

CONSTITUTION

Bank of South Pacific Limited



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CONSTITUTION OF BANK OF SOUTH PACIFIC LIMITED

1. PRELIMINARY

1.1 Definitions

In this constitution, unless the context otherwise requires:

Act means the *Companies Act 1997* as it is amended and applies to the Company from time to time;

Alternate Director means a person appointed as an alternate director under clause 18.2;

Annual Meeting means a meeting of Shareholders of the Company referred to in clause 11.2;

Appointor means in respect of an Alternate Director, the Director who appoints that Alternate Director under clause 18.2;

Auditor means the auditor of the Company from time to time;

Board means the Directors acting collectively under this constitution;

Business Day means:

- (a) where the Company is Listed, a day which is a "business day" for the purposes of the Listing Rules; and
- (b) where the Company is not Listed, a day on which banks in Papua New Guinea generally are open for the full range of banking business;

Chairman means the person appointed as chairman of the Board under clause 21.7 from time to time;

Common Seal means the common seal of the Company;

Company means the company named above whatever its name may be from time to time;

Deputy Chairman means the person appointed as deputy chairman of the Board under clause 21.7 from time to time;

Director means a person appointed as a director for the time being of the Company (including, where appropriate, an Alternate Director);

Dividend means any distribution to Shareholders in relation to Shares as a dividend of any property (including, without limitation, money and shares (including bonus shares) or other securities of the Company or of any other body corporate);

Electronic Business Rules means those business rules recognised by the Listing Rules as the rules which regulate computerised or electronic dealings in and registration of shares, as amended or replaced from time to time;

Exchange means Port Moresby Stock Exchange Limited;

Executive Director means the Managing Director and any other Director who is an employee of the Company or any related company of the Company;

Listed means, in relation to the Company, the Company being and remaining admitted to the official list of the Exchange;

Listing Rules means the Listing Rules of the Exchange from time to time as waived or modified in respect of the Company in any particular case;

Managing Director means the person (if any) appointed as the managing director of the Company under clause 19.1;

Market Transfer means an electronic transfer recognised as a proper transfer for the purposes of the Electronic Business Rules;

Money Due means, where payment in respect of a call is not made on the day specified for its payment under clause 5.4, the amount of money payable in respect of that call plus, subject to clause 5.11:

- (a) interest on that amount at the Prescribed Rate from that day until payment is made; and
- (b) all costs and expenses incurred by the Company because payment was not made on that day;

Official Seal means the duplicate common seal referred to in clause 23.7;

Prescribed Rate means in respect of each clause in which that term is used 10 per cent per annum or any other rate prescribed by the Board from time to time in respect of that clause;

Register means the register of Shareholders kept pursuant to the Act (including any computerised or electronic sub-register established and administered under the Electronic Business Rules);

Secretary means a person appointed as a secretary of the Company from time to time (including any person appointed to perform the duties of a secretary temporarily);

Share means a share in the capital of the Company;

Shareholder means a person whose name is entered in the Register as the holder of a Share;

Shareholder's Liability means, in respect of a Shareholder:

- (a) all money due and payable by the Shareholder to the Company; and
- (b) all money (whether payable or not) called or payable at a fixed time in respect of Shares held by that Shareholder;

Specified Time means, in relation to a meeting of Shareholders, the time determined by the Board (either generally or for a particular meeting) which is permitted by the Electronic Business Rules and is not more than 48 hours before the meeting, or if the Board has not done so for the meeting, the earliest such time which the Board might have determined;

Unmarketable Parcel means a number of Shares which is less than that required from time to time to constitute a marketable parcel of the Shares (as defined by the Listing Rules); and

Voting Shareholder means a Shareholder:

- (a) who is entitled to be present at a meeting of Shareholders;

- (b) present at the meeting in any of the ways set out in clause 12.1; and
- (c) in respect of whom there is at least one item of business to be considered at the meeting on which the Shareholder is not disqualified from voting.

1.2 Interpretation

In this constitution, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation or statutory instrument issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;
- (c) a reference to an individual or person includes a corporate body, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (d) a reference to a person is also to the legal personal representative of that person;
- (e) a reference to any gender includes all genders;
- (f) a reference to a clause or a schedule is to a clause of or schedule to this constitution;
- (g) a schedule is part of this constitution;
- (h) a reference to any agreement or document (including, without limitation, the Electronic Business Rules and the Listing Rules) is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (i) an expression defined in, or given a meaning for the purposes of, the Act (except where defined, or given a meaning, in this constitution) has the same definition or meaning in this constitution where it relates to the same matters for which it is defined, or given a meaning, in the Act;
- (j) a reference to a matter being written includes that matter being in any mode of representing or reproducing words, figures or symbols in written form;
- (k) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (l) a reference to power is also to authority and discretion;
- (m) where an expression is defined anywhere in this constitution it has the same meaning throughout; and
- (n) a reference to a particular Part, Division, section, sub-section, paragraph or sub-paragraph is a reference to a Part, Division, section, sub-section, paragraph or sub-paragraph of the Act.

1.3 Headings and Listing

In this constitution:

- (a) headings are for convenience of reference only and do not affect interpretation;

- (b) a reference to the Listing Rules or the Electronic Business Rules is to have effect if, and only if, at the relevant time, the Company is Listed and is otherwise to be disregarded; and
- (c) if the provisions of the Act and either or both the Listing Rules and the Electronic Business Rules conflict on the same matter, the provisions of the Act, insofar as they apply to the Company, prevail.

1.4 Voting entitlements and the Specified Time

To determine, for the purposes of a particular meeting of Shareholders, the persons who are Shareholders and the numbers of Shares held by each Shareholder, the Company must have regard only to the position disclosed by the Register at the Specified Time for the meeting.

2. SHARES

2.1 Control of Board

Subject to the Listing Rules, the Board may issue or grant options over or otherwise dispose of Shares in the Company to the persons, on the terms and conditions, with the rights and privileges (including, without limitation, different classes of Shares and Shares which rank equally with, or in priority to, existing Shares), and at the times that the Board determines.

2.2 Preference and redeemable preference Shares

Subject to the Listing Rules, the Company may issue any Shares as preference shares or otherwise and which are redeemable:

- (a) at the option of the Company; or
- (b) at the option of the holder of the Share; or
- (c) on a date determined by the Board;

for a consideration that is:

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

and without limiting the preceding powers the Company may issue preference shares in accordance with terms of Schedule 1.

2.3 No pre-emptive rights

Section 45 shall not apply to the issue of Shares by the Company unless the terms of issue of any Shares otherwise provide.

2.4 Applications for Shares

Where the Company receives an application for Shares signed, or otherwise given to the Company in accordance with the Company's instructions, by or on behalf of the applicant and the Company issues Shares to the applicant as a consequence, the application is to be treated as:

- (a) an agreement by the applicant to accept those Shares;
- (b) a request by the applicant for the Company to place the applicant's name in the Register in respect of those Shares; and
- (c) an agreement by the applicant that this constitution binds the applicant.

2.5 Payment for Shares by instalments

Where a Share is issued on terms that all or any of the amount payable as the issue price of that Share is payable by instalments, the person who is the Shareholder in respect of that Share at the time each instalment is due must pay that instalment.

2.6 Buy backs of Shares

Subject to the Listing Rules and the Electronic Business Rules the Company is authorised to:

- (a) agree to purchase or otherwise acquire any of its own Shares from one or more Shareholders; and
- (b) redeem any redeemable Shares.

3. CERTIFICATES

3.1 Certificates of title

The Company must:

- (a) issue certificates of title to securities of the Company; and
- (b) ensure that those certificates are,

in accordance with the Act and the Listing Rules.

