official List of ASX.

"**ASX Listing Rules**" means the listing rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the official list of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

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

"**Class**" means a class of Securities having identical rights, privileges, limitations and conditions, and includes or excludes Securities which NZX in its discretion deems to be, or not to be, of that class.

"**Company**" means TIL Logistics Group Limited.

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

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

"**Distribution**" has the meaning given in section 2(1) of the Act.

"**Equity Security**" means an Equity Security, as defined in the NZX Listing Rules, which has been issued, or is to be issued, by the Company, as the case may be.

"**Independent Director**" has the meaning given in the NZX Listing Rules.

"**Interest Group**" has the meaning given in section 116 of the Act.

"**Interested**", in relation to a Director, has the meaning given in section 139 of the Act.

"**Listed**" has the meaning given in the NZX Listing Rules.

"**Managing Director**" means a person appointed as a managing director of the Company under clause 27.1.

"**Minimum Holding**" has the meaning given in the NZX Listing Rules.

"**month**" means calendar month.

"**NZX**" means NZX Limited and includes its successors and assigns and as the context permits also includes any duly authorised delegate of NZX (including the NZ Markets Disciplinary Tribunal).

"**NZX Listing Rules**" means the Listing Rules of NZX in force from time to time as, and to the extent that, they apply to the Company.

"**Ordinary Resolution**" has the meaning given in the NZX Listing Rules.

"**person**" includes an individual, partnership, firm, company, body corporate, corporation, association, organisation, trust, a state or government or any agency thereof, a municipal, local or regional authority, and any other entity or organisation, whether incorporated or not (in each case whether or not having a separate legal personality).

"**Personal Representative**" means:

(a) in relation to a deceased individual Shareholder, the executor, administrator or trustee of the estate of that Shareholder;

(b) in relation to a bankrupt individual Shareholder, the assignee in bankruptcy of that Shareholder; and

(c) in relation to any other individual Shareholder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed thereunder, and a donee of an enduring power of attorney complying with that Act.

"**Records**" means the documents required to be kept by the Company under section 189(1) of the Act.

"**Representative**" means:

(a) a person appointed as a proxy under section 23;

(b) a Personal Representative; or

(c) a representative appointed by a corporation under clause 23.8.

"**Ruling**" has the meaning given in the NZX Listing Rules.

"**Security**" has the meaning given in section 6 of the Financial Markets Conduct Act 2013.

"**Share**" means a share issued, or to be issued, by the Company, as the case may be.

"**Shareholder**" means a person whose name is entered in the Share Register as the holder for the time being of one or more Shares.

"**Share Register**" means the share register for the Company kept in accordance with the Act.

"**Share Registrar**" means an agent appointed by the Company to maintain the Share Register.

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

"**Subsidiary**" has the meaning given in the NZX Listing Rules.

"**Treasury Stock**" means Shares which have been acquired by the Company and are held by it as treasury stock in accordance with section 67A of the Act, and includes Shares which are held by a subsidiary of the Company other than in accordance with section 82(6) of the Act.

"**Working Day**" has the meaning given in section 2(1) of the Act.

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

(a) the table of contents, headings, and descriptions relating to sections of the Act, are inserted for convenience only and shall be ignored in construing this Constitution;

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

(c) one gender includes the other genders;

(d) reference to any legislation or to any provision of any legislation (including regulations and orders) includes:

(i) that legislation or provision as from time to time amended, re-enacted or substituted;

(ii) any statutory instruments, regulations, rules and orders issued under that legislation or provision;

(e) "written" and "in writing" include any means of representing or reproducing words, figures and symbols in a tangible and visible form;

(f) references to clauses and sections (other than sections of the Act) are references to clauses and sections in this Constitution, unless stated otherwise;

(g) where any word or expression is defined in this Constitution, any other grammatical form of that word or expression has a corresponding meaning;

(h) words and expressions defined or explained in the Act or the NZX Listing Rules have the same meaning in this Constitution unless otherwise specifically defined or explained in this Constitution.

1.3 **Constitution to prevail**: If there is any conflict between a provision in this Constitution and a provision in the Act that is expressly permitted by the Act to be altered by this Constitution, the provision, word or expression in this Constitution prevails.

1.4 **Application of the Act**: The Company, the Board, each Director and each Shareholder have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified by this Constitution.

2. CONFIRMATION OF OFFICE

2.1 **Confirmation in Office**: All offices, elections, and appointments (including of or to the Board and committees of the Board), registers, registrations, records, instruments, delegations, plans and generally all acts of authority that originated under any previous constitution of the Company and are subsisting and in force on the day on which this Constitution is adopted by the Shareholders shall continue and be deemed to be effective and in full force under this Constitution.

3. NZX LISTING RULES

3.1 **Incorporation of NZX Listing Rules**: While the Company is Listed:

(a) those provisions of the NZX Listing Rules which are required to be incorporated by reference in this Constitution (as modified by Ruling relevant to the Company), shall be deemed to be

incorporated in this Constitution as though set out herein in full with any necessary modification.

(b) the Company shall comply with:

(i) the NZX Listing Rules, subject to the requirements of the Act and any other applicable legislative or regulatory requirements; and

(ii) the terms of any Ruling given from time to time by NZX;

(c) if there is any provision in this Constitution that is inconsistent with the NZX Listing Rules as modified by any Ruling relevant to the Company, the relevant NZX Listing Rules (as modified by any such Ruling) shall prevail

(d) if the NZX Listing Rules are changed so that any act or omission by the Company, which was formerly prohibited by the NZX Listing Rules, is subsequently required or permitted by the change, the act or omission is deemed to be authorised by this Constitution with effect from the date of the change; and

(e) a reference in this Constitution to a specific NZX Listing Rule includes that NZX Listing Rule as it may be amended from time to time and any NZX Listing Rule which may be substituted for that NZX Listing Rule.

3.2 **Effect of Ruling**: If NZX has granted a Ruling authorising any act or omission, which in the absence of that Ruling would be in contravention this Constitution, that act or omission is deemed to be authorised by this Constitution notwithstanding such contravention or inconsistency, unless a contrary intention appears in this Constitution.

3.3 **Effect of failure to comply**: Any failure to comply with the NZX Listing Rules shall not affect the validity or enforceability of any transaction, contract, action or other matter whatsoever (including the proceedings of, or voting at, any meeting) done or entered into by, or affecting, the Company, except that:

(a) a party to a transaction or contract who knew of the failure to comply with the NZX Listing Rules is not entitled to enforce that transaction or contract; and

(b) this provision shall not affect the rights of any holder of any Securities of the Company against the Company or the Directors arising from failure to comply with the NZX Listing Rules.

4. ASX LISTING RULES

4.1 While the Company is listed on the ASX, it will comply with ASX Listing Rule 1.15 and all other ASX Listing Rules that apply to the Company that are in force from time to time, even if quotation of its Shares is deferred, suspended or subject to a trading halt.

4.2 In the event there is a conflict between an ASX Listing Rule that applies to the Company and an applicable NZX Listing Rule, the directors will take all reasonable steps to seek and obtain a waiver of the inconsistent ASX Listing Rule from the ASX.

