

**CONSTITUTION
OF
LIVESTOCK IMPROVEMENT CORPORATION LIMITED**

This is the form of the Constitution adopted by the members of Livestock Improvement Corporation Limited at the Special Meeting held on 14 March 2018, to come into effect on the date of 19 July 2018.

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1. STATEMENT OF FUNDAMENTAL PROVISIONS

1.1 **Principal activities:** The principal activities of the Company are the co-operative activities of supplying goods and services to its Shareholders with particular reference to:

- (a) promoting, organising, carrying out, managing and controlling by such means as may be deemed necessary or expedient, the improvement of livestock in New Zealand in general, including (but not by way of limitation):
 - (i) the measure and evaluation of the growth, yield of milk or milk constituent, and feed conversion efficiency of livestock, and any other factor relevant to decisions on breeding and management of livestock;
 - (ii) the development and commercial application of artificial breeding of livestock;
 - (iii) the purchase, sale and provision of livestock, semen, services and products of all kinds;
- (b) improvement of livestock and of farm management practices;
- (c) promoting and advancing by such means as shall commend themselves to the Company the adoption of measures and practices designed to bring about greater efficiency in the livestock industry in general and the dairy industry in particular;
- (d) promoting, experimenting with, and carrying out research and development in relation to all such matters, acts and things, which in the opinion of the Company will by breeding and by any other means enhance or tend to enhance the quality of livestock of all kinds and on farm profitability;
- (e) such other objectives, goods and services as the Board may determine from time to time; and

1.2 **Persons carrying out activities:** The Company may carry on its cooperative activities either directly, through a Subsidiary or by arranging for another person to carry on the activity, in accordance with section 3(2) of the CC Act.

1.3 **Co-operative Principles:** The Co-operative Principles of the Company are as follows:

- (a) the Company will remain a Co-operative Company;
- (b) the Company is User Controlled;
- (c) core products and services are made available to all Shareholders at fair commercial prices;
- (d) products and services which benefit Shareholders, and which otherwise might not be made available, are developed and made available to Shareholders, provided that the Company or its Subsidiaries receive a commercial return; and

(e) Shareholders co-operate with the Company, its Subsidiaries and each other, including the sharing of information, to promote their common interests.

1.4 **Pricing of products and services:** In setting the prices to be paid for products or services of the Company or its Subsidiaries (whether a supply to Shareholders or other persons) the Company and its Subsidiaries should seek to create wealth for the Company and its Shareholders, and accordingly, as a general rule, the Company should supply, or procure that its Subsidiaries supply (to the extent possible), goods and services at commercial prices reflecting market conditions, taking into account the Company's Co-operative Principles and the Key Strategic Objectives set by the Board and approved by the Council.

2. DEFINITIONS AND INTERPRETATION

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

"Act" means the Companies Act 1993;

"Appointed Director" means a director appointed by the Board pursuant to paragraph 2 of schedule 3;

"Approved Holding Entity" means an entity approved in writing by the Board pursuant to clause 8.3;

"Associated Party" has the meaning given to the term "Associated Person" in the Rules;

"Associated Person" has the meaning given to that term in the Dairy Industry Restructuring Act 2001, for so long as that term is defined in that Act;

"Board" means the Directors numbering not less than the required quorum acting together as a board of Directors;

"Broker" means any NZX Firm as defined in the NZX Participant Rules as adopted from time to time by NZX;

"Business Day" has the meaning given to that term in the Rules;

"By-laws of the Council" means the by-laws contained in schedule 4 as amended from time to time;

"Call" means a resolution of the Board, pursuant to clause 15, requiring a Securityholder or Securityholders to pay all or part of the unpaid amount of the issue price of any Securities (or a deemed requirement on a Securityholder or Securityholders to pay all or part of the unpaid amount of the issue price of any Securities), and as the context requires, means the obligation of a Securityholder to meet the amount due pursuant to such a resolution;

"CC Act" means the Co-operative Companies Act 1996;

"Class" has the meaning given to that term in the Rules;

"Company" means Livestock Improvement Corporation Limited;

"Compliance Date" means the date by which Users must hold the Shareholding Requirement, being 15 October (with reference to the preceding Season), or as otherwise determined by the Board and set out in the Service Rules as at the start of the Season preceding the Compliance Date;

"Compulsory Buyer" has the meaning given in clause 7.1(a);

"Compulsory Seller" has the meaning given in clause 7.2(a);

"Compulsory Share Acquisition Test" is met where a User's average expenditure on Qualifying Products and Services over the preceding three Seasons exceeds the Minimum Purchases Amount, or as otherwise determined by the Board and set out in the Service Rules;

"Constitution" means the provisions of this constitution, including all schedules and includes any amendment, addition or modification for the time being in force;

"Contractual Arrangements" means arrangements under which Users receive from the Company products or services at a discount in consideration for those Users participating in certain schemes promoted by the Company including those involving progeny testing, research and development, product development trials or similar projects;

"Co-operative Company" means a company registered under Part II of the CC Act;

"Convert", **"Conversion"** and **"Convertible"** have the meanings given to those terms in the Rules;

"Co-operative Principles" means the co-operative principles of the Company set out in clause 1.3;

"Corresponding Wards" means the Wards which respectively correspond with a particular Region as specified in schedule 7;

"Council" means the LIC Shareholder Council referred to in clause 21 and schedule 4;

"Councillor" means a person elected by Shareholders within a Ward to represent that Ward on the LIC Shareholder Council in accordance with clause 21 and schedule 4;

"Deemed Purchase Prices" means the market value (exclusive of GST) of the discounts or other consideration provided by the Company to Users pursuant to the Contractual Arrangements;

"Directors" mean the directors for the time being of the Company;

"Distribution" has the meaning given to that term in section 2(1) of the Act;

"Dividend" has the meaning given to that term in section 53 of the Act;

"Dividend Reinvestment Plan" means a plan approved by the Board under which dividends to which Shareholders are entitled are, at the election of those Shareholders, paid by the Company to an Approved Holding Entity for the purpose of purchasing Ordinary Shares for transfer to those Shareholders;

a reference to “**elected**” includes a situation where a person is stated or deemed to be elected pursuant to the provisions of the Constitution, or is declared to be elected or appointed where no election is held by reason of there only being one candidate for the relevant office;

“**Elected Director**” means a director elected by Shareholders in a Region pursuant to clause 22;

“**Electronic**” includes electrical, digital, magnetic, optical, electromagnetic, biometric and photonic;

“**Employee**” means an employee of the Company or any of its subsidiaries;

“**Employee Scheme Holder**” means a person holding Equity Securities of the Company pursuant to an Employee Share Purchase Scheme;

“**Employee Share Purchase Scheme**” means a scheme established pursuant to clause 8.2;

“**Entitled Person**” means a person entitled to a Security as a consequence of the death or bankruptcy of a Securityholder;

“**Equity Security**” in respect of a security of the Company has the meaning given to that term in the Rules;

“**Excess Holding**” means Ordinary Shares which have been declared by the Board to be an Excess Holding pursuant to clause 6.3(b);

“**Excess Shares**” means Ordinary Shares which have been declared by the Board to be Excess Shares pursuant to clause 6.3(c)(i);

“**Family Trust**” means a trust which is created, in the opinion of the Board, exclusively or principally for the benefit of a dairy farmer (including a sharemilker) and/or any of his or her spouse, domestic companion, child, grandchild or parent; or other similar trust, arrangement or entity accepted by the Board in its discretion as being a Family Trust for the purposes of this Constitution;

“**Farm**” means a property or business which has the farming of dairy cows and the commercial production of milk as a significant business activity and which is recognised as a separate property or business by the Company by the allocation to it of an LIC Debtors Code;

“**GST**” means goods and services tax under the Goods and Services Tax Act 1985, and any penalties, additional tax or interest payable in respect thereof;

“**Honoraria Committee**” means a committee of Shareholders appointed pursuant to clause 24.2;

“**Interest Group**” has the meaning set out in section 116 of the Act;

“**Issue**” means an issue of Securities of the Company;

“Key Strategic Objectives” means the key strategic objectives adopted from time to time by the Board, with the approval of the Council, for publication with the Company’s mission statement;

“LIC Debtors Code” means a unique identifier on the Company’s database which is allocated by the Board (or in accordance with its instructions or delegated authority) and which identifies a User by reference to each location at which the User is associated with a Farm;

“Listing” and **“Listed”** have the meanings given to those terms in the Rules;

“Maximum Ordinary Shareholding” means 5% of the total number of Ordinary Shares in the Company;

“Milk Processor” means a person processing milk for commercial sale in compliance with the Dairy Industry Regulations 1990 or such other statute or regulation (if any) as may be applicable;

“Minimum Purchases Amount” means the minimum amount of Purchase Prices for Qualifying Products and Services (inclusive of Deemed Purchase Prices) required to be expended by a person as one of the qualifications for that person to be a User for the purposes of this Constitution, as determined by the Board from time to time (having consulted with the Council in respect of any change) and published in the Service Rules;

“NZX Market” means a registered exchange market operated by NZX;

“NZX” means NZX Limited;

“Office” means the registered office for the time being of the Company;

“Option” means an option to acquire a Security;

“Ordinary Shareholder” means a person whose name is entered in the Register as the holder for the time being of one or more Ordinary Shares;

“Ordinary Shares” mean the ordinary shares in the Company that have been or may be issued from time to time;

“Ordinary Resolution” means (subject to Rule 1.6.8) a resolution passed by a simple majority of Votes of holders of Securities of the Company which carry Votes, entitled to vote and voting;

“Permanent Employee” means a person employed by the Company on a full-time or part-time basis as a permanent (and not as a seasonal) employee;

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

“Prohibited Holding” means Shares which have been declared by the Board to be a Prohibited Holding pursuant to clause 3.2.3A(c);

“Prohibited Shares” means Shares which have been declared by the Board to be Prohibited Shares pursuant to clause 3.2.3A(c);

“Purchase Prices” excludes GST and shall not be grossed up to include loyalty discounts;

“Qualifying Products and Services” means products and services identified as 'qualifying products and services' under the Service Rules, that are provided by the Company or its Subsidiaries, as determined by the Board from time to time (having consulted with the Council in respect of any change);

“Quoted”, “Quotation” and “Quote” have the meanings given to those terms in the Rules;

“Rebate” means a payment by the Company to a Shareholder calculated by reference to transactions by that Shareholder with the Company, but does not include quantity discounts or other similar normal commercial payment terms;

“Region” means a part of New Zealand designated a Region pursuant to clause 22.2 and schedule 5;

“Register” means the register or registers of Securityholders to be kept in compliance with the Act;

“Related Company” has the meaning set out in section 2(3) of the Act, and “Related Companies” has a corresponding meaning;

“Relevant Interest” has the meaning set out in sections 235 to 238 of the Financial Markets Conduct Act 2013;

“Relevant Season” has the meaning given in clause 8.1(a)(i);

“Restricted Holding” means Voting Securities which have been declared by the Board to be a Restricted Holding pursuant to clause 20.5;

“Restricted Securities” means Voting Securities which have been declared by the Board to be Restricted Securities pursuant to clause 20.6;

“Rotation Schedule” means the schedule fixing the times for the election of Elected Directors and Councillors as referred to in clause 23;

“Rules” or “Rule” is a reference to the listing rules applicable to the NZX Market with which the Company is listed from time to time, and may be a reference to a particular Rule or Rules as specified. References to “permitted by the Rules” or “pursuant to the Rules” shall be read as permitted by or pursuant to the Rules themselves or permitted or allowed by NZX pursuant to any Ruling;

“Ruling” has the meaning given to that term in the Rules;

“Sale Notice” means a notice served upon a Shareholder pursuant to clause 18.2(a);

“Season” means the period of 12 months ending on 31 May;

“Security” means a Security (as defined in the Rules) that has been or may be issued from time to time by the Company and includes a Share;

“Securityholder” means a person whose name is entered in the Register as the holder for the time being of one or more Securities and includes a Shareholder;

“Service Rules” means the publication which details the range of products and services provided by the Company. This publication is produced annually by the Company prior to the commencement of each Season, or at such intervals as determined by the Company;

“Services Contract” means the terms and conditions from time to time on which the Company or its Subsidiaries supply any one or more of the products and services or Qualifying Products and Services to Shareholders, whether or not the same terms and conditions are also applicable to other purchasers from the Company;

“Shareholder” means a person whose name is entered in the Register as the holder for the time being of one or more Shares;

“Shareholding Exit Date” means, in respect of a Shareholder, 15 October in the calendar year following the calendar year in which that Shareholder ceased to spend (and has not again spent) the Minimum Purchases Amount on Qualifying Products and Services, has ceased to be a User, or as otherwise determined by the Board and set out in the Service Rules at the start of the Season preceding the date on which that Shareholder ceased to spend (and has not again spent) the Minimum Purchases Amount on Qualifying Products and Services;

“Shareholding Requirement” means, in respect of a Season, the number of Ordinary Shares that must be held by a person who is or has applied to become an Ordinary Shareholder, as determined by the Board (having consulted with the Council in respect of any change) and set out in the Service Rules at the start of the Season;

“Shares” mean shares in the Company that have been or may be issued from time to time;

“Share Funds” has the meaning given in clause 8.1(a)(i);

“Special Resolution” has the meaning given to that term in section 2(1) of the Act;

“Subsidiary” means a subsidiary of the Company within the meaning given to the term “Subsidiary” in the Rules;

“Transferee” has the meaning given to that term in clause 3.2.3A(b);

“Treasury Stock” has the meaning given to that term in the Rules and includes Shares held by the Company under section 24 of the CC Act;

“User” means a person who, in the current Season or during the previous Season:

- (a) derives or has derived an income from the farming of dairy cows in New Zealand whose milk is supplied to a Milk Processor in New Zealand, including a sharemilker; and

- (b) has an LIC Debtors Code and has purchased and been invoiced by the Company for Qualifying Products and Services having in aggregate not less than the Minimum Purchases Amount;

"User Controlled" means Users holding not less than 60% of the voting rights of the Company;

"VIS Deduction Amount" means the amount to be deducted in connection with the Voluntary Investment Scheme, as determined by the Board and set out in the Service Rules at the start of the Season;

"Voluntary Investment Scheme" means a scheme established pursuant to clause 8.1;

"Vote" has the meaning given to that term in the Rules;

"Voting Security" means a Security which confers a Vote and, for the purposes of determining whether a Security is a Voting Security, no account shall be taken of the possible application to that Security of clause 20.2, clause 20.7 or paragraph 13 of schedule 1 (limited vote on Share on which sum due);

"Ward" means a part of New Zealand designated a Ward pursuant to clause 21.2;

"Working Day" has the meaning given to that term in the Act;

"Writing" includes representing or reproducing words, figures or symbols:

- (a) in a visible and tangible form by any means and in any medium;
- (b) in a visible form in any medium by electronic means that enables them to be stored in permanent form and be retrieved and read.

2.2 Interpretation: In this Constitution, unless the context otherwise requires:

- (a) expressions defined in the Act and the CC Act and the Rules have the meanings so defined, unless otherwise specifically provided herein or the context otherwise requires;
- (b) references to any statute or regulation or the Rules include any amendments, modifications, substitutions, or re-enactments and a reference to a statute includes all regulations made thereunder;
- (c) words in the singular include the plural and vice versa, and references to any gender include the other genders;
- (d) a reference to a clause shall, unless the context otherwise requires, be a reference to a clause in this Constitution;
- (e) a reference in a schedule to a paragraph shall, unless the context otherwise requires, be a reference to a paragraph in that schedule;
- (f) where a legal requirement under the Act is substantially reproduced in this Constitution that legal requirement may be met by electronic means in accordance with the Contract and Commercial Law Act 2017. In this

paragraph the term 'legal requirement' has the meaning given to that term by the Contract and Commercial Law Act 2017.

3. SECURITIES

3.1 **Existing Securities:** As at the date this Constitution comes into effect, the Securities of the Company comprise the Ordinary Shares with the respective rights and restrictions attached to them as are specified in this Constitution.

3.2 Power to Issue and hold Securities

3.2.1 **Issue:** Securities, including Treasury Stock, shall be under the control of the Board which may, subject always to the provisions of this Constitution and to the Act, the CC Act and the Rules, issue, allot or otherwise dispose of any Securities to such persons, on such terms and conditions, and at such times and in such manner as the Board thinks fit.

3.2.2 **Issue of Voting Securities:** Notwithstanding anything elsewhere contained in this Constitution:

- (a) no Voting Securities may be issued by the Company other than the Ordinary Shares;
- (b) no Voting Security may be issued which confers on the holder thereof more than one Vote, including a vote for the election of Directors under paragraph 1(b)(iii) of schedule 3;
- (c) no Voting Securities may be issued, and no voting rights attached to Securities may be used or changed, and no other change may be made to any provision in this Constitution, if such issue or use or change would result in the Company ceasing to be User Controlled;
- (d) no change shall be made to the rights attached to Securities and no rights attached to Securities may be exercised which would result in a Security (other than an Ordinary Share) becoming a Voting Security, or a Voting Security conferring more than one Vote.

