

PGG WRIGHTSON LIMITED

CONSTITUTION

INDEX

1.	INTERPRETATION	1
2.	THE COMPANIES ACT AND THE LISTING RULES	2
3.	RIGHTS ATTACHING TO SHARES	3
4.	ISSUE OF NEW EQUITY SECURITIES	4
5.	BUYBACKS OF EQUITY SECURITIES	5
6.	CALLS ON SHARES	5
7.	LIEN ON SHARES	7
8.	FORFEITURE OF SHARES	7
9.	TRANSFER OF SHARES	8
10.	TRANSMISSION OF SHARES	9
11.	MEETINGS OF SHAREHOLDERS	10
12.	CHAIRPERSON OF MEETINGS OF SHAREHOLDERS	10
13.	QUORUM FOR MEETINGS OF SHAREHOLDERS	11
14.	PROXIES AND CORPORATE REPRESENTATIVES	13
15.	ADJOURNED MEETINGS AND DISORDERLY MEETINGS	13
16.	APPOINTMENT OF DIRECTORS	14
17.	ALTERNATE DIRECTORS	15
18.	PROCEEDINGS OF THE BOARD	16
19.	DIRECTORS' REMUNERATION	18
20.	INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES	19
21.	DIVIDENDS	19
22.	INSPECTION OF RECORDS	20
23.	LIQUIDATION	20
24.	EXECUTION OF DEEDS	21

CONSTITUTION of PGG WRIGHTSON LIMITED

1. INTERPRETATION

1.1. Definitions

In this Constitution, unless the context otherwise requires:

“Act” means the Companies Act 1993;

“Company” means PGG Wrightson 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;

“Listing Rules” means the Listing Rules applying to the NZX Main Board (or any successor to that market) as altered from time to time;

“NZX” means NZX Limited, its successors and assigns and as the context permits includes any duly authorised delegate of NZX;

“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;

“Representative” means a person appointed as a proxy or representative under clause 14 or a Personal Representative;

“Special Resolution” means a resolution passed by a majority of 75% or more of the votes of those shareholders entitled to vote and voting on the resolution;

1.2. Construction

In this Constitution, unless the context otherwise requires:

- a. the headings appear as a matter of convenience and shall not affect the construction of this Constitution;
- b. in the absence of an express indication to the contrary, references to sections, clauses or paragraphs are to sections, clauses and paragraphs of this Constitution;

- c. a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted;
- d. a reference to a Listing Rule includes that Listing Rule as from time to time amended or substituted;
- e. the singular includes the plural and vice versa and one gender includes the other genders;
- f. the words "written" and "writing" include facsimile communications and any other means of communication resulting in permanent visible reproduction;
- g. the word "person" includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality;
- h. words or expressions defined in the Act or the Listing Rules have the same meaning in this Constitution except as otherwise expressly provided in this Constitution.

1.3. Powers of shareholders

Unless otherwise specified in the Act or this Constitution any power reserved to shareholders may be exercised and any approval of shareholders may be given by Ordinary Resolution.

2. THE COMPANIES ACT AND THE LISTING RULES

2.1. Companies Act

The Company, the Board, each Director and each shareholder of the Company 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.

2.2. Incorporation of Listing Rules

While the Company is Listed:

- a. those provisions of the Listing Rules which are required to be contained or incorporated by reference in this Constitution, as they may be modified by any Ruling relevant to the Company, will be deemed to be incorporated in this Constitution and have the same effect as though they were set out in full with any necessary modification (including as modified by any waiver or ruling relevant to the Company);
- b. shareholders must not cast a vote if prohibited from doing so by the Listing Rules;
- c. Directors must not cast a vote if prohibited from doing so by the Listing Rules.

To the extent that any provision of this Constitution is expressed as being subject to the Listing Rules or requires compliance with the Listing Rules, such provision will only be subject to, or require compliance with, the Listing Rules for so long as the Company is Listed.

2.3. **Listing Rules Prevail**

Subject to clause 2.5, while the Company is Listed, if there is any provision in this Constitution that is inconsistent with the Listing Rules relevant to the Company, the Listing Rules prevail.

2.4. **Compliance with Listing Rules**

Subject to:

- a. the terms of any Ruling from time to time given by NZX; and
- b. the requirements of the Act and any other applicable legislative or regulatory requirement,

the Company shall, for so long as it is Listed, comply with the Listing Rules.