5. EQUITY SECURITIES

5.1 **Issue of new Equity Securities**: The Board may issue Shares or other Equity Securities to any person and in any number it thinks fit provided that while the Company is Listed, the issue is made in

compliance with the NZX Listing Rules. The provisions of sections 45(1) and 45(2) of the Act shall not apply to any issue or proposed issue of Shares by the Company.

5.2 **Rights and powers attaching to Shares**: Subject to any special rights or restrictions for the time being attached to any Share, and to the rights and restrictions set out elsewhere in this Constitution, each Share confers on the holder:

(a) the right on a poll at a meeting of shareholders to one vote on each resolution (subject to clause 21.6(b) in the case of Shares which are not fully paid);

(b) the right to an equal share in dividends authorised by the Board; and

(c) the right to an equal share in the distribution of the surplus assets of the Company.

5.3 **Classes of Shares**: Different Classes of Shares may be issued by the Company. Without limiting the Classes which may be issued, any Share may be issued upon the basis that it:

(a) ranks equally with, or in priority to, any existing Share; or

(b) confers preferential rights to distributions of capital or income; or

(c) confers special, limited or conditional voting rights; or

(d) does not confer voting rights; or

(e) is redeemable in accordance with section 68 of the Act; or

(f) is Convertible.

5.4 **Consolidation and subdivision**: The Board may:

(a) consolidate and divide the Shares or any Class; and

(b) subdivide the Shares or any Class,

in each case in proportion to those Shares or the Shares in that Class, as the case may be.

5.5 **Bonus issues**: The Board may, subject to any applicable provision of the NZX Listing Rules, resolve to apply any amount which is available for Distribution either:

(a) in paying up in full Shares or other Securities of the Company to be issued credited as fully paid to:

(i) the Shareholders who would be entitled to that amount if it were distributed by way of dividend, and in the same proportions; and

(ii) if applicable, the holders of any other Securities of the Company who are entitled by the terms of issue of such Securities to participate in bonus issues by the Company, whether at the time the bonus issue is made to the Shareholders, or at some later time, in accordance with their respective entitlements; or

(b) in paying up any amount which is unpaid on any Shares held by the Shareholders referred to in clause 5.5(a)(i),

or partly in one way and partly in the other.

5.6 **Alteration of rights**: The Company shall, before taking action affecting the rights attached to any Securities, comply with any applicable provisions of the Act, this Constitution and the NZX Listing Rules. For the purposes of this clause, the issue of further Shares or other Equity Securities which rank equally with, or in priority to, any existing Shares or other Equity Securities, whether as to voting rights, Distributions or otherwise, is expressly permitted and deemed not to be action affecting the rights attaching to those existing Shares or other Equity Securities.

5.7 **Non compliance in certain circumstances**: The Company shall not be required to comply with clause 5.6 in respect of actions that affect the rights attached to Equity Securities which are not shares of the Company if those Equity Securities were issued on terms which expressly permitted the action in question to be taken without the prior approval of holders of those Equity Securities, and those terms were clearly disclosed in the offering document (if any) pursuant to which those Equity Securities were offered, provided that this clause shall not exempt the Company from compliance with covenants or undertakings which are contained in the document pursuant to which those Equity Securities were issued or constituted.

6. ACQUISITION AND REDEMPTION OF EQUITY SECURITIES

6.1 **Powers to acquire, hold and redeem Securities**: The Company may:

(a) purchase or otherwise acquire Shares or other Equity Securities from one or more of the holders;

(b) hold any Shares or other Equity Securities so purchased or acquired; and

(c) redeem any redeemable Shares or other Equity Securities held by one or more of the holders,

in accordance with the provisions, and subject to the restrictions, of the Act, this Constitution and, while the Company is Listed, the NZX Listing Rules.

7. FINANCIAL ASSISTANCE

7.1 **Restrictions on financial assistance**: The Company shall not give financial assistance for the purpose of, or in connection with, the acquisition of its Equity Securities unless the giving of that assistance is in accordance with the provisions of the Act and, while the Company is Listed, the NZX Listing Rules.

8. EQUITABLE INTERESTS IN SHARES

8.1 **No notice of trusts**: No notice of a trust, whether express, implied, or constructive, may be entered on the Share Register.

8.2 **No recognition of equitable interests**: Except as required by law or by this Constitution, no person shall be recognised by the Company as holding any Share upon trust and the Company shall not be bound by, nor be compelled to recognise (even after notice), any equitable, contingent, future or partial interest in any Share, or any interest in any fraction or part of a Share or (except as provided by this Constitution or by law) any other rights in respect of any Share, except an absolute right of the registered holder to the entire Share.

9. CALLS ON SHARES

9.1 **Board may make calls**: The Board may, from time to time, make such calls as it thinks fit upon the Shareholders in respect of any amounts unpaid on any Shares held by them which are not made payable

at fixed times by the terms of issue of those Shares. A call may be made payable by instalments. The Board may revoke or postpone any call.

9.2 **Time of call**: A call is deemed to be made at the time when the resolution of the Board making the call is passed.

9.3 **Fixed instalments deemed calls**: An amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date is deemed for the purposes of this Constitution to be a call duly made and payable on the date on which the amount is payable.

9.4 **Notice of call**: At least 14 days' notice of any call shall be given to the holder of the Share in respect of which the call is made, specifying the time and place of payment.

9.5 **Differential calls**: The Board may, on the issue of Shares, differentiate between the Shareholders as to the amounts to be paid in respect of the Shares and the times of payment of such amounts.

9.6 **Manner of payment**: A Shareholder by whom a call is payable shall pay the amount of the call to the Company at the time and place specified by the Board.

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

9.8 **Default interest**: If a call in respect of a Share is not paid on or before the due date, the Shareholder by whom the call is payable shall pay interest on the call from the due date to the date of actual payment at such rate as the Board determines, unless the Board waives payment of interest wholly or in part.

9.9 **Proceedings for recovery of call**: In any proceedings for recovery of a call:

(a) it is sufficient to prove that:

(i) the name of the relevant Shareholder is entered in the Share Register as the holder, or one of the holders, of the Shares to which the call relates; and

(ii) except in relation to any amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date, the resolution making the call is entered in the Records and notice of the call has been duly given,

and proof of the matters mentioned in this clause is conclusive evidence of the debt; and

(b) it is not necessary to prove the appointment or qualification of any member of the Board which made the call nor any other matter.

9.10 **Payment in advance of calls**: The Company may receive from any Shareholder in advance any amount uncalled and unpaid upon any Shares held by that Shareholder and may, until the date on which the amount becomes payable pursuant to a call, pay interest on the amount at such rate as the Board and the Shareholder agree.

9.11 **Cancellation of unpaid amounts**: No obligation to pay any amount which is unpaid on any Equity Security shall be cancelled, reduced or deferred without the authority of an Ordinary Resolution.

10. FORFEITURE OF SHARES

10.1 **Notice requiring payment of call**: If a Shareholder fails to pay any call or instalment of a call on the due date, the Company may at any time thereafter by written notice to that Shareholder require payment of the amount unpaid together with any accrued interest and all expenses incurred by the Company by reason of such non-payment.

10.2 **Contents of notice**: The notice shall specify a further date (not earlier than 14 days after the date of service of the notice) on or before which the payment is to be made, and shall state that, if payment is not made by the specified date, the Share in respect of which the call or instalment of a call is due, is liable to be forfeited.