3.2.3 **Only certain persons may hold Securities:** Notwithstanding anything elsewhere contained in this Constitution, Securities may only be issued to and / or held by:

- (a) the Company;
- (b) Users;
- (c) trustees in accordance with clause 3.2.3A(a);
- (d) an Approved Holding Entity, in accordance with the provisions of this Constitution;
- (e) Employee Scheme Holders, in accordance with the provisions of this Constitution;

except that:

- (f) Shareholders may continue to hold Ordinary Shares until they are disposed of under the clause 7 below;

- (g) Ordinary Shares may be held in Broker Accounts pursuant to clause 8.4; and
- (h) Ordinary Shares may be transmitted and held in accordance with the provisions of clause 17.

3.2.3A Prohibition of Third Party Interests:

- (a) Except as otherwise specifically provided in this Constitution, a Shareholder shall not hold or acquire Shares at the request or on behalf or for the benefit in whole or part of any person who is not a User, provided always that this provision shall not prohibit persons from holding shares as trustees for the beneficiaries under a Family Trust, and shall not prohibit the holding of Shares pursuant to an Employee Share Purchase Scheme.
- (b) The Board may at any time give written notice to any Shareholder or any transferee of a Share (“**Transferee**”) requiring that Shareholder or Transferee to provide to the Board, if so required by the Board in the form of a statutory declaration, such information as the Board may specify which the Board considers necessary or desirable to establish that a Shareholder or Transferee is not holding or acquiring Shares in breach of the preceding paragraph (a).
- (c) The Board may declare any Shares which are held or acquired in breach of paragraph (a) above to constitute a Prohibited Holding. If the Board declares Shares to constitute a Prohibited Holding the Board shall declare the Shares in that Prohibited Holding to be Prohibited Shares.
- (d) The Board may take any of the following actions or make any of the following determinations with respect to Prohibited Shares:
 - (i) direct holders of Prohibited Shares to dispose or take other actions in respect of those Prohibited Shares so that paragraph (a) above is complied with;
 - (ii) prohibit any right to vote attached to Prohibited Shares (with any vote cast in violation of such prohibition disregarded for all purposes);
 - (iii) resolve not to make payment, or to defer making payment for such period as the Board thinks fit, of any dividend or distributions or other sums due or payable in respect of Prohibited Shares.
- (e) The Board may at any time determine that any Prohibited Shares have ceased to form part of a Prohibited Holding or have ceased to be Prohibited Shares.
- (f) The Board shall, as soon as practicable after making a declaration or determination or taking an action pursuant to paragraph (c), (d) or (e) above, give written notice of that action, declaration or determination to the person holding the Shares or seeking to acquire the Shares affected by that action, declaration or determination.
- (g) If any Shareholder or Transferee fails to provide, to the satisfaction of the Board, the information requested by the Board pursuant to paragraph (b) above within 10 Working Days after the Board gives notice under that clause, the Board may take any of the actions or make any of the determinations or decisions specified in paragraph (d) above in respect of the Shares held by

that holder and may decline to register any transfer of Shares to the Transferee.

- (h) Any action, declaration or determination made by the Board under paragraphs (c), (d), (e) or (g) above shall be final and conclusive for all purposes and not open to challenge.
- (i) If a Shareholder fails to dispose of Shares pursuant to paragraph (d)(i) above, then clause 7.3 shall apply.

3.2.4 **Rights:** Subject to any provisions in the Constitution, the Act, the CC Act and the Rules and without prejudice to any special rights previously conferred on the holders of any existing Securities or Class of Security, Securities in the Company may be issued with such preferred or deferred or other special rights or such restrictions whether in regard to Dividends, voting, Distributions or otherwise as the Board may from time to time determine.

3.2.5 **Ranking:** Subject to any provisions in the Constitution, the Board may issue further Securities ranking equally with or in priority to existing Securities.

3.2.6 **Pre-emptive rights:** Except as provided in the Constitution, all pre-emptive rights including the pre-emptive rights in section 45 of the Act are hereby negated.

3.3 Convertible Securities

3.3.1 **Issue of Convertible Securities:** Subject always to the provisions of clauses 3.2.2, 3.2.3 and 3.5 and section 49 of the Act, the Board may from time to time at its discretion issue Convertible Securities upon such terms and conditions as the Board thinks fit.

3.4 Options

3.4.1 **Grant of Options:** Subject to the provisions of clauses 3.2.2, 3.2.3 and 3.5 and section 49 of the Act, the Board may from time to time at its discretion grant Options to subscribe for Securities in the Company on such terms and conditions as to payment or exercise or otherwise as shall be determined by the Board at the time such options are granted.

3.5 Restrictions on Issue of new Securities

3.5.1 **Restrictions in Rules apply:** Subject to clauses 3.2.2, 3.2.3, 4, 5 and 6:

- (a) the Company shall not issue any Equity Securities (including on Conversion of any other Security) except as permitted by the Rules; and
- (b) the provisions of Rule 7.3 (as they may be modified by any Ruling relevant to the Company) are deemed to be incorporated in this Constitution and have the same effect as though they were set out in full with any necessary modification, and they shall apply whether or not the Company is Listed.

3.6 **Powers of the Company and financial assistance:**

3.6.1 **Powers:** The Company may:

- (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 Equity Securities so purchased or acquired; and
- (d) in accordance with clause 10, issue redeemable Shares and redeem any redeemable Shares or Equity Securities held by one or more holders,

in accordance with the provisions of, and subject to the restrictions of the Act, the CC Act, this Constitution and the Rules.

3.6.2 **Permitted financial assistance:** The Company shall not give financial assistance for the purpose of, or in connection with, the acquisition of any Shares or other Equity Securities issued, or to be issued, by the Company, unless the giving of that assistance is in accordance with the provisions of the Act, the CC Act and the Rules, or the financial assistance is given to an Approved Holding Entity in a manner permitted by the Act.

3.7 **Alteration of Securityholders' Rights (including Liquidation):**

3.7.1 **Rights:** All or any of the rights attached to Equity Securities may be modified, abrogated or altered by the Company subject to compliance by the Company with clauses 3.2.2, 3.2.3, 3.7.2 and 3.7.3.

3.7.2 **Procedure:** The Company shall comply with the provisions of sections 116 and 117 of the Act. For the purposes of this clause 3.7.2, those sections shall be deemed to be modified so that:

- (a) reference in those sections to 'shares' shall (subject to clause 3.7.3) be deemed to include references to all Equity Securities of the Company, and references to 'shareholders' shall be read accordingly;
- (b) in respect of Equity Securities which are not 'shares':
 - (i) references to a special resolution shall be deemed to be references to a resolution approved by a majority of 75% of votes of the holders of those Equity Securities entitled to vote and voting; and
 - (ii) references to the constitution shall be deemed to be references to the document which governs the rights of those Equity Securities;
- (c) any resolution to liquidate the Company shall be deemed to be an action affecting the rights attached to Shares.

3.7.3 **Exception:** The Company shall be required by clause 3.7.2 to comply with sections 116 and 117 of the Act but shall not be required by the modifications deemed to be made thereto by clause 3.7.2 (other than paragraph (c) thereof) to comply with those sections in respect of actions that affect the rights attached to:

- (a) Equity Securities which are not Quoted; or
- (b) Equity Securities which are not 'shares' if those Equity Securities were issued on terms which expressly permitted the action in question to be taken without the prior approval of holders of those Equity Securities, and those terms were clearly disclosed in the Offering Document (if any) pursuant to which those Equity Securities were offered.

3.8 **Application of moneys payable to Securityholders:** The Board may apply some or all of any amounts payable by the Company to any Securityholder towards the payment in part or in full of any unpaid Shares issued or to be issued by the Company to that Shareholder, except as otherwise set out in the terms of issue for the relevant unpaid Shares. Application of such amounts shall, in accordance with clause 15.1(d), be treated as payment of Calls duly made on such Shares.

3.9 **Consolidation and subdivision of Securities:** The Board may:

- (a) consolidate and divide the Securities or any Class; and
- (b) subdivide the Securities or any Class;

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

3.10 **Bonus issues:** The Board may resolve to apply any amount which is available for Distribution either:

- (a) in paying up in full Shares or other Securities of the Company to be issued credited as fully paid to:
 - (i) the Shareholders who would be entitled to that amount if it were distributed by way of dividend, and in the same proportions; and
 - (ii) if applicable, the holders of any other Securities of the Company who are entitled by the terms of issue of such Securities to participate in bonus issues by the Company, whether at the time the bonus issue is made to the Shareholders, or at some later time, in accordance with their respective entitlements; or
- (b) in paying up any amount which is unpaid on any Shares held by the Shareholders referred to in subclause (a)(i), except as otherwise set out in the terms of issue for the relevant unpaid Shares;

or partly in one way and partly in the other.

3.11 **Share certificates:** The Company shall not be required to provide Share or Security certificates to any Shareholder or other Securityholder.

4. **ORDINARY SHARES**

4.1 **Ordinary Shares:** Ordinary Shares are issued under the Act and have no par or nominal value.

4.2 **Paid up Shares:** The Company may issue Ordinary Shares that are unpaid, fully or partly paid up.

- 4.3 **Rights:** Except as otherwise provided in this Constitution, the Ordinary Shareholders shall:
- (a) have the rights set out in section 36(1) of the Act; and
 - (b) not be entitled to sell, transfer, assign, give, alienate or otherwise dispose of (whether by operation of law or otherwise) the Ordinary Shares.
- 4.4 **Equal shares in dividends and surplus assets:** Each Ordinary Share confers on the holder the following rights (in addition to the rights set out elsewhere in this Constitution):
- (a) the right to one vote on a poll at a meeting of the Company or any resolution;
 - (b) the right to an equal share in dividends authorised by the Board; and
 - (c) the right to an equal share in the Distribution of surplus assets of the Company.
5. **APPLICATION TO BECOME AN ORDINARY SHAREHOLDER**
- 5.1 **Voluntary Application to be an Ordinary Shareholder:** A User may apply to the Board at any time or at such other time as the Board may permit (whether generally or in a particular case), for that User to become an Ordinary Shareholder, subject always to clause 5.4.
- 5.2 **Irrevocable Application to be an Ordinary Shareholder:** A User who meets the Compulsory Share Acquisition Test shall be deemed to have made an irrevocable application to become an Ordinary Shareholder at the end of the Season in which they meet the Compulsory Share Acquisition Test.
- 5.3 **Notification by Company:** The Company shall notify a person who is purchasing Qualifying Products and Services, and who is not already an Ordinary Shareholder, of the terms of clause 5.2.
- 5.4 **Board May Accept Application:** The Board may in its absolute discretion do any one or more of the following:
- (a) accept or not accept an application by a person to become an Ordinary Shareholder under the above sub-clauses or any application procedure which the Board may from time to time determine;
 - (b) supply or not supply Qualifying Products and Services to any person, on such terms and conditions as the Board thinks fit, without requiring that person to become an Ordinary Shareholder in respect of that supply; and
 - (c) accept or not accept an application by a User to become an Ordinary Shareholder where that User has acquired (whether by sale, gift, bequest or otherwise) a Farm or herd, or interest in a Farm or herd, previously owned or held by a Shareholder, and in connection therewith deem the applicant to have purchased all or part of the Qualifying Products or Services purchased by that Shareholder as the Board may think fit.
- 5.5 **Separate Designation for Each Farm:** Where a person purchases Qualifying Products and Services from the Company in respect of more than one Farm, that

person shall be subject to the provisions of this Constitution, the CC Act, and the Act in respect of each Farm separately (subject always to clauses 20.4 to 20.12 relating to Restricted Holdings), as though that person was a different person, User or Shareholder in respect of each Farm, except in relation to determining whether a person has a Relevant Interest that exceeds the Maximum Ordinary Shareholding.

6. SHAREHOLDING REQUIREMENT AND MINIMUM PURCHASES AMOUNT

6.1 **Obligation to hold Shareholding Requirement:** Each User must hold at least the Shareholding Requirement.

6.2 **Shareholder in respect of more than one Farm:** The Board may in its complete discretion, on the application in writing by a Shareholder, permit that Shareholder to offset any or all of the Ordinary Shares that they hold that exceed the Shareholding Requirement in respect of one Farm against the Shareholding Requirement in relation to another Farm.

6.3 **Maximum Ordinary Shareholding:**

- (a) No person shall hold a Relevant Interest in Ordinary Shares in excess of the Maximum Ordinary Shareholding.
- (b) For the purpose of giving additional effect to paragraph (a), the Board may declare any Ordinary Shares that comprise part of a Relevant Interest in Ordinary Shares exceeding the Maximum Ordinary Shareholding to constitute an Excess Holding, if the Board is satisfied that those Ordinary Shares are held in breach of paragraph (a). The Board shall determine, on such basis as it sees fit, the particular Ordinary Shares which shall comprise the Excess Holding.
- (c) If the Board declares Ordinary Shares to constitute an Excess Holding, the Board shall:
 - (i) declare the Ordinary Shares in that Excess Holdings to be Excess Shares;
 - (ii) if the Excess Shares are held by more than one person, determine, on such basis as the Board sees fit, the number of Ordinary Shares held by each such person which are Excess Shares, but so that the total number of Excess Shares held by all of those persons does not exceed the number declared by the Board under (i) to be Excess Shares.
- (d) The Board may take any of the following actions or make any of the following determinations with respect to Excess Shares:
 - (i) direct holders of Excess Shares to sell or take other actions in respect of those Excess Shares so that paragraph (a) is complied with;
 - (ii) prohibit any right to vote attaching to Excess Shares;
 - (iii) resolve not to make payment, or to defer making payment for such period as the Board thinks fit, of any dividend or distributions or other sums due or payable in respect of Excess Shares.

- (e) The Board may at any time determine that any Ordinary Shares have ceased to form part of an Excess Holding, or have ceased to be Excess Shares.
- (f) The Board shall, at soon as practicable after making a declaration or determination or taking an action pursuant to paragraphs (b), (c) or (d), give written notice of that action, declaration or determination to the person holding the Ordinary Shares affected by that action, declaration or determination.
- (g) The Board may at any time give written notice to any holder of Ordinary Shares requiring that holder to provide to the Board, if so required by the Board in the form of a statutory declaration, such information as the Board may specify which the Board considers necessary or desirable to establish whether paragraph (b) is being complied with or otherwise to enable the Board properly to administer the provisions of paragraphs (c), (d), (e) and (f).
- (h) If any holder of Ordinary Shares fails to provide, to the satisfaction of the Board, the information requested by the Board pursuant to paragraph (g) within 10 Working Days after the Board gives notice under paragraph (g), the Board may take any of the actions or make any of the determinations or decisions specified in paragraph (e) in respect of the Ordinary Shares held by that holder.
- (i) Any declaration or determination made by the Board under paragraphs (c), (d), (e), (f) and (h) shall be final and conclusive for all purposes, and not open to challenge.

7. COMPULSORY ACQUISITIONS AND DISPOSALS

7.1 Compulsory acquisition of Shares:

- (a) Any User that, as at the Compliance Date, does not hold sufficient Ordinary Shares to meet their Shareholding Requirement (such User being a **Compulsory Buyer**) shall be deemed to have given an authority to the Board to (in its sole discretion) acquire on behalf of that Compulsory Buyer such number of additional Ordinary Shares as is required to ensure they meet the Shareholding Requirement.
- (b) The Board can elect (in its sole discretion) whether to:
 - (i) issue new Ordinary Shares to the Compulsory Buyer, in which case the Compulsory Buyer will be deemed, as at the Compliance Date, to have applied for the subscription of the new Ordinary Shares; or
 - (ii) acquire existing Ordinary Shares on behalf of the Compulsory Buyer.
- (c) The timing of any issuance or acquisition, and the terms and conditions on which the issuance of new Ordinary Shares and the acquisition of existing Ordinary Shares on behalf of the Compulsory Buyer, will be those determined by the Board and published in the Service Rules at the start of the Season preceding the Compliance Date. However, the terms and conditions will require that any brokerage (or similar) costs of acquiring existing Ordinary Shares will be borne by the Users.

7.2 **Compulsory disposal on Exit:**

- (a) Shareholders must cease to hold Ordinary Shares by their Shareholding Exit Date. Any Ordinary Shareholder holding Ordinary Shares, as at their Shareholding Exit Date, (such person being a **Compulsory Seller**) shall be deemed to have given an authority to the Company to dispose of the Compulsory Seller's Ordinary Shares.
- (b) The terms and conditions on which the Company will dispose of the Ordinary Shares, on behalf of the Compulsory Seller, will be those determined by the Board and published in the Service Rules at the start of the season preceding the Compliance Date. However, the terms and conditions will require that:
 - (i) The Company will use its reasonable endeavours to obtain a market price for Ordinary Shares that it is selling, with the intention that such Ordinary Shares will be sold by the following Compliance Date. However, the Company does not owe any duty of care to the Compulsory Seller.
 - (ii) Any brokerage (or similar) costs of disposing existing Ordinary Shares will be borne by the Users.
 - (iii) If any Shares are acquired by the Company, they will be acquired at a price that is no lower than the volume-weighted average price of Ordinary Shares traded on the NZX Market during the 20 Business Days prior to the date of disposal (subject to any legal restriction).

7.3 **Discretionary exercise of Board power to require disposal of Ordinary Shares:**

The Board may require any Shareholder to dispose of any or all Ordinary Shares held by that Shareholder if:

- (a) the Shareholder has failed to comply in a material respect with the terms and conditions of any Services Contract; or
- (b) the Board resolves that the disposal is in the best interests of the Company because the Shareholder:
 - (i) is bringing the Company into disrepute; or
 - (ii) is causing significant loss or disruption to the business of the Company or its Shareholders; or
 - (iii) has failed to pay a Call in respect of Ordinary Shares held by the Shareholder.