3.2 Entitlement of Shareholder to certificate

Except as provided by clause 3.4, a Shareholder is entitled without charge to one certificate for the securities of the Company of each class registered in the Shareholder's sole name or to several certificates each for a reasonable part of those securities.

3.3 Certificate not required

Notwithstanding any other provision of this constitution:

- (a) the Company need not issue a certificate, and may cancel any certificate without issuing a certificate in substitution, in respect of any security of the Company where:
 - (i) the Company is Listed and the Listing Rules and the Electronic Business Rules permit the Company not to issue that certificate; and
 - (ii) there is in force an exemption pursuant to section 77 of the Act which entitles the Company to dispense with those requirements of the Act which require the issue of a certificate; and
- (b) where paragraph (a) applies, any reference to a certificate in this constitution is to be disregarded in relation to that security.

3.4 Certificate for joint holders

Where two or more persons hold any securities of the Company, the Company is only required to issue the same number of certificates as if those securities were held by one person and delivery of a certificate so issued to any of those persons is sufficient delivery to all of them.

3.5 Replacement of lost certificates

Where a certificate is lost or destroyed, the Company may issue a duplicate certificate in accordance with the Act and the Listing Rules.

3.6 Replacement of worn out certificates

Where a certificate is defaced or worn out and is produced to the Company and the Company is paid a reasonable fee determined by the Board, the Company may cancel that certificate and issue a new certificate in substitution.

4. REGISTER

4.1 Joint holders

If two or more persons are the holders of a Share, the person whose name first appears in the Register in respect of that Share is to be treated as the sole owner of the Share in relation to all matters concerning the Company (including the giving of notice) except in relation to the transfer of the Share, right to vote, receipt of Dividends, delivery of certificates and liability for instalments or calls.

4.2 Recognition of trusts

Except as required by law or by this constitution, the Company must treat the person whose name appears in the Register in respect of a Share as the absolute owner of that Share and, accordingly, the Company is not bound to recognise (whether or not it has notice):

- (a) that a person holds any Share on trust; or
- (b) any equitable, contingent, future or partial interest in, or unit of, any Share.

4.3 Additional Registers

If the Company is Listed the Register may be divided into two or more registers kept at different places as determined from time to time by the Board.

5. CALLS ON SHARES

5.1 Calls made by Board

Subject to the Listing Rules and the terms of issue of a Share, the Board may make calls on a Shareholder in respect of any or all of the amount unpaid on the Share held by that Shareholder unless and to the extent that the terms of issue of the Share make that amount payable at fixed times.

5.2 Terms of call

The Board may do either or both of the following, except where the Listing Rules do not permit that thing to be done:

- (a) make a call payable by instalments; and
- (b) revoke or postpone any call.

5.3 Time of call

Each call is treated as having been made at the time the Board resolves to make the call.

5.4 Payment of call

A Shareholder subject to a call must pay the amount the subject of the call at the time and place specified in a notice given by the Company to the Shareholder at least:

- (a) if the Company is not Listed, 10 Business Days; or
- (b) if the Company is Listed, the minimum number of Business Days specified by the Listing Rules,

before the time specified for payment.

5.5 Form of notice

If the Company is Listed, the notice given by the Company under clause 5.4 must comply with the Listing Rules as to its form and content.

5.6 Remedies for unpaid call

In addition to all other remedies of the Company, for as long as the amount in respect of a call in relation to a Share is due and payable and not paid, the Shareholder, in respect of that Share, has no right to:

- (a) receive any Dividend; or
- (b) be counted among the quorum for, or vote, whether in person or by proxy, attorney or representative, at a meeting of the Shareholders of the Company.

5.7 Joint holders' liability

The joint holders of a Share are liable jointly and severally to pay any calls made in respect of the Share.

5.8 Differences in terms of issue

The Board may, on the issue of Shares, make different arrangements with the holders of those Shares as to the amount, and times for payment, of calls in respect of those Shares.

5.9 Fixed payments

If the terms of issue of a Share provide for any amount to be payable at a fixed time:

- (a) that amount is payable at that time as if a call had been duly made in respect of it under clauses 5.1 to 5.5 specifying that time as the time for payment of a call for that amount; and

- (b) all the other provisions of this constitution in respect of calls apply (modified as necessary) on that basis and **call** in this constitution is to be interpreted accordingly.

5.10 Payment of Money Due

If an amount payable in respect of a call is not paid on or before the day specified for its payment, the person from whom that amount is due must pay the Money Due in respect of that call.

5.11 Waiver of interest or expenses

The Board may waive the payment of all or any part of the Money Due in respect of a call which relates to interest and other costs and expenses.

5.12 Proof of call

If on the trial or hearing of an action for the recovery of the Money Due for a call it is proved that:

- (a) the books of the Company duly record the resolution of the Board making the call;
- (b) the Shareholder sued appears in the Register as a holder of the Share in respect of which the call was made; and
- (c) notice of the call was given to that Shareholder in accordance with this constitution,

proof of those matters is sufficient and conclusive proof of the debt without it being necessary to prove any other matter (including, without limitation, the appointment of the Directors).

5.13 Prepayment of calls

The Board may:

- (a) accept from a Shareholder a sum representing all or a part of any amount unpaid in respect of a Share although no part of that amount is then the subject of a call;
- (b) authorise the payment by the Company of interest on any sum so accepted, until that sum becomes payable, at any rate not exceeding the Prescribed Rate agreed between the Board and the Shareholder; and
- (c) except where otherwise agreed between the Shareholder and the Company, repay the sum or any part of it,

but payment and acceptance of that sum does not confer any right to participate in profits and must not be considered in ascertaining the amounts of Dividend or surplus in a winding up or distribution attributable to that Share.

6. FORFEITURE OF SHARES

6.1 Forfeiture notice

If an amount payable in respect of a call is not paid on or before the day specified for its payment, the Board may at any time until the amount (including interest and other costs and expenses incurred by the Company by reason of the non-payment) is paid give the relevant Shareholder a notice which:

- (a) requires the Shareholder to pay the Money Due;

- (b) specifies a date (which is at least 10 Business Days after the date of the notice) by which and a place at which payment of the Money Due must be made; and
- (c) states that if payment is not made on or before the date and at the place specified, the Share to which the call relates is liable to be forfeited.

6.2 Forfeiture

If the requirements of a notice given under clause 6.1 are not satisfied, the Share in respect of which the notice was given may, at any time after the date specified in clause 6.1(b) and before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.

6.3 Forfeiture includes undistributed Dividends

Forfeiture of a Share under clause 6.2 includes all Dividends declared in respect of the forfeited Share but not actually distributed before forfeiture.

6.4 Notice of forfeiture

Where a Share is forfeited under clause 6.2, the Company must promptly give notice of the forfeiture to the Shareholder holding the Share immediately before the resolution of the Board for its forfeiture was passed, and the Company must promptly enter the forfeiture (together with its date) in the Register.

6.5 Forfeited Shares are the property of the Company

A Share forfeited under clause 6.2 immediately becomes the property of the Company and the Board may sell, re-allot or otherwise dispose of that Share on the terms and conditions, subject to the Listing Rules, it determines.

6.6 Cancellation of forfeiture

The Board may cancel the forfeiture of a Share under clause 6.2 on any terms and conditions it determines at any time before it disposes of that Share under clause 6.5.

6.7 Surrender as forfeiture

Where the Board is entitled to forfeit a Share under clause 6.2, it may accept the surrender of that Share on any terms and conditions it determines and a Share so surrendered may be disposed of in the same way as a Share forfeited under clause 6.2.

6.8 Effect of forfeiture

A person who held a Share which has been forfeited under clause 6.2 ceases to be a Shareholder in respect of the forfeited Share, but remains liable to pay to the Company the Money Due and this liability only ceases when the Company receives payment of all the Money Due.