10.3 **Forfeiture for non-payment**: If payment is not made by the date specified in the notice then, at any time thereafter before the payment required by the notice has been made, any Share in respect of which the notice has been given may be forfeited by a resolution of the Board to that effect. The forfeiture shall include all Distributions declared in respect of the forfeited Share and not paid before the forfeiture.

10.4 **Notice of forfeiture**: When a Share has been forfeited, the Company shall give notice of the resolution to the Shareholder in whose name the Share stood immediately prior to the forfeiture, and shall enter in the Share Register details of the forfeiture.

10.5 **Cancellation of forfeiture**: A forfeiture may be cancelled at any time before the sale of the forfeited Share, on such terms as the Board thinks fit.

10.6 **Effect of forfeiture**: The holder of a Share which has been forfeited ceases to be a Shareholder in respect of the forfeited Share, but remains liable to the Company for all money payable in respect of the forfeited Share.

11. LIEN ON SHARES

11.1 **Lien on Shares**: The Company has a first and paramount lien upon each Share, the proceeds of sale of the Share, and all Distributions made in respect of the Share, for:

(a) all unpaid calls owing in respect of the Share and interest thereon (if any); and

(b) any amount which the Company may be called upon to pay under any legislation in respect of the Share, whether or not the due date for payment thereof has arrived.

11.2 **Waiver of lien**: Unless otherwise agreed between the Company and the relevant Shareholder, the registration of a transfer of a Share shall operate as a waiver of any lien which the Company may have on that Share, except as provided in clause 14.2.

12. SALE OF SHARES SUBJECT TO FORFEITURE OR LIEN

12.1 **Company may sell Shares**: The Company may sell any forfeited Share, or any Share on which the Company has a lien, in such manner as the Board thinks fit, but the Company shall not sell any Share:

(a) unless the amount in respect of which a lien exists is due and payable; and

(b) until the expiry of 14 days after written notice demanding payment of the amount has been given to the person entitled to receive notice of meetings of Shareholders in respect of the Share.

12.2 **Proceeds of sale**: The net proceeds (after deduction of any expenses) of the sale of a forfeited Share or of any Share sold for the purpose of enforcing a lien shall be applied in or towards satisfaction of any unpaid calls, interest or other amount in respect of which any lien exists (as the case may require). The residue, if any, shall be paid to the holder of the Share at the time of its forfeiture or, in the case of a Share sold for the purpose of enforcing a lien, the holder immediately prior to the sale or, if applicable in either case, to the Personal Representative of the holder.

12.3 **Evidence**: A certificate by a Director that any power of sale has arisen and is exercisable by the Company under this Constitution, or that a Share has been forfeited on the date stated in the certificate, shall be conclusive evidence of those facts.

12.4 **Sale procedure**: For giving effect to any sale after forfeiture of any Share or for enforcing a lien over any Share, the Board may authorise any person to transfer any Share to the purchaser. The purchaser shall be registered as the holder of the Share and shall not be bound to see to the application of the purchase money, and the title of the purchaser shall not be affected by any irregularity or invalidity in relation to the sale. The remedy of any person having a cause of action in relation to the sale is in damages only and solely against the Company.

13. TRANSFER OF SHARES

13.1 **Right to transfer**: Subject to any restrictions contained in this Constitution, a Shareholder or Personal Representative may transfer any Share:

(a) under a system of transfer approved under section 376 of the Financial Markets Conduct Act 2013 which is applicable to the Company;

(b) under any other share transfer system which operates in relation to the trading of securities on any stock exchange outside New Zealand on which Shares are listed and which is applicable to the Company; or

(c) by an instrument of transfer which complies with this Constitution.

13.2 **Method of transfer**: A Share which is disposed of in a transaction which complies with the requirements of a system of transfer authorised under clause 13.1(a) or 13.1(b) may be transferred in accordance with the requirements of that system. Where an instrument of transfer executed by a transferor outside New Zealand would have complied with the provisions of subpart 9 of Part 5 of the Financial Markets Conduct Act 2013 if it had been executed in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or the Share Registrar.

13.3 **Other forms of transfer**: An instrument of transfer of Shares to which the provisions of clause 13.2 are not applicable shall:

(a) be in any common form or any other form approved by the Company or the Share Registrar;

(b) be signed or executed by or on behalf of the transferor; and

(c) if registration as holder of the Share imposes a liability on the transferee, be signed or executed by or on behalf of the transferee.

13.4 **Delivery to Company**: An instrument transferring Shares must be delivered to the Company or to the Share Registrar, together with such evidence (if any) as the Company or the Share Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Shares.

13.5 **Board may refuse to register**: Subject to section 84 of the Act (which imposes certain procedural requirements on a board) and, while the Company is ASX Listed, the ASX Listing Rules, the Board may refuse to register a transfer of any Share if:

(a) the Company has a lien on the Share;

(b) the transferor fails to produce such evidence as the Company or the Share Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Share;

(c) registration of the transfer (together with registration of any further transfer or transfers then held by the Company and awaiting registration) would result in less than a Minimum Holding of Shares of the relevant Class standing in the name of the transferee,

provided that the Board resolves to exercise its power under this clause within 30 Working Days after receipt of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee within five Working Days of the resolution being passed by the Board.

13.6 **When transfer effective**: A transferor of a Share is deemed to remain the holder of the Share until the name of the transferee is entered in the Share Register in respect of the Share.

13.7 **Company to retain transfer**: If the Company registers an instrument of transfer it shall retain the instrument.

13.8 **Multiple registers**: The Share Register may, by resolution of the Board, be divided into two or more registers, which may be kept in different places, and may be kept by one or more Share Registrars.

13.9 **Compulsory disposal when holding less than Minimum Holding**: While the Company is Listed, the Board may at any time give notice to a Shareholder holding less than a Minimum Holding of Shares of any Class that if at the expiration of three months after the date the notice is given the Shareholder still holds less than a Minimum Holding of Shares of that Class, the Board may exercise the power of sale of those Shares set out in this clause. If that power of sale becomes exercisable:

(a) the Board may arrange for the sale of the relevant Shares on behalf of the Shareholder;

(b) the Shareholder shall be deemed to have authorised the Company to act on behalf of the Shareholder in relation to the sale of the relevant Shares, and to sign all necessary documents relating to such sale;

(c) the Company shall account to the Shareholder for the net proceeds of sale (after deduction of reasonable sale expenses) which shall be held on trust by the Company for, and paid (together with interest at such rate (if any) as the Board deems appropriate) to, the Shareholder, on surrender of the certificate (if any) relating to the relevant Shares; and

(d) the title of the purchaser of any Shares sold pursuant to this clause shall not be affected by any irregularity in the exercise or purported exercise of the power of sale specified in this clause.

13.10 **Securities other than Shares**: The provisions of this section 13 shall apply, with any necessary modifications, to Securities of the Company other than Shares except to the extent (if any) provided

otherwise by the terms of issue of such Securities, by law, or, while the Company is Listed, by the NZX Listing Rules.

14. TRANSMISSION OF SHARES

14.1 **Transmission on death of Shareholder**: If a Shareholder dies the survivor, if the deceased was a joint Shareholder, or the Personal Representative, shall be the only persons recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder but nothing in this clause shall release the estate of a deceased joint Shareholder from any liability in respect of any Share or constitute a release of any lien which the Company may have in respect of any Share.