7.4 **Compulsory disposal relating to breach:**

- (a) If a Shareholder is holding Ordinary Shares in breach of this Constitution (including if they have failed to sell their shares as required by the Board under clause 7.3), the Shareholder shall be deemed to have given an authority to the Company to sell all of that Shareholder's Ordinary Shares which are required to be sold or in respect of which the Shareholder is in breach, and the Company shall as soon as practicable effect a sale of such Shares.

- (b) Any sale will occur through the NZX Market at a market price or, if to be acquired by the Company, at no less than the volume-weighted average price of Ordinary Shares traded on the NZX Market during the five (5) Business Days prior to the sale. The Company will use its reasonable endeavours to obtain a market price for Ordinary Shares that it is selling. However, the Company does not owe any duty of care to the Shareholder referred to in 7.4(a).
- (c) At any time before the Ordinary Shares are sold, the sale may be cancelled on whatever terms the Board decides. If any Ordinary Shares are sold, the residue, if any, of the proceeds of the sale after payment of all moneys owing by the Shareholder to the Company and all costs and expenses of any prior attempted sale in respect of the Ordinary Shares shall be paid to that Shareholder whose Ordinary Shares have been sold or to that Shareholder's executors, administrators or assigns.

7.5 **General provisions relating to disposals on behalf of Shareholders:**

- (a) A Shareholder whose Shares have been sold pursuant to clause 7.2, 7.3 or 7.4 shall cease to be a Shareholder in respect of those Shares, but shall remain liable to pay to the Company all money which, at the time of the sale, was payable by the Shareholder to the Company in respect of those Shares, but that liability shall cease if and when the Company receives payment in full of all the money in respect of those Shares.
- (b) A statutory declaration in writing made by a Director declaring that a Share has been duly sold on a date stated in the declaration shall be conclusive evidence of the facts stated in the declaration as against all persons claiming to be entitled to that Share.

8. **COMPANY SCHEMES**

8.1 **Voluntary Investment Scheme:**

The Board may resolve to approve the establishment of a Voluntary Investment Scheme to facilitate the purchase of Ordinary Shares by Ordinary Shareholders.

- (a) Subject as the Board may otherwise determine, the Voluntary Investment Scheme shall include the following provisions:
 - (i) an Ordinary Shareholder may provide to the Company in respect of each Season following the date he or she became an Ordinary Shareholder (the "**Relevant Season**") (but excluding the Season in which the Shareholder first becomes an Ordinary Shareholder) an authorisation under which the Company is authorised on or at any time after July 15 in the Relevant Season as the Company deems fit, to debit the Shareholders' account with the Company by an amount equal to the VIS Deduction Amount (such amount being referred to as the "**Share Funds**") and the Shareholder shall be liable to pay that amount to the Company accordingly;
 - (ii) the Company is authorised to pay the Share Funds to the Approved Holding Entity, and the Approved Holding Entity is authorised in accordance with clause 8.3 to expend the Share Funds in purchasing Ordinary Shares on behalf of, or in selling Ordinary Shares to, the

Shareholder and in meeting the reasonable expenses and commission of the Approved Holding Entity if the Voluntary Investment Scheme so provides; and

- (iii) such other provisions, limitations and restrictions as the Board shall determine.

8.2 Employee Share Purchase Scheme: The Board may resolve to approve an Employee Share Purchase Scheme pursuant to which Ordinary Shares may be acquired to be held by, or for the benefit of, such Employees as are specified in the Employee Share Purchase Scheme, subject to the following:

- (a) the maximum number of Ordinary Shares that may be held by all Employees in aggregate pursuant to the Employee Share Purchase Scheme is the Maximum Ordinary Shareholding; and
- (b) if the Employee Share Purchase Scheme holds in aggregate more than the Maximum Ordinary Shareholding, then a sufficient number of such Ordinary Shares shall be sold forthwith to other persons so that paragraph (a) above is complied with, and if this paragraph (b) is not complied with within 20 Working Days after the Board has issued a notice in writing then the Company shall be deemed to have authority to sell at the current market price the number of Ordinary Shares which are required to be sold in order for this paragraph (b) to be complied with and the following shall apply:
 - (i) if any Ordinary Shares are sold, the residue, if any, of the proceeds of the sale after payment of all moneys owing by the relevant Employee to the Company and all costs and expenses of any prior attempted sale in respect of the Ordinary Shares shall be paid to the Employee whose Ordinary Shares have been sold;
 - (ii) a statutory declaration in writing made by a Director declaring that a Share has been duly sold on a date stated in the declaration shall be conclusive evidence of the facts stated in the declaration as against all persons claiming to be entitled to that Share.

8.3 Approved Holding Entity: The Board may resolve in its complete discretion to approve one or more persons to be an Approved Holding Entity for either or both of the following purposes:

- (a) to administer any Voluntary Investment Scheme adopted by the Board and for that purpose to acquire or authorise the acquisition of Ordinary Shares in order for them to be transferred to Shareholders who elect to participate in the Voluntary Investment Scheme; and
- (b) to administer any Dividend Reinvestment Plan adopted by the Board and for that purpose to acquire or authorise the acquisition of Ordinary Shares in order for them to be transferred to Shareholders who elect to participate in the Dividend Reinvestment Plan;

and the following provisions shall apply:

- (c) an Approved Holding Entity shall be entitled to recoup from the Company or the participating Shareholders or otherwise (as provided in the Voluntary Investment Scheme or the Dividend Reinvestment Plan as the case may be)

its reasonable expenses and be paid a reasonable fee or commission but shall not otherwise be entitled to make a profit in relation to the purchase or sale of or any trustee activities in relation to Ordinary Shares;

- (d) during the period any Ordinary Shares are held by an Approved Holding Entity such Ordinary Shares and all rights, powers, entitlements, privileges and benefits attaching or accruing to them, shall be held, received and exercised by the Approved Holding Entity on behalf and for the benefit of the Shareholders for whom the Ordinary Shares have been acquired; and
- (e) an Approved Holding Entity shall not acquire Ordinary Shares for any purpose other than as set out above.

8.4 **Brokers' Accounts:** Ordinary Shares purchased through NZX Market by Brokers for the purposes of a Voluntary Investment Scheme or Dividend Reinvestment Plan may be held in the name of the Broker or his or her firm and shall be transferred as soon as practicable into the name of the appropriate Shareholder or the Approved Holding Entity or the Company. No Broker or broking firm shall be entitled to receive dividends in respect of Ordinary Shares so held in his or her or its name or to receive any other benefit or exercise any right or power in respect of such Ordinary Shares.

9. SHAREHOLDING STATEMENTS

9.1 **Annual statements to Shareholders:** As soon as practicable after 15 July in each Season the Company shall send a statement to each Shareholder that sets out:

- (a) the number of Ordinary Shares held by that Shareholder as at the end of the last Season;
- (b) the amount paid up on the Ordinary Shares held by that Shareholder;
- (c) the number of Ordinary Shares required to be held by that Shareholder as at the commencement of the current Season; and
- (d) the Compliance Date for the current Season,

and shall also send that information, so far as is applicable in relation to other Securities of the Company, to the holders of those Securities.

10. REDEMPTION OF SHARES

10.1 **Redeemable Shares:** Subject to the Act, the Rules, the Constitution and the terms of issue of any existing Shares, the Company may issue a Class or Classes of Shares (in addition to Ordinary Shares) which are redeemable by the Company:

- (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 terms of issue of the Share:

for a consideration that is:

- (d) specified; or

- (e) to be calculated by reference to a formula; or
- (f) to be fixed by a suitably qualified person who is not associated with or interested in the Company.

10.2 **Special exercise by Company of option to redeem:** Subject to the Act, the Rules, the Constitution and the terms of issue of any existing Shares, the Company may issue a Class or Classes of Shares which are redeemable at the option of the Company and in respect of which the option to redeem such Shares may be exercised by the Company in relation to one or more Shareholders, in accordance with section 69(1)(b)(ii) of the Act.

11. TRANSFER OF SHARES

11.1 **Transfer of Ordinary Shares:** A Shareholder may sell or transfer all or any of the Ordinary Shares held by that Shareholder, provided it complies with the requirements set out in this clause 11.

11.2 Transfer restrictions:

- (a) Ordinary Shares may only be transferred by a Shareholder or the Company to a person who is entitled to hold shares under clause 3.2.3.
- (b) No Ordinary Shares that are either unpaid or partly paid may be transferred, without the approval of the Board.

11.3 **Transferor is holder until registration:** The transferor of a Share shall be deemed to remain a Shareholder in respect of that Share until the name of the transferee is entered in the Register as a Shareholder in respect of that Share.

11.4 Execution of transfers of Shares:

- (a) Any Share disposed of by an 'authorised transaction' within the meaning of the Financial Markets Conduct Act 2013 may be transferred by an instrument of transfer complying with the provisions of that Act or by an instrument complying with clause 11.5, or under a system of electronic or other transfer approved under section 376 of the Financial Markets Conduct Act 2013.
- (b) Where an instrument of transfer would have complied with the provisions of the Financial Markets Conduct Act 2013 if it had been executed by the transferor in New Zealand, it may nevertheless be registered by the Company if the signature of the transferor has been witnessed by a person who has added his or her occupation and address after his or her signature, or if the transferor is a corporation the instrument is signed by its attorney or other persons lawfully entitled to bind such corporation.

11.5 **Compliance:** Every instrument of transfer of Shares not falling within the provisions of clause 11.4 shall either comply with the following provisions:

- (a) the form of the instrument of transfer shall be any usual or common form, or any other form which the Board may approve;
- (b) the instrument of transfer shall be signed or executed by or on behalf of the transferor;

(c) where the Shares the subject of such transfer are not fully paid up, the instrument of transfer shall be signed or executed by or on behalf of the transferee unless this requirement is waived by the Board; and

(d) a corporation may sign the instrument in any manner permitted by law;

or comply with a system of electronic or other transfer approved under section 376 of the Financial Markets Conduct Act 2013.

11.6 Notice of refusal to register a transfer: If the Board refuses to register the transfer of any Shares, it shall comply with section 84(4) of the Act and send to the proposing transferor and transferee notice of the refusal within the time permitted in section 84(4) of the Act.

11.7 Suspension of registration: The registration of transfers may be suspended by the Board for such periods of time as the Board may determine, provided that registration shall not be suspended for more than 30 days or such other length of time in any year as may be specified from time to time by the Act.

11.8 Register:

(a) The Company may divide the Register into two or more Registers kept in different places and shall maintain any such Registers in accordance with the Act.

(b) The Register may be closed during such times as the Board thinks fit.

11.9 Transfer of Securities other than Shares: The provisions of this clause 11 shall also apply to the transfer of Securities other than Shares, with any necessary modifications.

12. PURCHASE OF SERVICES

12.1 Purchase by Securityholders: The purchase of services from the Company by Securityholders shall be in accordance with the Services Contract as determined by the Board from time to time.

12.2 Purchase by persons other than Securityholders: Persons who are not Securityholders may purchase services from the Company on such terms and conditions as may be negotiated between the Company and such persons.

13. DIVIDENDS AND REBATES

13.1 Dividends: Subject to the Act and the Constitution, the Board, if satisfied on reasonable grounds that the Company will immediately after payment of the dividend satisfy the solvency test, may authorise a Dividend to be paid by the Company to the Ordinary Shareholders at times, and of amounts, as it thinks fit (including the payment of a Dividend on nil paid or partly paid Ordinary Shares), and may authorise such other dividends as are payable under the terms of issue of any other class of Shares. The Board may do everything which is necessary or expedient to give effect to any such dividends, including, in the Board's sole discretion, payment directly to the relevant Shareholder or applying it towards the payment in part or in full of any unpaid Shares, or in reduction of any indebtedness of the relevant Shareholder to the Company, or otherwise as permitted by this Constitution.

13.2 **Rebates:**

- (a) Notwithstanding anything elsewhere in this Constitution and without prejudice to the right of the Board to give Rebates to Users who are not Shareholders, the Board may not exercise the power of the Company under section 30 of the CC Act to give Rebates to Shareholders unless the precise terms of the specific proposal to give a Rebate have been approved by separate resolutions (passed by simple majority of Votes) of holders of each Class of Equity Securities of the Company whose rights or entitlements could be affected by the giving of the Rebate.
- (b) Rebates to Shareholders may be applied by the Board in or towards the payment in part or in full of any unpaid Shares issued or to be issued to the relevant Shareholder, or in reduction of any indebtedness of the relevant Shareholder to the Company; or otherwise as permitted by this Constitution.

14. **NO TRUSTS RECOGNISED**

The Company shall be entitled to treat a person whose name appears on the Register as the holder of a Security as the absolute owner of that Security, and shall not be under any obligation to recognise any trust or equity, or partial, equitable, or other claim to or interest in any Security whether or not it has express notice of such claim or interest.

15. **CALLS**

15.1 **Board may make Calls:**

- (a) The Board may make Calls for the payment of any amounts unpaid on Securities which are not payable at a fixed time or times by the terms of issue of those Securities. Each Securityholder shall, subject to receiving at least 10 Working Days' written notice specifying the time or times and place of payment, pay to the Company at the time or times and place so specified the amount called. A Call may be revoked or postponed as the Board may determine.
- (b) Failure to give notice to a Securityholder will not invalidate a Call but the Call will not be payable by a Securityholder until a notice has been served on that Securityholder in accordance with clause 28.
- (c) The Board may, in making any Call, differentiate between Securityholders and Shares as to the amount to be paid and the time of payment.
- (d) Sums unpaid on any Security held by a Securityholder may be deducted from money due to that Securityholder by the Company and treated as a Call duly made on that Security.

15.2 **Timing of Calls:** A Call may be made payable at the times and in the amounts which the Board determines.

15.3 **Liability of joint holders:** Joint holders of a Security are jointly and severally liable to pay all Calls in respect of that Security.

15.4 **Interest and expenses:** If a sum called in respect of a Security is not paid before or on the time payment is due, the Securityholder from whom the sum is due shall pay:

- (a) interest on that sum from (and including) the day payment was due to (but excluding) the day of actual payment, at a rate which the Board determines either at or after the time of the Call; and
- (b) all expenses which the Company may incur by reason of non-payment of the sum called in respect of a Security.

The Board may waive payment of all or part of that interest or expense.

15.5 Deemed Calls: Any sum which by the terms of issue of a Security becomes payable on issue or at any fixed time (whether fixed at a specific date or fixed by reference to another event) shall, for the purposes of this Constitution, be deemed to be a Call duly made and payable at the time at which, by the terms of issue, the sum becomes payable, and, in case of non-payment, all the relevant provisions of this Constitution relating to the payment of interest and expenses shall apply as if the sum had become payable by virtue of a Call duly made and notified.

15.6 Payment of Call in advance: If any Securityholder pays all or any part of the money uncalled and unpaid upon a Security held by that Securityholder, a Call will be deemed to have been duly made and payable on that Security to the extent of such amount paid, with that Call satisfied by that Securityholder's payment.

15.7 Proof of liability: On the trial or hearing of any action for recovery of any sum due in respect of any Call (including any sum deemed to be a Call pursuant to clause 15.5) it shall be conclusive evidence of the debt to prove that the name of the Securityholder sued is entered in the Register as the holder or one of the holders of the Securities in respect of which such debt accrued, that the resolution making the Call is duly recorded in the minute book, and that notice of such Call was duly given (pursuant to clause 28) to the Securityholder sued and it shall not be necessary to prove the appointment or qualification of the Directors who made such Call nor any other matter whatsoever.

16. FORFEITURE OF SECURITIES AND DISTRIBUTIONS OF UNTRACEABLE SECURITYHOLDERS

16.1 Subject to, and in accordance with the procedures set out in section 28 of the CC Act, the Company may forfeit the Securities of any Securityholder who cannot be traced by the Company. Where the Company is entitled to forfeit the Securities of any Securityholder as aforesaid, then the Company shall also be entitled to forfeit for the benefit of the Company all unclaimed Distributions to which that Securityholder would otherwise be entitled. The Board may in its sole discretion, however, annul any such forfeiture and agree to pay a claimant who produces, to the Board's satisfaction, evidence of entitlement to amounts due to such claimant.

17. TRANSMISSION OF SECURITIES

17.1 Transmission on death of Securityholder: In the case of the death of a Securityholder, the survivor, where the deceased was a joint Securityholder, and the legal personal representative of the deceased where the deceased was a sole Securityholder, will be the only persons recognised by the Company as having any title to the deceased's interest in the Securities. Nothing contained in this clause will release the estate of a deceased joint Securityholder from any liability in respect of any Security which had been jointly held by the deceased person with other persons.

