

# CONSTITUTION

PHONOGRAPHIC PERFORMANCES (N.Z.) LIMITED

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# PHONOGRAPHIC PERFORMANCES (N.Z.) LIMITED

## CONSTITUTION

### 1. COMPANIES ACT

The provisions of the Companies Act 1993 ("the Act") are negated, modified, adopted and extended as provided in this constitution.

### 2. CALLS ON SHARES

- 2.1 Board May Make Calls:** The board may from time to time make such calls as it thinks fit upon the shareholders in respect of any amount unpaid on their shares and not by the conditions of issue made payable at a fixed time or times, and each shareholder shall, subject to receiving at least 14 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.
- 2.2 Timing of Calls:** A call may be made payable at such times and in such amount as the board may determine.
- 2.3 Liability of Joint Holders:** The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
- 2.4 Interest:** If an amount called in respect of a share is not paid before or on the time appointed for payment thereof, the person from whom the amount is due shall pay interest on that amount from the time appointed for payment thereof to the time of actual payment at such rate not exceeding 10% per annum as the board may determine, but the board shall be at liberty to waive payment of that interest wholly or in part.
- 2.5 Instalments:** Any amount which by the terms of issue of a share becomes payable on issue or at any fixed time shall for all purposes be deemed to be a call duly made and payable at the time at which by the terms of issue the same becomes payable and, in case of non-payment, all the relevant provisions of this constitution relating to payment of interest and expenses, forfeiture, or otherwise shall apply as if the amount had become payable by virtue of a call duly made and notified.
- 2.6 Differentiation as to Amounts:** The board may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

### 3. FORFEITURE OF SHARES

- 3.1 **Notice of Default:** If any person fails to pay any call or any instalment of a call for which such person is liable at the time appointed for payment, the board may at any time thereafter serve notice on such person requiring payment of the amount unpaid together with any interest which may have accrued.
- 3.2 **Final Payment Date:** The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment on or before the time appointed, the shares in respect of which the amount was owing will be liable to be forfeited.
- 3.3 **Forfeiture:** If the requirements of any such notice are not complied with, any share in respect of which the notice has been given may be forfeited, at any time before the required payment has been made, by a resolution of the board to that effect. Such forfeiture shall include all dividends and bonuses declared in respect of the forfeited share and not actually paid before the forfeiture.
- 3.4 **Sale of Forfeited Shares:** A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the board in its sole discretion thinks fit and, at any time before a sale or disposition, the forfeiture may be cancelled on such terms as the board thinks fit. If any forfeited share shall be sold within 12 months of the date of forfeiture, the residue, if any, of the proceeds of sale after payment of all costs and expenses of such sale or any attempted sale and all amounts owing in respect of the forfeited share and interest thereon shall be paid to the person whose share has been forfeited.
- 3.5 **Cessation of Shareholding:** A person whose share has been forfeited shall cease to be a shareholder in respect of the forfeited share, but shall, nevertheless, remain liable to pay to the company all amounts which, at the time of forfeiture, were payable by such person to the company in respect of the share, but that liability shall cease if and when the company receives payment in full of all such amounts.
- 3.6 **Evidence of Forfeiture:** A statutory declaration in writing declaring that the declarant is a director of the company and that a share in the company has been duly forfeited on a date stated in the declaration shall be conclusive evidence of such facts as against all persons claiming to be entitled to the share.
- 3.7 **Validity of Sale:** The company may receive the consideration, if any, given for a forfeited share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of, and such person shall then be registered as the holder of the

share and shall not be bound to see to the application of the purchase money, if any, nor shall such person's title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