14.2 **Rights of Personal Representatives**: A Personal Representative of a Shareholder:

(a) is entitled to exercise all rights (including without limitation the rights to receive Distributions, to attend meetings and to vote in person or by Representative), and is subject to all limitations, attached to the Shares held by that Shareholder; and

(b) is entitled to be registered as holder of those Shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the Personal Representative pursuant to this sub-clause.

14.3 **Joint Personal Representatives**: Where a Share is subject to the control of two or more persons as Personal Representatives, they shall, for the purposes of this Constitution, be deemed to be joint holders of the Share.

15. DISTRIBUTIONS

15.1 **Power to authorise**: The Board, if satisfied on reasonable grounds that the Company will immediately after the Distribution satisfy the solvency test may, subject to the Act and this Constitution, authorise Distributions by the Company at times, and of amounts, and to any Shareholders, as it thinks fit and may do everything which is necessary or expedient to give effect to any such Distribution.

15.2 **Currency of payment**: The Board, if its thinks fit, may differentiate between Shareholders as to the currency in which any Distribution is to be paid. In exercising its discretion the Board may have regard to the registered address of a Shareholder, the register on which a Shareholder's Shares are registered and such other matters (if any) as the Board considers appropriate. If the Board determines to pay a Distribution in a currency other than New Zealand currency, the amount payable shall be converted from New Zealand currency in such manner, at such time, and at such exchange rate, as the Board thinks fit.

15.3 **Entitlement to dividends**: The Board shall not authorise a dividend:

(a) in respect of some but not all the Shares in a Class; or

(b) that is of a greater value per Share in respect of some Shares of a Class than it is in respect of other Shares of that Class,

unless the amount of the dividend in respect of a Share of that Class is in proportion to the amount paid to the Company in satisfaction of the liability of the Shareholder under this Constitution or under the terms of issue of the Share, but a Shareholder may waive that Shareholder's entitlement to receive a dividend or any part thereof by written notice to the Company signed by or on behalf of the Shareholder.

15.4 **Deduction of money**: The Board may deduct from a Distribution payable to a Shareholder any amount which is due and payable by the Shareholder to the Company on account of calls or otherwise in relation to any Shares held by that Shareholder.

15.5 **Method of payment**: A Distribution payable in cash may be paid in such manner as the Board thinks fit to the entitled Shareholders or, in the case of joint Shareholders, to the Shareholder named first in the Share Register, or to such other person and in such manner as the Shareholder or joint Shareholders may in writing direct. Any one of two or more joint Shareholders may give a receipt for any payment in respect of the Shares held by them as joint Shareholders.

15.6 **No interest on Distributions**: The Company is not liable to pay interest in respect of any Distribution.

15.7 **Payment of small Distribution amounts**: Where the net amount of a Distribution payable to a Shareholder is less than such minimum amount as may be determined from time to time by the Board for the purposes of this clause, the Company may, with the prior approval of that Shareholder, defer payment of the Distribution to that Shareholder until the earlier of:

(a) such time as that Shareholder has an aggregate entitlement to net Distributions of not less than such minimum amount; and

(b) the date upon which that Shareholder ceases to hold any Shares.

15.8 **Unclaimed Distributions**: Dividends or other monetary Distributions unclaimed for more than one year after having been authorised, may be used for the benefit of the Company until claimed. All dividends or other monetary Distributions unclaimed for more than five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Board shall nevertheless, at any time after such forfeiture, annul the forfeiture and agree to pay a claimant who produces satisfactory evidence of entitlement.

16. EXERCISE OF POWERS OF SHAREHOLDERS

16.1 **Alternative forms of meeting**: A meeting of Shareholders may be held by a quorum of the Shareholders:

(a) being assembled together at the time and the place appointed for the meeting;

(b) participating in the meeting by means of audio, audio and visual, or electronic communication; or

(c) by a combination of both the methods described in clauses 16.1(a) and 16.1(b) above.

The Company is not required to hold meetings of shareholders in the manner specified in clause 16.1(b) or 16.1(c). Meetings will be held in that manner only if the notice of meeting so specifies or the Board otherwise decides that the Company should do so. To avoid doubt, a shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

16.2 **Powers exercisable by Ordinary Resolution**: Unless otherwise specified in the Act or this Constitution, a power or right of approval reserved to Shareholders may be exercised by an Ordinary Resolution.

17. MEETINGS OF SHAREHOLDERS

17.1 **Annual meetings**: The Company shall hold annual meetings of Shareholders in accordance with section 120 of the Act.

17.2 **Special meetings**: A special meeting of Shareholders entitled to vote on an issue:

(a) may be called by the Board at any time;

(b) shall be called by the Board on the written request of Shareholders holding Shares carrying together not less than 5% of the voting rights entitled to be exercised on any of the questions to be considered at the meeting.

17.3 **Time and place of meetings**: Each meeting of Shareholders shall be held at such time and place as the Board appoints.

17.4 **Equity Security holders entitled to attend**: Equity Security holders of all Classes (whether or not they have the right to vote) are entitled to attend meetings of Shareholders and to receive copies ,or have access to electronic copies, of all notices, reports and financial statements issued generally to the holders of all Securities entitled to vote at meetings of Shareholders but are not entitled to vote at any such meeting unless the terms of the relevant Equity Securities so provide.

17.5 **Meetings of Interest Groups:** A meeting of the Shareholders constituting an Interest Group may be called by the Board at any time. All the provisions of this Constitution relating to meetings of Shareholders shall apply, with all necessary modifications, to meetings of Interest Groups, except that:

(a) the necessary quorum for a meeting is one Shareholder having the right to vote at the meeting, present in person or by Representative;

(b) any Shareholder in the relevant Interest Group, present in person or by Representative, may demand a poll (unless a poll is already required by clause 22.2); and

(c) if the Board so elects, one meeting may be held of Shareholders constituting more than one Interest Group, so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of the Shareholders in each Interest Group.

18. NOTICE OF MEETINGS OF SHAREHOLDERS

18.1 **Written notice**: Written notice of the time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting, to every Director, and to the auditor of the Company, not less than 10 Working Days before the meeting, but with the consent of all Shareholders entitled to attend and vote at a meeting, it may be convened by such shorter notice, and in such manner, as those Shareholders agree.

18.2 **Contents of notice**: A notice of meeting shall state:

(a) the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it;

(b) the text of any Special Resolution to be submitted to the meeting; and

(c) that a Shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of the Shareholder and that a proxy need not be a Shareholder.

18.3 **Form of resolutions**: So far as reasonably practicable, the resolutions to be proposed at a meeting shall be framed in a way which facilitates the giving of two way voting instructions to proxies.

18.4 **Waiver of notice irregularity**: An irregularity in a notice of a meeting is waived if all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Shareholders agree to the waiver.

18.5 **Accidental omission of notice**: The accidental omission to give notice of a meeting to, or the non-receipt or late receipt of notice of a meeting by, any person entitled to receive notice, does not invalidate the proceedings at the meeting.

18.6 **Notice of adjourned meeting**: If a meeting of Shareholders is adjourned for less than 30 days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clause 18.1.

19. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

19.1 **Requirement for quorum**: Subject to clause 19.3, no business may be transacted at a meeting of Shareholders if a quorum is not present.