- 17.2 **Rights of personal representatives:** A personal representative of a Securityholder:
- (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 Securities held by that Securityholder;
 - (b) is entitled to be registered as holder of those Securities, 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 subclause; and
 - (c) is bound by the provisions of this Constitution, and particularly, but without limitation, clause 7 hereof.
- 17.3 **Joint personal representatives:** Where a Security 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 Security.
- 17.4 **Registration as holder:** Any Entitled Person may, upon producing such evidence as may be required by the Board elect either to be registered as a holder of the Security or to have some person nominated by the Entitled Person to be registered as the holder of that Security. If the Entitled Person elects to be registered as holder of that Security, the Entitled Person shall send to the Company a notice in writing signed by the Entitled Person stating that the Entitled Person elects to be registered as the holder of that Security. If the Entitled Person elects to have another person registered, the Entitled Person shall execute a transfer of the Security naming the transferee. The Board shall have the right to decline registration with respect to any such transfer as if the death or bankruptcy of the Securityholder had not occurred and the notice or transfer were a transfer signed by that Securityholder.
- 17.5 **Entitlement to rights:** Where a Securityholder dies or becomes bankrupt, their personal representative or the assignee of their estate, as the case may be, shall, upon the production of such evidence as may from time to time be properly required by the Board in that behalf, be entitled to the same Distributions and other advantages, and to the same rights (whether in relation to meetings of the Company, or to voting, or otherwise), as the Securityholder would have been entitled to if that Securityholder had not died or become bankrupt. Where two or more persons are jointly entitled to any Security as a consequence of the death of a Securityholder they shall be deemed to be joint holders of the Security.

18. LIEN ON SECURITIES

- 18.1 **Lien:** The Company has a first and paramount lien upon every Security registered in the name of a Securityholder (whether solely or jointly with others) and upon the proceeds of sale of those Securities where such sale has been made in accordance with this clause, and upon any Distributions from time to time payable in respect of the Securities. The lien secures all money (whether presently payable or not) payable in respect of Securities held by the Securityholder and all other money presently payable by the Securityholder to the Company on any account whatever and also for such amounts (if any) as the Company may be called upon to pay under any statute or regulation in respect of Securities of a deceased or other Securityholder (whether the period for the payment has actually arrived or not). The Board may in its complete discretion resolve, in any particular case or circumstances,

to release any Securities from such lien upon such terms and conditions (if any) as it may deem fit.

18.2 Sale on exercise of lien:

- (a) If any sum remains unpaid in respect of which the Company has a lien on a Security held by a Securityholder, the Board may at any time serve a Sale Notice on the Securityholder requiring payment of that sum.
- (b) The Sale Notice shall name a day (not being earlier than the expiration of 14 days from the date of service of the Sale Notice) on or before which the payment required by the Sale Notice is to be made, and shall state that, unless payment is made on or before the time appointed, the Securities in respect of which the Sale Notice was given will be liable to be sold by the Company.
- (c) If the requirements of any Sale Notice are not complied with, the Securityholder holding the Securities in respect of which the Sale Notice was given shall be deemed to have given an authority to the Board to sell all the Securities that were the subject of the Sale Notice at such price as the Board may determine to be the fair price. At any time before the Securities are sold the sale may be cancelled on whatever terms the Board decides. If any Securities are sold, the residue, if any, of the proceeds of the sale after payment of all costs and expenses of the sale and all moneys owing in respect of the Securities sold and all other moneys presently payable by the Securityholder to the Company on any account whatever and costs and expenses of any prior attempted sale in respect of the Securities, shall be paid to that Securityholder whose Securities have been sold or to that Securityholder's executors, administrators or assigns.
- (d) A Securityholder whose Securities have been sold pursuant to clause 18.2(c) shall cease to be a Securityholder in respect of those Securities, but shall remain liable to pay to the Company all money which, at the time of the sale, was payable by the Securityholder to the Company in respect of those Securities, but that liability shall cease if and when the Company receives payment in full of all the money in respect of those Securities.
- (e) A statutory declaration in writing made by a Director declaring that a Security has been duly sold on a date stated in the declaration shall be conclusive evidence of the facts stated in the declaration as against all persons claiming to be entitled to that Security.

19. MEETINGS OF SHAREHOLDERS

19.1 **Annual meetings:** Subject to the Act, the annual meeting of the Company shall be held once in every calendar year, at such time and place or places in New Zealand as may be determined from time to time by the Board.

19.2 **Business of an annual meeting:** The business of the annual meeting shall be:

- (a) to receive and consider the financial statements of the Company, the reports of the Directors and of the auditors, and any matters incidental thereto;
- (b) to appoint auditors;

- (c) to approve the remuneration of Directors (pursuant to clause 24.1) and Councillors (pursuant to paragraph 3.1 of schedule 4); and
- (d) to transact any other business which, by law or pursuant to this Constitution, may be transacted at an annual meeting.

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

- (a) may be called at any time by the Board;
- (b) must be called by the Board at the written request of Shareholders holding Shares carrying together not less than 5% of the voting rights entitled to be exercised on the issue; and
- (c) may be called by the Council pursuant to clause 21.1.

19.4 **Shareholder request for special meeting:** Any request by Shareholders to hold a special meeting must specify the issue to be voted on at the meeting and shall be signed by the persons making the request and shall be deposited at the Office. It may consist of several documents in like form each signed by one or more of the requisitioning Shareholders.

19.5 **Proceedings at meetings:** The proceedings of meetings of Shareholders shall be governed by schedule 1 of this Constitution.

20. VOTES OF HOLDERS OF VOTING SECURITIES

20.1 **Voting:** Except as otherwise provided in this Constitution, and subject to any restrictions for the time being attached to any Securities, on a vote by voice or a show of hands every Securityholder, present in person, by proxy, or by representative and entitled to vote, will have one vote, and on a poll every Securityholder so entitled will have one vote for each Security held and, in accordance with clause 3.2.2(b), no Security may confer on the holder the right to cast more than one vote in respect of that Security.

20.2 **Limited vote on Voting Security on which sum due:** Except where the Board permits (whether generally or in a particular case), if a sum due to the Company in respect of a Voting Security has not been paid, the holder of that Voting Security may not vote with that Voting Security at a meeting of Securityholders (other than at a meeting of an Interest Group) or on any postal ballot (including for the election of Directors or Councillors).

20.3 **Partly paid Securities:** Except where the Board permits (whether generally or in a particular case), each Security which is not fully paid shall not carry a Vote until the Security is fully paid.

20.4 **Maximum Voting Rights:** For so long as the Dairy Industry Restructuring Act 2001 restricts voting rights in the Company, no person may exercise, or control the exercise of, more than 1% of the maximum number of votes that may be exercised at a meeting of the Company (including any person whose right to vote is exercisable only in one or more of the circumstances set out in paragraphs (a) to (c) of the definition of "Vote" in the Rules). For the purposes of this clause 20, a person shall be deemed to control the exercise of votes attributable to any Voting Security or other Security if:

- (a) an Associated Person or Associated Party of that person may exercise or control the exercise of the votes attributable to that Voting Security or other Security; or
 - (b) that person has a Relevant Interest in that Voting Security or other Security; or
 - (c) that person is appointed as the proxy of the holder of that Voting Security or other Security.
- 20.5 **Declaration of Restricted Holding:** For the purpose of giving additional effect to clause 20.4 in relation to Voting Securities, where it applies, the Board shall declare any Voting Securities exceeding 1% of the total Voting Securities in the Company held by Shareholders or other persons (other than the Company), to constitute a Restricted Holding, if the Board is satisfied that one person may exercise or control the exercise of the votes attributable to those Voting Securities. The Board shall determine, on such basis as it sees fit, the particular Voting Securities (whose votes may be so exercised or controlled by one person) which shall comprise the Restricted Holding.
- 20.6 **Declaration of Restricted Securities:** If the Board declares Voting Securities to constitute a Restricted Holding, the Board shall:
- (a) declare Voting Securities in that Restricted Holding to be Restricted Securities;
 - (b) if the Voting Securities in that Restricted Holding are held by more than one person, determine, on such basis as the Board sees fit, the number of Voting Securities held by each such person which are Restricted Securities, but so that the total number of Restricted Securities held by all of those persons does not exceed the number declared by the Board under (a) to be Restricted Securities.
- 20.7 **No vote on Restricted Securities:** For so long as any Voting Securities are Restricted Securities, they shall carry no vote, and accordingly no vote shall be cast at any meeting of Shareholders (including a meeting of an Interest Group) or on any postal ballot (including for the election of Directors or Councillors) or otherwise in respect of any Restricted Securities.
- 20.8 **Cessation:** The Board may at any time determine that any Voting Securities have ceased to form part of a Restricted Holding, or have ceased to be Restricted Securities, if the Board is satisfied that that is the case.
- 20.9 **Notice to Securityholders:** The Board shall, as soon as practicable after making a declaration or determination pursuant to clauses 20.5, 20.6 and 20.8, give notice of that declaration or determination to the persons holding the Voting Securities affected by that declaration or determination.
- 20.10 **Provision of information:** The Board may at any time give written notice to any holder of Voting Securities requiring that holder to provide to the Board, if so required by the Board in the form of a statutory declaration, such information as the Board may specify which the Board considers necessary or desirable to establish:
- (a) whether clauses 20.4, 20.5 or 20.6 may apply to Voting Securities held by that holder; or
 - (b) who are persons associated with that holder for the purposes of clause 20.4;

or otherwise to enable the Board properly to administer the provisions of clauses 20.4, 20.5, 20.6, 20.7, 20.8 or 20.9.

20.11 **Failure to provide information:** If any holder of Voting Securities fails to provide, to the satisfaction of the Board, the information requested by the Board pursuant to clause 20.10 within 10 Working Days after the Board gives notice under clause 20.10, the Board may, by notice to that holder, determine that no votes shall be exercised in respect of the Voting Securities held by that holder (whether at a meeting of Shareholders or by postal vote or on an election of Directors under schedule 3 or election of Councillors under schedule 4 or otherwise) until such time as that information is provided to the satisfaction of the Board.

20.12 **Declaration conclusive:** Any declaration or determination made by the Board under clauses 20.5, 20.6, 20.8 or 20.11 shall be final and conclusive for all purposes, and not open to challenge.

21. LIC SHAREHOLDER COUNCIL

21.1 **Continuation and functions of Council:** The LIC Shareholder Council is a national council of Shareholders which shall represent Shareholders and have functions in accordance with this clause and the By-laws of the Council. The Council shall have the following functions:

- (a) approving the Company's mission statement and Key Strategic Objectives as proposed by the Board. After such approval the Company's mission statement and Key Strategic Objectives may not be changed by the Board except with the consent of the Council;
- (b) reviewing the Board's progress towards achieving the Key Strategic Objectives of the Company;
- (c) receiving and commenting on reports from the Board on the Company's key business unit operations at least three times each Season;
- (d) preparing the Council's budget for each Season and, at each annual meeting of the Company:
 - (i) presenting that budget to Shareholders for approval;
 - (ii) reporting on the activities of the Council in the preceding Season; and
 - (iii) reporting on the views of the Council as to the Company's direction, performance and operations;
- (e) calling a special meeting of Shareholders, if the Council has serious concerns about the Company's compliance with its mission statement, Key Strategic Objectives or the fundamental provisions set out in clauses 1.1 to 1.4 (inclusive) and the calling of that meeting is supported by a majority of 75% or more Councillors;
- (f) considering and, in consultation with the Board, proposing to Ordinary Shareholders changes to the Constitution;
- (g) considering any proposed appointment of Appointed Directors and approving such appointment if the Council so decides;

- (h) considering and making recommendations to the Board in relation to the policies and operations of the Company; and
 - (i) such other functions as are conferred on it by this Constitution.
- 21.2 **Wards:** New Zealand is divided into 21 Wards as shown in the descriptions and map in schedule 6.
- 21.3 **Number of Councillors:** Each Ward shall be represented by no more than one Councillor.
- 21.4 **Changes to Wards:**
- (a) Any change to the number of Wards shall require the approval of the Board, the Ordinary Shareholders (by Ordinary Resolution) and the Council (by two-thirds majority).
 - (b) Any change to the boundaries of the Wards may be determined by the Board subject to ratification by the Council (by two thirds majority).
- 21.5 **Election of Councillors:** Subject to this clause 21, the manner in which Councillors are nominated, elected, appointed and removed shall be governed by the By-laws of the Council.
- 21.6 **Qualifications of Councillors:** No person may be elected as a Councillor, or if elected shall immediately vacate office, if one or more of the following apply:
- (a) that person is not qualified for election as a Director in terms of paragraph 1(a) of schedule 3; or
 - (b) that person has not signed a confidentiality deed in the form determined by the Board relating to information he or she receives in his or her capacity as a Councillor; or
 - (c) in the opinion of the Council, that person, directly or indirectly, has a continuing business arrangement with respect to products, services or livestock competing with the products, services or livestock offered or owned by the Company; or
 - (d) that person holds office as a Director.
- 21.7 **By-laws of Council:** Subject to this clause 21, the Council has the rights, powers, duties and obligations set out in the By-laws of the Council. The current By-laws of the Council are set out in schedule 4 to this Constitution. The Council may with the approval of Ordinary Shareholders by Special Resolution amend the By-laws of the Council.
- 21.8 **Rotation Schedule:** Elections of Councillors will be held in accordance with the Rotation Schedule.

22. DIRECTORS

22.1 **Powers and duties of the Board:** The business and affairs of the Company must be managed by or under the direction or supervision of the Board and the Board has all the powers necessary for managing, directing and supervising the management, business and affairs of the Company, except to the extent that this Constitution or the Act expressly requires those powers to be exercised by the Ordinary Shareholders or by any other person.

22.2 **Regions:** New Zealand is divided into four Regions as shown in the descriptions and map in schedule 5.

22.3 **Clause 22 governs:** The appointment and removal of Directors is governed by this clause 22 and accordingly sections 155 and 156 of the Act are expressly negated.

22.4 **Number of Directors:**

- (a) The number of Directors shall not be fewer than seven nor more than ten persons and shall comprise not more than seven Elected Directors and not more than three Appointed Directors. At least two Directors shall be ordinarily resident in New Zealand.
- (b) One Director will be elected by the Ordinary Shareholders in the Northern Region and two Directors will be elected by the Ordinary Shareholders in each of the other three Regions, subject always in the case of each Director to that person consenting to act as a Director and meeting the qualifications required to be a Director as set out in schedule 3.
- (c) Directors may act notwithstanding any vacancy in their body but, if and for so long as their numbers reduce below the number fixed as the minimum number of Directors under paragraph (a) above, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning an annual meeting of the Company, but for no other purpose.

22.5 **Changes to Regions:**

- (a) Any change to the number of Regions shall require the approval of the Board, the Ordinary Shareholders (by Ordinary Resolution) and the Council (by two-thirds majority).
- (b) Any change to the boundaries of the Regions may be determined by the Board subject to ratification by the Council (by two-thirds majority).

22.6 **Appointment and removal of Directors:**

- (a) The Directors are the persons elected or appointed as Directors from time to time in accordance with this clause 22 or the procedures set out in schedule 3. Each Director in office at the date of adoption of this Constitution shall continue in office as an Elected Director or an Appointed Director as the circumstances require, subject to the provisions of this Constitution.
- (b) A Director holds office until his or her retirement, resignation, disqualification or removal in accordance with schedule 3 or other provisions of this Constitution.

22.7 Retirement and removal of Directors:

- (a) The office of a Director shall be vacated:
 - (i) if he or she is removed as a Director of the Company under the provisions of schedule 3; or
 - (ii) if he or she ceases to hold the qualifications required to be a Director of the Company which are set out in paragraph 1(a) of schedule 3; or
 - (iii) if he or she becomes bankrupt; or
 - (iv) if he or she dies or becomes a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or a personal order relating to his or her property is made under the Protection of Personal and Property Rights Act 1988; or
 - (v) if he or she resigns his or her office in accordance with the provisions of section 157(2) of the Act; or
 - (vi) if he or she becomes a person to whom section 151(2) of the Act applies.
- (b) Where an event specified in clause 22.7(a) applies in respect of a Director the procedure set out in schedule 3 in relation to that Director shall apply in respect of the vacancy with such changes as the context and circumstances require.

22.8 **Proceedings at meetings of the Board:** The proceedings of meetings of the Board shall be governed by schedule 2 of this Constitution.

23. ROTATION SCHEDULE

23.1 The Board shall adopt and shall always have in place a schedule ("**Rotation Schedule**") which sets out the year in which an election is to be held in respect of each Region and each Ward on the basis that an election is to be held in respect of each Region and Ward at intervals of approximately four years. Unless otherwise determined by the Board, the schedule shall provide that elections in respect of Regions and Corresponding Wards do not occur in the same year and so far as practicable elections in respect of Corresponding Wards shall occur approximately two years before or after the election in respect of the Region in relation to which the Ward is a Corresponding Ward. The Board may from time to time amend the Rotation Schedule or adopt a new Rotation Schedule which will be binding on Ordinary Shareholders and Councillors.

24. REMUNERATION AND OTHER BENEFITS OF DIRECTORS

24.1 **Fixing Remuneration:** No remuneration shall be paid to a Director in his or her capacity as a director of the Company or any Subsidiary, other than a Subsidiary which is Listed (including any remuneration paid to that Director by a Subsidiary, other than a Subsidiary which is also Listed), unless that remuneration has been authorised by an Ordinary Resolution of the Company. Each such resolution shall express Directors' remuneration as either:

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

- (b) a monetary sum per annum payable to any person who from time to time holds office as a Director;

and may be based on the recommendation of the Honoraria Committee.