#### 4. **TRANSFER OF SHARES**

- 4.1 **Freedom to Transfer is Qualified:** Every change in the ownership of shares in the capital of the company shall be subject to the following limitations and restrictions.
- 4.2 **Pre-emptive Provisions:** No share in the capital of the company shall be sold or transferred by any shareholder unless and until the rights of pre-emption hereinafter conferred have been exhausted.
- 4.3 **Transfer Notice and Fair Price:** Every shareholder including the personal representative of a deceased shareholder or the assignee of the property of a bankrupt shareholder who desires to sell or transfer any share or shares shall give notice in writing to the board of such desire. If such notice includes several shares it shall not operate as if it were a separate notice in respect of each such share, and the proposing transferor shall be under no obligation to sell or transfer some only of the shares specified in such notice. Such notice shall be irrevocable and shall be deemed to appoint the board the proposing transferor's agent to sell such shares in one or more lots to any shareholder or shareholders of the company (including the directors or any of them) at a price to be agreed upon between the party giving such notice and the board or, failing agreement between them within 28 days of the board receiving such notice, at a fair price to be determined on the application of either party by a person to be nominated by the chairperson for the time being of the Auckland District Law Society. Such person, when nominated, and in certifying the sum which in that person's opinion is the fair price for the share, shall be considered to be acting as an expert and not as an arbitrator and accordingly the Arbitration Act 1908 and any subsequent modifications or re-enactment thereof shall not apply.
- 4.4 **Offer to Shareholders and Consequent Sale:** Upon the price for such shares being agreed on or determined (as the case may be), the board shall immediately give notice to each of the shareholders (other than the person wanting to sell or transfer such shares) stating the number and price of such shares and inviting each of the shareholders to whom the notice is given to state in writing within 21 days after the date of the notice whether such shareholder is willing to purchase any and, if so, what maximum number of such shares. At the expiration of 21 days from the date of the notice the board shall apportion such shares amongst the shareholders (if more than one) who have expressed a desire to purchase the same and as far as may be pro rata according to the number of shares already held by them respectively, or if there is only one such shareholder, the whole of such

shares shall be sold to that shareholder, provided however that no shareholder shall be obliged to take more than the maximum number of shares stated in that shareholder's response to such notice. Upon such apportionment being made or such one shareholder notifying such shareholder's willingness to purchase, as the case may be, the party desiring to sell or transfer such share or shares shall be bound, upon payment of the said price, to transfer such share or shares to the respective shareholders or shareholder who have or has agreed to purchase the same and, in default thereof, the board may receive and give a good discharge for the purchase money on behalf of the party desiring to sell and enter the name of the purchasers or purchaser in the share register as holder or holders of such share or shares so sold.

**4.5 Shares on Offer not Taken up by Shareholders:** In the event of all of such shares not being sold under the preceding clause within 60 days of the board receiving notice under clause 4.3, the party desiring to sell or transfer shall be at liberty within a further period of 30 days to sell the shares not so sold, but not a portion only, to persons who are not shareholders, provided however that such party shall not sell them for a price less than the price at which the same have been offered for sale to the shareholders under this section 4, but every such sale shall nevertheless be subject to the provisions of section 5.

**4.6 Family Transactions:** Any share may be transferred by a shareholder to, or to trustees for, any husband or wife or child or grandchild or son-in-law or daughter-in-law of that shareholder, and any share of a deceased shareholder may be transferred by his or her executors or administrators to any husband or wife or child or grandchild or son-in-law or daughter-in-law of the deceased shareholder, and any share held by trustees under any such trust as aforesaid may be transferred to any beneficiary (being a husband or wife or child or grandchild or son-in-law or daughter-in-law of such shareholder) of such trust, and shares standing in the name of the trustee of the will of any deceased shareholder or trustees under any such trust may be transferred upon any change of trustees for the time being of such will or trust, and the restrictions contained in the preceding clauses 4.2 to 4.5 inclusive shall not apply to any transfer authorised by this clause but every such transfer shall nevertheless be subject to the provisions of section 5.

## **5. REFUSAL TO REGISTER TRANSFERS**

**5.1 Directors' Right to Refuse Registration:** Subject to compliance with the provisions of section 84 of the Act, the board may refuse or delay the registration of any transfer of any share to any person whether an existing shareholder or not:

**5.1.1 Required by Law:** if so required by law;

- 5.1.2 **Imposition of Liability:** if registration would impose on the transferee a liability to the company and the transferee has not signed the transfer;
- 5.1.3 **Failure to Pay:** if a holder of any such share has failed to pay on due date any amount payable thereon either in terms of the issue thereof or in accordance with the constitution (including any call made thereon);
- 5.1.4 **Infant or Unsound Mind:** if the transferee is an infant or a person of unsound mind;
- 5.1.5 **More Than One Class:** if the transfer is in respect of more than one class of shares;
- 5.1.6 **Proof of Ownership:** if the transfer is not accompanied by such proof as the board reasonably requires of the right of the transferor to make the transfer;
- 5.1.7 **Pre-emptive Rights:** if the pre-emptive provisions contained in section 4 have not been complied with; or
- 5.1.8 **Contrary to Interests of Company:** if the board acting in good faith decides in its sole discretion that registration of the transfer would not be in the best interests of the company and/or any of its shareholders.