2.5. **NZX rulings**

If NZX has granted a Ruling in relation to the Company authorising any act or omission which in the absence of the Ruling would be in contravention of the Listing Rules or this Constitution, that act or omission will, unless a contrary intention appears in this Constitution, be deemed to be authorised by the Listing Rules and this Constitution.

2.6. **Effect of failure to comply**

Failure to comply with:

- a. the Listing Rules (subject to clause 2.4(a)); or
- b. a clause of this Constitution corresponding with a provision of the Listing Rules (whether such provision is set out in full in this Constitution or incorporated in it pursuant to clause 2.2),

by the Company or shareholders shall not affect the validity or enforceability of any transaction, contract, action, decision or vote taken at a meeting of Equity Security holders or other matter entered into by, or affecting, the Company, except that a party to a transaction or contract who knew of the non-compliance shall not be entitled to enforce that transaction or contract. This provision does not limit the rights of Equity Security holders against the Company or the Directors.

3. **RIGHTS ATTACHING TO SHARES**

3.1. **Existing ordinary shares**

Each ordinary share in the Company at the date of adoption of this Constitution confers on the holder the following rights (in addition to the rights set out elsewhere in this Constitution):

- a. subject to the rights of holders of any shares or other Equity Securities which confer special rights as to dividends, the right to an equal share in dividends authorised by the Board; and

- b. subject to the rights of holders of any shares or other Equity Securities which confer special rights as to surplus assets, the right to an equal share in the distribution of surplus assets of the Company.

3.2. **New shares**

Subject to clause 4, further shares in the Company (including different Classes of shares) may be issued which:

- a. rank equally with, or in priority to, existing shares in the Company; or
- b. have deferred, preferred or other special rights or restrictions, whether as to voting rights or distributions or otherwise; or
- c. confer preferential rights to distributions of capital or income; or
- d. confer special, limited or conditional voting rights; or
- e. do not confer voting rights; or
- f. are redeemable in accordance with section 68 of the Act; or
- g. are Convertible; or
- h. have any one or more of the rights or limitations set out in paragraphs a. to g..

3.3. **Alteration of Rights**

The issue by the Company of any further shares or Equity Securities which rank equally with, or in priority to, any existing shares or Equity Securities, whether as to voting rights or distributions, shall:

- a. be permitted (subject to clause 4); and
- b. not be deemed to be action affecting the rights attached to those existing shares or other Equity Securities.

4. **ISSUE OF NEW EQUITY SECURITIES**

4.1. **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 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.

4.2. **Consolidation and subdivision of shares**

Subject to any applicable provisions of the Listing Rules, the Board may:

- a. consolidate and divide the shares or shares of any Class in proportion to those shares or the shares in that Class; or
- b. subdivide the shares or shares of any Class in proportion to those shares or the shares in that Class.

4.3. **Bonus issues**

Subject to any applicable provisions of the Listing Rules, the Board may resolve to apply any amount which is available for distribution to shareholders either

- a. in paying up in full shares or other Financial Products 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 Financial Products of the Company who are entitled by the terms of issue of those Financial Products to participate in bonus issues by the Company, whether at the time the bonus issue is made to the shareholders, or at some time later, 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 paragraph (a)(i),

or partly in one way and partly in the other.

5. **BUYBACKS OF EQUITY SECURITIES**

5.1. **Powers**

The Company may in accordance with the provisions of the Act, the Listing Rules and this Constitution:

- a. purchase or otherwise acquire shares issued by it from one or more shareholders;
- b. purchase or otherwise acquire other Equity Securities from one or more holders;
- c. hold any shares or other Equity Securities so purchased or acquired; and
- d. redeem any redeemable shares or other Equity Securities held by one or more holders.

6. **CALLS ON SHARES**

6.1. **Board's power**

The Board may, by notice in writing to a shareholder or shareholders, make calls in respect of all moneys unpaid on shares and which are not, by the terms applicable to the shares, payable at fixed times. The Board may revoke or postpone a call before payment is received.

6.2. **Liability to pay**

Each relevant shareholder shall be liable (jointly and severally in the case of joint shareholders) to pay, in accordance with the relevant notice, every call and shall remain liable to do so notwithstanding the subsequent transfer of the relevant shares.