19.2 **Quorum**: Subject to clause 19.3, a quorum for a meeting of Shareholders is five Shareholders having the right to vote at the meeting, present in person or by Representative. To avoid doubt, a Shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

19.3 **Lack of quorum**: If a quorum is not present within 30 minutes after the time appointed for the meeting:

(a) in the case of a meeting called by the Board on the written request of Shareholders entitled to exercise that right, the meeting is dissolved;

(b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the Board may appoint and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Shareholders or their Representatives present are a quorum.

19.4 **Regulation of procedure**: Subject to the provisions of the Act, and except as otherwise provided in this Constitution, the chairperson may regulate the procedure at meetings of Shareholders.

19.5 **Adjournment of meeting**: The chairperson may, with the consent of a meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the relevant meeting.

19.6 **Adjournment or dissolution of disorderly meeting**: If a meeting becomes so unruly, disorderly or inordinately protracted, that in the opinion of the chairperson the business of the meeting cannot be conducted in a proper and orderly manner, the chairperson, notwithstanding any provision to the contrary contained in this Constitution and without the consent of the meeting, may, in his or her sole and absolute discretion and without giving any reason therefor, either adjourn or dissolve the meeting.

19.7 **Completion of unfinished business if meeting dissolved**: If a meeting is dissolved by the chairperson pursuant to clause 19.6, the unfinished business of the meeting shall be dealt with as follows:

(a) in respect of a resolution concerning the approval or authorisation of a Distribution, the Board may, in the exercise of the powers conferred on it by the Act or this Constitution, authorise such Distribution;

(b) in respect of a resolution concerning the remuneration of the auditors, the meeting shall be deemed to have resolved that the Board be authorised to fix the remuneration of the auditors;

(c) the chairperson may direct that any other item of uncompleted business, which in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion, in accordance with clause 22.5.

20. CHAIRPERSON OF MEETINGS OF SHAREHOLDERS

20.1 **Chairperson**: If the Directors have elected a chairperson of the Board and he or she is present at a meeting of Shareholders, he or she shall chair the meeting, unless or except to the extent that the chairperson considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting.

20.2 **Directors may appoint chairperson**: If no chairperson of the Board has been elected or if, at any meeting of Shareholders, the chairperson of the Board is not present within 15 minutes after the time appointed for the commencement of the meeting, or considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting, the Directors present may elect one of their number to chair the meeting or that part of the meeting which relates to the particular business, as the case may require.

20.3 **Shareholders may appoint chairperson**: If at any meeting of Shareholders no Director is willing to act as chairperson or no Director is present within 15 minutes after the time appointed for the commencement of the meeting, the Shareholders present may choose one of their number to chair the meeting.

21. VOTING AT MEETINGS OF SHAREHOLDERS

21.1 **Voting at meeting in one place**: In the case of a meeting of Shareholders held under clause 16.1(a), unless a poll is demanded in accordance with clause 22.1, the chairperson of the meeting shall determine whether voting will be by voice or by show of hands.

21.2 **Voting at audio/visual meeting**: In the case of a meeting of Shareholders held under clause 16.1(b) or 16.1(c), unless a poll is demanded in accordance with clause 22.1, voting at the meeting will be by any method permitted by the chairperson of the meeting.

21.3 **Voting by electronic means:** To the extent permitted by the Act and the NZX Listing Rules, the Board may allow Shareholders to vote by signifying their assent or dissent by electronic means (including, for the avoidance of doubt, voting on a personal computer, with such vote being transmitted to the meeting), instead of the Shareholder voting by another method permitted by the Act or this Constitution.

21.4 **Postal votes**: Unless the Board determines otherwise, Shareholders may not exercise the right to vote at a meeting by casting postal votes. If the Board determines that postal voting will be permitted at a

meeting, the provisions of clause 7 of schedule 1 to the Act shall apply, with such modifications (if any) as the Board thinks fit. To avoid doubt, a postal vote may be cast using electronic means permitted by the Board.

21.5 **Method of exercise**: A Shareholder may exercise the right to vote either in person or by Representative.

21.6 **Number of votes**: Subject to clause 21.7 and to any rights or restrictions for the time being attached to any Share:

(a) where voting is by show of hands or by voice every Shareholder present in person or by Representative has one vote;

(b) on a poll every Shareholder present in person or by Representative has:

(i) in respect of each fully paid Share held by that Shareholder, one vote;

(ii) in respect of each Share held by that Shareholder which is not fully paid, a fraction of the vote or votes which would be exercisable if that Share were fully paid equivalent to the proportion which the amount paid (excluding amounts credited as paid) on that Share bears to the total amount paid and payable thereon (excluding amounts credited as paid and amounts paid in advance of calls).

21.7 **Voting restrictions**: A Shareholder is not entitled to vote at any meeting of Shareholders (including a meeting of an Interest Group):

(a) in respect of any Share if any amount is due and payable on that Share by the Shareholder to the Company; or

(b) in favour of a resolution when that person is disqualified from doing so by virtue of any applicable voting restriction in the NZX Listing Rules.

21.8 **Vote of overseas protected persons**: A Shareholder who is not living in New Zealand, and who is of unsound mind or in respect of whom an order has been made by any court having appropriate jurisdiction, may vote in respect of any Shares held by that Shareholder, by his or her committee, manager, or other person of a similar nature appointed by that court, voting in person or by proxy.

21.9 **Declaration by chairperson**: A declaration by the chairperson of a meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 22.1.

21.10 **Chairperson's casting vote**: The chairperson of a meeting of Shareholders is not entitled to a casting vote.

21.11 **Joint Shareholders**: Where two or more persons are registered as joint Shareholders, the vote of the person named first in the Share Register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

21.12 **Shareholder participation by electronic means:** For the purposes of this Constitution, a Shareholder, or the Shareholder's proxy or representative, may participate in a meeting by means of audio, audio and visual, or electronic communication if:

(a) the Board approves those means; and

(b) the Shareholder, proxy, or representative complies with any conditions imposed by the Board in relation to the use of those means (including for example, conditions relating to the identity of the Shareholder, proxy, or representative and that persons approval or authentication (including electronic authentication) of the information communicated by electronic means).

To avoid doubt, participation in a meeting includes participation in any manner specified in, or permitted by, this Constitution.

22. POLLS

22.1 **Right to demand poll**: At a meeting of Shareholders a poll may be demanded by:

(a) the chairperson; or

(b) not less than five Shareholders having the right to vote at the meeting; or

(c) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting; or

(d) a Shareholder or Shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right.

22.2 **Voting while Listed**: For as long as the Company is Listed, and the NZX Listing Rules so require, the chairperson shall demand a poll on all resolutions.

22.3 **When poll may be demanded**: A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.

22.4 **When poll taken**: A poll demanded on the election of a chairperson of a meeting or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time as the chairperson directs and any business, other than that upon which a poll is demanded, may proceed pending the taking of the poll.

22.5 **Poll procedure**: A poll shall be taken in such manner as the chairperson directs and the result of the poll is deemed to be a resolution of the meeting at which the poll is demanded.

22.6 **Votes**: On a poll:

(a) votes may be given either personally or by Representative;

(b) votes shall be counted according to the votes attached to the Shares of each Shareholder present in person or by Representative and voting in respect of those Shares;

(c) a Shareholder need not cast all the votes to which the Shareholder is entitled and need not exercise in the same way all of the votes which the Shareholder casts.

