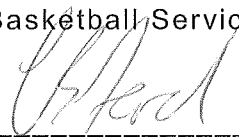


CONSTITUTION – AUCKLAND BASKETBALL SERVICES LIMITED

Certified as the constitution of
Auckland Basketball Services Limited

Signed _____



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Constitution of Auckland Basketball Services Limited

1. Introduction

Registration

- 1.1 The Company is, or is to be, registered under the Companies Act. The Company, the Board, each Director, and each Shareholder have the rights, powers, duties and obligations set out in the Companies Act, except to the extent they are modified or negated by this Constitution or the Shareholders' Agreement.

Objects

- 1.2 The charitable objects for which the Company is established are to:
- a. to organise or provide or assist in the organisation and provision of facilities which will enable and encourage members of the public in all sectors of the community including, without limitation, pupils and students in schools, universities and other educational institutions in any part of the Auckland region to play the sport of basketball and thereby assist in ensuring that due attention is given to the physical education and development of the community in the Auckland region;
 - b. provide support to the sport of basketball including, without limitation, by supporting activity groups and their members as well as members of the public in all sectors of the community in the Auckland region by means of providing advice, training, education, funding, and guidance in connection with the sport of basketball;
 - c. promote, support, and encourage greater participation in the sport of basketball members of the public in all sectors of the community in the Auckland region whether as players, coaches, officials or administrators so as to assist with the improvement of health, economic, social and community development outcomes in the Auckland region;
 - d. prepare, collate and disseminate information about the sport of basketball in the Auckland region for the benefit of members of the public in all sectors of the community in the Auckland region;
 - e. consolidate and integrate the delivery of support and administrative services, including the services required to give effect to objects set out in clause 1.2a. to d. (both inclusive) to more effectively meet the needs of members of the public in all sectors of the community in the Auckland region; and
 - f. pursue any other objects which the Directors consider are incidental to or consistent with the charitable objects set out in this clause 1.2.

Defined terms

- 1.3 In this Constitution the following words and expressions have the following meanings:

"Auckland region" means the geographical area included within the boundary of the Auckland Council.

"Board" means the number of Directors required to form a quorum acting as the board of Directors as set out in clause 18.9.

"Class" means a class of Shares with identical rights, privileges, limitations, and conditions.

"Companies Act" means the Companies Act 1993 and includes any amendments.

"Company" means Auckland Basketball Services Limited.

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

"Director" means a person appointed and continuing in office, in accordance with this Constitution, as a director of the Company.

"Ordinary Resolution" means a resolution of Shareholders approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the resolution.

"Share" means a share in the Company, the issue of and rights attaching to which are provided for by this Constitution or, in relation to a share issued after the date of adoption of this Constitution, in accordance with the terms on which the share is issued.

"Shareholder" means a person registered in the share register of the Company as the holder of one or more Shares.

"Shareholders' Agreement" means the shareholders' agreement entered into on or about the date of this Constitution between any or all of the Shareholders of the Company as amended, varied, supplemented or replaced from time to time.

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

Construction

1.4 In this Constitution:

- a. Words importing the singular include the plural and vice versa.
- b. Reference to a person includes any firm, company or other body corporate.
- c. Words importing one gender include the other gender.
- d. Reference to writing includes all modes of representing or reproducing words, figures or symbols in a visible form including reproduction by facsimile machine.
- e. Reference to a clause or section means a clause or section in this Constitution.

Alteration to Constitution

1.5 Notwithstanding section 32 of the Companies Act, neither the Company nor the Shareholders may in any way alter, revoke or replace this Constitution in a manner which would:

- a. negate clause 1.2; or
- b. result in the Company no longer being charitable according to the laws of New Zealand.

Shareholders Agreement

1.6 If there is any inconsistency between the Shareholders Agreement and this Constitution, the Shareholders Agreement is to prevail except in respect of clause 29 of this Constitution which will, to the fullest extent permitted by law, prevail over all other provisions in this Constitution and all provisions of the Shareholders Agreement.

2. Issue of Shares and Share Rights

Shares issued

- 2.1 Upon the adoption of this Constitution, the Shares issued in the Company comprise ordinary Shares having the same rights and privileges and subject to the same restrictions.

Issue of Shares

- 2.2 Subject to the provisions of this Constitution and any restrictions contained in a Shareholders' Agreement, the Board may issue Shares at any time, to any person, on any terms, and in any number it thinks fit.

Share rights

- 2.3 Except to the extent otherwise provided in this Constitution or at the time of issue under this Constitution, all Shares have the same rights and privileges and are subject to the same restrictions. Those rights include the right to:
- a. cast one vote for each Share held on a poll at a meeting of Shareholders on any resolution, including to:
 - i. appoint or remove a Director or auditor;
 - ii. alter or revoke the Constitution or adopt a new one;
 - iii. approve a major transaction;
 - iv. approve an amalgamation of the Company under section 221 of the Companies Act; or
 - v. put the Company into liquidation,
- but for the avoidance of doubt shall not include the right to share in:
- b. any distribution made by the Company; and
 - c. the surplus assets of the Company.
- 2.4 New Shares issued or proposed to be issued by the Company that rank or would rank as to voting or distribution rights, or both, equally with or prior to Shares already issued by the Company must first be offered for acquisition to the holders of the Shares already issued in a manner and on terms that would, if accepted, maintain the existing voting or distribution rights, or both, of those holders.

Consideration for issue of Shares

- 2.5 The consideration for which Shares are issued may take any form including cash, promissory notes, a contract for future services, real or personal property, or other securities of the Company. Before the Board issues Shares, it must comply with the requirements of section 47 of the Companies Act.

Redeemable Shares

- 2.6 The Board may issue Shares that are redeemable:
- a. at the option of the Company; or
 - b. at the option of the holder of the Share; or

- c. on a date specified in the Constitution or the terms of issue of the Shares, for a consideration that is:
- d. specified; or
- e. to be calculated by reference to a formula; or
- f. required to be fixed by a suitably qualified person who is not associated with or interested in the Company.

Consolidation, division and subdivision of Shares

- 2.7 The Board may consolidate, divide or subdivide Shares if that consolidation, division or subdivision applies equally to all the Shares.