## 6. NEW ISSUE OF SHARES

New shares offered to shareholders pursuant to section 45 of the Act and not accepted within the prescribed time or in respect of which an intimation is received from the person to whom the offer is made declining such offer may be disposed of by the board in such manner as it thinks most beneficial to the company. If the board shall dispose of any such share at a price in excess of that at which it was offered to a shareholder, it may in its discretion pay the whole or any part of such excess to such shareholder.

## 7. ACQUISITION OF COMPANY'S OWN SHARES

- 7.1 **Authority to Acquire Own Shares:** For the purposes of sections 59 and 60(1)(b)(ii) of the Act, the company is expressly authorised to purchase or otherwise acquire shares issued by it.
- 7.2 **Authority to Hold Own Shares:** Subject to any restrictions or conditions imposed by law the company is expressly authorised to hold shares acquired by it pursuant to section 59 or section 112 of the Act.

**8. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

**8.1 First Schedule Modified:** The first schedule to the Act is modified as provided in this section 8.

**8.2 Chairperson:** Sub-clause 1(2) of the first schedule to the Act is deleted and replaced with the following:

"1(2) If no chairperson of the board has been elected, or if at any meeting of shareholders the chairperson of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the directors present shall elect one of their number to be chairperson of the meeting. If at any meeting no director is willing to act as chairperson, or if no director is present within 15 minutes of the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairperson of the meeting."

**8.3 Notice of Meetings:** Clause 2 of the first schedule to the Act is amended as follows:

By deleting subclause (4) and replacing it with the following:

"(4) The chairperson may, and if so directed by the meeting shall, adjourn the 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 an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting."

By adding the following subclause:

"(5) The accidental omission to give a notice of a meeting to, or the non-receipt of a notice of a meeting by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting."

**8.4 Voting:** Clause 5 of the first schedule to the Act is amended as follows:

By deleting sub-clause (7) and replacing it with the following:

"(7) In the case of an equality of votes, whether voting is by voice or show of hands or poll the chairperson of the meeting shall be entitled to a second or casting vote".

By adding the following sub-clauses:

"(9) Subject to any rights or restrictions for the time being attached to any class of shares, every shareholder present in person or by proxy and voting by voice or on a show of hands shall have one vote."

"(10) The chairperson may demand a poll on a resolution either before or after a vote thereon by voice or on a show of hands."

"(11) The demand for a poll may be withdrawn."

"(12) Except as provided in sub-clause (13), if a poll is duly demanded it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded."

"(13) A poll demanded on the election of a chairperson or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time and place as the chairperson of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll."

**8.5 Proxies:** Clause 6 of the first schedule to the Act is amended by adding the following subclauses:

"(6) A proxy form shall be sent with each notice calling a meeting of the company."

"(7) An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

**PHONOGRAPHIC PERFORMANCES (N.Z.) LIMITED**

**INSTRUMENT APPOINTING A PROXY**

I/We  
of

being a member of #2lc# hereby appoint  
(print name of proxy) of  
or failing him/her of  
as my/our proxy to vote for me/us on my/our behalf at the  
[...th Annual] [Special] Meeting of the company to be held  
at on  
commencing at [am/pm] [or all meetings of the  
company held within twelve months of the date hereof]  
and at any adjournment of any such meeting.

Signed this day of  
(Usual signature/s)"

"(8) Where it is desired to afford shareholders an  
opportunity of voting for or against a resolution,  
the instrument appointing a proxy shall be in the  
following form or a form as near thereto as  
circumstances admit:

**PHONOGRAPHIC PERFORMANCES (N.Z.) LIMITED**

**INSTRUMENT APPOINTING A PROXY**

I/We  
of

being a member of #2lc# hereby appoint  
(print name of proxy) of  
or failing him/her of  
as my/our proxy to vote for me/us on my/our behalf at the  
[...th Annual] [Special] Meeting of the company to be  
held at on  
commencing at [am/pm] and  
at any adjournment thereof.