24.2 **Honoraria Committee:** There shall be a Committee of up to four Ordinary Shareholders ("**Honoraria Committee**") which shall be elected and have functions as follows:

- (a) a member of the Honoraria Committee must be an Ordinary Shareholder but shall not be a Director, Permanent Employee or a Councillor;
- (b) the Company shall call for nominations for members of the Honoraria Committee prior to each election and each candidate must be nominated and seconded by two Ordinary Shareholders by written notice to the Company signed by the nominator and the seconder and accompanied by the consent in writing of the person nominated;
- (c) the Honoraria Committee shall be elected by postal and/or electronic ballot of Ordinary Shareholders held at a time directed by the Board, such time to be not later than two months prior to each annual meeting of the Company. Each Ordinary Shareholder shall have one vote and the postal and/or electronic ballot shall be conducted in accordance with such other procedures as may be determined from time to time by the Board;
- (d) each member of the Honoraria Committee shall hold office for a two-year period and shall retire by rotation at the time of announcement by the Company of the results of the postal and/or electronic ballot for the Honoraria Committee held in the second year after his or her election as a member. A member of the Honoraria Committee shall be eligible for re-election;
- (e) on the appointment of the first Honoraria Committee the elected members shall draw lots to determine half their number who shall retire by rotation at the end of the first year and thereafter rotation shall be in accordance with the preceding sub-clause;
- (f) the Honoraria Committee shall consider and recommend the form and amount of the remuneration of Directors and Councillors, for the purposes of the preceding clause 24.1 and of paragraph 3.2 of schedule 4. In reaching their recommendation, the Committee shall be entitled to obtain advice from professional advisors;
- (g) the identity of the members of the Honoraria Committee and their recommendation shall be notified to Ordinary Shareholders by the Company at the same time as they are given written notice of the annual meeting; and
- (h) the Honoraria Committee members shall be reimbursed for actual and reasonable expenses incurred in undertaking their duties.

24.3 **Power to increase:** If, at any time while the approved remuneration of the Directors is expressed in accordance with clause 24.1(a), the total number of directors holding office is increased, the amount of remuneration then payable in accordance with that clause may be increased by the Board by such amount as is necessary to enable the Company to pay the additional Director or Directors by way of remuneration a fee not

exceeding the average amount then being paid to each of the other Directors (other than the chairperson).

- 24.4 **Increases:** No resolution which increases the amount of Directors' remuneration fixed pursuant to a previous resolution shall be passed at a general meeting of the Company unless notice of the amount of increase has been given in the notice of meeting.
- 24.5 **Executives:** Nothing in this clause 24 shall affect the remuneration of executive Directors in their capacity as executives.
- 24.6 **Payment of expenses:** Notwithstanding the provisions of clause 24.1, Directors are entitled to be paid for all travelling, accommodation and other expenses properly incurred by them in attending meetings of the Board, or any committee of the Board, or meetings of Shareholders, or in connection with the business of the Company.
- 24.7 **Work not in the capacity of a Director:** The remuneration to a Director for work not in the capacity of a director of the Company or a Subsidiary of the Company may be approved by the Directors without Shareholder approval subject to the Rules (if applicable).
- 24.8 **Special skills:** The Board may authorise the Company to pay greater remuneration to a Director who is called upon to utilise special skills for the benefit of the Company.

25. INDEMNITY AND INSURANCE

- 25.1 **Indemnity for costs:** Every Director, Councillor and Employee of the Company or a Subsidiary shall be indemnified by the Company for any costs incurred by him or her in any proceeding:
- (a) that relates to liability for any act or omission in his or her capacity as a Director, Councillor or Employee; and
 - (b) in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued.
- 25.2 **Indemnity for liability:** Every Director, Councillor and Employee of the Company or a Subsidiary shall be indemnified by the Company in respect of:
- (a) liability to any person other than the Company or a related company for any act or omission in his or her capacity as a Director, Councillor or Employee; and
 - (b) costs incurred by that Director, Councillor or employee in defending or settling any claim or proceeding relating to such liability,

not being criminal liability or liability in respect of a breach, in the case of a Director, of the duty specified in section 131 of the Act or, in the case of any Councillor and Employee, of any fiduciary duty owed to the Company or a Subsidiary.

25.3 **Insurance:** The Company may, with the prior approval of the Board, effect insurance for every Director, Councillor and Employee of the Company or a Subsidiary in respect of:

- (a) liability, not being criminal liability, for any act or omission in his or her capacity as a Director, Councillor or employee; and
- (b) costs incurred by that Director, Councillor or Employee in defending or settling any claim or proceeding relating to any such liability; and
- (c) costs incurred by that Director, Councillor or Employee in defending any criminal proceedings:
 - (i) that have been brought against the Director, Councillor or Employee in relation to any act or omission in his or her capacity as a Director, Councillor or Employee; and
 - (ii) in which he or she is acquitted.

25.4 **Certificate:** The Directors who vote in favour of authorising the effecting of insurance under clause 25.3 must sign a certificate stating that, in their opinion, the cost of effecting insurance is fair to the Company.

25.5 **Interests register:** The Board must ensure that particulars of any indemnity given to, or insurance effected for, any Director or Employee of the Company or a Subsidiary are forthwith entered in the interests register.

25.6 **Definitions:** For the purposes of this clause 25 only:

- (a) the term "Director" includes a former Director;
- (b) the term "Councillor" includes a former Councillor;
- (c) the term "effect insurance" includes paying, whether directly or indirectly, the costs of the insurance (and the terms "effecting the insurance", "insurance effected" and "effecting of insurance" shall have a corresponding meaning);
- (d) the term "Employee" includes a former employee; and
- (e) the term "indemnify" includes to relieve or excuse from liability whether before or after the liability arises, and "indemnity" shall have a corresponding meaning.

26. **POWER TO DELEGATE**

26.1 **General power:** The Board may from time to time and at any time, but subject to section 130 of the Act, delegate to any person or persons any of its powers, authorities and discretions.

26.2 **Power to delegate to committees:** The Board may delegate any of its powers to committees consisting of such of its body as it thinks fit. Any committee so formed shall exercise its powers in accordance with any regulation that may be imposed on it by the Board.

26.3 **Proceedings of committees:**

- (a) A committee may elect a chairperson of its meetings. If no such chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the members of the committee who are present may choose one of their number to be chairperson of the meeting.
- (b) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members of the committee who are present, and, in the case of an equality of votes, the chairperson of the meeting shall have a second or casting vote (unless only two committee members are present and voting at the meeting).

27. **ATTORNEYS OF THE COMPANY**

- 27.1 The Board may at any time, and from time to time, by power of attorney, appoint any persons to be the attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period, and subject to such conditions as the Board may from time to time think fit. Any appointment of such an attorney may (if the Board thinks fit) be made in favour of the members of any local board, or in favour of any company, or of the shareholders, directors, nominees, or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Board. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys as the Board thinks fit.

28. **NOTICES**

- 28.1 **Manner of notice:** Any notice or document may be served on or delivered to any Shareholder by the Company either personally, or by sending it through the post (in the case of Shareholder having a registered address outside New Zealand, by air-mail post) in a pre-paid envelope or package addressed to such Shareholder at his or her address as set down in the Register (which may be an address within New Zealand or an address outside New Zealand) or, subject to the provisions of the Electronic Transactions Act 2002, in electronic form and by electronic means to the address provided by the Shareholder for the receipt of electronic communications. If a Shareholder fails to notify a registered address, the Office shall be deemed to be the registered address of such Shareholder and a notice posted at the Office in a conspicuous place shall be deemed to have been duly served on every such Shareholder. Any such notice may be given in general terms and need not be addressed specifically to such Shareholder or Shareholders. Any notice or other document, if served by post, shall be deemed to have been served 24 hours after the letter containing the notice or document, properly addressed and prepaid, was posted (regardless of whether the address to which it was sent was inside or outside of New Zealand). A certificate signed by an employee or an officer of the Company that the notice was so addressed, prepaid and posted shall be conclusive evidence the notice or document had been sent on the date specified in the certificate.
- 28.2 **Time of service by facsimile or electronic means:** A notice given to a Shareholder which is sent by facsimile or electronic means during normal business hours of a working day shall be deemed to have been received on that working day, and any

facsimile or electronic message sent outside normal business hours shall be deemed to have been received on the working day following completion of transmission.

- 28.3 **Proof of service:** In proving service by post it shall be sufficient to prove that the envelope or package containing the notice was properly addressed, all postal charges were paid and it was posted. In proving service by facsimile, it shall be sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned. In proving service by electronic means, it shall be sufficient to prove that the electronic communication was correctly addressed and sent from the Company's information systems and no error message was received by the Company's information systems.
- 28.4 **Service on joint holders:** A notice may be given by the Company to the joint holders of a Share by giving the notice to any one of the joint holders named in the Register in respect of the Share.
- 28.5 **Securities other than Shares:** The provisions of this clause 28 shall also apply in respect of the holders of Securities other than Shares, with any necessary modifications.

29. LIQUIDATION

- 29.1 **Distribution of assets:** Subject to the terms of issue of any Securities, upon the liquidation of the Company, the assets, if any, remaining after payment of the debts and liabilities of the Company and the costs of liquidation shall be distributed first pro-rata (if necessary) to the Ordinary Shareholders.
- 29.2 **Proportionate share of entitlement:** Notwithstanding clause 29.1 above, holders of Securities not fully paid up shall receive only a proportionate share of their entitlement being an amount which is in proportion to the amount paid to the Company in satisfaction of the liability of the Securityholder to the Company in respect of the Securities either under this Constitution or pursuant to the terms of issue of the Securities.
- 29.3 **Distribution in specie:** Upon the liquidation of the Company, for the purposes of dividing among the Securityholders in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) pursuant to this clause 29, the liquidator, with the sanction of an Ordinary Resolution of each Class of Equity Securities whose rights or entitlements could be affected and any other sanction required by law, may set such value as the liquidator deems fair upon any assets to be divided among the Securityholders and may determine how the division shall be carried out as between the Securityholders or Securityholders holding different Classes of Securities, subject always to clause 29.1. The liquidator may, with the sanction of an Ordinary Resolution of each Class of Equity Securities whose rights or entitlements could be affected and any other sanction required by law, vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the Securityholders as the liquidator thinks fit, but so that no Securityholder shall be compelled to accept any shares or other securities on which there is any liability.

30. COMPLIANCE WITH THE RULES

- 30.1 **Rules:** Notwithstanding any other provisions contained in this Constitution, but subject to all applicable law, the Company may do anything permitted by the Rules and at all times, so long as the Company remains Listed, shall comply with all applicable Rules (as modified by, and subject to, any waiver or Ruling) provided that:

- (a) those provisions of the 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 (if not already incorporated within the Constitution) and have the same effect as if they were set out in full with any necessary modification;
- (b) if the Rules are changed so that any act or omission by the Company, which was formerly prohibited by the Rules, is subsequently required or permitted by the change, the act or omission is deemed to be authorised by this Constitution with effect from the date of the change;
- (c) Shareholders must not cast a vote if prohibited from doing so by the Rules;
- (d) Directors must not cast a vote if prohibited from doing so by the Rules;
- (e) any failure to comply with the Rules or with the provisions of clauses 19 or 20.4 to 20.12 shall not affect the validity or enforceability of any transaction, contract, action or other matter whatsoever (including the proceedings of and voting at any meeting) done or entered into by, or affecting, the Company, except that a party to a transaction or contract who knew of the failure to comply with the Rules or those provisions of this Constitution shall not be entitled to enforce that transaction or contract; and
- (f) this provision does not affect the rights of any holder of Securities of the Company against the Company or the Directors arising from failure to comply with the Rules or those provisions of this Constitution.

30.2 Ruling:

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

30.3 Inconsistency with Rules:

If a provision of this Constitution is inconsistent with the Rules (as modified by any Ruling relevant to the Company), the Rules (as so modified) shall prevail.

SCHEDULE 1 – PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

1. CHAIRPERSON

The chairperson of the Board shall take the chair at every meeting of Shareholders, or if there is no such chairperson or if at any meeting he or she is not present within 15 minutes after the time appointed for holding the meeting, the deputy chairperson of the Board shall take the chair, or if there is no such deputy chairperson or if at any meeting he or she shall not be present as hereinbefore provided, the Shareholders present and entitled to vote at that meeting shall choose another Director as chairperson of the meeting. If no Director is present, or if all Directors present decline to take the chair, then the Shareholders present and entitled to vote at that meeting shall choose one of their number to be chairperson of that meeting.

2. NOTICE OF MEETING

2.1 Shareholders of all Classes shall be entitled to attend general meetings, whether entitled to a Vote or not, and to receive copies of notices, reports and accounts issued generally by the Company.

2.2 The Shareholders entitled to receive notice of a meeting of Shareholders are those Shareholders:

(a) if the Board has fixed a date for the purpose of establishing an entitlement to receive notice of meeting, whose names are registered in the Register on that date; or

(b) if the Board does not fix a date for the purpose of establishing an entitlement to receive the notice of meeting, whose names are registered in the Register at the close of business on the day immediately preceding the day on which the notice is given.

2.3 A date fixed by the Board under paragraph 2.2(a) 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.

2.4 Written notice of the time and place or places of a meeting of Shareholders must be sent to every Shareholder entitled to receive notice of the meeting and to every Director and auditor of the Company not less than 10 Working Days before the date of the meeting.

2.5 The notice must state:

(a) the nature of the business to be transacted at the meeting and contain or be accompanied by sufficient explanation to enable a Shareholder to understand the effect of the resolutions proposed in the notice; and

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

2.6 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.

2.7 If a Shareholder has not supplied to the Company an address within or outside New Zealand for the giving of notices to such Shareholder, such Shareholder shall not be entitled to receive any notices from the Company and all proceedings taken

without notice to any such Shareholder shall be as valid as if such Shareholder had due notice thereof.

- 2.8 If a Shareholder has no registered address within New Zealand and has not supplied the Company with an address within New Zealand for the giving of notices, but has supplied an address outside New Zealand, then notices shall be posted to the Shareholder at such address and shall be deemed to have been received by the Shareholder 24 hours after the time of the posting.
- 2.9 All notices shall, with respect to any Shares to which persons are jointly entitled, be given to whichever of such persons is named first in the Register and notice so given shall be sufficient notice to all the holders of such Shares.
- 2.10 A notice may be given by the Company to the persons entitled to a Share in consequence of the death or bankruptcy of a Shareholder by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the bankrupt or by any like description, at the address, if any, supplied for the purposes by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
- 2.11 The chairperson of any meeting at which a quorum is present may, with the consent of the meeting (and shall if so directed by the meeting), adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of the original meeting. When a meeting is adjourned for less than 30 days, notice of the time and place of the adjourned meeting may be given by announcement at the meeting which is adjourned.

3. **METHOD OF HOLDING MEETINGS**

A meeting of Shareholders may be held either:

- (a) by a number of Shareholders entitled to vote at that meeting, who constitute a quorum, being assembled together at the place or places, date, and time appointed for the meeting; or
- (b) if determined by the Board, by means of audio, or audio and visual, communication by which all Shareholders entitled to participate and constituting a quorum, can simultaneously hear each other throughout the meeting.

4. **QUORUM**

- 4.1 Subject to paragraph 4.3, no business may be transacted at a meeting of Shareholders if a quorum is not present.
- 4.2 A quorum for a meeting of Shareholders is present if not less than twenty-five Shareholders entitled to vote at that meeting are present in person or by proxy.
- 4.3 If a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) in the case of a meeting called under section 121(b) of the Act, the meeting is dissolved; and
- (b) in the case of any other meeting the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the Directors may appoint, and if at the adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting, the Shareholders present who are entitled to vote at that meeting or their proxies shall constitute a quorum.

5. VOTING

- 5.1 The provisions as to voting, proxies, postal votes and electronic votes set out in paragraphs 5, 6, 7 and 8 of this schedule, are subject to any restriction in the Constitution.
- 5.2 In the case of a meeting of Shareholders held under paragraph 3, unless a poll is demanded, voting at the meeting shall 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.
- 5.3 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 paragraph 5.4.
- 5.4 At a meeting of Shareholders a poll may be demanded by:
 - (a) the chairperson of the meeting;
 - (b) not less than five Shareholders having the right to vote at the meeting;
 - (c) a Shareholder or Shareholders representing not less than ten percent of the total voting rights of all Shareholders having the right to vote at the meeting; or
 - (d) by a Shareholder or Shareholders holding Shares that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than ten percent of the total amount paid up on all Shares that confer that right.
- 5.5 A poll may be demanded either before or after the vote is taken on a resolution.
- 5.6 If a poll is taken, votes must be counted according to the votes attached to the Shares of each Shareholder entitled to vote on that poll and present in person or by proxy and voting, subject to paragraph 5.1.
- 5.7 In the event of an equality of votes, the chairperson of a Shareholders' meeting is entitled to a second or casting vote.
- 5.8 For the purposes of this paragraph 5, 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.

- 5.9 Subject to paragraph 5.10, if a poll is demanded it shall be taken in such manner and at such time and place as the chairperson of the meeting may direct and either at once or after an interval of adjournment or otherwise, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn.
- 5.10 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

6. PROXIES

- 6.1 A proxy form shall be sent with each notice of meeting of Shareholders and:
- (a) shall, as a minimum, (so far as the subject matter and form of the resolutions reasonably permits) provide for two-way voting (for or against) on all resolutions, enabling the Shareholder to instruct the proxy as to the casting of the vote; and
 - (b) shall not be sent with any name or office (such as chairperson) filled in as proxy holder but the proxy may include a post note to the effect that certain officers of the Company or other persons are willing to act as proxy if the Shareholder wishes to appoint them.