3. Alteration of Shareholder Rights

Special resolution required

- 3.1 The Company must not take action that affects the rights attaching to Shares unless approved by a Special Resolution of each interest group of Shareholders affected.

Meetings of interest groups

- 3.2 The provisions of this Constitution relating to meetings of Shareholders apply to separate meetings of Shareholders in each interest group, except that the necessary quorum will be a Shareholder or Shareholders holding or representing the holders of a majority of the Shares of the relevant interest group. Any Shareholders in the interest group present in person or by representative may demand a poll.

4. Liability of Shareholders

Amount owing on issue of Shares

- 4.1 The consideration payable in relation to any Shares, whether it be money or other consideration, must be paid by the Shareholder in accordance with the terms of issue (if any) of the Shares. If the terms of issue specify when the consideration is due, the Board does not need to make a call under this clause 4 and no notice is required to be given to the holder or other person liable under the terms of issue in order for the Company to be able to enforce payment of the amount due.

Board may make calls

- 4.2 Subject to the terms of issue of any Shares, the Board may resolve at any time to require the holders of any unpaid or partly paid Shares to pay all or part of the amount unpaid on the Shares. The terms of the resolution of the Board will constitute the terms of the obligation to pay the call including payment by instalments. The call may be revoked or postponed at any time by the Board.

Notice of calls

- 4.3 Notice of the call must be sent to the Shareholders at the time of the call. Failure to give notice to a Shareholder will not invalidate a call but it will not be payable by that Shareholder until the notice has been served on that Shareholder.

Liability for calls

- 4.4 The liability for a call which has become due and payable attaches to the Shareholder for the time being recorded in the share register and not to any person previously recorded in the share register as the holder of the Shares to which the call relates. This liability

applies even though, at the date of the call, or the date the call fell due for payment, another person was the Shareholder or even though notice of the call was served on the previous and not the current Shareholder.

- 4.5 If a call is not paid before or on the due date for payment, the person from whom the sum is due will be liable to pay interest on the sum. The interest will be payable from the due date to the date of actual payment at such rate as the Board determines either at the time of the call or subsequently.
- 4.6 The joint holders of Shares are jointly and severally liable to pay all calls on the Shares.
- 4.7 Following registration in the share register of the Company of a change of ownership of Shares in respect of which a call has been made, a notice of the call is not required to be served on the new Shareholder.

Agreement to differentiate calls

- 4.8 The Board may, on the issue of Shares, by agreement with all Shareholders of a Class, differentiate between the Shareholders of the same Class as to the amount of the calls to be paid on the Shares and the times of payment.

5. Lien on Shares

Liens

- 5.1 The Company has a first and paramount lien on:
- a. every Share registered in the name of a Shareholder (whether solely or jointly with others);
 - b. the proceeds of sale of any Shares, for all money (whether presently payable or not) payable in respect of those Shares;
- for:
- c. all other money presently payable by the Shareholder to the Company on any account whatsoever; and
 - d. such amounts (if any) as the Company may be called upon to pay under any statute or regulation in respect of any Shares of a deceased or other Shareholder, whether the period for the payment has actually arrived or not.
- 5.2 The lien extends to all dividends from time to time declared in respect of the Shares.

Sale on exercise of lien

- 5.3 The Company may sell, in such manner as the Board thinks fit, any Shares on which it has a lien. However, no sale may be made unless a sum, in respect of which the lien exists, is due and payable and until the expiration of 10 working days after the Shareholder or the person entitled to that Share by reason of that Shareholder's death or bankruptcy has been given a written notice. The notice must state and demand payment of the amount due and payable in respect of which the lien exists.
- 5.4 The net proceeds of sale of any Shares sold for the purpose of enforcing a lien must be applied towards satisfaction of any unpaid calls, instalments or any other money payable by the Shareholder in respect of which the lien existed. The residue, if any, is to be paid to the former holder of those Shares.

- 5.5 A certificate signed by a Director stating that the power of sale provided in clause 5.3 has arisen and is exercisable by the Company under this Constitution will be conclusive evidence of the facts stated in the certificate.
- 5.6 In order to give effect to any sale pursuant to this clause 5, the Board may authorise any person to execute a transfer of the Shares to the purchaser. The purchaser will be registered as the Shareholder of the Shares which are transferred, and will not be bound to see to the application of the purchase money. The purchaser's title to the Shares will not be affected by any irregularity or invalidity in the proceedings in respect of the sale. The remedy of any person aggrieved by the sale will be in damages only and against the Company exclusively. If any certificate for the Shares is not delivered up to the Company, the Board may issue a new certificate distinguishing it as the Board thinks fit from the certificate not delivered up.

6. Suspension of Dividends

Suspension of rights to dividend

- 6.1 If a Shareholder fails to pay any call or instalment of a call on the due date, the Board may serve notice on the Shareholder, at any time after that date, while any part of the call or instalment payable by the Shareholder remains unpaid. The notice must state the amount of the call or instalment which is unpaid together with any interest which may have accrued and all expenses that may have been incurred by the Company by reason of such non payment.
- 6.2 The notice must state a further date (not earlier than the expiration of 5 working days from the date of service of the notice) on or before which the payment required by the notice is to be made and state that, if payment is not made on or before that date, then the right to dividends in respect of the Shares subject to the call will be suspended.

Application of suspended dividends

- 6.3 All dividends which would have been payable in respect of Shares, which are subject to a suspension of the right to dividends, may be withheld and applied by the Company to reduce the amount owing under the call.

Liability not discharged by suspension of right to dividends or transfer of Shares

- 6.4 A Shareholder whose Shares are the subject of a suspension of the right to dividends remains liable to the Company for all money owing under the call. That liability is not extinguished by a transfer of the Shares.

7. Forfeiture of Shares

Further notice of call

- 7.1 If the notice delivered under clause 4.3 is not complied with, the Board may give a further notice to the Shareholder requiring payment of the call and advising that if payment is not made, the Board may forfeit the Shares subject to the unpaid call.

Forfeiture

- 7.2 If the further notice under clause 7.1 is not complied with, then the Board may by resolution forfeit the Shares subject to the unpaid call.

Sale proceeds

- 7.3 The net proceeds of sale of any forfeited Share must be applied by the Board in the manner set out in clause 5.4.