I/We direct my/our proxy to vote in the following manner

**Vote with a Tick**

**Resolutions**  
**Against**

**For**

1. \_\_\_\_\_

2. \_\_\_\_\_

Signed this        day of  
(Usual signature/s)"

"(9) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the appointor or revocation of the proxy or revocation of the authority under which the proxy was executed, or the transfer of any share in respect of which the proxy is given, if no intimation in writing of such death, insanity, revocation or transfer has been received by the company before the start of the meeting or adjourned meeting at which the proxy is used."

"(10) The instrument appointing a proxy and a power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company or at such other place within New Zealand as is specified for that purpose in the notice convening the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default, the instrument of proxy shall be treated as invalid."

**8.6** **Postal Votes:** Clause 7 of the first schedule to the Act providing for postal votes is deleted.

**8.7** **Resolutions in Lieu of Meeting:** A shareholders' resolution in lieu of a meeting authorised by section 122 of the Act may consist of several documents in like form, each signed by one or more shareholders. A facsimile of any such signed resolution shall be as valid and effectual as the original signed document with effect from completion of its transmission.

9. **DIRECTORS**

- 9.1 **Number of Directors:** The minimum and maximum number of directors may be determined from time to time by the board, and unless so determined, the minimum number shall be one and there shall be no maximum number.
- 9.2 **Tenure of Office:** Each director shall hold office until:
- 9.2.1 **Removal:** removal in accordance with the constitution, or
- 9.2.2 **Vacation of Office:** vacation of office pursuant to section 157 of the Act, or
- 9.2.3 **Absence from Meetings:** vacation of office resulting ipso facto from being absent without permission of the board from three consecutive meetings of the board.
- 9.3 **Appointment and Removal of Directors by Shareholders:** The directors of the company shall be such person or persons as may from time to time be appointed either by the shareholders by ordinary resolution or by notice in writing to the company signed by the holder or holders of a majority of the shares in the capital of the company but so that the total number of directors shall not at any time exceed the maximum number, if any, fixed pursuant to clause 9.1. Every director shall hold office subject to the provisions of this constitution and may at any time be removed from office by ordinary resolution of the shareholders or by notice in writing to the company signed as aforesaid. Directors may be appointed individually or together unless the shareholders by ordinary resolution require any director's appointment to be voted on individually.
- 9.4 **Appointment of Directors by the Board:** The board shall have power at any time and from time to time to appoint any person to be a director either to fill a casual vacancy or as an additional director but so that the total number of directors shall not at any time exceed the maximum number, if any, fixed pursuant to clause 9.1.
- 9.5 **Cross Directorships:** A director of the company may be or become a director or other officer of, or otherwise interested in, any company promoted by the company or in which the company may be interested as shareholder or otherwise, and no such director shall be accountable to the company for any remuneration or other benefits received by him or her as a director or officer of, or from his or her interests in, any such other company unless the company otherwise directs or the law requires.
- 9.6 **Professional Directors:** Any director may act by himself or herself or his or her firm in a professional capacity for the company, and a director or firm shall be entitled to remuneration for professional services as if he or

she were not a director provided that nothing herein shall authorise a director or his or her firm to act as auditor of the company.

**9.7 Directors' Gratuities:** Subject to the provisions of section 161 of the Act, the board may on behalf of the company:

**9.7.1 On Retirement:** pay a gratuity or pension or allowance on retirement to any director of the company or in the case of a director's death to his or her spouse or dependants; and

**9.7.2 Retirement Benefit:** make contributions to any fund and pay premiums for the purchase or provision of any such benefit.

The amount so paid or used as a base for calculating any such benefit shall not, without the sanction of an ordinary resolution, exceed the total remuneration paid by the company to such director as a director in respect of any three financial years selected by the board during which he or she was a director. All such benefits paid or payable shall be in addition to normal amounts or benefits paid or payable to any such director from any superannuation scheme established by the company or any of its subsidiaries.