6.3. Differential calls

Calls may be made in respect of certain shares and not others and for different amounts in respect of certain shares from others. The Board may, at the time of issue of any shares, differentiate between the holders of shares received on that issue from holders of shares received on other issues as to the amount of calls to be paid and the time of payment.

6.4. Instalments

The Board may determine that a call is payable by instalments.

6.5. Time call is made

A call shall be deemed to have been made at the time the resolution of the Board authorising the call was passed.

6.6. Interest on overdue amounts

A call not paid when due shall bear interest from the due date to the date of actual receipt by the Company at the rate fixed in the notice of call or the terms applicable to the relevant shares or, if there is no such rate, as the Board determines. The Board may waive payment of interest wholly or in part.

6.7. Unpaid instalments

Any amount payable on issue of a share or on any fixed date or as an instalment of a call shall be deemed to be a call and if not paid, the provisions of this clause 6 and clauses 7 and 8 shall apply as if that sum had become payable by the making of a call.

6.8. Calls in advance

The Board may, in its discretion, receive any moneys uncalled and unpaid upon any shares in advance of its due date and may pay interest on the amount received at such rate (if any) and on such terms as the Board determines.

6.9. Evidence

In any proceedings for the recovery of moneys due in respect of any call a statutory declaration by a Director or any other person authorised by the Board that:

- a. the name of the shareholder is entered in the share register as the holder (or one of the holders) of the relevant shares;
- b. the resolution making the call is recorded in the records of the Company; and
- c. notice of the call was sent to the shareholder,

shall be conclusive evidence of the indebtedness of the shareholder to the Company in respect of the call.

7. LIEN ON SHARES

7.1. Lien on unpaid and partly paid shares

The Company shall have a first and paramount lien on every share which is not a fully paid share (and any dividends or other distributions in respect of that share) for:

- a. all unpaid calls, instalments, or other amounts, and any interest payable on those amounts, relating to that share; and
- b. any amounts the Company may be called upon to pay under any legislation in respect of that share.

7.2. Power of sale

If any amount due in respect of a share on which the Company has a lien is unpaid for more than 14 days after notice in writing demanding payment has been given to the shareholder or the person entitled to receive notices in respect of that share:

- a. the Company may sell the share on such terms as the Board determines; and
- b. to give effect to any such sale, the Board may authorise any person to execute a transfer of the share to, or at the direction of, the purchaser.

7.3. Absolute title of purchaser

The title of a purchaser of any shares sold pursuant to clause 7.2 shall not be affected by any irregularity or invalidity in any sale.

7.4. Application of sale proceeds

The net proceeds of sale of any share sold pursuant to clause 7.2, after deducting expenses of sale shall be applied in and towards satisfaction of any unpaid calls, instalments or other amounts and any interest on those amounts and the balance (if any) shall be paid to the person entitled to the share at the date of sale.

8. FORFEITURE OF SHARES

8.1. Notice

If a call on a share is not paid when due, the Board may give 14 days notice to the shareholder requiring payment of the call, together with interest on the amount of the call. The notice shall specify the place of payment and state that if the notice is not complied with the relevant share will be liable to be forfeited.

8.2. Forfeiture

If the notice is not complied with the share may, before payment of the overdue amount has been made, be forfeited by resolution of the Board.

8.3. Sale of forfeited shares

A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board determines. To give effect to any sale or disposal the Board

may authorise any person to execute any relevant documentation. The Board may, at any time before the sale or disposal, cancel the forfeiture.

8.4. Application of sale proceeds

The net proceeds of sale of any forfeited share shall be applied in the same manner as set out in clause 7.4.

8.5. Absolute title of purchaser

The title of a purchaser of a forfeited share shall not be affected by any irregularity or invalidity in the forfeiture, sale or other disposal of the share.

8.6. Consequences of forfeiture

A person whose shares have been forfeited shall cease to be a shareholder in respect of those shares and shall surrender the share certificate for cancellation but shall remain liable to the Company for all moneys due to the Company at the date of forfeiture in respect of the shares together with interest thereon.

8.7. Evidence of forfeiture

A statutory declaration by a Director or any other person authorised by the Board that a share has been forfeited on a specified date shall be conclusive evidence of that forfeiture.

9. TRANSFER OF SHARES

9.1. Transferor to remain holder until registration

The transferor of a share shall remain the holder of the share until the name of the transferee is entered in the share register.