Effect of forfeiture

- 7.4 A person whose Shares have been forfeited ceases to be a Shareholder in respect of those forfeited Shares, but remains liable to the Company for all money due in respect of the forfeited Shares at the time of forfeiture.

Evidence and validity

- 7.5 A statutory declaration in writing signed by a Director that a Share has been forfeited on a date stated in the declaration is conclusive evidence of that forfeiture.
- 7.6 The Directors may authorise execution of the documents necessary to effect the transfer of the forfeited Shares.

8. Purchase of Own Shares and Financial Assistance**Company purchasing its own Shares**

- 8.1 For the purposes of sections 59 and 60(1)(b)(ii) of the Companies Act, the Company is expressly authorised to purchase or otherwise acquire Shares issued by it.

Treasury stock

- 8.2 The Shares acquired by the Company under clause 8.1 may be held and transferred as new Shares by the Company in accordance with sections 67A to 67C of the Companies Act.

Financial assistance on acquisition of Shares

- 8.3 The Company may give financial assistance to a person for the purpose of, or in connection with, the purchase of a Share issued or to be issued by the Company whether directly or indirectly, in accordance with sections 76 to 80 and 107(1)(e) of the Companies Act.

9. Transfer of Shares**Entry in share register**

- 9.1 Subject to the provisions of this clause 9 and clause 10, Shares may be transferred by entry of the name of the transferee in the share register.

Signed transfer

- 9.2 For the purpose of transferring Shares, a form of transfer signed by the present holder of the Shares or the holder's personal representative must be delivered to the Company or to any agent of the Company who maintains the share register.

Form of transfer

- 9.3 The form of transfer may be in the form set out in the First Schedule to the Securities Transfer Act 1991, or in any usual or common form, or any other form approved by the Board.
- 9.4 The form of transfer must be signed by the transferee if registration as holder of the Shares imposes a liability on the transferee to the Company.

Board's right to refuse registration

- 9.5 The Board may within 30 working days of the receipt of a transfer of Shares by the Company, refuse or delay the registration of the transfer if:
- the holder of the Shares has failed to pay an amount due to the Company in respect of those Shares;
 - the Board acting in good faith in its sole discretion considers that it is not in the best interests of the Company to register the transfer; or
 - the transfer is not accompanied by such proof as the Directors reasonably require of the right of the transferor to make the transfer, provided that the Board shall not be permitted to refuse or delay the registration of a transfer where such transfer is permitted by, or made in accordance with the procedures set out in, the Shareholders' Agreement.
- 9.6 The Board must refuse the registration of the transfer if the Board considers that to effect the transfer would result in a breach of the law.
- 9.7 Any resolution of the Board to refuse or delay the registration of a transfer of Shares must set out in full the reasons for doing so, and must be sent to the transferor and transferee within 5 working days of the date of the resolution.

Registration of transfer

- 9.8 Subject to clauses 9.3 and 9.4, on receipt of a duly completed form of transfer the Company must enter the name of the transferee on the share register as the holder of the Shares, unless the Board has resolved in accordance with clause 9.5 or 9.6 to refuse or delay the registration of the transfer of the Shares.

10. Pre-emptive Rights**Compliance with pre-emptive rights**

- 10.1 No Shareholder may dispose of any Shares except in accordance with the provisions of this Constitution or any Shareholders' Agreement.
- 10.2 In addition to any requirement appearing in this Constitution or any Shareholders' Agreement relating to the disposal of Shares (including the pre-emptive rights set out in this clause 10), a party proposing to dispose of any Shares (the "Transferor") must not dispose of any legal or beneficial interest in any Shares to a proposed transferee (the "Transferee") unless the Transferee has, if required by the Board, signed and delivered to the Board an accession deed to any Shareholders' Agreement.

Pre-Emptive Rights

- 10.3 No Shareholder may dispose of any of its Shares unless such disposal:
- is a permitted disposal in accordance with clause 10.5; or
 - occurs in accordance with the pre-emptive rights procedure set out in any Shareholders' Agreement.
- 10.4 The Board may not exercise any powers conferred by this Constitution to refuse or delay the registration of any disposal of Shares completed in accordance with clause 10.3.

Permitted Disposals

- 10.5 Notwithstanding any contrary provision in this Constitution:

- a. a Shareholder may dispose of legal and beneficial ownership of any Share to any person with the prior approval by the unanimous approval of all Shareholders; and
- b. where Shares are held by any person as a trustee, the replacement of that person as a trustee will not be considered to be a transfer of the Shares to that person provided that the transfer is not in connection with a change to the beneficial holders of such Shares.

10.6 In respect of any disposal under clause 10.5:

- a. the Transferee must comply with clause 10.2; and
- b. any pre-emptive rights in any Shareholders' Agreement are deemed to be irrevocably waived.

11. Share Register

Maintenance of register

- 11.1 The Company must maintain a share register which records all Shares issued by the Company and states any restrictions or limitations on their transfer and otherwise complies with the requirements of the Companies Act.
- 11.2 The Company may appoint an agent to maintain the share register.

Contents of register

- 11.3 The share register must state the matters set out in section 87(2) of the Companies Act with respect to each Class of Shares.

Duty to supervise register

- 11.4 It is the duty of each Director to take reasonable steps to ensure that the share register is properly kept and that Share transfers are promptly entered in it in accordance with clause 9.8.

Register evidence of title

- 11.5 Subject to section 91 of the Companies Act, the entry of the name of a person in the share register as the holder of a Share is on the face of it evidence that the legal title to the Share is vested in that person.

Register evidence of rights

- 11.6 The Company may treat the registered holder of a Share as the only person entitled to:
 - a. exercise the right to vote attaching to the Share;
 - b. receive notices in respect of the Share;
 - c. receive a distribution in respect of the Share; and
 - d. exercise the other rights and powers attaching to the Share.

Trust not to be registered or recognised

- 11.7 No notice of a trust, whether express, implied, or constructive, may be entered on the share register.
- 11.8 Except as required by law, no person will be recognised by the Company as holding any Share upon trust, or holding any interest in a Share whether equitable, contingent, future

or partial except the absolute legal right to the entirety of the Share vested in the registered holder.