6.9 Board may waive

Subject to the Listing Rules, the Board may elect not to enforce payment, in whole or in part, of amounts owing to the Company under clause 6.8.

6.10 Evidence of forfeiture

As against all persons claiming to be entitled to a Share, a written statement declaring that the person making the statement is a Director or Secretary and that the Share was forfeited on a date specified in the statement in accordance with this constitution is

conclusive evidence of the facts set out in the statement and of the right of the Company to dispose of the Share.

6.11 Transfer of forfeited Shares

The Company may do any thing (and execute any document) to transfer a Share forfeited under clause 6.2 to a person to whom it is sold, re-allotted or disposed of and may receive the consideration provided for that Share and register the transferee as the holder of the Share.

6.12 Application of proceeds

The Company must:

- (a) apply the net proceeds of any sale, re-allotment or disposal of a Share under clause 6.5 or clause 6.7 (after payment of all costs and expenses incurred) in or towards payment or satisfaction of the Money Due; and
- (b) pay any residue to the person liable referred to in clause 6.8 or as that person directs.

6.13 Title of transferee

Where a Share is transferred under clause 6.11, the title of the transferee is not affected by any irregularity or invalidity relating to the forfeiture or the sale, re-allotment or disposal of the Share and the remedy of any person is solely in damages and only against the Company.

6.14 Market Transfer following forfeiture

Where a transfer following sale of any Shares after forfeiture is effected by a Market Transfer, the Company may do all things necessary or desirable for it to do under the Electronic Business Rules in relation to that transfer.

7. LIEN

7.1 Lien for calls

The Company has at any time a first and paramount lien on each Share for all money:

- (a) for a call in respect of that Share which is then due but unpaid; or
- (b) owed by any person to the Company in respect of the acquisition of the Share under an employee incentive scheme (as that term is defined in the Listing Rules); or
- (c) payable by the Shareholder under clause 7.3 to the extent that the Company has made a payment in respect of a liability or a requirement referred to in that clause.

7.2 Lien for Shareholder's debts

Except where the Company is Listed and to the extent that the Listing Rules do not allow the Company to have the lien described in this clause 7.2, the Company has, in addition to the lien described in clause 7.1, a first and paramount lien on each Share registered in a Shareholder's name in respect of all money owed to the Company by the Shareholder.

7.3 Lien on payments required to be made by the Company

Where at any time the law of any jurisdiction imposes or purports to impose any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, on account of a Shareholder or referable to a Share held by that Shareholder (whether alone or jointly) or a Dividend declared in respect of a Share held by that Shareholder, the Company:

- (a) is fully indemnified by that Shareholder from that liability;
- (b) may recover as a debt due from the Shareholder the amount of that liability together with interest at the Prescribed Rate from the date of payment by the Company (if the payment is made) to the date of repayment by the Shareholder; and
- (c) if to do so is not contrary to the Act, the Listing Rules or the Electronic Business Rules, may refuse to register a transfer of any Share by that Shareholder until the amount of that liability has been paid to the Company,

and nothing in this clause in any way prejudices or affects any right or remedy which the Company may have (including, without limitation, any right of set-off) and, as between the Company and the Shareholder, any such right or remedy is enforceable by the Company.

7.4 Extent of lien

The liens described in clauses 7.1 and 7.2 extend to all Dividends (if any) payable in respect of the Share and to the proceeds of sale of the Share.

7.5 Waiver by Board

The Board may, at any time, exempt a Share from the provisions of clauses 7.1 and 7.2 to the extent and on any terms and conditions that it determines.

7.6 Sale under lien

Where:

- (a) the Company has a lien on a Share;
- (b) the sum in respect of which the lien exists is presently payable;
- (c) the Company has given notice to the Shareholder registered in respect of the Share:
 - (i) requiring payment of the amount which is presently payable in respect of which the lien exists; and
 - (ii) specifying a date (which is at least 10 Business Days after the date of the notice) by which and a place at which payment of the amount must be made; and
- (d) the requirements of the notice given under paragraph (c) are not fulfilled,

the Company may sell the Share as if it had been forfeited under clause 6.2 and the provisions of clauses 6.5 to 6.13 apply as if the Shareholder's Liability were the Money Due.

7.7 Protection of lien

The Company may do anything necessary or desirable for it to do under the Electronic Business Rules to protect any lien, charge or other right to which it is entitled under any law or under this constitution.

8. ALTERATION OF CAPITAL, SHARES AND RIGHTS

8.1 Alteration of capital

Subject to the Listing Rules, the Company may from time to time do any or all of the following:

- (a) consolidate and divide all or any of its share capital into Shares of a larger amount than its existing Shares; and
- (b) sub-divide its Shares or any of them but so that, in the sub-division, the proportion between the amount paid and the amount (if any) unpaid on each Share of a smaller amount is the same as it was in the case of the Share from which the Share of a smaller amount is derived.

8.2 Additional rights

Where the Company passes an ordinary resolution under either clause 8.1(a) or clause 8.1(b), the Company may also by special resolution determine that, as between the Shares resulting from the consolidation, division or sub-division, one or more of those Shares has some preference or special advantage as regards Dividends, capital, voting or otherwise over or compared with one or more others.

8.3 Variation of rights

If at any time the Shares are divided into different classes, the rights attached to any class of Shares (unless the terms of issue of that class otherwise provide) may only be varied or abrogated with either:

- (a) the consent in writing of the holders of 75 per cent of the issued Shares of that class; or
- (b) the sanction of a special resolution passed at a separate meeting of the holders of Shares of that class,

and, for the purposes of this clause, the following provisions apply:

- (c) in relation to any separate meeting of the holders of Shares in a class, the provisions of this constitution which relate to meetings of Shareholders apply as far as they are capable of application and changed as necessary except that any holder of Shares of that class present in person or by proxy, attorney or representative may demand a poll and a quorum shall be one natural person who is, or represents under clause 12.1, the holder of a Share of that class;
- (d) if the Board determines, one meeting may be held of holders constituting more than one class so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of holders of Shares of each class; and
- (e) the rights attached to a class of Shares are not to be considered as varied if further Shares of that class are issued on identical terms except if the terms of issue of that class of Shares otherwise provide.

8.4 Adjustments

The Board may do anything which it considers desirable to give effect to any resolution or other action authorising or effecting the alteration of the share capital of the Company or the variation or abrogation of rights attaching to any class of Shares or to adjust the rights of all parties and, in particular, may (without limitation):

- (a) round or disregard any fraction of Shares or any fractional entitlement;
- (b) sell fractions of Shares or fractional entitlements and distribute the proceeds of sale; and
- (c) determine that as between the holders of Shares or other entitlements one or more of them has a preference or special advantage as regards dividend, capital, voting or otherwise.

9. TRANSFER OF SHARES

9.1 Modes of transfer

Subject to this constitution, a Shareholder may transfer all or any of the Shareholder's Shares:

- (a) if there is in force an exemption pursuant to section 77 of the Act which entitles the Company to dispense with the requirements of the Act which would preclude a Market Transfer, by a Market Transfer in accordance with any computerised or electronic system established or recognised by the Listing Rules for the purpose of facilitating transfers in shares (including a transfer that takes effect pursuant to the Electronic Business Rules or some other computerised or electronic transfer process); or
- (b) by instrument in writing which is in a form approved by the Exchange or the Board or is in any other usual or common form.

9.2 Market Transfer

Where the exemption referred to in clause 9.1(a) is in force and a Shareholder seeks to transfer all or any of the Shareholder's Shares by a Market Transfer, the Company must comply with any obligations which are imposed on it by the Listing Rules and the Electronic Business Rules in connection with that transfer of Shares.