22.7 **Scrutineers**: The auditors shall be scrutineers unless they are unable or unwilling to act, or the chairperson of the meeting directs otherwise, in which case the scrutineers shall be appointed by the chairperson.

22.8 **Declaration of result**: The chairperson is entitled to declare the result of a poll upon receipt of a certificate from the scrutineers stating that sufficient votes to determine the result of the resolution have been counted and setting out the basis of that determination.

23. PROXIES AND CORPORATE REPRESENTATIVE

23.1 **Right to appoint**: A Shareholder entitled to vote at a meeting of Shareholders may appoint a proxy to vote on behalf of the Shareholder at the meeting. The proxy is entitled to attend and be heard at the meeting, and to demand or join in demanding a poll, as if the proxy were the Shareholder.

23.2 **Notice of appointment**: A proxy shall be appointed by written notice signed by or, in the case of an electronic notice, sent by the appointing Shareholder and the notice shall state whether the appointment is for a particular meeting or for a specified term. The notice shall (so far as the subject matter and form of the resolutions to be proposed at the relevant meeting reasonably permit) provide for two way voting on all resolutions, enabling the appointor to instruct the proxy as to the casting of the vote.

23.3 **Multiple appointments:** A Shareholder may appoint more than one proxy for a particular meeting, provided that more than one proxy is not appointed to exercise the rights attached to a particular share held by the Shareholder.

23.4 **Proxy form to be sent with notice of meeting**: The Company shall send a form of notice of appointment of proxy to every Shareholder entitled to attend and vote at a meeting, with the notice convening the meeting.

23.5 **Proxy form must not name proxy**: The Company shall not issue any form of notice of appointment with a proxy named in it, either by name or by reference to an office which that proxy holds, but the Company may indicate that certain persons or officers are willing to act as a proxy if a Shareholder desires to appoint them or any of them.

23.6 **Receipt of proxy form**: No appointment of a proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by the Company at its registered office, or by the Share Registrar at such address as is specified for that purpose in the form of notice of appointment or in the notice convening the meeting, not later than 48 hours before the start of the meeting.

23.7 **Validity of proxy vote**: A vote given in accordance with the terms of a notice of appointment of a proxy is valid notwithstanding the previous death or mental disorder of the principal, or the revocation of the appointment or of the authority under which the notice of appointment was executed, or the transfer of the Share in respect of which the proxy is appointed, if no written notification of such death, mental disorder, revocation, or transfer is received by the Company at its registered office, or by the Share Registrar, before the commencement of the meeting or adjourned meeting for which the proxy is appointed.

23.8 **Corporate representative**: A corporation which is a Shareholder may appoint a person to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.

24. SHAREHOLDER PROPOSALS AND MANAGEMENT REVIEW

24.1 **Shareholder proposals**: A Shareholder may give written notice to the Board of a matter which the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote. The provisions of clause 9 of schedule 1 to the Act apply to any notice given pursuant to this clause.

24.2 **Management review by Shareholders**: The chairperson of a meeting of Shareholders shall allow a reasonable opportunity for Shareholders at the meeting to question, discuss, or comment on the management of the Company. The Shareholders may pass a resolution relating to the management of the Company at that meeting but no such resolution is binding on the Board. Section 109(2A) of the Act applies in respect of a meeting at which a resolution under this clause is passed.

25. APPOINTMENT AND REMOVAL OF DIRECTORS

25.1 **Board composition**: The composition of the Board shall comply with the following requirements:

(a) the minimum number of Directors (other than Alternate Directors) shall be three;

(b) at least two Directors shall be ordinarily resident in New Zealand; and

(c) while the Company is Listed, it shall have not less than the minimum number of Independent Directors prescribed by the NZX Listing Rules.

25.2 **Existing Directors**: The Directors holding office at the time of adoption of this Constitution shall continue in office subject to the provisions of this Constitution.

25.3 **Independent Directors**: While the Company is Listed, the Company and the Board shall comply with the NZX Listing Rules applicable to the appointment and identification of Independent Directors.

25.4 **Appointment by Shareholders**: A person may be appointed as a Director at any time by an Ordinary Resolution.

25.5 **Appointment by Board**: The Board may at any time appoint a person to be a Director. A Director so appointed holds office only until the next annual meeting of the Company but, if willing, is eligible for election at that meeting.

25.6 **Rotation of Directors**: A Director must not hold office without re-election past the third annual meeting following the Director's appointment or re-election, or for more than three years after that time, whichever is longer. Directors shall retire at annual meetings to the extent necessary to ensure compliance with the previous sentence. A retiring Director, if willing, is eligible for re-election.

25.7 **Nomination of Directors**: No person may be elected as a Director at an annual meeting (other than a Director retiring at the meeting) unless, not more than two months before the meeting, that person has been nominated by a Security holder entitled to attend and vote at the meeting, if that Equity Security holder continues to hold Equity Securities on the date on which the entitlement to attend and vote at the meeting is determined, by written notice to the Company accompanied by the consent in writing of that person to the nomination. The Company shall announce to the market the closing date for Director nominations and contact details for making such nominations no less than 10 Business Days prior to the closing date.

25.8 **Notice of nomination**: Notice of every valid nomination of a Director received by the Company before the closing date for nominations (and not later withdrawn) shall be sent by the Company to all persons entitled to attend the meeting together with, or as part of, the notice of meeting and while the Company is Listed it shall specify in the notice of meeting the Board's view on whether or not the nominee would qualify as an Independent Director.

25.9 **Restriction on multiple appointments by single resolution**: Each resolution of Shareholders to appoint, elect or re-elect a Director must be for the appointment, election or re-election of one Director only.

25.10 **Vacation of office**: A Director ceases to be a Director if he or she:

(a) is removed from office by an Ordinary Resolution; or

(b) dies, or becomes mentally disordered or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988; or

(c) resigns by written notice delivered to the Company at its address for service or at its registered office (such notice to be effective at the time when it is so received unless a later time is specified in the notice); or

(d) becomes disqualified from being a Director pursuant to the Act; or

(e) becomes bankrupt or makes an arrangement or composition with his or her creditors generally; or

(f) has for more than six months been absent without approval of the Board from meetings of the Board held during that period.

25.11 **Timing of retirement and appointment**: If:

(a) a Director retires at a meeting of shareholders and is not re-elected, the Director shall remain in office until, and his or her retirement shall take effect at, the conclusion of the meeting;

(b) a Director is removed from office at a meeting of shareholders by Ordinary Resolution, the Director shall remain in office until, and his or her removal shall take effect at, the conclusion of the meeting;

(c) a person who is not already a Director is appointed or elected as a Director at a meeting of shareholders, that person shall take office as a Director immediately after the conclusion of the meeting.

26. ALTERNATE DIRECTORS

26.1 **Power to appoint**: A Director may from time to time by written notice to the Company appoint any person, who is not already a Director and who is approved by a majority of the other Directors, to be that Director's alternate. No Director may appoint a deputy or agent except by way of appointment of an Alternate Director under this section 26.