- 11.9 A personal representative of a deceased holder of Shares is entitled to be entered in the share register as the holder of such Shares as personal representative.
- 11.10 The registration of a trustee, executor or administrator as the holder of a Share as a personal representative of a former Shareholder does not constitute notice of a trust.

12. Share Certificate

Certificates

- 12.1 The Company may issue Share certificates in respect of all or any Shares and must, within 20 working days after receiving an application by a Shareholder, send to that Shareholder a Share certificate in accordance with section 95 of the Companies Act.

Replacement certificates

- 12.2 Where a certificate has already been issued and has been lost or destroyed, the Company must issue a replacement certificate to the Shareholder on request by the Shareholder and on receipt of satisfactory proof of that fact. If the Board considers it necessary, it may require the Shareholder to give an indemnity to the Company in a form required by the Board.

Transfer to be accompanied by Share certificate

- 12.3 Despite section 84 of the Companies Act, where a Share certificate has been issued, a transfer of the Shares to which it relates must not be registered by the Company unless the form of transfer is accompanied by the Share certificate relating to the Shares, or by evidence as to its loss or destruction and, if required, an indemnity in a form required by the Board.

13. Transmission of Shares

- 13.1 If a Shareholder dies, the survivor, where the deceased was a joint holder, or the legal personal representative of the deceased, where the deceased was a sole holder, will be the only persons recognised by the Company as having any title to the deceased's interest in the Shares. Nothing contained in this clause 13.1 will release the estate of a deceased joint holder from any liability in respect of any Share which had been jointly held by the deceased with other persons.
- 13.2 Despite clause 11.7, the assignee of the property of a bankrupt Shareholder is entitled to be registered as the holder of any Share held by the bankrupt as the assignee of the property of the bankrupt.

The personal representative must transfer Shares

- 13.3 The personal representative of a deceased Shareholder must give a Transfer Notice in respect of all the Shares held by the deceased Shareholder and the other provisions of clause 10 will apply accordingly. If the personal representative fails to do so within 6 months after the death of the Shareholder then a Transfer Notice will be deemed to have been given. This clause 13.3 does not apply where the Shares are held jointly and the interests of the deceased Shareholder in the Shares are transferred to the joint holder of those Shares.

14. Exercise of shareholders' Power

Powers reserved to Shareholders

14.1 Powers reserved to Shareholders of the Company by the Companies Act, the Shareholders' Agreement or by this Constitution may be exercised:

- a. at an annual meeting or a special meeting; or
- b. by resolution in writing instead of a meeting pursuant to clause 15.4.

14.2 Unless otherwise specified in the Companies Act, the Shareholders' Agreement or this Constitution, the power reserved to Shareholders may be exercised by an Ordinary Resolution.

Special resolutions

14.3 When Shareholders exercise a power to approve any of the following, that power may only be exercised by a Special Resolution:

- a. an alteration to or the revocation of this Constitution or the adoption of a new constitution;
- b. a major transaction;
- c. an amalgamation; or
- d. the liquidation of the Company.

14.4 Any decision made by Special Resolution pursuant to clause 14.3 may be rescinded by a Special Resolution, other than a decision approving the liquidation of the Company which may not be rescinded.

Dissenting Shareholder may require Company to purchase Shares

14.5 When the Shareholders, by Special Resolution, resolve to exercise a power to approve:

- a. an alteration to or revocation of this Constitution or the adoption of a new Constitution, and the proposed alteration imposes or removes a restriction on the activities of the Company;
- b. a major transaction; or
- c. an amalgamation,

and a Shareholder who is entitled to vote on the resolution casts all the votes attached to the Shares which are registered in the Shareholder's name and which have the same beneficial owner, against the resolution, or where the resolution to exercise the power was passed under section 122 of the Companies Act, did not sign the resolution, then the Shareholder may give notice to the Company pursuant to section 111 (1) of the Companies Act requiring the Company to purchase those Shares in accordance with sections 111 to 115 of the Companies Act.

15. Meetings of Shareholders

Annual meeting

15.1 Except where a resolution in lieu of the meeting is signed by the Shareholders pursuant to section 122(4) of the Companies Act, the Board must call an annual meeting of Shareholders to be held in accordance with section 120 of the Companies Act.

15.2 The Company must hold the annual meeting on the date on which it is called to be held.

Special meetings

- 15.3 A special meeting of the Shareholders entitled to vote on an issue:
- a. may be called at any time by the Board or a person who is authorised by the Constitution to call a meeting;
 - b. must 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 the issue.

Resolution in writing instead of meeting

- 15.4 Subject to section 122(3), a resolution in writing signed by not less than 75% of the number of Shareholders who would be entitled to vote on that resolution at a meeting of Shareholders and who together hold not less than 75% of the votes entitled to be cast on that resolution, is as valid as if it had been passed at a meeting of those Shareholders. Such a resolution may consist of several documents in similar form, each signed by or on behalf of one or more Shareholders. A facsimile of such signed resolution is as valid and effectual as the original signed document. Within 5 working days of the resolution being passed, the Company must send a copy of the resolution to every Shareholder who did not sign the resolution or on whose behalf the resolution was not signed.

Chairperson of meetings of Shareholders

- 15.5 The chairperson of the Board, if one has been elected and is present at a meeting of Shareholders, must chair the meeting.
- 15.6 If no chairperson has been elected or if, at any meeting of Shareholders, the chairperson is not present within 15 minutes of the time appointed for the commencement of the meeting, the Shareholders present may choose by simple majority one of their number to chair the meeting.

Shareholders entitled to notice of meetings

- 15.7 The Shareholders entitled to receive notice of a meeting of Shareholders are the Shareholders of the relevant Class recorded in the share register as registered Shareholders:
- a. where the Board has fixed a date with the purpose of establishing entitlement to receive notice, on the date so fixed; or
 - b. if no date has been fixed by the Board for that purpose, at the close of business on the day immediately preceding the day on which the notice is given.
- 15.8 A date fixed by the Board under clause 15.7a must not precede by more than 30 working days nor less than 10 working days, the date on which the meeting is to be held.

Notice of meeting

- 15.9 Written notice of the time and place of a meeting of Shareholders must be given to every Shareholder entitled to receive notice of a meeting, and to every Director of the Company not less than 10 working days before the meeting.