So far as is reasonably practicable, resolutions shall be framed in a manner which facilitates two-way voting instructions for proxy holders.

- 6.2 A proxy is entitled to attend and be heard at a meeting of Shareholders for which he or she is appointed as if the proxy were the Shareholder and may vote on all procedural matters including any resolution to amend any of the resolutions and to adjourn the meeting and vote on any resolution as amended.
- 6.3 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 6.4 The instrument appointing a proxy shall be in writing, under the hand of the appointer or of the appointer's attorney duly authorised in writing, or, if such appointer is a corporation, signed by its attorney or other person lawfully entitled to bind such corporation.
- 6.5 The instrument appointing a proxy and the power of attorney (if any) under which it is signed, or any notarially certified copy thereof, must be received at the Office, or the place at which the Register is kept, as specified in the notice of meeting, not less than 48 hours before the person named in such instrument purports to vote in respect thereof.
- 6.6 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal, or revocation of the proxy, or transfer of the Share in respect of which the vote is given, provided no intimation in writing of the death, insanity, revocation or transfer shall have been received at the Office or by the chairperson of the meeting before the vote is given.
- 6.7 The provisions of this paragraph 6 shall also apply to meetings of holders of Securities other than Shares, with any necessary modifications.

7. **POSTAL VOTES**

- 7.1 Subject to the other provisions of this Constitution, Shareholders may exercise the right to vote at a meeting by casting a postal vote in accordance with the provisions of this paragraph 7.
- 7.2 The notice of a meeting at which Shareholders are entitled to cast a postal vote must state the name of the person authorised by the Board to receive and count postal votes at that meeting.
- 7.3 If no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every Director is deemed to be so authorised.
- 7.4 A Shareholder entitled to vote at a meeting may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which his or her Shares are to be voted to a person authorised to receive and count postal votes at that meeting. The notice must reach that person not less than 48 hours before the start of the meeting.
- 7.5 It is the duty of a person authorised to receive and count postal votes at a meeting:
- (a) to collect together all postal votes received by him or her or by the Company from Shareholders entitled to vote at that meeting; and
 - (b) in relation to each resolution to be voted on at that meeting, to count:
 - (i) the number of Shareholders entitled to vote and voting in favour of the resolution and the number of votes cast by each such Shareholder in favour of the resolution; and
 - (ii) the number of Shareholders entitled to vote and voting against the resolution, and the number of votes cast by each such Shareholder against the resolution;
 - (c) to sign a certificate that he or she has carried out the duties set out in paragraphs (a) and (b) above and which sets out the results of the counts required by paragraph (b) above; and
 - (d) to ensure that the certificate required by paragraph 7.5(c) above is presented to the chairperson of the meeting.
- 7.6 If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting must:
- (a) on a vote by show of hands, count each Shareholder entitled to vote who has submitted a postal vote for or against the resolution; and
 - (b) on a poll, count the votes cast by each Shareholder entitled to vote who has submitted a postal vote for or against the resolution, subject to paragraph 5.1.
- 7.7 The chairperson of a meeting must call for a poll on a resolution on which he or she holds sufficient postal votes that he or she believes that if a poll is taken the result may differ from that obtained by a show of hands.

7.8 The chairperson of a meeting must ensure that a certificate of postal votes held by him or her is annexed to the minutes of the meeting.

8. **ELECTRONIC VOTES**

8.1 Subject to the other provisions of this Constitution and subject to the provisions of Part 2 of the Electronic Transactions Act 2002, where the Board determines that electronic voting shall be made available to Shareholders, then Shareholders may exercise the right to vote at a meeting by casting an electronic vote in accordance with the provisions of this paragraph 8.

8.2 The notice of a meeting at which Shareholders are entitled to cast an electronic vote must state the uniform resource locator (url) of the website or such other electronic address at which Shareholders may submit their electronic vote and must contain detailed instructions as to how the electronic vote is to be submitted.

8.3 If no person has been authorised to access the database of electronic votes and count those electronic votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every Director is deemed to be so authorised.

8.4 For the purposes of this paragraph 8, a Shareholder entitled to vote at a meeting may cast an electronic vote on all or any of the matters to be voted on at the meeting by submitting an electronic vote at the website or such electronic address stated in the notice of the meeting in accordance with the instructions as to how the electronic vote is to be submitted in the notice. The electronic vote must be submitted not less than 48 hours before the start of the meeting. For the purposes of this paragraph 8.4, unless otherwise proved to the contrary, a Shareholder will be deemed to have submitted an electronic vote if the user identification (ID) and password allocated to that Shareholder was used to access the website or such other electronic address stated in the notice of meeting before submitting the electronic vote.

8.5 It is the duty of a person authorised to access the database of electronic votes and count electronic votes at a meeting:

- (a) to access the database of electronic votes and extract the following information:
 - (i) the names of all Shareholders, from the Shareholders entitled to vote at that meeting, who submitted electronic votes via the website or such other electronic address specified in the notice of the meeting; and
 - (ii) for each resolution on which an electronic vote was cast, whether that Shareholder voted for or against the resolution;
- (b) to sign a certificate that he or she has carried out the duties set out in paragraph (a) above and which sets out the results of the counts required by paragraph (a) above; and
- (c) to ensure that the certificate required by paragraph (b) above is presented to the chairperson of the meeting.

- 8.6 If a vote is taken at a meeting on a resolution on which electronic votes have been cast, the chairperson of the meeting must:
- (a) on a vote by show of hands, count each Shareholder entitled to vote who has submitted an electronic vote for or against the resolution; and
 - (b) on a poll, count the votes cast by each Shareholder entitled to vote who has submitted an electronic vote for or against the resolution, subject to paragraph 5.1.
- 8.7 The chairperson of a meeting must call for a poll on a resolution on which he or she holds sufficient electronic and postal votes when he or she believes that if a poll is taken the result may differ from that obtained by a show of hands.
- 8.8 The chairperson of a meeting must ensure that a certificate of electronic votes held by him or her is annexed to the minutes of the meeting.

9. **MINUTES**

- 9.1 The Board must ensure that minutes are kept of all proceedings at meetings of Shareholders.
- 9.2 Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

10. **SHAREHOLDER PROPOSALS**

- 10.1 A Shareholder may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote.
- 10.2 If the notice is received by the Board not less than five Working Days and not more than 20 Working Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board must, at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
- 10.3 If the notice is received by the Board less than five Working Days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board may, if practicable, and at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
- 10.4 If the Board intends that Shareholders may vote on the proposal by proxy or by postal vote, they must give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.
- 10.5 The Board is not required to include in or with the notice given by the Board a statement prepared by a Shareholder which the Board considers to be defamatory, frivolous, or vexatious.
- 10.6 Where the costs of giving notice of the Shareholder proposal and the text of any proposed Shareholder resolution are required to be met by the proposing

Shareholder, the proposing Shareholder must, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

11. CORPORATIONS MAY ACT BY REPRESENTATIVES

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.

12. VOTES OF JOINT SHAREHOLDERS

Where there are joint registered holders of any Share and where those joint holders are otherwise qualified to vote, any one of those joint holders may vote by postal vote or by electronic vote or at any meeting, either personally or by proxy, in respect of the Share as if solely entitled thereto, and if more than one of those joint holders votes by postal vote or by electronic vote or be present at any meeting, personally or by proxy, that one of the said persons so voting whose name stands first in the Register in respect of the Share shall be entitled to vote in respect of that Share. Several executors or administrators of a deceased Shareholder in whose sole name any Share stands shall, for the purposes of this paragraph, be deemed to be joint holders thereof.

13. LOSS OF VOTING RIGHTS IF SUMS UNPAID

Except where the Board permits (whether generally or in a particular case), if a sum due to the Company in respect of a Share has not been paid, the holder of that Share may not be voted at a Shareholders' meeting other than a meeting of an Interest Group, except as the Board permits (whether generally or in particular case).

14. PRIVATE MEETINGS

14.1 The meetings of the Company shall be regarded as private meetings. Shareholders, Directors, management of the Company, those holding proxies and those persons invited by the chairperson are entitled to attend.

14.2 A Director who is not a Shareholder of the Company is entitled to speak at meetings of Shareholders.

15. VOTING BY ADMINISTRATOR

If any person otherwise entitled by this Constitution to a vote is a minor, a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or a person subject to a property order under the Protection of Personal and Property Rights Act 1988, he or she may vote by his or her guardian or committee or manager or administrator or attorney under an enduring power of attorney, as the case may be.

16. OTHER PROCEEDINGS

Except as provided in this schedule, and subject to this Constitution, a meeting of Shareholders may regulate its own procedure.

SCHEDULE 2 – PROCEEDINGS AT MEETINGS OF THE BOARD

1. CHAIRPERSON

- 1.1 The Directors will appoint one of their number as chairperson and may appoint one of their number as deputy chairperson of the Board and shall determine the period for which the chairperson and deputy chairperson (if appointed) will hold office.
- 1.2 The chairperson of the Board, or in his or her absence or incapacity the deputy chairperson, shall preside at each meeting of the Board, and in case of the absence or incapacity of both to act at any meeting, the Directors present shall choose one of their number to be chairperson of the meeting.

2. NOTICE OF MEETING

- 2.1 A Director may at any time, and the Company shall, upon the request of a Director, convene a meeting of the Board including a meeting by telecommunication as provided in paragraph 8.
- 2.2 Not less than five Working Days' notice of a meeting of the Board must be sent to every Director at the last address notified by the Director to the Company, and the notice must include the date, time and place of the meeting and the matters to be discussed.
- 2.3 Any irregularity in the notice of the meeting is waived if all Directors entitled to receive notice of the meeting attend without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.

3. METHODS OF HOLDING MEETINGS

A meeting of the Board may be held:

- (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) in accordance with paragraph 8.

4. QUORUM

- 4.1 The Directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings and proceedings as they think fit, and may determine the quorum necessary for the transaction of business, but the quorum shall not in any event be less than three Directors. Unless otherwise determined the quorum shall be five Directors, except that where, in respect of any matter, there is such a number of Directors who are interested therein that there are not five disinterested Directors present able to form a quorum, then the quorum shall be the number of Directors present who are not interested in that matter, but the quorum shall not in any event be less than three Directors.
- 4.2 No business may be transacted at a meeting of Directors if a quorum is not present.

5. VOTING

- 5.1 Every Director has one vote.

- 5.2 The chairperson does not have a casting vote.
- 5.3 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.
- 5.4 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.

6. **MINUTES**

The Directors shall cause minutes to be duly entered in books provided for the purpose:

- (a) of the names of the Directors present at each meeting of the Board and of any committee of Directors;
- (b) of all resolutions and proceedings of the meetings of the Board and of any committees of Directors;
- (c) and any such minutes of any meeting of the Board or of any committee of Directors, if purporting to be signed by the chairperson of the meeting, or by the chairperson of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in the minutes.

7. **UNANIMOUS RESOLUTION**

- 7.1 A resolution in writing, signed or assented to by all Directors then entitled to receive notice of a Board meeting, by means of facsimile or otherwise, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- 7.2 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.
- 7.3 A copy of any such resolution must be entered in the minute book of Board proceedings.

8. **MEETING BY TELECOMMUNICATION**

- 8.1 The contemporaneous linking together by audio, or audio and visual, communication of a number of Directors not less than a quorum, whether or not any one or more of the Directors is out of New Zealand, shall be deemed to constitute a meeting of the Board and all provisions in this Constitution as to meetings of the Board shall apply to such meetings provided that the following conditions are met:
- (a) all the Directors shall be entitled to notice of such a meeting and to be linked for the purposes of the meeting;
 - (b) each of the Directors taking part in the meeting must, throughout the meeting, be able to hear each of the other Directors taking part; and
 - (c) at the commencement of the meeting each Director must acknowledge his or her presence, for the purpose of the meeting of the Directors of the Company, to all the other Directors taking part.

- 8.2 A Director may not leave the meeting by disconnecting his or her audio communication unless he or she has previously obtained the express consent of the chairperson of the meeting and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by audio communication unless he or she has previously obtained the express consent of the chairperson of the meeting to leave the meeting as aforesaid.
- 8.3 A minute of the proceedings at such meetings shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as correct by the chairperson.

9. **TRANSACTIONS INVOLVING DIRECTORS' SELF INTEREST**

- 9.1 For the purposes of paragraphs 9.2 to 9.6 inclusive below and 4.1 above "interested" bears the meaning assigned to that term in section 139 of the Act on the basis that the reference to the 'company' in that section shall be read as a reference to the Company.
- 9.2 A Director who is in any way interested in a transaction or proposed transaction with the Company shall forthwith after becoming aware of that fact disclose to the Board:
- (a) if the monetary value of the Director's interest is able to be quantified, the nature and monetary value of that interest; or
 - (b) if the monetary value of the Director's interest cannot be quantified, the nature and extent of that interest.

For the purposes of this Clause, 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 disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction. A failure by a Director to comply with the provisions of this paragraph 9.2 does not affect the validity of a transaction entered into by the Company or the Director.

- 9.3 A Director shall not vote in respect of any matter in which that Director is interested, nor shall the Director be counted in the quorum in any meeting to consider the matter, except that a Director may vote in respect of, and be counted in the quorum for the Board for the purposes of, a matter in which he or she is interested if that matter is one in respect of which, pursuant to an express provision of the Act, Directors are required to sign a certificate or one which relates to the grant of an indemnity pursuant to Section 162 of the Act.
- 9.4 Nothing in paragraphs 9.2 and 9.3 applies in relation to the matters referred to in section 143 of the Act, or section 29(g) of the CC Act.
- 9.5 A Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with the office of Director for such period and on such terms (as to remuneration and otherwise) as the Board may determine. No Director or intending Director shall be disqualified from contracting with the Company either with regard to tenure of any such other office or place of profit or as vendor, purchaser, or otherwise. No such contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested be liable to be avoided nor shall any Director so contracting or being so interested be liable to

account to the Company for any profit realised by any such contract or arrangement by reason of the Director holding that office or of the fiduciary relationship thereby established.

9.6 A Director, notwithstanding such Director's interest, may be counted in the quorum present at any meeting whereat such Director or any other Director is appointed to hold any such office or place of profit under the Company or whereat the terms of any such appointment are arranged and such Director may vote on any such appointment or arrangement other than such Director's own appointment or the arrangement of the terms thereof.

9.7 Any Director may act personally or as a member of a firm in a professional capacity for the Company and such Director or such Director's firm shall be entitled to remuneration for professional services as if such person were not a Director provided that nothing herein contained shall authorise a Director or Director's firm to act as Auditor of the Company.

10. PROCEEDINGS OF COMMITTEES OF DIRECTORS

The rules in this Constitution governing meetings and proceedings of the Board shall, except as altered by any resolutions made by the Board, apply also to the meetings and proceedings of any committee of Directors.

11. OTHER PROCEEDINGS

Except as provided in this schedule 2, the Board may regulate its own procedure.

SCHEDULE 3 – ELECTION AND APPOINTMENT OF DIRECTORS OF THE COMPANY

1. Election of Directors on a Regional basis by Control Shareholders

(a) Qualifications required to be an Elected Director

- (i) To qualify as an Elected Director of the Company, each Director elected to represent a Region shall be an Ordinary Shareholder (whether registered solely or jointly with other persons) or a shareholder of a company or a member of a partnership which is the Ordinary Shareholder. That Ordinary Shareholder must use at least one of the Company's herd testing options and must submit a minimum of 60 per cent of one of their herds for artificial breeding to semen marketed by the Company. Where two or more persons ("Persons") are connected with a particular LIC Debtors Code by reason of being joint holders of Ordinary Shares in the Company or by reason of being shareholders of a company or members of a partnership which in either case is a User on account of having that LIC Debtors Code, then only one of those Persons may be a Director or a candidate for election as a Director.
- (ii) No person shall be eligible for election as an Elected Director, or if elected shall immediately vacate office, if in the opinion of the Board that person, directly or indirectly, has a continuing business arrangement with respect to products, services or livestock competing with the products, services or livestock offered or owned by the Company to such an extent that that person should cease to be eligible to be or continue to be an Elected Director.
- (iii) No person shall hold office as a Director and a Councillor concurrently and any person who is holding office as both a Director and a Councillor shall forthwith resign his or her office as a Councillor.