9.3 Transfer by instrument

Where a Shareholder seeks to transfer all or any of the Shareholder's Shares in accordance with clause 9.1(b), the Company may only register a transfer of Shares where an instrument satisfying clause 9.1(b) is delivered to the Company (including, for this purpose, an agent of the Company) and the instrument:

- (a) is duly stamped, if necessary;
- (b) is executed by the transferor and the transferee, except where a law provides that execution by either or both transferor and transferee is not required or is deemed to be present;
- (c) except where otherwise permitted by law, is accompanied by the certificate for the Shares the subject of the transfer together with such other evidence as the Board may require to prove the title of the transferor or the transferor's right to transfer the Shares; and

(d) relates only to Shares of one class.

9.4 Free registration

Except as provided in clauses 9.5, 9.6 and 28.1 or in the terms of issue of a Share the subject of an instrument of transfer, the Board must register each transfer of Shares which complies with clauses 9.1(b) and 9.3 and do so without charging a fee.

9.5 Restrictions on transfer

The Board may refuse or delay registration of any transfer of Shares where the Listing Rules or the Electronic Business Rules permit and must do so if the transfer of Shares would be in contravention of the law, the Listing Rules or the Electronic Business Rules provided that in exercising its powers under this clause 9.5 the resolution of the Board sets out in full the reasons for doing so.

9.6 Notification of refusal to register

Where the Board refuses or delays registration of any transfer the Company must give notice in accordance with the Act and where the Company is Listed in accordance with the Listing Rules and Electronic Business Rules.

9.7 Transferor remains Shareholder

The transferor of a Share remains the Shareholder in respect of that Share until:

- (a) in the case of a Market Transfer, the time the Electronic Business Rules provides that the transfer takes effect; and
- (b) otherwise, the transfer is registered and the name of the transferee is entered in the Register in respect of that Share.

9.8 Retention of instruments

On an instrument of transfer or a purported instrument of transfer being delivered to the Company, property to and title in that instrument (but not the Shares the subject of it) pass to the Company which is entitled as against all persons to the possession of the instrument.

9.9 Non-interference with Market Transfers

Notwithstanding any other provision of this constitution, the Board may not prevent, delay or interfere with, the registration of a Market Transfer under clause 9.2 or a valid transfer under clause 9.3 where to do so would be contrary to any provision of the Listing Rules or the Electronic Business Rules.

9.10 Powers of attorney

Where a power of attorney granted by a Shareholder is lodged with, or produced or exhibited to, the Company and that power of attorney confers power on the attorney to transfer any or all of the Shareholder's Shares, the Company is entitled to assume, as against the Shareholder, that the power remains in full force and effect and may be relied on by the Company until the Company receives express notice in writing at its registered office of either:

- (a) the revocation of the power of attorney; or
- (b) the death of the Shareholder.

9.11 Unmarketable Parcels

If a Shareholders holds an Unmarketable Parcel of Shares, the provisions of Schedule 2 apply to those Shares.

9.12 Participation in electronic dealing system

Where there is in force an exemption pursuant to section 77 of the Act which enables the Company to do so, the Company may participate, and the Board may do anything permitted by the Listing Rules and the Electronic Business Rules it considers necessary or desirable in connection with the participation of the Company, in any computerised or electronic system established or recognised by the Listing Rules for the purpose of facilitating dealings in shares.

10. TRANSMISSION OF SHARES

10.1 Transmission generally

Except to the extent provided in clause 10.2, and subject to sections 73 and 74 of the Act, if a Shareholder either dies or becomes bankrupt:

- (a) the only person that the Company may recognise as having any title to or interest in a Share held by that Shareholder is where the Shareholder dies, the personal representative or, where the Shareholder becomes bankrupt, the trustee of the Shareholder's estate in bankruptcy (in either case, the **representative**);
- (b) if the representative produces the evidence required from time to time by the Board, the representative may elect to be, or to have a person nominated by the representative, registered as the holder of the Share;
- (c) if the representative elects to be registered as the holder of the Share, the representative must give to the Company a notice in writing signed by the representative stating that election;
- (d) if the representative elects to have a person nominated by the representative registered as the holder of the Share, the representative must indicate that election by executing and giving to the Company an instrument of transfer of the Share to that person;
- (e) the provisions of this constitution concerning the right to transfer a Share and the registration of the transfer of the Share apply to a Share the subject of a notice given under clause 10.1(c) and an instrument given under clause 10.1(d) as if the Shareholder had not died or become bankrupt and the notice or instrument were an instrument of transfer complying with clause 9.1 signed by the Shareholder; and
- (f) the representative is entitled to the same Dividends and other advantages and rights as the Shareholder would have been entitled to if the Shareholder had not died or become bankrupt.

10.2 Joint holders' transmission

If a Shareholder who holds a Share jointly with another Shareholder dies:

- (a) the only person that the Company may recognise as having any title to or interest in the Share is the surviving joint holder;

- (b) if the surviving joint holder produces the evidence required from time to time by the Board of the death of the Shareholder, the Board must direct the Register to be altered accordingly; and
- (c) the surviving joint holder is entitled to the same Dividends and other advantages and rights as the deceased Shareholder would have been entitled to if the deceased Shareholder had not died.

10.3 Market Transfers not affected

In the case of a Market Transfer, if permitted pursuant to clause 9.1, the provisions of this clause 10 are subject to any obligation imposed on the Company, or the person entitled to the relevant Shares on the death or in the bankruptcy of the Shareholder, by the Listing Rules, the Electronic Business Rules or any law.

11. MEETINGS OF SHAREHOLDERS

11.1 Methods of holding meetings

A meeting of Shareholders may be held either:

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

11.2 Annual Meeting

Except as provided by the Act, the Company must, in addition to any other meeting held by it, hold an annual meeting in accordance with the Act.

11.3 Convening of special meeting

The Board may convene a special meeting of the Company at any time.

11.4 Requisition of special meeting

Shareholders may requisition the holding of a special meeting as provided by section 102(b).

11.5 Notice of meeting of Shareholders

Written notice of the date, time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting and to every Director and an Auditor of the Company not less than 14 days before the meeting.

11.6 Contents of notice

The notice shall:

- (a) state the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it;
- (b) include the text of any special resolution to be submitted to the meeting; and

- (c) if required by the Listing Rules, include a form of proxy which:
 - (i) provides for the shareholder to vote for or against each resolution;
 - (ii) allows the Shareholder to appoint a proxy of the Shareholder's choice; and
 - (iii) may provide who is to be appointed as proxy if the Shareholder does not choose.

11.7 Waiver of irregularity in notice

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

11.8 Omission to give notice

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.

11.9 Cancellation or postponement of special meeting

Where notice of a special meeting of Shareholders has been given, the Board may by notice given to all persons entitled to be given notice of the meeting, postpone or cancel the meeting.

11.10 Adjournment of meeting

The chairman of a meeting of Shareholders at which a quorum is present:

- (a) may with the consent of the meeting by ordinary resolution; and
- (b) must, if so directed by the meeting by ordinary resolution, adjourn the meeting from time to time and from place to place.

11.11 Business at adjourned meeting

The only business which an adjourned meeting of Shareholders may deal with is business which was left unfinished from the meeting which was adjourned.

11.12 Notice of adjourned meeting

Where a meeting of Shareholders is adjourned for less than one month, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned.

12. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

12.1 Representation of Shareholders

A Shareholder may attend a meeting of Shareholders at which the Shareholder is entitled to be present in any of the following ways (if applicable to the Shareholder):

- (a) in person;
- (b) by proxy;
- (c) by attorney; or

- (d) in the case of a Shareholder which is a body corporate, by a representative appointed in respect of the meeting under clause 13.11.