Contents of notice

- 15.10 The notice referred to in clause 15.9 must state:

- a. the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasonable judgment in relation to it;
- b. the text of any special resolution to be submitted to the meeting; and
- c. if the Board determines that postal voting is permitted:
 - i. the postal address to which postal votes may be sent and the name or office of the person to whom they may be sent; and
 - ii. that the postal vote must be received by the person referred in the preceding paragraph at least 48 hours prior to the time of the meeting.

Irregularities in notice

- 15.11 The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a Shareholder does not invalidate the proceedings at that meeting.
- 15.12 An irregularity in a notice of a meeting required by clause 15.9 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.

Method of holding meeting

- 15.13 A meeting of Shareholders, where notice of the meeting has been given, may be held either:
- a. by a number of Shareholders, 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 Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

Adjournments

- 15.14 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.

Minutes

- 15.15 The Board must ensure that minutes are kept of all proceedings at meetings of Shareholders.
- 15.16 Minutes which have been signed correct by the chairperson of the meeting are on the face of it evidence of the proceedings at the meeting.

16. Voting at Meetings of Shareholders

Quorum

- 16.1 Subject to clause 16.3, if a quorum is not present within 30 minutes after the time appointed for a meeting of Shareholders, no business may be transacted at the meeting.
- 16.2 A quorum for a meeting of Shareholders is present if a majority of the Shareholders, or their proxies, are present who are, between them, able to exercise a majority of the votes to be cast on the business to be transacted by the meeting.

- 16.3 If a quorum is not present within 30 minutes after the time appointed for the meeting the meeting shall be adjourned to the same day in the following week, at the same time and place, and, if, at the adjourned meeting, a quorum is not present within 1 hour after the time appointed for the meeting, the Shareholders, or their proxies, present constitute the quorum.

Voting

- 16.4 In the case of a meeting of Shareholders held under clause 15.13a, unless a poll is demanded, voting at the meeting must be by whichever of the following methods is determined by the chairperson of the meeting:
- a. voting by voice; or
 - b. voting by show of hands.
- 16.5 In the case of a meeting of Shareholders held under clause 15.13b, unless a poll is demanded, voting at the meeting must be by the Shareholders signifying individually their assent or dissent by voice.
- 16.6 A declaration by the chairperson of the 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 16.7.
- 16.7 At a meeting of Shareholders a poll may be demanded by:
- a. 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;
 - b. a Shareholder or Shareholders holding the Shares that confer a right to vote at a 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
 - c. the chairperson of the meeting.
- 16.8 A poll may be demanded either before or after the vote is taken on a resolution. 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 proxy and voting.
- 16.9 The chairperson of a Shareholders' meeting is not entitled to a casting vote.
- 16.10 For the purposes of this clause 16, 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.

Proxies and representatives

- 16.11 A Shareholder may exercise the right to vote either by being present in person or by proxy.
- 16.12 A proxy for a Shareholder is entitled to attend, be heard and vote at a meeting of Shareholders as if the proxy were the Shareholder.
- 16.13 A proxy must be appointed by notice in writing signed by the Shareholder and the notice must state whether the appointment is for a particular meeting or a specified term.
- 16.14 No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced at least 48 hours before the start of the meeting. The chairperson may

generally or in respect of any particular Shareholder waive the requirements of this clause 16.14.

- 16.15 A body corporate which is a Shareholder may appoint a representative to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.

Postal votes

- 16.16 A Shareholder may only exercise the right to vote at a meeting by casting a postal vote if the Board so determines. The procedures for any postal voting approved by the Board are set out in clause 7 of the First Schedule to the Companies Act together with any other procedures determined by the Board.

Votes of joint holders

- 16.17 Where two or more persons are recorded in the share register as the holder of a Share, the vote of the person named first in the share register and voting on a resolution will be accepted to the exclusion of the votes of the other joint holders.

Unpaid Shares

- 16.18 If a sum due to the Company in respect of a Share has not been paid, that Share may not be voted at a Shareholders' meeting other than at a meeting of an interest group.

17. Powers and Duties of the Board

Powers of the Board

- 17.1 The business and affairs of the Company must be managed by, or under the direction or supervision of, the Board.
- 17.2 Except to the extent that this Constitution, the Shareholders' Agreement or the Companies Act expressly requires those powers to be exercised by the Shareholders or any other person, the Board has, and may exercise, all the powers necessary for managing, and for directing and supervising the management of, the business and affairs of the Company in accordance with and in furtherance of the objects of the Company as set out in clause 1.2.

Delegation of powers

- 17.3 The Board may delegate to a committee of Directors, a Director, or an employee of the Company, or any other person, any one or more of its powers except a power set out in the second schedule to the Companies Act.
- 17.4 The Board is responsible for the exercise by any delegate of a power delegated under clause 17.3 as if the power had been exercised by the Board, unless the Board:
- believed on reasonable grounds at all times before the exercise of the power that the delegate would exercise the power in conformity with the duties imposed on the Directors by the Companies Act and this Constitution; and
 - has monitored, by means of reasonable methods properly used, the exercise of the power by the delegate.

Ratification by Shareholders

- 17.5 Subject to section 177 of the Companies Act (relating to ratification of directors' actions) the Shareholders, or any other person in whom a power is vested by this Constitution, the Shareholders' Agreement or the Companies Act, may ratify the purported exercise of that

power by a Director or the Board in the same manner in which the power may be exercised. The purported exercise of a power that is ratified under this clause 17.5 is deemed to be, and always to have been, a proper and valid exercise of that power.

Directors' duties

- 17.6 A Director, when exercising powers or performing duties, must act in good faith and in what the Director believes to be the best interests of the Company, and must otherwise comply with the other duties placed on Directors under the Companies Act provided that:
- a. in accordance with section 131(4) of the Companies Act, a Director may act in a manner which that Director believes to be in the best interests of the party which appointed that Director, even though it may not be in the best interests of the Company; and
 - b. in doing so the Director has due regard to the charitable purposes for which the Company was established.

18. Proceedings of Board

Chairperson

- 18.1 The Directors may elect one of their number as chairperson of the Board. Unless otherwise determined by a unanimous resolution of the Board, a Director elected as chairperson of the Board shall hold office for a 12 month period following the date of their election.
- 18.2 If no chairperson is elected, or if at a meeting of the Board the chairperson is not present within 5 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.