9.2. Power to refuse to register

The Board may decline to register any transfer of shares where:

- a. the Company has a lien on any of the shares;
- b. the transfer is not accompanied by the certificate (if any) for the shares to which it relates or other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; or
- c. registration, together with the registration of any further transfer then held by the Company and awaiting registration, would result in the proposed transferee holding shares of less than a Minimum Holding,

provided that the Board resolves to exercise its powers under this clause 9.5 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.

9.3. Sale of less than Minimum Holding

The Board may at any time give notice to any 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 shares which are less than a Minimum Holding, the Board may exercise the power of sale of those shares set out in this clause 9.3. If that power of sale becomes exercisable:

- a. the Board may arrange for the sale of those shares on market (including through a broker acting on the Company's behalf);
- b. the shareholder shall be deemed to have authorised the Company to act on the shareholder's behalf and to execute all necessary documents for the purposes of that sale;
- c. the Company shall account to the shareholder for the net proceeds of sale of the shares (after deduction of reasonable sale expenses and after satisfaction of unpaid calls or any amounts owing to the Company in respect of the Shares), which shall be held on trust for the shareholder by the Company and paid to the shareholder on surrender of any certificates for the shares sold; and
- d. the purchaser of any shares sold pursuant to this clause 9.3 shall have no obligation to ensure the proceeds of the sale of those shares is applied in accordance with this clause 9.3, nor shall title to the shares be affected by any irregularity or invalidity in the exercise of the power of sale or the sale itself.

A certificate signed by a Director that records that a power of sale under this clause has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.

9.4. Registration of transfers

Every instrument of transfer shall be delivered to the Company's share registrar, together with the share certificate (if any) for the shares to be transferred. If there is no share certificate for those shares or if the share certificate has been lost, damaged or destroyed, the transferee shall provide such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.

9.5. Power to divide share register

The Share Register may be divided into two or more registers kept in different places.

9.6. Transfer of financial products other than shares

This section 9 shall apply to transfers of Financial Products of the Company other than shares with any necessary modifications.

10. TRANSMISSION OF SHARES

10.1. Transmission on death of shareholder

If a shareholder dies the survivor, if the deceased was a joint shareholder, or the shareholder's 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. Nothing in this clause 10.1 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.

10.2. **Rights of Personal Representatives**

A shareholder's Personal Representative:

- 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 paragraph (b).

10.3. **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.

11. **MEETINGS OF SHAREHOLDERS**

11.1. **Meetings of other groups**

A meeting of the holders of Financial Products in an Interest Group may be called by the Board at any time, and shall be called on the written request of persons holding Financial Products 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 of the group in question. All the provisions of this Constitution relating to meetings of shareholders apply, with all necessary modifications, to a meeting of a group of Financial Product holders, except that:

- a. the necessary quorum is two persons holding, or representing the holders of, Financial Products of the group;
- b. if the Board so elects, one meeting may be held of holders constituting more than one 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 members of each group; and
- c. any holder of Financial Products in the group, present in person or by Representative, may demand a poll.

12. **CHAIRPERSON OF MEETINGS OF SHAREHOLDERS**

12.1. **Chairperson of the Board to act**

If the Directors have elected a chairperson of the Board, and the chairperson of the Board is present at a meeting of shareholders, that Director must chair the meeting.

12.2. **Other 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 of the time appointed for the commencement of the meeting or the chairperson is unwilling or unable to act, the Directors present, if any, may elect one of their number to be chairperson of the meeting. If no Director is willing to act as chairperson or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting, the shareholders present may choose one of their number to be chairperson.

12.3. **Regulation of procedure**

- a. Subject to the provisions of the Act, and except as otherwise provided in this Constitution, the chairperson may regulate the proceedings at meetings of shareholders.
- b. Without limiting the chairperson's powers under clause 12.3(a), the chairperson has the power to:
 - i. determine all matters relating to the proper conduct of meetings, including power to ensure that the business of the meeting is not restricted by any immaterial procedural irregularities;
 - ii. preserve order in the conduct of those present at meetings;
 - iii. confine discussion to relevant matters within the scope of the meeting and reasonable limits of time;
 - iv. determine whether proposed motions, amendments and discussion items are in order;
 - v. close the discussion and move to a vote on any matter;
 - vi. determine any dispute as to the admission or rejection of a vote; and
 - vii. expel and remove from a meeting any shareholder or other person interfering unduly with the reasonable conduct of the meeting or preventing the proper transaction of business,

and make all rulings necessary to give effect to these powers.