26.2 **Rights of Alternate Director**: Unless otherwise specified by the terms of his or her appointment, an Alternate Director:

(a) is entitled, in the absence or unavailability of the Director who appointed him or her (the "**Appointor**"), to exercise the same rights, powers and privileges (other than the power to appoint an Alternate Director) as the Appointor;

(b) when acting as an Alternate Director is subject to the same duties and obligations as the Appointor;

(c) is not entitled to be given notice of a meeting of the Directors unless the Appointor has given written notice to the Company requesting that notice be given to the Alternate Director.

26.3 **Remuneration and expenses**: An Alternate Director is not entitled to any remuneration from the Company in his or her capacity as an Alternate Director but is entitled to be reimbursed by the Company for all expenses incurred in attending meetings of the Directors and in the discharge of his or her duties, to the same extent as if he or she were a Director.

26.4 **Cessation of appointment**: An Alternate Director ceases to be an Alternate Director:

(a) if the Appointor ceases to be a Director, or revokes the appointment by written notice to the Company; or

(b) on the occurrence of any event which would disqualify the Alternate Director if he or she were a Director; or

(c) if a majority of the other Directors resolve to revoke the Alternate Director's appointment.

27. MANAGING DIRECTORS

27.1 **Appointment**: The Board may from time to time appoint one or more Directors to the office of Managing Director for such period and on such terms as the Board thinks fit and, subject to the terms of any agreement entered into in any particular case, may at any time revoke such appointment.

27.2 **Resignation**: A Managing Director is subject to the same provisions as regards rotation, resignation, removal, and disqualification as the other Directors, and if a Managing Director ceases to hold the office of Director from any cause he or she automatically ceases to be a Managing Director.

27.3 **Remuneration**: A Managing Director is entitled to receive such remuneration for his or her services as an employee (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Board may determine.

28. REMUNERATION AND OTHER BENEFITS OF DIRECTORS

28.1 **Restriction on remuneration**: No remuneration shall be paid by the Company or any Subsidiary to a Director in his or her capacity as a Director, or as a director of a Subsidiary (other than a Listed Subsidiary), unless the remuneration has been authorised by an Ordinary Resolution, except as provided in this section 28. Each such resolution shall express the Directors' remuneration as either:

(a) a monetary sum per annum payable to all Directors taken together; or

(b) a monetary sum per annum payable to any person from time to time holding office as a Director.

28.2 **Power to increase:** If at any time while the approved remuneration of the Directors is expressed in accordance with clause 28.1(a), there is an increase in the total number of Directors holding office from the number when the remuneration was approved by an Ordinary Resolution, the amount of remuneration then payable in accordance with that clause may be increased by the Board (without an Ordinary Resolution) by such amount as is necessary to enable the Company to pay the additional Director or Directors by way of remuneration a fee not exceeding the average amount then being paid to each of the other non-executive Directors (other than the chairperson).

28.3 **Notice of proposed increase**: No resolution which increases the amount of the Director's remuneration shall be passed at a meeting of Shareholders unless notice of the amount of increase has been given in the notice of meeting.

28.4 **Payment of expenses**: Notwithstanding the provisions of clause 28.1, Directors are entitled to be paid for all travelling, accommodation and other expenses properly incurred by them in attending meetings of the Board, or any committee of the Board, or meetings of Shareholders, or in connection with the business of the Company.

28.5 **Remuneration for other work**: Subject to the NZX Listing Rules, the Board may, without Shareholder approval, authorise the Company or any Subsidiary to pay remuneration to any Director for work in a capacity other than that of Director, or director of the Subsidiary, as the case may be, and that remuneration may be either in addition to, or in substitution for that Director's remuneration under clause 28.1.

28.6 **Retirement benefits**: The Company may make a payment to a Director or former Director, or to his or her dependants, by way of a lump sum or pension, upon or in connection with the retirement or cessation of office of that Director, only if the amount of the payment, or the method of calculation of the amount of the payment, is authorised by an Ordinary Resolution or, while the Company is Listed, is otherwise permitted by the NZX Listing Rules, but nothing in this clause shall affect any amount paid to an executive Director upon or in connection with the termination of his or her employment with the Company, or the payment of any amount attributable to the contribution (or any normal subsidy related thereto) made by a Director to a superannuation scheme.

29. INDEMNITY AND INSURANCE

29.1 **Indemnity for Directors**: The Company shall indemnify each Director in his or her capacity as a director of the Company or a related company, to the maximum extent permitted by law, for any liability or costs for which a director may be indemnified under the Act, subject to any limitations contained in any deed of indemnity from time to time in force between the Company and the Director.

29.2 **Other indemnities and insurance**: In addition to the indemnity in clause 29.1, the Company may:

(a) indemnify a director or employee of the Company or a related company for any costs referred to in section 162(3) of the Act;

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

29.3 **Interpretation**: Words given extended meanings in section 162(9) of the Act have those extended meanings in this section 29.

30. POWERS OF DIRECTORS

30.1 **Management of Company**: The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.

30.2 **Exercise of powers by Board**: The Board may exercise all the powers of the Company which are not required, either by the Act or this Constitution, to be exercised by the Shareholders.

30.3 **Delegation of powers**: The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in schedule 2 to the Act.

30.4 **Appointment of attorney**: The Company may exercise the power conferred by section 181 of the 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.

30.5 **Ratification by Shareholders**: Subject to the provisions of section 177 of the Act (relating to ratification of directors' actions) the Shareholders, or any other person in whom a power is vested by this Constitution or the 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.

31. INTERESTS OF DIRECTORS

31.1 **Disclosure of Interests**: A Director shall comply with the provisions of section 140 of the Act (relating to disclosure of interest of directors) but failure to comply with that section does not affect the operation of clause 31.2.

31.2 **Personal involvement of Directors**: Notwithstanding any rule of law or equity to the contrary, but subject to sections 107(3) and 141 of the Act (relating to avoidance of transactions in which a Director is Interested) and section 36(4)(a) of the Financial Reporting Act 2013 (prohibiting a director from acting as auditor of a 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 corporation 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.

31.3 **Interested Directors may not vote**: A Director who is Interested in a transaction entered into, or to be entered into, by the Company:

(a) may attend a meeting of the Board at which any matter relating to the transaction arises but shall not be included in the quorum for the purposes of consideration by the Board of, and may not vote on, any matter relating to the transaction except as provided in clause 31.4;

(b) may sign a document relating to the transaction on behalf of the Company, and may do any other thing in his or her capacity as a Director in relation to the transaction, as if the Director were not Interested in the transaction.

31.4 **Exception to voting prohibition**: A Director may vote in respect of, and be counted in the quorum for the purposes of consideration by the Board of, a matter in which he or she is Interested if that matter is one in respect of which, pursuant to an express provision of the Act, Directors are required to sign a certificate or one which relates to the grant of an indemnity pursuant to section 162 of the Act.

32. PROCEEDINGS OF BOARD

32.1 **Third schedule of Act not to apply**: The provisions of the third schedule to the Act (relating to proceedings of a board) do not apply to the Company, except to the extent expressly incorporated in this Constitution.

32.2 **Alternative forms of meeting**: 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 Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

32.3 **Procedure**: Except as provided in this Constitution, the Board may regulate its own procedure.

32.4 **Convening of meetings**: A Director, or an employee of the Company at the request of a Director, may convene a meeting of the Board by giving notice in accordance with clause 32.5.