Convening meetings

- 18.3 A Director or, if requested by a Director to do so, an employee of the Company, may convene a meeting of the Board by giving notice in accordance with clause 18.4.
- 18.4 Not less than 2 working days' notice of a meeting of the Board must be given to every Director who is in New Zealand. If a Director is not in New Zealand, and has notified the Company of his or her contact details outside of New Zealand, that Director must also receive 2 working days' notice. The notice must include the date, time and place of the meeting and the matters to be discussed.
- 18.5 An irregularity in the notice of a meeting is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.
- 18.6 Notice of a meeting may be given by any means, including by telephone. Notice given by a letter addressed to a Director at his or her last known residential address or by facsimile to their last known facsimile number will be deemed to have been received by the Director the day following the date the letter is posted or faxed.
- 18.7 If an alternate Director is entitled to act as a Director, he or she must receive notice of a meeting of the Board in accordance with clause 18.4.

Meetings of Board

- 18.8 A meeting of the Board may be held either:

- a. by a number of Directors sufficient to form 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 in the meeting and constituting a quorum can simultaneously hear each other throughout the meeting.

Quorum

- 18.9 A quorum for a meeting of the Board is a majority of Directors.
- 18.10 No business may be transacted at a meeting of Directors if a quorum is not present.
- 18.11 If a quorum is not present within 30 minutes after the time appointed for the meeting, then 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 chairperson may appoint. If, at the adjourned meeting, a quorum is not present within 1 hour after the time appointed for the meeting the Director or Directors present constitute the quorum.
- 18.12 An alternate Director appointed pursuant to this Constitution and present at a meeting may be included for the purpose of establishing a quorum.

Voting

- 18.13 Every Director has one vote.
- 18.14 The chairperson does not have a casting vote.
- 18.15 A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it.
- 18.16 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 the resolution at the meeting.
- 18.17 A Director may vote in respect of any transaction in which the Director is interested. If the Director does so, the Director's vote will be counted and the Director will be counted in the quorum present at the meeting however the interested Director must disclose to the Board the nature and extent of his or her interest in sufficient detail for the other Directors to make a reasonable assessment of the likely effect of that interest.

Minutes

- 18.18 The Board must ensure that full and accurate minutes are kept of all proceedings at meetings of the Board.

Unanimous resolution

- 18.19 A resolution in writing, signed or assented to by all Directors then entitled to receive notice of a Board meeting is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- 18.20 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.
- 18.21 A copy of any such resolution must be entered in the minute book of Board proceedings.

Other Board procedures

18.22 Except as provided in this clause 18 the Board may regulate its own procedures.

Validity of acts

18.23 Any actions of the Board or a committee of Directors or any person acting as a Director are valid even though:

- a. the person's appointment was defective; or
- b. the person is not qualified for appointment.

Continuing Directors

18.24 Despite any vacancy in the number of Directors, the Board will continue to comprise the continuing Directors, but if their number is reduced below the number fixed by or pursuant to this Constitution as the minimum number of Directors, then the continuing Directors may act only for the purpose of increasing the number of Directors to the minimum number, or for summoning a general meeting of the Company.

19. Directors**Number of Directors**

19.1 The Company will have a Board of at least 3 and not more than 13 Directors.

Appointment and removal of Directors

19.2 Subject to any restrictions as contained in any Shareholders' Agreement, a director may be appointed from time to time by a notice in writing signed by the holder or holders of the majority of Shares. A Director may be removed from office at any time by a notice in writing signed by the holder of the majority of Shares.

19.3 In addition to the appointment or removal of Directors under clause 19.2, a Director may be appointed or removed from office by an Ordinary Resolution. A resolution to appoint 2 or more Directors may be voted on as one resolution without each appointment needing to be voted on individually. A notice of a meeting at which the removal of a Director will be considered must state that the purpose or a purpose of the meeting is the removal of the Director.

19.4 A notice given under this clause 19 takes effect upon receipt of it at the registered office of the Company (including the receipt of a facsimile copy) unless the notice specifies a later time at which the notice will take effect. The notice may comprise one or more similar documents separately signed by Shareholders giving the notice.

Disqualification

19.5 A person will be disqualified from holding the office of Director if he or she is removed in accordance with the preceding subclauses of clause 19 or he or she:

- a. dies;
- b. is under 18 years of age;
- c. is an undischarged bankrupt;
- d. is prohibited by the Companies Act from being a Director or officer or promoter being concerned or taking part in the management of the Company; or

- e. is subject to a property order made under section 30 or 31 of the Protection of Personal and Property Rights Act 1988.

Shareholding qualification

- 19.6 A Director is not required to hold Shares.

20. Alternate Directors

Appointment

- 20.1 Every Director may, by notice given in writing to the Company, appoint any person (including any other Director) to act as an alternate Director in that Director's place, either generally or in respect of a specified meeting or meetings during that Director's absence or inability to act as a Director. Every Director may, at that Director's discretion, by notice in writing to the Company, remove that Director's alternate Director.

Power and authority

- 20.2 An alternate Director may, while acting in the place of the Director, represent, exercise and discharge all the powers, rights, duties and privileges (but excluding the right of acting as chairperson) of the Director appointing that alternate Director. An alternate Director is subject in all respects to the same terms and provisions as the Director appointing that alternate Director, except as regards remuneration, and the power to appoint an alternate Director under this Constitution. For the purpose of establishing a quorum of the Board, an alternate Director is deemed to be the Director that appointed him or her.
- 20.3 The notice of appointment of alternate Director must include an address for service of notice of meetings of Directors. Failure to give an address will not invalidate the appointment but notice of meetings of the Board need not be given to the alternate Director until an address is provided to the Company.