13. **QUORUM FOR MEETINGS OF SHAREHOLDERS**

13.1. **Quorum required**

Subject to clause 13.3 no business may be transacted at a meeting of shareholders if a quorum is not present.

13.2. **Size of quorum**

A quorum for a meeting of shareholders is present if seven shareholders are present in person or by Representative.

13.3. Declaration of chairperson conclusive

A declaration by the chairperson that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with the Act.

13.4. Right to demand poll

At a meeting of shareholders a poll may be demanded by:

- a. not less than five shareholders having the right to vote at the meeting; or
- b. 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
- c. a shareholder or shareholders holding shares in the Company 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; or
- d. the chairperson.

For the purposes of this clause 13.4, the instrument appointing a proxy to vote at a meeting of the Company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a shareholder has the same effect as a demand by the shareholder

13.5. Time of demand for poll

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

13.6. Timing of poll

The chairperson may determine the time and manner in which a poll is to be taken and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

13.7. Counting of votes on poll

If a poll is taken, votes must be counted according to the votes attached to the shares of each shareholder present in person or by Representative and voting.

13.8. Scrutineers

If a poll is taken the scrutineers shall be the auditors of the Company for the time being unless they are unable or unwilling to act or unless the chairperson directs to the contrary in which case the scrutineers shall be appointed by the chairperson.

13.9. Declaration of result

The chairperson shall be entitled to declare the result of a poll upon the receipt of a certificate from the auditors setting out the maximum number of votes which could be cast at the meeting and upon receipt of notice from the scrutineers that, in the light of the auditors' certificate, sufficient votes to determine the result of the resolution have been counted. The auditors' certificate may set out the maximum number of votes

which could be cast at the meeting if all persons entitled to attend and vote at the meeting did so, or it may set out the maximum number of votes which could be cast at the meeting if all persons at the meeting who are entitled to vote did vote.

13.10. Chairperson's casting vote

The chairperson of the meeting is entitled to a casting vote.

13.11. Validity of votes

In the case of any dispute as to the admission or rejection of a vote the chairperson shall determine the same and such determination made in good faith shall be conclusive.

14. PROXIES AND CORPORATE REPRESENTATIVES

14.1. Validity of proxy vote

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or mental disorder of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, if no written notice of such death, mental disorder, revocation, or transfer has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

15. ADJOURNED MEETINGS AND DISORDERLY MEETINGS

15.1. Chairperson's discretion to adjourn meetings

The chairperson may, in his or her sole discretion, at any time during the meeting adjourn from time to time and place to place (including either to a later time at the same meeting or to an adjourned meeting):

- a. the meeting; or
- b. any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion in relation to any of those matters.

In addition, if at any meeting a motion or proposal to adjourn the meeting has been defeated, the chairperson has an absolute discretion whether or not to accept and put to the meeting any further motion or proposal to adjourn the meeting.

15.2. Direction to adjourn

If directed by the meeting, the chairperson must adjourn the meeting.

15.3. Provisions relating to adjourned meetings

No business can be transacted at any adjourned meeting other than the unfinished business at the original meeting. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in the same manner as the original meeting. Otherwise, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

15.4. **Adjournment of disorderly meetings**

If any 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 reasons, either adjourn or dissolve the meeting.

15.5. **Completion of unfinished business**

If any meeting is dissolved by the chairperson pursuant to clause 15.4, the unfinished business of the meeting shall be dealt with as follows:

- a. in respect of any resolution concerning the approval or authorisation of a Distribution, the Board may, in the exercise of the powers conferred on it by the Act, authorise the Distribution;
- b. in respect of any 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 item of business which is uncompleted at the meeting, and which in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion.

16. **APPOINTMENT OF DIRECTORS**

16.1. **Board composition**

The following shall apply to the composition of the Board:

- a. the Company shall comply with the minimum Board composition requirements of the Listing Rules; and
- b. the number of Directors (other than Alternate Directors) must not at any time be more than eight or less than four.