12.2 Quorum

Subject to clause 12.3 no business may be transacted at a meeting of Shareholders unless a quorum of five natural persons each of whom is, or represents under clause 12.1 a Shareholder, are present for that business.

12.3 Failure of quorum

Where 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 102(b) and clause 11.4 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, where, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

12.4 Chairman

The Chairman (if any) is or, if the Chairman is absent or is unwilling or unable to be the chairman of a meeting of Shareholders, the Deputy Chairman (if any) is, if willing and able, to be the chairman of any meeting of Shareholders.

12.5 Chairman absent

Where a meeting of Shareholders is held and either no person specified in clause 12.4 is present within 15 minutes of the time notified for the meeting or that person is present but is unwilling or unable to be the chairman of the meeting:

- (a) the Directors present may elect one of their number to be the chairman of the meeting; and
- (b) if there is no Director present or if no Director present at the meeting is able and willing to be the chairman of the meeting, the Voting Shareholders present must elect one of their number to be the chairman of the meeting.

12.6 Chairman disqualified

If the chairman of a meeting of Shareholders is unwilling or unable to be the chairman for any part of the business of the meeting:

- (a) the chairman may withdraw as chairman for that part of the business and may nominate any person who would be entitled under clauses 12.4 or 12.5 to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the person so nominated must cease to chair the meeting and the chairman resumes as the chairman of the meeting.

12.7 Responsibilities of chairman

The chairman of a meeting of Shareholders:

- (a) shall allow a reasonable opportunity for Shareholders of the meeting to question, discuss and comment on the management of the Company as required by section 90(1); and

- (b) subject to paragraph (a) of this clause and Schedule 2(12) of the Act, is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning the business transacted at it and for these purposes may, without limitation:
 - (i) prescribe procedures and make rulings, in each case finally and conclusively;
 - (ii) in addition to other powers to adjourn, adjourn the meeting or any item of business of the meeting without the concurrence of the meeting if the chairman determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
 - (iii) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

12.8 Method of voting

In the case of a meeting of Shareholders held under clause 11.1(a) unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairman of the meeting:

- (a) voting by voice; or
- (b) voting by show of hands,

and in the case of a meeting of Shareholders held under clause 11.1(b) unless a poll is demanded, voting at the meeting shall be by the Shareholders signifying individually their assent or dissent by voice.

12.9 Declaration by chairman

A declaration by the chairman of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 12.10.

12.10 Demand for poll

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

- (a) not less than five Shareholders having the right to vote at the meeting; or
- (b) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting; or
- (c) by a Shareholder or Shareholders holding Shares in the Company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right.

12.11 Time for demanding a poll

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

12.12 Votes on a poll

Where a poll is taken, votes shall be counted according to the votes attached to the Shares of each Shareholder present in person or by proxy, attorney or representative and voting.

12.13 Authority of proxy etc on a poll

The instrument appointing a proxy, attorney or representative 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, attorney or representative for a Shareholder has the same effect as a demand by the Shareholder.

12.14 Effect and withdrawal of demand for poll

The demand for a poll:

- (a) does not prevent the continuance of a meeting of Shareholders for the transaction of any business except in respect of the resolution for which the poll is demanded; and
- (b) may be withdrawn.

12.15 Conduct of poll

If a poll is properly demanded for the voting on a resolution:

- (a) if the resolution is for the adjournment of the meeting of Shareholders, the poll must be taken immediately at the place and in the manner that the chairman of the meeting determines and declares to the meeting;
- (b) in all other cases, the poll must be taken at the time and place and in the manner that the chairman of the meeting of Shareholders determines and declares to the meeting; and
- (c) the result of the poll, as disclosed by the chairman of the meeting of Shareholders at which the result is declared, is a resolution of the meeting at which the poll is demanded.

12.16 Casting vote of chairman

If on a resolution proposed as an ordinary resolution at a meeting of Shareholders there is an equality of votes (whether on a show of hands or on a poll), the chairman of the meeting may exercise a casting vote in addition to all other votes which the chairman may have (unless the chairman is not entitled for some other reason to cast a vote on the resolution or if the chairman casts a vote where clause 12.17 requires that no account be taken of the vote, in either of which cases the resolution is not passed).

12.17 Voting restrictions

Where the Company is Listed and either:

- (a) in accordance with the requirements of the Listing Rules; or
- (b) to ensure that a resolution on which the Act requires that particular persons do not cast a vote so that the resolution has a specified effect under the Act,

the notice of a meeting of Shareholders specifies that, in relation to particular business to be considered at that meeting, votes cast by particular persons (whether specified by name or by description of particular classes of persons) are to be disregarded by the Company, the Company must take no account, in determining the votes cast on a resolution relating to that business (whether a special resolution or an ordinary resolution) or for any other purpose, of any vote cast or purported to be cast by or on behalf of any of those persons (whether on a show of hands or on a poll) in relation to that resolution.

12.18 Minutes to be kept

The Board shall ensure that minutes are kept of all proceedings at meetings of Shareholders.

12.19 Signed minutes

Minutes which have been signed correct by the Chairman of the meeting are prima facie evidence of the proceedings.

13. ENTITLEMENTS TO ATTEND AND VOTE

13.1 Entitlement to attend

Subject to this constitution (including, without limitation, clause 5.6) and any terms of issue of any Share, each Shareholder and each Director is entitled to notice of each meeting and to be present and to speak at that meeting.

13.2 Entitlement to vote

Subject to this constitution (including, without limitation, clause 5.6) and any terms of issue of any Share:

- (a) on voting by voice or a show of hands, each natural person present at a meeting of Shareholders who is a Voting Shareholder or a proxy (other than a person who is present only as one of two proxies appointed by the same Shareholder), representative or attorney appointed by a Voting Shareholder has one vote; and
- (b) on a poll, each natural person present at a meeting of Shareholders has the number of votes calculated as the aggregate of the following:
 - (i) the number of fully paid Shares held by the person;
 - (ii) the number of fully paid Shares in respect of which Voting Shareholders holding those Shares have appointed the person as proxy, representative or attorney;
 - (iii) in respect of the partly paid Shares held by the person, the aggregate of the fractions determined, in respect of each of those Shares, by dividing the total amount paid (not credited) on the Share by the total of the amounts paid and payable (excluding amounts credited) on the Share; and
 - (iv) the aggregate of the fractions determined on the same basis as paragraph (iii) above in respect of each partly paid Share in respect of which the Voting Shareholder holding that Share has appointed the person as proxy, representative or attorney

13.3 Votes of joint holders

Where two or more persons are registered as the holder of a share, the vote of the person named first in the Register and voting on a matter shall be accepted to the exclusion of the votes of the other joint holders.

13.4 Entitlement to vote by proxy etc

A Shareholder may exercise the right to vote either by being present in person or by proxy, attorney or representative.

13.5 Entitlement of proxy etc

A proxy, attorney or representative for a Shareholder is entitled to attend and be heard at a meeting of Shareholders as if the proxy, attorney or representative was the Shareholder.

13.6 Appointment of proxy

A proxy shall be appointed by notice in writing signed by the Shareholder, the notice shall state whether the appointment is for a particular meeting or a specified term not exceeding one year and the notice shall be in the form of Schedule 3 or in any other form that the Board may from time to time prescribe or accept.