21. Indemnity and Insurance

Indemnity of Directors

- 21.1 Subject to clause 21.3 every Director shall be indemnified by the Company:
- a. for any costs incurred by him or her in any proceeding that relates to liability for any act or omission in his or her capacity as a Director or a director of a subsidiary of the Company and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and
 - b. in respect of liability to any person other than the Company or a related company for any act or omission by him or her in his or her capacity as a Director or a director of a subsidiary of the Company, and costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability, and this indemnity shall continue in force, despite any subsequent revocation or amendment of this clause 21.1, in relation to any liability which arises out of any act or omission by a Director prior to the date of such revocation or amendment, but shall be subject to any limitations contained in any deed or agreement from time to time in force between the Company and the Director relating to indemnities

Other Indemnities

- 21.2 Subject to clause 21.3 the Company may, with the prior approval of the Board, indemnify a director of a related company, or an employee of the Company or a related company:

- a. for any costs incurred by him or her in any proceeding that relates to liability for any act or omission by him or her in such capacity and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and
- b. in respect of liability to any person other than the Company or a related company for any act or omission by him or her in such capacity, or costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability.

Exceptions

- 21.3 An indemnity conferred by clause 21.1b or given pursuant to clause 21.2b, shall not apply in respect of:
- a. any criminal liability;
 - b. in the case of an employee of the Company or a related company, any liability in respect of a breach of any fiduciary duty owed to the Company or related company;
 - c. in the case of a Director or a director of a related company, any liability in respect of a breach of the duty specified in section 131 of the Companies Act; or
 - d. any other liability in respect of which an indemnity is prohibited by any legislation.

Insurance of Directors and employees

- 21.4 The Board may, subject to section 162 of the Companies Act, cause the Company to effect insurance for a Director or for an employee of the Company or a related company in respect of:
- a. liability, not being criminal liability, for any act or omission in his or her capacity as a Director or employee;
 - b. costs incurred by that Director or employee in defending or settling any claim or proceeding relating to any such liability; or
 - c. costs incurred by that Director or employee in defending any criminal proceedings that have been brought against the Director or employee in relation to any act or omission in his or her capacity as a Director or employee and in which he or she is acquitted.
- 21.5 The Directors who vote in favour of insurance under clause 21.4 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the Company.
- 21.6 The Board must ensure that particulars of any indemnity given to, or insurance effected for, any Director or employee of the Company or related company, are forthwith entered in the interests register.
- 21.7 In this clause:
- a. "Director" includes a former director;
 - b. "effect insurance" includes pay, whether directly or indirectly, the costs of insurance;
 - c. "employee" includes a former employee;
 - d. "indemnify" includes relieve or excuse from liability, whether before or after the liability arises and "indemnity" has a corresponding meaning, and other words

given extended meanings in section 162(9) of the Companies Act shall have those extended meanings.

22. Remuneration of Directors

Authority to remunerate Directors

22.1 The Board may authorise:

- a. the payment of remuneration or the provision of other benefits by the Company to a Director for services as a Director, or in any other capacity;
- b. the payment by the Company to a Director or former director of compensation for loss of office;
- c. the making of loans by the Company to a Director;
- d. the giving of guarantees by the Company for debts incurred by a Director; and
- e. the entering into of a contract to do any of the things set out in clauses 22.1a to 22.1d, if the Board is satisfied that to do so is fair to the Company.

22.2 The payment of remuneration or the giving of any other benefit to a Director in accordance with a contract authorised pursuant to clause 22.1a need not be separately authorised by the Board.

22.3 The Board must ensure that, immediately after authorising any payment, benefit, loan, guarantee or contract under to clause 22.1, the particulars of the payment, benefit, loan, guarantee or contract are entered in the interests register.

22.4 The Directors who vote in favour of authorising a payment, benefit, loan, guarantee or contract under clause 22.1 must sign a certificate stating that, in their opinion, the making of the payment or the provision of the benefit, or the making of the loan, or the giving of the guarantee, or the entering into of the contract is fair to the Company, and the grounds for that opinion.

Other offices with Company held by Director

22.5 Any Director may act by himself or herself or by the Director's firm in a professional capacity for the Company, and the Director or the Director's firm will be entitled to remuneration for professional services as if the Director were not a Director. Nothing in this clause 22.5 authorises a Director or the Director's firm to act as auditor to the Company.

22.6 A Director may hold any other office or place of profit in the Company (other than the office of auditor) in conjunction with the Director's office of director for such period and on such terms (as to remuneration and otherwise) as the Board may determine.

22.7 Other than as provided in clause 23, a Director is not disqualified by virtue of his or her office from entering into any transaction with the Company. Any such transaction will be valid and enforceable to the same extent as if he or she were not a Director and not in a fiduciary relationship with the Company.

23. Interested Directors

Notice of interest

- 23.1 A Director must, forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, cause to be entered in the interests register, and, if the Company has more than one Director, disclose to the Board:
- if the monetary value of the Director's interest is able to be quantified, the nature and monetary value of that interest; or
 - if the monetary value of the Director's interest cannot be quantified, the nature and extent of that interest.
- 23.2 A Director is not required to comply with clause 23.1 if:
- the transaction or proposed transaction is between the Director and the Company; and
 - the transaction or proposed transaction is or is to be entered into in the ordinary course of the Company's business and on usual terms and conditions.
- 23.3 For the purposes of clause 23.1 a general notice entered in the interests register or disclosed to the Board to the effect that a Director is a shareholder, director, officer or trustee of another named company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction.
- Right of interested Director to vote
- 23.4 A Director may vote in respect of any transaction in which the Director is interested, and if the Director does so, the Director's vote will be counted and the Director will be counted in the quorum present at the meeting. Any such Director may also sign any document relating to the transaction on behalf of the Company and do any other thing in his or her capacity as a Director in relation to the transaction.

24. Notices

Service on natural person Shareholders

- 24.1 A notice, statement, report, accounts, or other document to be sent to a Shareholder who is a natural person may be:
- delivered to that person;
 - posted to that person's address or delivered to a box at a document exchange which that person is using at the time;
 - sent by facsimile machine to a telephone number used by that person for the transmission of documents by facsimile; or
 - emailed to the email address of that person.

Service on company Shareholders

- 24.2 A notice, statement, report, accounts, or other document to be sent to a Shareholder that is a company (but not an overseas company) may be sent:
- by delivery to a person named as a director of the company on the New Zealand register;

- b. by delivery to an employee of the company at the company's head office or principal place of business;
- c. by leaving it at the company's registered office or address for service;
- d. in accordance with an agreement made with the company;
- e. by posting it to the company's registered office or address for service or delivering it to a box at a document exchange which the company is using at the time; or
- f. by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the company's registered office or address for service or its head office or principal place of business.