16.2. **Existing Directors to continue in office**

The Directors in office at the date of adoption of this Constitution shall continue in office subject to the provisions of this Constitution. Directors may continue to act where there is a vacancy in their body, but where the number of Directors has fallen below the minimum set in clause 16.1, the continuing Directors may act to remedy the shortfall in Directors or to summon a meeting of Shareholders, but for no other purpose.

16.3. **Appointment and Removal by Ordinary Resolution**

A Director may be appointed or removed by Ordinary Resolution. Each resolution to appoint, elect or re-elect a Director must be for the appointment, election or re-election of one Director only. Nothing in this clause 16.3 shall prevent voting on the election of a Director at a meeting where the number of candidates for the office of Director exceeds the vacancies available under clause 16.1, provided that, if an ordinary resolution has been passed in respect of more candidates than may be

appointed under clause 16.1, then only the number of Directors, equal to the number of vacancies to be filled, will be elected and the Directors to be appointed will be those candidates who received the highest number of votes.

16.4. Appointment by Board

The Board may at any time appoint additional Directors.

16.5. Rotation

Each Director shall retire from office when required to do so by the Listing Rules, but subject to the Listing Rules, shall be eligible for re-election (including at any meeting at which the Director retires).

16.6. Vacation of office

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

- a. becomes bankrupt or makes an arrangement or compromise with the Director's creditors generally;
- b. becomes disqualified from being a Director pursuant to Section 151 of the Act;
- c. resigns from office by notice in writing to the Company;
- d. is removed from office by Ordinary Resolution, pursuant to this Constitution or the Act; or
- e. has for more than six months been absent without permission of the Board from meetings of the Board held during that period.

16.7. 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.

17. ALTERNATE DIRECTORS

17.1. Form of appointment and removal

Any appointment or removal of an Alternate Director must be by notice in writing to the Company signed by the relevant Director. No Director may appoint an alternate Director to act for him or her except with the consent of a majority of his or her co-Directors. A Director may not act as alternate for another Director. No Director may

appoint a deputy or agent otherwise than as an alternate Director. Alternate Directors are excluded from Board composition and independence number calculations.

17.2. Rights of Alternate Director

Each Alternate Director will be entitled to:

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

17.3. Remuneration and expenses

Each Alternate Director's:

- a. remuneration (if any) must be paid by the Director who appointed the Alternate Director; and
- b. expenses incurred in attending meetings of the Directors and otherwise in relation to the discharge of duties will be paid by the Company.

17.4. Cessation of appointment

An Alternate Director will cease to be an Alternate Director:

- a. if the Director who appointed the Alternate Director ceases to be a Director or revokes the appointment;
- b. on the occurrence of any event relating to the Alternate Director which, if the Alternate Director were a Director, would disqualify the Alternate Director from being a Director; or
- c. if a majority of the other Directors resolve to revoke the Alternate Director's appointment.

18. PROCEEDINGS OF THE BOARD

18.1. Methods of holding meetings

A meeting of the Board may be held either

- a. by a number of the Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- b. by means of audio, or audio and visual, communication by which all the Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

18.2. **Notice of meeting**

A Director or, if requested by a Director to do so, an employee of the Company approved by the Board for this purpose, may convene a meeting of the Board by giving notice in accordance with this clause 18.2 and clause 18.3. Each Director must be given not less than two days notice of a meeting of the Board, unless the Director waives that right or 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. Notice may be given to a Director in any of the following ways:

- a. by delivery of the notice to the Director, in which case the notice will be deemed to be given when delivered;
- b. by sending the notice by email to the email address given by the Director to the Company for the purpose of receiving notices, in which case the notice will be deemed to be given when sent; or
- c. by posting the notice to the address given by the Director for the purpose of receiving notices, in which case the notice will be deemed to be given three days after it is posted.

18.3. **Contents of notice**

A notice of a meeting must specify the date, time and place of the meeting and, if the meeting is to be by means of audio or audio and visual communication, the manner in which the Director will be contacted to participate at the time of the meeting.

18.4. **Waiver of irregularity**

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

18.5. **Quorum**

A quorum for a meeting of the Board is a majority of Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

18.6. **Chairperson**

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

18.7. **Votes**

Every Director has one vote. In the case of an equality of votes the chairperson shall have a second and casting vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless that Director

expressly dissents or expressly abstains from voting on, or votes against, the resolution.