(b) Procedure for the election of Directors

The procedure for the election of a Director to represent the Ordinary Shareholders in a Region shall be as follows:

- (i) each candidate for election must be qualified to hold office as a Director of the Company under paragraph (a) above;
- (ii) each candidate shall be nominated and seconded in writing by Ordinary Shareholders in the Region (other than the person nominated). Every nomination paper must be signed by the nominator and the seconder and also by the candidate. Every nomination paper must be left at the Office not later than the date notified to Ordinary Shareholders, such date to be determined by the Board so as to ensure that a minimum of 21 days shall be available for Ordinary Shareholders to vote by postal and/or electronic ballot. These requirements do not apply to a Director who is retiring on the election date and is standing for re-election, but that Director must give notice in writing to the Company of intention to stand by the closing date for nominations;

- (iii) the Ordinary Shareholders in the Region may vote by postal and/or electronic ballot for any duly nominated candidate(s) for that Region. An Ordinary Shareholder shall have one vote for each Ordinary Share linked to the LIC Debtors Code for a Farm in that Region, subject always to clauses 17.2, 20 and 22.5 of the Constitution; and
 - (iv) such other procedures as may be determined from time to time by the Board.
- (c) **Term of office**

Each of the Elected Directors shall hold office as a Director of the Company for a period of approximately four years commencing on the first day of June next occurring after the date he or she was elected as a Director and expiring on the fourth anniversary of that day, subject to clause 22.7 of the Constitution (dealing with retirement and removal of Directors) and any requirement to retire by rotation and as otherwise provided in the Constitution.
- (d) **Requirement to retire by rotation**

On the first day of June of each year one or two Elected Directors, shall retire from office as a Director. The Directors to retire in each year shall be those who are elected by Ordinary Shareholders in a Region in which an election is to be or has been held in that year in accordance with the Rotation Schedule. A retiring Director shall be eligible for re-election as a Director of the Company.
- (e) **Casual vacancy**
 - (i) If the position of an Elected Director becomes vacant in any Region more than 8 months before the date on which that Director is due to retire by way of rotation, then a new election will forthwith be held to fill that vacancy, and the person so elected shall hold office until the expiry of the date on which that first named Director was due to retire by way of rotation.
 - (ii) If the position of an Elected Director becomes vacant in any Region, less than 8 months before the date on which that Director is due to retire by way of rotation, then the Board may appoint a person who is qualified to act as an Elected Director in that Region, and who has consented to act, as a Director to fill that casual vacancy. A Director so appointed holds office only until the first day of June next occurring and shall be eligible for re-election.
- (f) **Removal**

Any Elected Director may be removed by an Ordinary Resolution of the Ordinary Shareholders.

2. **Three Appointed Directors appointed by Board**

- (a) The Board may, by notice in writing to the Company, appoint from time to time up to three persons approved in advance by the Council and not disqualified under paragraph (b) below to be Directors ("**Appointed Directors**") for such term or terms, not exceeding three years, as the Board may determine, such

persons to be chosen having regard to their commercial, marketing or other relevant expertise and experience. Notwithstanding the foregoing, the appointment of each such Director must be ratified at the next annual meeting of Shareholders which follows each appointment, and if such appointment is not so ratified by an Ordinary Resolution of the Ordinary Shareholders, then the Director subject to that appointment shall cease to hold office at the end of that annual meeting. Any such Director may be reappointed on the expiry of his or her term.

- (b) No person shall be qualified to be appointed as an Appointed Director, or if appointed shall immediately vacate office, if in the opinion of the Board that person has a continuing business arrangement with respect to products, services or livestock competing with the products, services or livestock offered or owned by the Company to such an extent that that person should cease to be eligible to be or continue to be an Appointed Director.
- (c) Any Appointed Director may be removed by an Ordinary Resolution of the Ordinary Shareholders.

SCHEDULE 4 – BY-LAWS OF LIC SHAREHOLDER COUNCIL

1. ELECTION AND APPOINTMENT OF COUNCILLORS

- 1.1 **Number of Councillors:** The number of Councillors shall be up to 21 Councillors.
- 1.2 **Representation of Wards:** Each Ward will be entitled to be represented by one Councillor.
- 1.3 **Qualifications of Councillors:** Councillors, elected by Shareholders pursuant to paragraph 1.4 shall comply with the qualification criteria specified in clause 21.6 of the Constitution.
- 1.4 **Election by Ordinary Shareholders:** Subject to paragraphs 1.1 and 1.3, a person may be elected as a Councillor to represent a Ward by an Election by Ordinary Shareholders in that Ward.
- 1.5 **Casual vacancies:**
- 1.5.1 Subject to paragraphs 1.1, 1.2 and 1.3, the Council may, if a vacancy for a Ward occurs, appoint a person to fill the casual vacancy as a Councillor. A Councillor so appointed holds office only until the earlier of the following:
- (a) the first day of June in the year in which that Ward's representative is next due to retire by rotation; and
 - (b) the first day of June in such earlier year as the Council determines in its discretion that an election shall be held to fill the casual vacancy.
- 1.5.2 Any Councillor so appointed shall be eligible for election in the year in which he or she so retires or in any subsequent year in which an election is held, subject to that person complying with the qualification criteria specified in clause 21.6 of the Constitution.
- 1.6 **Term of office:** Each of the Councillors shall hold office as a Councillor for a period of approximately four years commencing on the first day of June next occurring after the date he or she was elected as a Councillor and expiring on the fourth anniversary of that day, subject as otherwise provided in the Constitution (including this schedule 4).
- 1.7 **Rotation of Councillors:** On the first day of June in each year, the Councillors in the Wards subject to rotation in that year in accordance with the Rotation Schedule, shall duly retire. A Councillor retiring by rotation is eligible for re-election.
- 1.8 **Vacation of office:** A Councillor ceases to be a Councillor if he or she:
- (a) is removed from office by an Ordinary Resolution; or
 - (b) dies, or becomes mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988; or

- (c) retires or is deemed to retire from office pursuant to these By-laws, and, if eligible for re-election or re-appointment, is not re-elected or re-appointed; or
- (d) resigns by written notice delivered to the Company at its address for service or at its Office (such notice to be effective at the time when it is so received unless a later time is specified in the notice); or
- (e) ceases to be qualified to be a Councillor pursuant to the Constitution; or
- (f) becomes bankrupt or makes an arrangement or composition with his or her creditors generally; or
- (g) has been absent from 2 meetings of the Council held during the Season without the express approval of the Chairperson of the Council.

1.9 Timing of retirement and appointment:

- (a) If a Councillor is in any year due to retire by way of rotation and is not re-elected, the Councillor shall remain in office until the first day of June on which he or she is due to retire.
- (b) If a Councillor is removed from office at a meeting of Ordinary Shareholders by Ordinary Resolution, the Councillor shall remain in office until, and his or her removal shall take effect at, the conclusion of the Shareholders' meeting.
- (c) If a person who is not already a Councillor is elected as a Councillor pursuant to an Election, that person shall take office as a Councillor on the first day of June following the Election.

2. ELECTION PROCEDURES

2.1 Nomination: No person may be elected as a Councillor to represent a Ward unless:

- (a) that person complies with clause 21.6 of the Constitution at the time of nomination; and
- (b) that person has been nominated and seconded by Ordinary Shareholders in that Ward, (not including the person being nominated) by written notice to the Returning Officer signed by the nominator and the seconder and accompanied by the consent in writing of that person to the nomination. However, this provision does not apply to current Councillors retiring by rotation who may nominate themselves for re-election by notice in writing by due date to the Returning Officer.

The timing of nominations and electoral procedures shall be determined by the Board in accordance with the Rotation Schedule and otherwise as the Board shall decide and notified to Ordinary Shareholders. Such procedures shall ensure that a minimum of 21 days shall be available for Ordinary Shareholders to cast their postal or electronic votes and return them to the Company.

2.2 Delivery of notice: Notice of every valid nomination of a Councillor to represent a Ward received by the Returning Officer before the closing date for nominations shall be sent by the Returning Officer to all Ordinary Shareholders in that Ward together with voting papers. Should no election be necessary the qualifying person nominated will be deemed duly elected in accordance with paragraph 1.9. Notice shall be sent

to all Ordinary Shareholders in that Ward together with the notice of the Annual Meeting.

- 2.3 **Electing by voting paper:** Every vote of Ordinary Shareholders of a Ward to elect a Councillor to represent that Ward shall be exercised by voting paper. The voting paper shall be in such form as the Returning Officer may approve from time to time.
- 2.4 **Votes:** On a vote to elect a Councillor to represent a Ward each Ordinary Shareholder in that Ward shall have one vote. For the avoidance of doubt, voting entitlement in respect of Councillors is not related to the number of shares held by the Ordinary Shareholder.
- 2.5 **Return of voting papers:** No voting paper is effective in relation to an election of a Councillor to represent a Ward unless the voting paper is received by the Returning Officer at its registered office, or at such other address as is specified for that purpose in the voting papers, by the due date and time specified on the voting paper. Voting papers may be returned to the Returning Officer by:
- (a) post; or
 - (b) facsimile; or
 - (c) such electronic means (if any) as are stipulated by the Returning Officer.

For the avoidance of doubt, voting papers received at the notified address up to 3 complete Working Days after the specified due date, and clearly post marked as posted on or before 5pm on the due date, shall be included as valid votes by the Returning Officer. Votes cast by facsimile must be machine dated and timed by the receiving facsimile on and by the due date to be valid. Votes cast by electronic means must comply with the directions of the Returning Officer. The Returning Officer shall be the sole determinate of the validity of votes received.

- 2.6 **Holding voting papers on receipt:** The Returning Officer will, immediately upon receipt of the envelopes containing the voting papers for an election, place them unopened in a box which will be kept locked and the key of which will be held by the Returning Officer. Votes by facsimile or electronic means will be retained by the Returning Officer in a similar manner.
- 2.7 **Scrutineer:** One person appointed by the Returning Officer shall act as Scrutineer.
- 2.8 **Counting of votes:** Subject to paragraph 2.5, the Returning Officer will immediately after the closing time for receiving voting papers open and count, in the presence of the Scrutineer, all voting papers after rejecting all invalid voting papers and will ascertain the votes in favour and against each candidate and report the results to the chairperson of the Company.
- 2.9 **Declaration of result:** A declaration by the Chairperson of the Company that a particular person has been elected by a certain majority is conclusive evidence of that fact.
- 2.10 **Retention of voting papers:** All voting papers must be sealed in a package by the Returning Officer in the presence of the Scrutineer and kept for a period of not fewer than 30 days after the Annual Meeting, after which time they may be destroyed by the Returning Officer.

- 2.11 **Secrecy:** The Returning Officer, any person involved in counting voting papers, the Chairperson of the Company and the Scrutineer must keep secret and confidential, except as provided in these By-laws, any fact directly or indirectly coming to their knowledge in respect of any Election.
- 2.12 **Validity of voting paper:** No voting paper will be deemed invalid because of want of form or other technicality provided the Returning Officer is satisfied that the intention of the Ordinary Shareholder is clear and unequivocal. The decision of the Returning Officer in any such matter is final. No voting paper will have any effect if it arrives at the Office after the time specified in paragraph 2.5 or if the Ordinary Shareholder votes for more than one candidate per voting paper.
- 2.13 **Death or Withdrawal of Candidate:** If a nominated candidate dies, or advises the Returning Officer in writing of his or her intention to withdraw from the election, after the time fixed for receiving nominations and before the time fixed for the closing of the poll, the election will not be cancelled. The next highest polling candidate is deemed to be the successful candidate.

3. REMUNERATION AND OTHER BENEFITS OF COUNCILLORS

- 3.1 **Power to authorise:** The Council may not authorise any payment or other benefit to or in respect of a Councillor in his or her capacity as such, without the prior approval of the Ordinary Shareholders by Ordinary Resolution, except as provided in this paragraph 3.
- 3.2 **Honoraria Committee:** In accordance with clause 24.2 of the Constitution, the Honoraria Committee shall be elected by the Ordinary Shareholders to make annually recommendations as to the remuneration for Elected Directors and Councillors. The honoraria recommended for Councillors will be expressed in terms of a rate (daily or per annum or otherwise as the Honoraria Committee may recommend) for each Councillor, with a separate rate for the Chairperson of the Council.
- 3.3 **Payment of expenses:** Notwithstanding the provisions of paragraph 3.1, Councillors are entitled to be reimbursed, on presentation of accounts, for all actual reasonable expenses including travelling, accommodation and other expenses properly incurred by them in attending meetings of:
- (a) the Council;
 - (b) any committee of the Council, including meeting of the Councillors per Region, (with or without Directors and/or Employees);
 - (c) Shareholders;
 - (d) Shareholder Groups within the Region the Councillor represents; and
 - (e) any other meeting or event approved in advance by the Chairperson of the Council;
- or otherwise properly incurred in connection with the business of the Council.
- 3.4 **Special remuneration:** The Board may authorise the Company to pay special remuneration to any Councillor who is, or has been, engaged by the Company or the Council (with the prior approval of the Board) to carry out work in a capacity other than that of Councillor.

3.5 **Existing basis of remuneration to continue:** Until the remuneration of Councillors is authorised pursuant to these By-laws, the Councillors are entitled to be reimbursed on the same basis as applied to them before the date these By-laws came into effect.

4. **FUNCTIONS OF COUNCIL**

4.1 **Exercise of functions by Council:** The Council is responsible for performing the functions required by clause 21 of the Constitution. These functions are to be performed by, or under the direction or supervision of, the Council.

4.2 **Delegation of powers:** The Council may delegate to a committee of the Council, a Councillor or, with the agreement of the chief executive of the Company, an employee of the Company.

4.3 **Ratification by Ordinary Shareholders:** The Ordinary Shareholders may ratify the purported exercise of a power by a Councillor or the Council. The purported exercise of a function or power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that function or power.

5. **PROCEEDINGS OF COUNCIL**

5.1 **Meetings:** The Chairperson of the Council shall convene not less than three meetings of the Council in each year. A meeting of the Council may be held either:

- (a) by a quorum of the Councillors, 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 Councillors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

5.2 **Procedure:** Except as provided in these By-laws, the Council may regulate its own procedure.

5.3 **Notice of meeting:** The following provisions apply in relation to meetings of the Council (except where otherwise agreed by a majority of Councillors in relation to any particular meeting or meetings):

- (a) Not fewer than two days' notice of a meeting shall be given to each Councillor (other than a Councillor who has waived that right).
- (b) Notice to a Councillor of a meeting may be:
 - (i) given to the Councillor in person by telephone or other oral communication;
 - (ii) delivered to the Councillor;
 - (iii) posted to the address given by the Councillor to the Company for such purpose;
 - (iv) sent by facsimile transmission to the facsimile telephone number given by the Councillor to the Company for such purpose; or

- (v) sent by electronic means in accordance with any request made by the Councillor from time to time for such purpose.
- (c) A notice of meeting shall specify the date, time and place of the meeting and, in the case of a meeting by means of audio, or audio and visual, communication, the manner in which each Councillor may participate in the proceedings of the meeting.
- (d) A notice of meeting given to a Councillor pursuant to this clause is deemed to be given:
 - (i) in the case of oral communication, at the time of notification;
 - (ii) in the case of delivery, by handing the notice to the Councillor or by delivery of the notice to the address of the Councillor;
 - (iii) in the case of posting, three days after it is posted;
 - (iv) in the case of facsimile transmission, when the Company receives a transmission report by the sending machine which indicates that the facsimile was sent in its entirety to the facsimile telephone number given by the Councillor; or
 - (v) in the case of electronic means, at the time of transmission.

5.4 **Councillor may convene meeting:** Without limiting the provisions of paragraphs 5.1, 5.2 or 5.3, a Councillor (mover) together with at least 5 other Councillors (seconders) has the right at any time, to convene a meeting of the Council, or to require an employee of the Company to convene a meeting of the Council, at the Office or at the place where the meetings of the Council for the time being are customarily held, by giving not fewer than seven days' written notice signed by or on behalf of the Councillors (mover and seconders) to each of the other Councillors stating the date, time and place of the meeting and the matters to be discussed.

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

5.6 **Quorum:** A quorum for a meeting of the Council is that number nearest to two-thirds of the total number of Councillors. No business may be transacted at a meeting of the Council if a quorum is not present.

5.7 **Chairperson:** The Councillors shall elect one of their number as Chairperson of the Council and shall determine the period for which the chairperson shall hold office. If no chairperson is elected or if, at a meeting of the Council, the chairperson is not present within 15 minutes after the time appointed for the commencement of the meeting, the Councillors present may choose one of their number to be chairperson of the meeting.

5.8 **Voting:** Every Councillor has one vote. The Chairperson of the Council does not have a casting vote. A resolution of the Council is passed if it is agreed to by a Majority. A Councillor present at a meeting of the Council is presumed to have agreed to, and to have voted in favour of, a resolution of the Council unless he or she expressly dissents from or votes against, or expressly abstains from voting on, the resolution.

- 5.9 **Committees:** A committee of Councillors shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Council. Subject to any such requirements, the provisions of these By-laws relating to proceedings of the Council apply, with appropriate modification, to meetings of a committee of Councillors.
- 5.10 **Validity of actions:** The acts of a person as a Councillor are valid even though the person's appointment was defective or the person is not qualified for appointment.
- 5.11 **Minutes:** The Council shall ensure that minutes are kept of all proceedings at its meetings. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

6. DEFINITIONS AND INTERPRETATION

- 6.1 **Definitions:** In these By-laws, unless the context otherwise requires:

“Annual Meeting” means the annual meeting of Shareholders of the Company required by the Act.

“By-laws” means these By-laws, as altered from time to time.

“Chairperson of the Company” means the Director elected by the Board to act as a chairperson in accordance with schedule 2 of the Constitution.

“Chairperson of the Council” means the Councillor elected pursuant to paragraph 5.7 of these By-laws.

“Constitution” means the constitution of the Company, but excluding these By-laws.

“Co-operative Companies Act” means the Co-operative Companies Act 1996.

“Election” means an election to appoint a Councillor as a representative of a Ward in accordance with the procedures in these By-laws.

“Majority” subject to clause 21.1(e) of the Constitution, means 2/3rds of the votes cast on a resolution of the Council.

“Month” means calendar month.

“Returning Officer” means the person appointed by the Board to manage the Company's elective procedures.

“Scrutineer” means the person appointed by the Returning Officer pursuant to paragraph 2.7.