13.7 Production of proxy etc

Any appointment of a proxy, attorney or representative is effective in respect of a particular meeting of Shareholders if, and only if, the following instruments are actually received (which includes receipt of a copy of those instruments by legible facsimile transmission) by the Company at its address for service or registered office (or another place notified by the Board) at least 48 hours before the time notified for that meeting:

- (a) in the case of a proxy, the instrument of proxy and, if it is executed by an attorney, the relevant power of attorney or an office copy or notarially certified copy of the power of attorney;
- (b) in the case of an attorney, the power of attorney or an office copy or notarially certified copy of the power of attorney; and
- (c) in the case of a representative of a body corporate, an instrument of appointment executed under the common seal of the body corporate and, if it is executed by an attorney, the relevant power of attorney or an office copy or notarially certified copy of the power of attorney executed under the common seal of the body corporate, or other evidence satisfactory to the Board.

13.8 Effect of incomplete proxy form

An instrument of proxy is not invalid or ineffective merely if any or all of the following applies:

- (a) it does not contain the address of the Shareholder giving it;
- (b) it does not contain the address of the person appointed by it;
- (c) it is not dated; and
- (d) it does not contain a direction to the appointee as to how to vote on any or all items of business.

13.9 Effect of the appointment

An instrument of proxy which is valid and effective except that it does not specify an appointee in respect of any of the Shares of the relevant Shareholder is to be treated as validly appointing the chairman of the meeting of Shareholders to which it relates in respect of all of the Shares of that Shareholder.

13.10 Proxy must vote as directed

Where a Shareholder in a valid instrument of proxy directs the appointee to vote in a specified way in respect of a particular item of business at the relevant meeting of Shareholders:

- (a) the appointee must cast or abstain from casting (as the case may be) a vote on that item of business; and
- (b) the appointee must, on a poll, cast the votes as to which a direction is given by the instrument of proxy in accordance with that direction,

but, if in respect of any vote in respect of that item of business, the Shareholder does not on the instrument of proxy indicate how the appointee is to cast that vote, the appointee may cast, or abstain from casting, that vote as the appointee determines.

13.11 Corporate bodies 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.

13.12 Multiple appointments

Where the Company has received an instrument of proxy in respect of a Share from a Shareholder the appointment made by that instrument is and remains valid and effective, except that where the Company subsequently receives:

- (a) a power of attorney or office copy or notarially certified copy of a power of attorney entitling the attorney to attend and vote at the meeting, the appointment is revoked;
- (b) intimation in writing either of the revocation of the appointment under the instrument of proxy or of the death of the Shareholder, the appointment is revoked; and
- (c) another instrument of proxy from the Shareholder in respect of that Share, the instrument of proxy bearing the later date (or if the instruments bear the same date, the instrument later received by the Company) is an intimation in writing of the revocation of the appointment under the other instrument.

13.13 Presence of Shareholder

If a Shareholder is present in person at a meeting of Shareholders and a person appointed by that Shareholder as proxy or attorney is also present at that meeting, that person may not exercise the rights conferred by the instrument of proxy or power of attorney while the Shareholder is present.

13.14 Ruling on entitlements and votes

An objection may be raised with the chairman of a meeting of Shareholders as to the qualification of a purported voter or the admission or rejection of a vote by any person present and entitled (or claiming to be entitled) to vote but that objection may be made only at the meeting of Shareholders or adjourned meeting at which the purported voter wishes to vote or the vote objected to is given or tendered and, in relation to that objection:

- (a) the decision of the chairman is final and conclusive; and
- (b) a vote not disallowed as a result is valid and effective for all purposes.

14. SHAREHOLDER PROPOSALS

14.1 Notice to the Board

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.

14.2 Notice to Shareholders at Company's expense

Where the notice is received by the Board not less than one month before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board shall, at the expense of the Company, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

14.3 Notice to Shareholders at proposing Shareholder's expense

Where the notice is received by the Board not less than seven days and not more than one month before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board shall, 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.

14.4 Late notice

Where the notice is received by the Board less than seven 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.

14.5 Proposing Shareholder's written statement

Where the Directors intend that Shareholders may vote on the proposal by proxy, they shall give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than 1,000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.

14.6 Defamatory statements etc

The Board is not required to include in or with the notice given by the Board a statement prepared by a Shareholder which the Directors consider to be defamatory, frivolous, or vexatious.

14.7 Deposit of costs

Where the costs of giving notice of the Shareholder proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder shall, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

15. DIRECTORS

15.1 Number of Directors

The number of the Directors (excluding Alternate Directors) must be not less than three nor (subject to clause 15.7) more than ten.

15.2 Continuing Directors

The Directors holding office at the date of adoption of this constitution continue in office subject to this constitution.

15.3 Compulsory retirement

At each Annual Meeting, the following Directors (other than each Alternate Director and the Managing Director) automatically retire and are eligible for re-appointment (and if not re-appointed, that retirement takes effect at the conclusion of that Annual Meeting):

- (a) any Director appointed to fill a casual vacancy by the Board since the previous Annual Meeting;
- (b) one third (or if that is not a whole number, the next lowest whole number nearest to one third) of the Directors who are not:
 - (i) to retire under paragraph (a);
 - (ii) the Managing Director; or
 - (iii) an Alternate Director,
 - (iv) selected in accordance with clause 15.4; and
- (c) any Director who, if that Director did not retire at that Annual Meeting, would at the next Annual Meeting, have held that office (since last being elected or re-elected) for more than three years.

15.4 Selection of rotating Directors

The Directors who retire by reason of clause 15.3(b) are those of the Directors the subject of that clause who have been in office (since last being elected or re-elected) the longest and, as between Directors who have been in office for an identical period, those to retire are (unless they otherwise agree among themselves) to be selected by lot.

15.5 Qualification of Directors

A Director need not be a Shareholder.

15.6 Appointment by Board

A simple majority of the full Board may at any time (except during the period from the opening to the closing of a meeting of Shareholders) appoint any person as a Director (but not as an Alternate Director) to fill a casual vacancy or as an addition to the Board but so that the number of those Directors does not at any time exceed the maximum number set under clause 15.1 and any Director so appointed automatically retires at the next meeting of Shareholders of the Company and is eligible for reappointment by that meeting (and if not reappointed that retirement takes effect at the conclusion of that meeting).

15.7 Number of Directors and additional Directors

The Company may from time to time by ordinary resolution do any or all of the following:

- (a) increase or reduce the maximum number of Directors (other than Alternate Directors) permitted under clause 15.1;
- (b) if there is a reduction or increase, determine the rotation by which the reduced or increased number are to retire; and

- (c) appoint any person to be an additional Director (otherwise than by appointing an Alternate Director).

15.8 Removal of Director

The Company may by ordinary resolution remove a Director (other than an Alternate Director).

15.9 Appointment at Annual Meeting

At any Annual Meeting at which a Director retires under clause 15.3, the Company may by ordinary resolution fill the office vacated by appointing a person as a Director.

15.10 Notice of nomination

Except in the case of a Director retiring under clause 15.3 or a person recommended for appointment by the Board, a person is only eligible to be appointed as a Director by ordinary resolution where the Company receives both:

- (a) a nomination of the person by a Shareholder; and
- (b) a consent to nomination signed by the person,

at its registered office at least 30 Business Days before the relevant meeting of Shareholders.

15.11 Vacation of office

The office of a Director automatically becomes vacant if the Director:

- (a) becomes a bankrupt;
- (b) is not permitted by the Act (or an order made under the Act) to be a Director;
- (c) becomes of unsound mind;
- (d) is the subject of a notice of objection given by the Bank of Papua New Guinea which notice:
 - (i) states that the Director is not a fit and proper person to hold office as such; and
 - (ii) has been served on the Company,or the Company is otherwise not permitted by law to appoint or continue with the appointment of the Director as a Director of the Company;
- (e) is removed as a Director under the Act or this constitution;
- (f) either personally or by an Alternate Director fails to attend three consecutive Board meetings without leave of absence from the Board; or
- (g) resigns by notice in writing in accordance with the Act.