18.8. Resolutions in writing

A resolution in writing, signed or assented to by all Directors is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form, each signed or assented to by one or more Directors. A copy of any such resolution must be entered in or kept with the records of Board proceedings.

18.9. Minutes

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

18.10. Validity of acts

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

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

18.11. Other procedures

Except as set out in this clause 18, the Board may regulate its own procedure. The provisions of the Third Schedule of the Act shall not apply to proceedings of the Board except to the extent that those provisions are included in this Constitution.

19. DIRECTORS' REMUNERATION

19.1. Expenses

Each Director is entitled to be paid for all reasonable travelling, accommodation and other expenses incurred by the Director in connection with the Director's attendance at meetings or otherwise in connection with the Company's business.

19.2. Special remuneration

Subject to the Listing Rules applicable to transactions with related parties of the Company, the Board may authorise special remuneration to any Director who is or has been engaged by the Company to carry out any work or perform any services which is not in the capacity of a director of the Company.

20. INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

20.1. Indemnity for Directors

Every Director shall be indemnified by the Company for any costs referred to in section 162(3) of the Act and any liability or Costs referred to in section 162(4) of the Act.

20.2. Other indemnities and insurance

In addition to the indemnity set out in clause 20.1, 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.

20.3. Interpretation

Words given extended meanings by section 162(9) of the Act have those extended meanings in this clause 20.

21. DIVIDENDS

21.1. Method of payment

Any dividend or other money payable to a holder of Financial Products may be paid by cheque sent through the post to the registered address of the holder or in any other manner determined by the Board and directed by the person entitled to the payment. In the case of joint holders, cheques may be sent to the registered address of the person first named on the register.

21.2. Currency of payment

The Board may, in its discretion, differentiate between shareholders as to the currency in which dividends are to be paid. In exercising that discretion the Board may have regard to the registered address of a shareholder, the register on which a shareholder's shares are registered or any other matter the Board considers appropriate. In any case where a dividend is to be paid in a currency other than New Zealand currency, the amount payable will be converted from New Zealand currency in a manner at a time and at an exchange rate determined by the Board.

21.3. Deductions

The Board may deduct from dividends payable to any shareholder in respect of any shares any:

- a. unpaid calls, instalments or other amounts, and any interest payable on such amounts, relating to the specific shares; and

- b. amounts the Company may be called upon to pay under any legislation in respect of the specific shares.

21.4. **Entitlement date**

Dividends and other distributions or payments to holders of Financial Products of the Company will be payable to the persons who are the registered as holders of those Financial Products on an entitlement date fixed by the Board.

21.5. **Unclaimed dividends**

Dividends or other monetary distributions unclaimed for 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 five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Company shall, nevertheless, annul the forfeiture and pay a claimant who produces evidence of entitlement.

22. **INSPECTION OF RECORDS**

Except as provided in the Act or unless the Board determines otherwise in any particular case, no holder of Financial Products shall be entitled to:

- a. inspect any records, books, papers, correspondence or documents of the Company; or
- b. require or receive any information concerning the Company's business, trading or customers, or any trade secret or secret process of or used by the Company.

23. **LIQUIDATION**

23.1. **Distribution of surplus**

Subject to the rights of the holders of any Financial Products in the Company and to clauses 23.2 and 23.3, upon the liquidation of the Company the surplus assets of the Company (if any) must be distributed among the shareholders in proportion to their shareholding. If any shareholder's shares are not fully paid up the liquidator of the Company may require those shares to be fully paid up before the shareholder receives any distribution of the surplus assets of the Company in respect of those shares.

23.2. **Distribution in kind**

With the approval of the shareholders of the Company by Ordinary Resolution, the liquidator of the Company may divide amongst the shareholders in kind the whole or any part of the surplus assets of the Company (whether or not they are of the same kind) and for that purpose the liquidator may:

- a. attribute values to assets as the liquidator considers appropriate; and
- b. determine how the division will be carried out as between the shareholders or different Classes of shareholders.

23.3. Trusts

With the approval of the shareholders of the Company by Ordinary Resolution, the liquidator may vest the whole or any part of any surplus assets of the Company in trustees upon trust for the benefit of shareholders of the Company. The liquidator may determine the terms of the trust.

24. EXECUTION OF 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;
- b. any Director, or any person authorised by the Board, whose signature must be witnessed; or
- c. one or more attorneys appointed by the Company in accordance with section 181 of the Act.