Method and proof of service

24.3 Subject to clause 24.2, for the purposes of clauses 24.1 to 24.2:

- a. if a document is to be served by delivery to a natural person, service must be made:
 - i. by handing the document to the person; or
 - ii. if the person refuses to accept the document, by bringing it to the attention of, and leaving it in a place accessible to, the person;
- b. a document posted or delivered to a document exchange is deemed to be received 2 working days, or any shorter period as the Court may determine in a particular case, after it is posted or delivered;
- c. in proving service of a document by post or by delivery to a document exchange, it is sufficient to prove that:
 - i. the document was properly addressed;
 - ii. all postal or delivery charges were paid; and
 - iii. the document was posted or was delivered to the document exchange;
- d. a document sent by facsimile machine is deemed to have been received on the working day following the day on which it was sent;
- e. in proving service of a document by facsimile machine, it is sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned; and
- f. a document sent by email upon the earlier of:
 - i. receipt by the sending party of confirmation of successful delivery; or
 - ii. 2 working days after despatch, provided that the sending party does not receive any indication of failure, or delay of delivery within 2 working days after despatch.

For the purposes of this clause 24.3 "despatch" occurs when the relevant email first leaves the sending party's network for delivery to the receiving party's network.

No service where no receipt

24.4 A document is not to be deemed to have been served or sent or delivered to a person if the person proves that, through no fault on the person's part, the document was not received within the time specified.

Service on joint holders

- 24.5 A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the share register in respect of the Share.

Service of representatives

- 24.6 A notice may be given by the Company to a person or persons entitled to a Share in consequence of the death or bankruptcy of a Shareholder by addressing it to such person or persons by name or by title or by any appropriate description, at the address (if any) within New Zealand supplied for the purpose by the person or persons claiming to be so entitled, or (until such time as an address has been supplied) by giving the notice in any manner in which it might have been given if the death or bankruptcy had not occurred.

25. Liquidation**Distribution in specie**

- 25.1 Upon the liquidation of the Company, the liquidator, with the sanction of a special resolution of the Shareholders and any other sanction required by law, may divide the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) remaining after the satisfaction of all of the Company's debts, liabilities and obligations amongst such other charitable body or bodies in the Auckland region having objects similar to those set out in clause 1.2, or to such other charitable purposes determined by the Shareholders by means of a special resolution, and may for that purpose set such value upon any property to be so divided as the liquidator deems fair, and may determine how the division is to be carried out.
- 25.2 The body or bodies described in clause 25.1 shall prohibit the distribution of its (or their) income and assets among its (or their) shareholders or members to at least the same extent as that imposed on the Company by this Constitution.

26. Removal from the New Zealand Register

- 26.1 If the Company has:
- a. ceased to carry on business, has discharged in full its liabilities to all known creditors and has distributed its surplus assets in accordance with this Constitution and the Companies Act; or
 - b. no surplus assets after paying its debts in full or in part and no creditor has applied to the Court under section 241 of the Companies Act for an order putting the Company into liquidation, the Board may, in the prescribed form, request the Registrar of Companies to remove the Company from the New Zealand register.

27. Method of Contracting**Method**

- 27.1 A contract or other enforceable obligation may be entered into by the Company as follows:
- a. an obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:
 - i. two or more Directors of the Company;
 - ii. if there is only one Director, by that Director whose signature must be witnessed;

- iii. two or more attorneys appointed by the Company in accordance with clause 28; or
- iv. one attorney appointed by the Company in accordance with clause 28 whose signature must be witnessed;
- b. an obligation which, if entered into by a natural person, is, by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and
- c. an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company in writing or orally by a person acting under the Company's express or implied authority.

Jurisdiction

27.2 Clause 27.1 applies to a contract or other obligation:

- a. whether or not that contract or obligation was entered into in New Zealand; and
- b. whether or not the law governing the contract or obligation is the law of New Zealand.

28. Appointment of Attorney

28.1 The Company may, by an instrument in writing executed in accordance with clause 27.1a appoint one or more persons 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.

29. No Private Pecuniary Profit for any Individual

No private pecuniary profit

29.1 Notwithstanding any other provision of this Constitution or the Shareholders' Agreement, no private pecuniary profit shall be made by any person from the Company, except that:

- a. any Director or other person may receive a full reimbursement for all expenses properly incurred by that Director or other person in connection with the affairs of the Company;
- b. the Company may pay reasonable and proper remuneration to any officer, employee, contractor or agent of the Company (whether a Director or not) in return for services actually rendered to the Company;
- c. any Director may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Director or by any firm or entity for which that Director is a member, employee or associate in connection with the affairs of the Company; and
- d. any Director may retain any remuneration properly payable to that Director any company or undertaking with which the Company may be in any way concerned or involved for which that Director has acted in any capacity whatsoever, notwithstanding that the Director's connection with that company or undertaking is in any way attributable to that Director's connection with the Company.

Restrictions on benefits to and influence by interested persons

29.2 Notwithstanding anything contained or implied in this Constitution, any person who is:

- a. a Shareholder; or
- b. a shareholder of any company carrying on any business of the Company; or
- c. a settlor or trustee of any trust which is a Shareholder or a shareholder of any company carrying on any business of the Company; or
- d. an associated person (as defined by the Income Tax Act 2007) of any of the above persons,

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence in any way the determination of, the nature or the amount of any benefit or advantage or income or the circumstances in which it is to be received, gained, achieved or forwarded or derived by that person otherwise than in trust for charitable purposes.

29.3 A person who, in the course of and as part of the carrying on of his or her business of a professional public practice, shall not, by reason only of his or her rendering professional services to the Company or to any company by which any business of the Company is carried on, be in breach of this clause 29.

29.4 The Directors, in determining all reimbursements, remuneration and charges payable in terms of this clause 29 shall ensure that the restrictions imposed by this clause 29 are strictly observed.

Dividends

29.5 The Board may not pay any dividends or make any other monetary distributions to its Shareholders and shall ensure that all profits and earnings of the Company are applied in accordance with and in furtherance of the objectives of the Company as set out in clause 1.2.