16. DIRECTORS' REMUNERATION

16.1 Fees of Non-executive Directors

If the Company is Listed, the fees of the Directors (excluding any Executive Directors):

- (a) may not in any period of 12 months starting at the end of a financial year of the Company (a **year**) exceed in aggregate the amount last fixed before the end of that year for those fees by ordinary resolution (which, if the Listing Rules so require, must be a fixed sum);
- (b) are to be allocated to those Directors as determined by the Board (including those Directors), or, if there is no such determination in any year, equally between them; and
- (c) accrue from day to day.

16.2 Additional remuneration for extra services

If a Director having been requested to do so by the Board, either performs extra services or makes any special exertions for the Company (including, without limitation, going or living abroad), the Company may remunerate that Director by the payment of a fixed sum determined by the Board and that remuneration may be either in addition to or in substitution for any remuneration to which that Director may be entitled under clause 16.1.

16.3 Expenses of Directors

The Company must pay a Director (in addition to any other remuneration) all reasonable expenses including, without limitation, any travelling and accommodation expenses incurred by the Director:

- (a) in attending meetings of the Board or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out that Director's duties as a Director.

17. DIRECTORS' MATERIAL INTERESTS AND DUTIES

17.1 Definition of Material Interest

Material Interest means for the purposes of this clause 17, in relation to a Director, but subject to clause 17.6, any interest (other than an interest in relation to which the Act provides that a director is not, or is not to be taken to be, interested including, without limitation, an interest to which section 117(2) applies) which:

- (a) would result in the Director being "interested" for the purposes of section 117(1) of the Act; or
- (b) if the Company is Listed, is an interest as a result of which the Listing Rules require that the Director does not vote on a resolution of the Board.

17.2 Consequence of Material Interest

Where a Director who has a Material Interest acts as a Director in a matter involving that Material Interest and either:

- (a) the Director has not complied with the Act and in particular section 118; or

- (b) the Director has complied with the Act, and in particular section 118, and the Board has determined that the Director should not exercise a power in relation to the matter,

if the Director exercises or purports to exercise that power the Director is in breach of his duty to the Company.

17.3 Powers of Directors with Material Interest

Where:

- (a) a Director has a Material Interest;
- (b) the Director has complied with the Act and in particular section 118; and
- (c) the Listing Rules permit,

then, unless the Board otherwise determines, the Director may exercise any or all of the powers referred to in section 122.

17.4 Voting restrictions

Where the Board is considering whether a Director should not exercise any or all of the powers referred to in section 122, the Director may not cast any vote in relation to that determination and if the Director does purport to vote on that determination, that vote must be disregarded, but the Director, if present, may continue to be counted in the quorum for the Board meeting considering that determination unless the Act or the Listing Rules require that the Director not be present.

17.5 Director may hold office of Company

The Company may appoint a Director:

- (a) to hold any office in, or place of profit in respect of, the Company (except that of Auditor) on terms determined by the Board but not so that the remuneration payable to any Director who is an employee of the Company or a related company of the Company includes a commission on or percentage of operating revenue; or
- (b) alone or by a firm of which the Director is a member, to act in any professional capacity and the Director or that firm may be remunerated for so acting as if the Director were not a Director.

17.6 Application to Alternate Directors

The provisions of this clause 17 apply to the Material Interests of an Alternate Director, but an Alternate Director does not have a Material Interest solely by reason of the fact that the Director who has appointed the Alternate Director has a Material Interest and vice versa.

18. ALTERNATE DIRECTORS

18.1 Power to appoint Alternate Director

A Director (but not an Alternate Director) may from time to time in accordance with the procedures set out in clause 18.2 appoint any person eligible to be a Director to be the Alternate Director of the Appointor whether for a specified period or until the appointment is revoked.

18.2 Method of appointment

An Alternate Director is appointed as such where:

- (a) the Appointor gives notice in writing (including, without limitation, by facsimile transmission) to the Company in the form of Schedule 4 or in any other form that the Board may from time to time prescribe or accept; and
- (b) the Board (excluding the Appointor from voting) approves the person specified to be the Alternate Director of the Appointor.

18.3 Termination of appointment

The Appointor, at any time and regardless of whether the appointment is for a specified period, may revoke the appointment of a person as the Appointor's Alternate Director by notice in writing (including, without limitation, by facsimile transmission) to the Company to that effect and the appointment is automatically revoked if the Appointor ceases to be a Director (except where the Appointor retires as a Director at an Annual Meeting under clause 15.3 and is re-appointed as a Director at that Annual Meeting).

18.4 Entitlements of Alternate Director

An Alternate Director by reason of being appointed as such:

- (a) is not entitled to receive notice of meetings of the Board unless the Appointor has by notice in writing (including, without limitation, by facsimile transmission) to the Company required it to do so;
- (b) if the Appointor is not present at a meeting of the Board, may attend and vote at that meeting in place of the Appointor;
- (c) if also a Director, may vote both as a Director and as an Alternate Director;
- (d) and when acting as such, is an officer of the Company and not an agent of the Appointor and, in those circumstances, is subject to all the duties and has all the powers and rights of the Appointor as a Director; and
- (e) may not be remunerated except out of the remuneration which would otherwise be available to be paid to the Appointor and, in respect of that remuneration, the Alternate Director's only rights (if any) are against the Appointor and not the Company.

19. MANAGING DIRECTOR AND OTHER EXECUTIVE DIRECTORS

19.1 Appointment of Managing Director

The Board may from time to time appoint one of the Directors to be the Managing Director either for a fixed term (but not for life) or without fixing a term and on any terms and conditions that it determines.

19.2 Termination of appointment of Managing Director

The appointment of the Managing Director terminates if:

- (a) the Managing Director ceases for any reason to be a Director; or
- (b) the Board revokes the appointment (which this paragraph empowers it to do).

19.3 Retirement and removal of Managing Director

The Managing Director is not while holding that office:

- (a) subject to retirement by rotation under clause 15.3; nor
- (b) to be taken into account in determining the rotation of retirement of Directors or the number of Directors to retire.

19.4 Remuneration of Executive Directors

The Board may fix the remuneration of each Executive Director and that remuneration may comprise any or all of:

- (a) salary;
- (b) commission on profits or Dividends; or
- (c) participation in profits,

but if the Company is Listed (if the Listing Rules do not allow), must not include:

- (d) a commission on or percentage of operating revenue; or
- (e) Director's fees.

19.5 Powers of Executive Directors

Subject to the Act, and in particular section 111, the Board may, from time to time and upon any terms and conditions and subject to any restrictions that it considers appropriate:

- (a) confer on an Executive Director any or all of the powers of the Board (which powers may be conferred so as to be concurrent with, or to the exclusion of, the powers of the Board); and
- (b) withdraw or alter any of those powers.

20. POWERS OF THE BOARD

20.1 Powers generally

Except as otherwise required by the Act, in particular section 110, any other applicable law or another provision of this constitution:

- (a) the business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board; and
- (b) the Board has all the necessary powers for managing, and for directing and supervising the management of, the business and affairs of the Company,

to the exclusion of any meeting of Shareholders and the Shareholders.

20.2 Appointment of attorney

Subject to the Act, and in particular section 111, the Board by power of attorney may appoint any person to be an attorney of the Company for the purposes, with the powers (being powers of the Board), for the period and subject to the conditions determined by it.

20.3 Contents of power of attorney

A power of attorney under clause 20.2 may, without limitation:

- (a) contain any provisions for the protection and convenience of persons dealing with the attorney as the Board determines; and
- (b) authorise the attorney to delegate any or all of the powers vested in the attorney.