32.5 **Notice of meeting**: The following provisions apply in relation to meetings of the Board (except where otherwise agreed by all Directors in relation to any particular meeting or meetings):

(a) Not less than five clear days' notice of a meeting shall be sent to each Director, unless:

(i) the Director waives that right; or

(ii) in the opinion of the chairperson, or of directors who would together constitute a quorum at the meeting, the meeting is necessary as a matter of urgency, in which event such notice as is practicable in the circumstances shall be given.

(b) Notice to a Director of a meeting may be:

(i) given to the Director in person by telephone or other oral communication;

(ii) delivered to the Director;

(iii) posted to the address given by the Director to the Company for such purpose;

(iv) sent by electronic means in accordance with any request made by the Director from time to time for such purpose.

(c) A notice of meeting shall:

(i) specify the date, time and place of the meeting;

(ii) in the case of a meeting by means of audio, or audio and visual, communication, specify the manner in which each Director may participate in the proceedings of the meeting; and

(iii) give an indication of the matters to be discussed, in sufficient detail to enable a reasonable Director to appreciate the general import of the matters, unless this is already known to all the Directors or is impracticable in any particular circumstances.

(d) A notice of meeting given to a Director pursuant to this clause is deemed to be given:

(i) in the case of oral communication, at the time of notification;

(ii) in the case of delivery, by handing the notice to the Director or by delivery of the notice to the address of the Director;

(iii) in the case of posting, three days after it is posted;

(iv) in the case of electronic means, at the time of transmission.

(e) If all reasonable efforts have been made to give notice of a meeting to a Director in accordance with this clause 32.5 but the Director cannot be contacted, notice of the meeting shall be deemed to have been duly given to that Director.

32.6 **Waiver of notice irregularity**: An irregularity in the giving of notice of a meeting is waived if each of the Directors either attends the meeting without protest as to the irregularity or agrees (whether before, during, or after the meeting) to the waiver.

32.7 **Quorum**: Subject to clause 31.3(a), a quorum for consideration of any matter at a meeting of the Board is a majority of the Directors present and entitled to vote on the matter, or such greater number as the Board may from time to time determine. No matter may be considered at a meeting of the Board if a quorum for the purposes of the matter is not present.

32.8 **Insufficient number of Directors**: The Directors may act notwithstanding any vacancy in their body, but if and so long as the number of Directors holding office is less than the minimum number fixed by clause 25.1, the continuing Directors may act only for the purposes of increasing the number of Directors to that number or calling a meeting of the Shareholders.

32.9 **Election of chairperson**: The Directors may from time to time elect a chairperson and (if they think fit) a deputy chairperson, of their meetings, and determine the period for which they respectively are to hold office. The chairperson, or failing the chairperson the deputy chairperson (if any), shall chair all meetings of the Directors. If at any time there is no such chairperson or deputy chairperson, or if at any meeting the chairperson or deputy chairperson is not present within 10 minutes after the time appointed for holding the meeting, or is present but not entitled to vote on a particular matter, the Directors present may choose one of their number to be chairperson of the meeting, or for consideration of the particular matter, as the case may be.

32.10 **Voting**: Subject to clauses 31.3 and 31.4, 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 without dissent by all Directors present and entitled to vote on the resolution, or if a majority of the votes cast on it are in favour of the resolution. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he or she expressly dissents from, or votes against, or expressly abstains from voting on, the resolution at the meeting.

32.11 **Written resolution**: A resolution in writing, signed or assented to by a majority of the Directors entitled to vote on the resolution is as valid and effective as if passed at a meeting of the Board duly convened and held provided those Directors would constitute a quorum for consideration of the resolution at a meeting of the Board. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in similar form, each signed or assented to by one or more Directors. A copy of any such resolution shall be entered in the Records.

32.12 **Committees**: The Directors may delegate any of their powers, other than powers required by law or the NZX Listing Rules to be dealt with by the Directors, to one or more committees, each consisting of at least one of their number and such other persons as they think fit. A committee shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this Constitution relating to proceedings of Directors apply, with appropriate modification, to meetings of any committee, including the audit committee.

32.13 **Audit committee**: The Company shall have an audit committee which, while the Company is Listed, shall be constituted in accordance with, and have responsibilities which include those specified in, the NZX Listing Rules.

32.14 **Validity of actions**: The acts of a person as a Director are valid even though the person's appointment was defective or the person is not qualified for appointment.

32.15 **Minutes**: The Board shall ensure that minutes are kept of all proceedings at meetings of the Shareholders and of the Board. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

33. METHOD OF CONTRACTING

33.1 **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) any Director, together with any other person authorised by the Board whose signature must be witnessed; or

(c) one or more attorneys appointed by the Company.

33.2 **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.

33.3 **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.

34. INSPECTION OF RECORDS

34.1 **Inspection by Directors**: Subject to section 191(2) of the Act (which relates to the power of a court to limit inspection), all accounting and other records of the Company shall be open to the inspection of any Director.

34.2 **Inspection by Shareholders**: No Shareholder who is not also a Director is entitled to inspect any accounting or other records of the Company except as expressly authorised by law or permitted by the Board. Subject to the provisions of section 216 of the Act (which permits inspection of certain records by Shareholders) the Board may from time to time determine whether, to what extent, at what times and places, and under what conditions, the accounting or other records of the Company or any of them are open to the inspection of Shareholders (who are not also Directors).

35. NOTICES

35.1 **Method of service**: All notices, reports, accounts and other documents required to be sent:

(a) to a Shareholder, shall be sent in the manner provided in section 391 of the Act;

(b) to a holder of any other Equity Security, shall be sent in the same manner, as though that holder were a Shareholder.

35.2 **Service of notices overseas**: If the holder of a Share or other Equity Security has not given to the Company or the Share Registrar an address within New Zealand for the giving of notices, but has supplied an address outside New Zealand, then notices shall be posted to that holder at such address and shall be deemed to have been received by that holder 24 hours after the time of posting.

35.3 **Accidental omissions**: The failure to send an annual report, notice, or other document to a Shareholder or other Equity Security holder in accordance with the Act or this Constitution does not invalidate the proceedings at a meeting of Shareholders if the failure to do so was accidental.

35.4 **Joint Shareholders**: A notice may be given by the Company to the joint holders of an Equity Security by giving the notice to the joint holder named first in the register in respect of that Equity Security.

35.5 **Shareholder deceased or bankrupt**: If the holder of an Equity Security dies or is adjudicated bankrupt, notice may be given in any manner in which notice might have been given if the death or bankruptcy had not occurred, or by giving notice in the manner provided in section 391 of the Act to the Personal Representative of the holder at the address supplied to the Company for that purpose.

35.6 **Waiver by Shareholders**: Subject to section 212(2) of the Act, a Shareholder may from time to time, by written notice to the Company, waive the right to receive all or any documents from the Company and may at any time thereafter revoke the waiver in the same manner. While any waiver is in effect, the Company need not send to the Shareholder the documents to which the waiver relates.

36. LIQUIDATION

36.1 **Distribution of assets**: If the Company is liquidated the liquidator may, with the approval of Shareholders and any other sanction required by the Act:

(a) divide among the Shareholders in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may for that purpose fix such value as the liquidator deems fair in respect of any property to be so divided, and may determine how the division shall be carried out as between Shareholders or between different Classes; and

(b) vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the persons so entitled as the liquidator thinks fit, but so that no Shareholder is compelled to accept any shares or other securities on which there is any liability.