**9.8 Alternate Directors:** Each director shall have the power from time to time to nominate, by notice in writing to the company, any person not already a director and who is acceptable to the majority of other directors to act as an alternate director in his or her place either for a specified period or generally during the absence from time to time of such director and in like manner to remove any such alternate director. Unless otherwise provided for by terms of his or her appointment, an alternate director shall have the same rights, powers and privileges (including the right to receive notice of meetings of the board but excluding the power to appoint an alternate director) and shall discharge all the duties of and be subject to the same provisions as the director in whose place he or she acts. A person may also:

**9.8.1** act as an alternate director for more than one director; and

**9.8.2** while the alternate director is acting as alternate director, he or she is entitled to a separate vote for every director which that person is representing.

An alternate director shall not be remunerated otherwise than out of the remuneration of the director in whose place he or she acts and shall ipso facto vacate office if and when the director in whose place he or she acts vacates office. Any notice appointing or removing an alternate director may be given by delivering the same or by sending the same through the post or by facsimile to the company and shall be effective as from the receipt.

## 10. PROCEEDINGS OF THE BOARD

- 10.1 Third Schedule Deleted:** The provisions of the third schedule to the Act are deleted and replaced as provided in this section 10.
- 10.2 Regulation of Meetings, Quorum and Convening:** The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The quorum necessary for the transaction of business by the board may be fixed by the board and, unless so fixed, shall be the majority of the directors. A director may, and an employee at the request of a director shall, at any time, by any means of communication, summon a meeting of the board. It shall not be necessary to give notice of a meeting of the board to any director for the time being absent from New Zealand.
- 10.3 Voting:** Questions arising at any meeting of the board shall be decided by a majority of votes. In cases of an equality of votes the chairperson shall have a second or casting vote, provided that where two directors form a quorum and only two directors entitled to vote are present at a meeting, the chairperson of such meeting shall not have a second or casting vote. No business shall be transacted when a quorum is not present.
- 10.4 Vacancies:** The continuing directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number necessary for a quorum, the continuing directors or director may act only for the purpose of increasing the number of directors to the number necessary for a quorum or for the purpose of summoning a special meeting of the company.
- 10.5 Chairperson:** The board may elect a chairperson of its meetings and determine the period for which he or she is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within five minutes after the time appointed for the meeting, the directors present may choose one of their number to be chairperson of the meeting.
- 10.6 Resolution in Writing:** A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the board shall be as valid and effectual as if it had been passed at a meeting of the board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more directors. A facsimile of any such signed resolution shall be as valid and effectual as the original signed document with effect from completion of its transmission.
- 10.7 Method of Meeting:** A meeting of the board may be held either:

**10.7.1 Physical Meeting:** by a number of the directors who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or

**10.7.2 Other Means:** by means of audio, or audio and visual, communication by which all directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

**10.8 Minutes:** The board shall ensure that minutes are kept of all proceedings at meetings of the board.

## **11. INDEMNITIES**

The company is expressly authorised to indemnify and/or insure any director or employee against liability for acts or omissions and/or costs incurred in connection with claims relating thereto of the type specifically contemplated by subsections (3),(4) and (5) of section 162 of the Act to the maximum extent permitted by those subsections.

## **12. DIVIDENDS**

**12.1 Dividends on Shares Not Fully Paid Up to be Paid Pro Rata:** Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends on shares not fully paid up shall be authorised and paid in proportion to the amount paid to the company in satisfaction of the liability of the shareholder to the company in respect of the shares either under this constitution or pursuant to the terms of issue of the shares. No amount paid or credited as paid on a share in advance of calls shall be treated for these purposes as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date that share shall rank for dividend accordingly.

**12.2 Deduction of Unpaid Calls:** The board may deduct from any dividend payable to any shareholder any amount presently payable by such shareholder to the company on account of calls or otherwise in relation to the shares on which such dividends are payable.

**12.3 Payment by Cheque or Warrant:** Any dividend, interest, or other money payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder, or, in the case of joint holders, to the registered address of that one of the joint holders who is first named in the share register or to such person and to

such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or other money payable in respect of the shares held by them as joint holders.