Interpretation: In these By-laws, unless the context otherwise requires:

- (a) the table of contents, headings, and descriptions relating to sections of the Act, are inserted for convenience only and shall be ignored in construing these By-laws;
- (b) the singular includes the plural and vice versa;

- (c) reference to any legislation or to any provision of any legislation (including regulations and orders) includes:
 - (i) that legislation or provision as from time to time amended, re-enacted or substituted; and
 - (ii) any statutory instruments, regulations, rules and orders issued under that legislation or provision;
- (d) "written" and "in writing" include any means of reproducing words, figures and symbols in a tangible and visible form;
- (e) words and expressions defined or explained in the Constitution or the Act have the same meaning in these By-laws;
- (f) words and expressions cognate with words or expressions defined in these By-laws have meanings corresponding to those of the defined words and expressions; and
- (g) references to clauses and sections (other than sections of the Act) are references to clauses and sections in these By-laws, unless stated otherwise.

6.2 Constitution to prevail: If there is any conflict between:

- (a) a provision in the Constitution and a provision in these By-laws, the Act or the Co-operative Companies Act which is expressly permitted to be altered by the Constitution; or
- (b) a word or expression defined or explained in the Constitution, the Act or the Co-operative Companies Act and a word or expression defined or explained in these By-laws,

the provision, word or expression in the Constitution prevails.

SCHEDULE 5 – DESCRIPTION OF REGIONS

Region One – Northern:

(Incorporating Wards One – Two - and Three;)

Total land area from North Cape to Port Waikato in the West following the Waikato River south to Ohinewai then in a line West along Tahuna Road to Hoe-o-tainui, then north along the Hapuakohe Range to Miranda as the Eastern Boundary.

Region Two - Midland:

(Incorporating Wards Four – Five – Six – Seven – Eight – Nine - and Ten;)

Total land from the Southern & Eastern boundary of the Northern Region (One) to Marokopa River on the West Coast encompassing all areas north of a line south east to Aria and Ongarue to Owhango to meet the top of the Kaimanawa Mountains in a line to the Mohaka River mouth on the East Coast.

Region Three - Central:

(Incorporating Wards Eleven – Twelve – Thirteen – Fourteen - and Fifteen;)

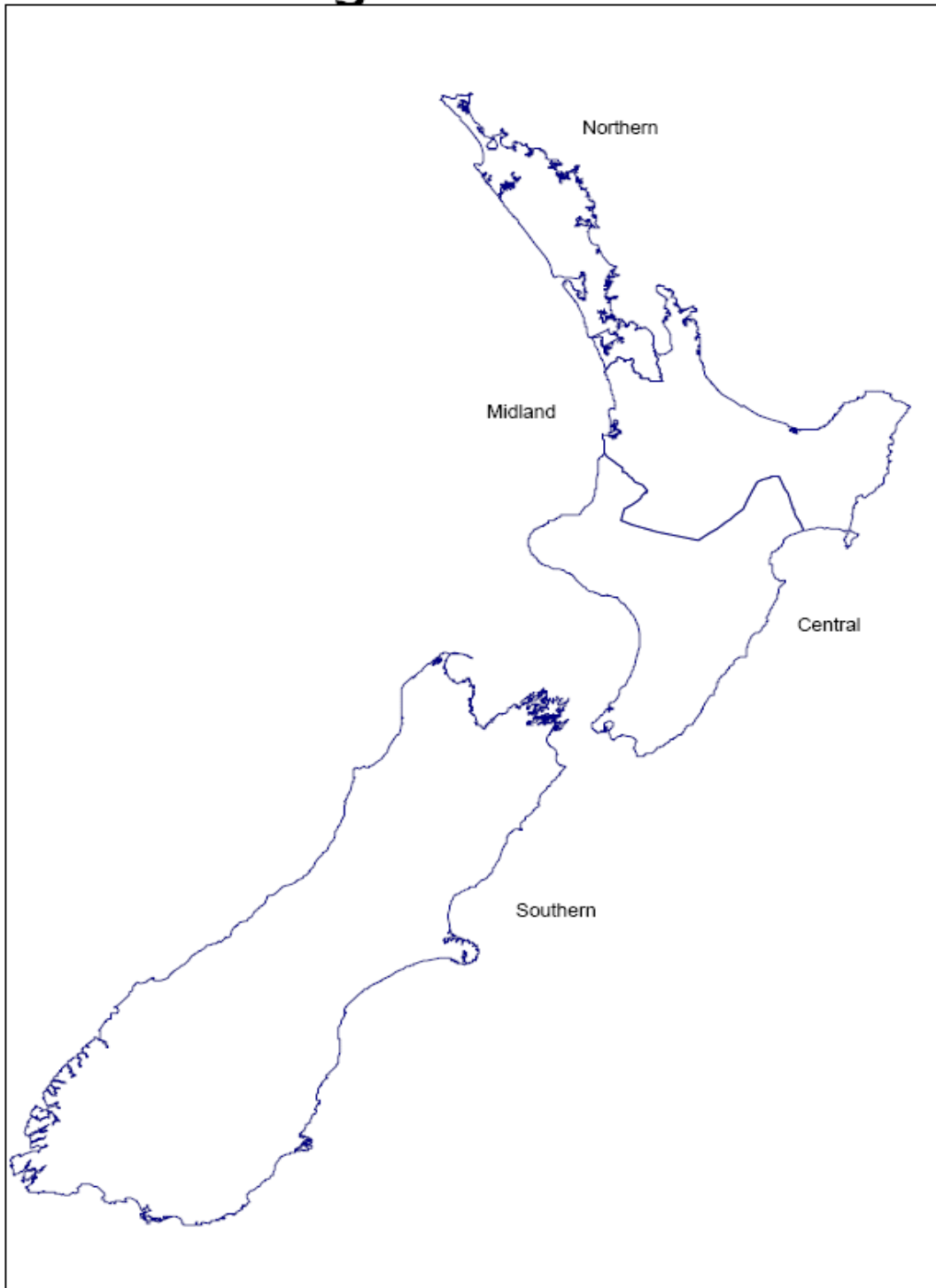
Total land from the Southern boundary of the Midland Region (Two) as the Northern boundary to encompass the remainder of the North Island to Cook Strait.

Region Four - Southern

(Incorporating Wards Sixteen – Seventeen – Eighteen – Nineteen – Twenty – and Twenty One;)

Total land area of the South Island and Stewart Island

Region Boundaries



SCHEDULE 6 – DESCRIPTION OF WARDS

Ward One: Far North / Whangarei

Total land from North Cape to Waipoua River Mouth on the West Coast; north of a line through Waipu Forest encompassing the eastern side of Opouteka, Pekapekarua and Pukehuia to Ararua Road; in a line east to Ruarangi and Ruakaka on the East Coast as the southern boundary.

Ward Two: Dargaville / Warkworth

Total land area south of the Southern Boundary of Ward One to the Auckland Harbour as the Southern Boundary.

Ward Three: South Auckland

Total land area south of Auckland Harbour to Port Waikato on the West Coast; north of a line following the Waikato River to Ohinewai; north of a line east along Tahuna Road to Hoe-o-tainui; east of a line north along the Hapuakohe Range to Miranda.

Ward Four: Hauraki Plains / Coromandel

Total land area east from Miranda along the Hapuakohe Range to Hoe-o-tainui as the western boundary; in a line east to Tahuna; the northern side of Tahuna/Paeroa highway; in a line to Waihi Beach on the East Coast as the southern boundary.

Ward Five: West Waikato/Waipā

Total land area from Port Waikato; south of the Waikato River to Ohinewai and to Tahuna as the northern boundary; west of a line along Tahuna / Morrinsville highway; to Motomahoe and south/east to Whitehall and Cambridge; following the Waikato River south to Arapuni as the eastern boundary; in a line west encompassing all areas north of Waikeria and in a line to Kawhia Harbour on the West Coast as the southern boundary.

Ward Six: East Waikato:

Total land area in a line east from Waihi Beach being south of Tahuna/Paeroa highway as the northern boundary; east of a line south along Tahuna / Morrinsville highway; then to Motomahoe and south/east to Whitehall as the western boundary; in a line east to the Kaimai Ranges as the southern boundary; the Kaimai Ranges to Waihi Beach being the eastern boundary.

Ward Seven: South Waikato

Total land area in a line west from Kaimai Ranges to Whitehall as the northern boundary; east of in a line from Whitehall to Cambridge following the Waikato River to Mangakino as the western boundary; in a line east to Whakamaru to Atiamuri as the southern boundary; in a line north being western side of Kaimai / Mamaku Forest and the Kaimai Ranges as the eastern boundary.

Ward Eight: King Country

Total land area south from Kawhia Harbour on the West Coast in a line east to Waikeria and to the Waikato River as the northern boundary; west of a line following the Waikato River south to Mangakino as the eastern boundary; then in a line south thru the Hauhungaroa Range to Ongarue and west to Marakopa on the West Coast as the southern boundary.

Ward Nine: Central Plateau

Total land area east of the Kaimai / Mamaku Forest to Atiamuri, Whakamaru and Mangakino and south along the Hauhungaroa Range to Ongarua to Te Whakarae as the western boundary; in a line east to top of Kaimanawa Mountains to just south of Minginui as the

southern boundary; in a line north through Kaingaroa Forest to Pongakawa Valley as the eastern boundary; in a line north back to Kaimai / Mamaku forest.

Ward Ten: Bay of Plenty / East Coast

Total land from Waihi Beach east of the Kaimai Ranges to top of Kaimai / Mamaku Forest; east of a line to Pongakawa Valley; east of a line thru the Kaiangaroa Forest to just south of Minginui as the western boundary; in a line to the mouth of the Mohaka River as the southern boundary.

Ward Eleven: Northern Taranaki

All land south from Marakopa on the West Coast to Ongarue as the northern boundary; west of a line south to Te Whakarae and Whanganui River to Matemateaonga Range to Pateroa River as the eastern boundary; in a line to Eltham and Mount Taranaki as the southern boundary; in a line north being eastern side of Mount Taranaki to Bell Block on the West Coast as the western boundary.

Ward Twelve: Coastal Taranaki

All land west from Bell Block in the North in a line being the western side of Mount Taranaki to a line south of Oeo on the west coast as the eastern boundary;

Ward Thirteen: South Taranaki

All land east of the line from Oeo to Mount Taranaki as the western boundary; south of a line east from Mount Taranaki to Eltham and Pateroa River as the northern boundary; east in a line north/east along Whanganui River to Te Whakarae as the north / western boundary; in a line to Owhango as the top north boundary; in a line south to west of Raurimu, National Park to Pipiriki linking back into the Whanganui river to Kai-Iwi on the Coast as the eastern boundary.

Ward Fourteen: Manawatu / Rangitikei

All land east of a line north from Kai-Iwi on the Coast following the Whanganui River to west of Pipiriki, National Park to Owhango as the western boundary; east to north of the Kaimanawa Mountains as the northern boundary; in a line west of the Ruahine Range and the Tararua Range to Wellington as the eastern boundary;

Ward Fifteen: Hawkes Bay / Wairarapa

All land from Wellington in a line north and east of the Tararua Range and Ruahine Range to the Kaimana Mountains as the western boundary; in a line east to just south of Minginui then in a line to the mouth of the Mohaka River being the northern boundary.

Ward Sixteen: Tasman / Marlborough

All land north east of Anatori on the West Coast in a line south down Matiri Range and Victoria Range to Southern Alps at just south of Maruia Springs as the south/west boundary; in a line north along Spencer Mountains to Mount Una; then in a line east to the mouth of the Conway River on the east coast as the southern boundary.

Ward Seventeen: West Coast

All land south from Anatori on the West Coast; west of a line south down the Matiri Range and Victoria Range to Southern Alps as the northern boundary; west of the Southern Alps to Mount Brewster as the eastern boundary; the in a line west to just south of the Haast River to the West Coast as the southern boundary.

Ward Eighteen: Canterbury

All land south from the mouth of the Conway River in a line west to Mount Una as the northern boundary; in a line south from Mount Una being east of the Southern Alps to Mount Arrowsmith as the western boundary; in a line east being the North Branch of the Ashburton River to the mouth of the Ashburton River on the east coast as the southern boundary.

Ward Nineteen: South Canterbury / North Otago

All land south from the mouth of the Ashburton River on the east coast and the North Branch of the Ashburton River to Mount Arrowsmith as the northern boundary; in a line south being east the Southern Alps to Mount Brewster as the western boundary; in a line east along the Hawkdun Range and Kakanui Mountains to Shag Point on the east coast as the southern boundary.

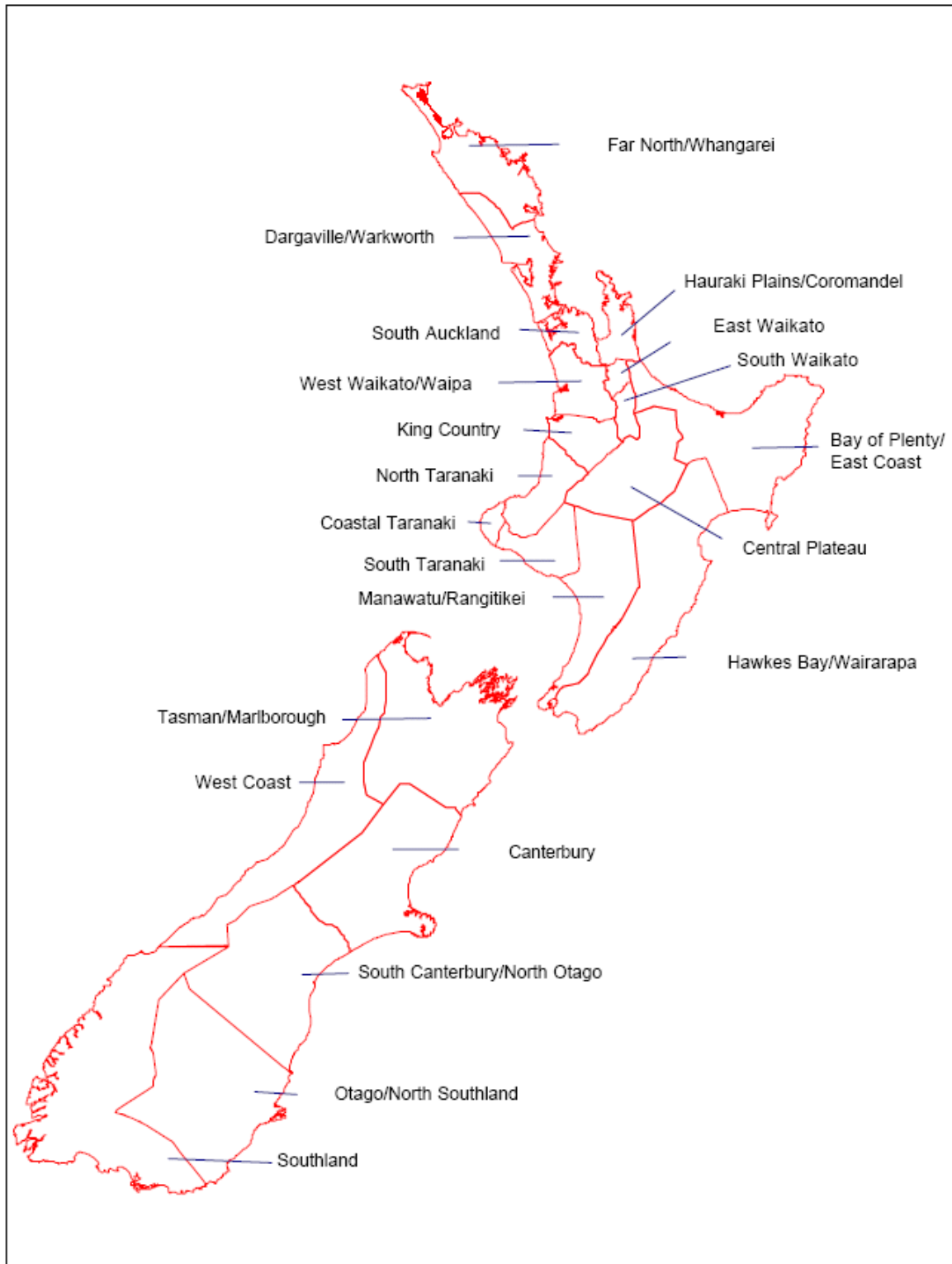
Ward Twenty: Otago / North Southland

All land south in a line from Shag Point on the east coast along the Kakanui Mountains and the Hawkdun Range to Mount Brewster as the northern boundary; in a line south from Mount Brewster to west of Lake Wanaka to Queenstown to Eyre Mountains as the western boundary; in a line east to Gore and to Papatowai on the east coast as the southern boundary.

Ward Twenty One: Southland

All land south of Haast River on the West Coast to Mount Brewster; in a line south, west of Lake Wanaka to Queenstown to Eyre Mountains; south of a line east to Gore and Papatowai on the east coast and including Stewart Island.

Ward Boundaries



SCHEDULE 7 – CORRESPONDING WARDS

| Region | Corresponding Wards |
|--------|---|
| One | One, Two, and Three |
| Two | Four, Five, Six, Seven, Eight, Nine and Ten |
| Three | Eleven, Twelve, Thirteen, Fourteen and Fifteen |
| Four | Sixteen, Seventeen, Eighteen, Nineteen, Twenty and Twenty One |