- 12.4 No Interest:** No dividend shall bear interest against the company.
- 12.5 Unclaimed Dividends:** All dividends unclaimed for one year after having been authorised may be invested or otherwise made use of by the board for the benefit of the company until claimed, and all dividends unclaimed for five years after having been declared may be forfeited by the board for the benefit of the company. The board may, however, annul any such forfeiture and agree to pay a claimant who produces evidence of entitlement to the board's satisfaction of the amount due to such claimant unless in the opinion of the board such payment would embarrass the company.

### **13. NOTICES**

- 13.1 Service:** A notice may be served by the company upon any director or shareholder either personally or by posting it by fast post in a prepaid envelope or package addressed to such director or shareholder at such person's last known address or by delivery to a document exchange or by facsimile to the facsimile telephone number of such director or shareholder.
- 13.2 Time of Service by Facsimile:** A notice served by facsimile shall be deemed to have been served at 5.00 pm on the day following completion of transmission or if such day is a Saturday or a Sunday or a day on which major trading banks are closed for usual business in the place of intended receipt then on the next day (not being a Saturday or a Sunday) on which such banks are open for usual business.
- 13.3 Time of Service by Post:** A notice sent by post or delivered to a document exchange shall be deemed to have been served:
- 13.3.1 In New Zealand:** in the case of a person whose last known address is in New Zealand, at the expiration of 48 hours after the envelope or package containing the same was duly posted or delivered in New Zealand; and
- 13.3.2 Outside New Zealand:** in the case of a person whose last known address is outside New Zealand, at the expiration of seven days after the envelope or wrapper containing the same was duly posted by fast post in New Zealand.
- 13.4 Proof of Service:** In proving service by post or delivery to a document exchange, it shall be sufficient to prove that the envelope or package

containing the notice was properly addressed and posted or delivered with all attached postal or delivery charges paid. In proving service by facsimile, it shall be sufficient to prove that the document was properly addressed and sent by facsimile.

**13.5 Service on Joint Holders:** A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder first named in the share register in respect of the share.

**13.6 Service on Representatives:** A notice may be given by the company to the person or persons entitled to a share in consequence of the death or bankruptcy of a shareholder by addressing it to such person or persons by name or by title or by any appropriate description, at the address, if any, within New Zealand supplied for the purpose by the person or persons claiming to be so entitled, or (until such an address has been so supplied), by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

#### **14. LIQUIDATION**

**14.1 Distribution of Surplus Assets:** Subject to the terms of issue of any shares in the company and to clause 14.2, 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 winding-up ("the surplus assets") shall be distributed among the shareholders in proportion to their shareholding provided however that the holders of shares not fully paid up shall only receive 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 shareholder to the company in respect of the shares either under the constitution of the company or pursuant to the terms of issue of the shares.

**14.2 Distribution In Specie:** Upon a liquidation of the company, the liquidator, with the sanction of an ordinary resolution and any other sanction required by law, may divide amongst the shareholders in kind the whole or any part of the assets of the company (whether they consist of property of the same kind or not) and may for that purpose set such value as the liquidator deems fair upon any property to be divided as aforesaid and may determine how the division shall be carried out as between the shareholders or different classes of shareholders. The liquidator may, with the like sanction, vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the shareholders as the liquidator thinks fit, but so that no shareholder shall be compelled to accept any shares or other securities whereon there is any liability.

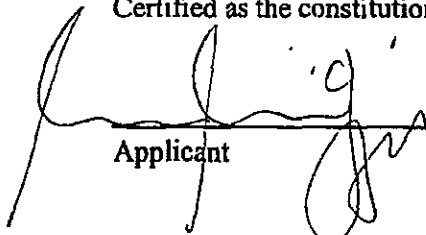
**15. REMOVAL FROM THE NEW ZEALAND REGISTER**

In the event that:

- 15.1 Cessation of Business:** the company has ceased to carry on business, has discharged in full its liabilities to all its known creditors, and has distributed its surplus assets in accordance with its constitution and the Act; or
- 15.2 No Surplus Assets:** the company has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court under section 241 of the Act for an order putting the company into liquidation;

the board may in the prescribed form request the Registrar to remove the company from the New Zealand register.

Certified as the constitution of the company

  
Applicant

26 June 1997  
Date