21. PROCEEDINGS OF THE BOARD

21.1 Mode of meeting

The Board may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means) which allows each person present to hear and be heard by each other person present, and adjourn and otherwise regulate its meetings as it determines.

21.2 Quorum

The Board may determine the quorum of Directors present at a meeting of the Board necessary for the transaction of business at the meeting:

- (a) which number, until otherwise determined, is a simple majority of the full Board; and
- (b) for the purposes of this clause and clauses 21.4 and 21.10, a Director is treated:
 - (i) as present at the meeting by telephone or other instantaneous means of conferring if the Director is able to hear the entire meeting and be heard by all others attending the meeting; and
 - (ii) as not being present at the meeting if that Director is not permitted to be present at it by the Act, the Listing Rules or clause 17.

21.3 Notice of meeting

Notice of each meeting of the Board:

- (a) must be given to each Director (and each Alternate Director in respect of whom the Appointor has given notice to the Company requiring notice to be given to that Alternate Director); and
- (b) may be given by telephone or facsimile message,

but the non-receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the meeting.

21.4 Place of meeting

Where the Board holds a meeting solely or partly by telephone or other instantaneous means of conferring, the meeting is to be treated as held at the place at which at least one of the Directors present at the meeting is physically located as is agreed by those Directors present at the meeting.

21.5 Period of notice

The Board may determine the period of notice (unless waived by a majority of the Directors to whom notice of a particular meeting is sent) for each meeting of the Board which, until otherwise determined, is 24 hours.

21.6 Convening of Board meeting

A Director may at any time, and the Secretary must on request from a Director, convene a meeting of the Board.

21.7 Appointment of Chairman

The Board may elect one of the Directors to be Chairman and may elect another to be Deputy Chairman and may determine the period for which each of those Directors is to hold that office.

21.8 Chairman of Board meetings

Where the Board holds a meeting and:

- (a) has not appointed a Chairman under clause 21.7 or the Chairman is not present within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act; and
- (b) has not appointed a Deputy Chairman under clause 21.7 or the Deputy Chairman is not present within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act,

the Directors present at the meeting may choose one of their number to be chairman of that meeting.

21.9 Majority decisions

Every question and resolution dealt with at a meeting of the Board is to be decided by a majority of votes of the Directors who are entitled to be present and to vote and who vote on the question or resolution.

21.10 Votes of Directors

Subject to this constitution:

- (a) each Director (other than a person who is only a Director by reason of being an Alternate Director) present at a meeting of the Board has one vote on every question or resolution at that meeting;
- (b) each Alternate Director entitled to be present and to vote at the meeting has one vote for each Appointor in respect of which the Alternate Director is present which, in the case of an Alternate Director who is also a Director to whom paragraph (a) applies, is to be in addition to the vote conferred on that Director by paragraph (a);
- (c) subject to paragraph (d), if there is an equality of votes on any question or resolution, the chairman of the meeting, if entitled to vote on the question or resolution, may exercise a casting vote in addition to any other vote the chairman may have; and
- (d) if the Company is Listed and the Listing Rules so require, where the Board determines under clause 21.2 that the number of Directors who constitute a quorum is two, the chairman of the meeting at which only two Directors are present,

or at which only two Directors are entitled to vote on a question or resolution put at that meeting, does not have a casting vote.

21.11 Exercise of powers by Board

A power of the Board, unless it has been conferred exclusively under clause 19.5 or delegated exclusively to a committee of the Board under clause 21.12, is exercisable only:

- (a) by resolution at a meeting of the Board at which a quorum is present; or
- (b) by a resolution of the Directors under clause 21.14.

21.12 Delegation to committee

Subject to the Act, and in particular to section 111, the Board may delegate any of its powers (which powers may be delegated so as to be concurrent with, or to the exclusion of, the powers of the Board) to a committee consisting of at least one Director, and which may also include any other persons, determined by the Board.

21.13 Committee powers and meetings

Where the Board has appointed a committee under clause 21.12:

- (a) that committee must exercise the powers delegated to it under clause 21.12 in accordance with any directions of the Board;
- (b) a power so delegated when exercised by the committee in accordance with clause 21.13(a) is treated as exercised by the Board;
- (c) the members of the committee may elect a chairman from among the members;
- (d) where a committee holds a meeting and:
 - (i) has not elected a chairman under clause 21.13(c); or
 - (ii) the chairman so elected is not present at the meeting within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act,

the members of the committee present at the meeting may choose one of their number to be chairman of the meeting;
- (e) the committee may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means) and adjourn and otherwise regulate its meetings as it may determine; and
- (f) the committee meetings are otherwise governed to the greatest extent practicable by the provisions of this constitution which regulate the meetings and procedures of the Board.

21.14 Written resolution of Directors

If all the Directors entitled to receive notice of a meeting of the Board and to vote on a resolution sign a document to the effect that they support the resolution (the terms of which are set out in the document), a resolution in those terms is for all purposes treated as having been passed at a duly convened meeting of the Board held on the date and at the time when the last Director signed the document.

21.15 Several documents suffice

For the purpose of clause 21.14:

- (a) two or more separate documents in identical terms each of which is signed by one or more Directors are treated as one document;
- (b) the signature by an Alternate Director of a document is not required if the Appointor of that Alternate Director has signed the document;
- (c) the signature by the Appointor of an Alternate Director of a document is not required if that Alternate Director has signed the document; and
- (d) a telex, telegram or facsimile message containing the text of the document expressed to have been signed by a Director and sent to the Company is a document signed by that Director at the time of its receipt by the Company.

21.16 Validity of acts of Directors

Each resolution passed or act or thing performed or done by, or with the participation of, a person acting as a Director or member of a committee in respect of whom it is later discovered there was some defect in appointment to, or continuation in, office of that person or that the person was disqualified or not entitled to perform, vote on or do, the resolution, act or thing, is as valid and effective as if that Director or member of committee had been validly appointed, had validly continued in office, had not been disqualified and was entitled so to perform, vote or do.

21.17 Other procedures

Except as provided in this clause 21, the Board may determine its own procedures.

21.18 Fourth Schedule not to apply

Except to the extent that any such provision may be expressly adopted in this constitution, the provisions of the Fourth Schedule to the Act shall not apply to proceedings of the Board.

22. SECRETARY

22.1 Appointment of Secretary

The Board may:

- (a) appoint any person to be a Secretary of the Company;
- (b) determine the term of appointment, powers, duties and remuneration of that person as a Secretary;
- (c) vary any determination so made; and
- (d) terminate or suspend any appointment of a person as a Secretary.

23. COMPANY ADMINISTRATION

23.1 Minutes to be made

The Board must cause minutes to be made of:

- (a) the names of the Directors present at each Board meeting;

- (b) the names of the committee members present at each meeting of a committee appointed under clause 21.12;
- (c) the proceedings and resolutions of each meeting of Shareholders;
- (d) the proceedings and resolutions of each Board meeting; and
- (e) the proceedings and resolutions of each meeting of a committee appointed under clause 21.12.

23.2 Minutes to be entered

The Board must cause all minutes made under clause 23.1 to be entered in the relevant minute book of the Company.

23.3 Signature of minutes

The minutes of a meeting made under clause 23.1, if appearing on their face to be signed by the chairman of the meeting or the chairman of the next succeeding meeting of the relevant body, are sufficient but (except where this constitution otherwise provides) not conclusive evidence without proof of any further facts of the matters stated in them.

23.4 Custody of Common Seal

The Board must provide for the safe custody of the Common Seal.

23.5 Use of Common Seal

The Common Seal may only be used with the authority of either:

- (a) the Board; or
- (b) a committee appointed under clause 21.12 empowered to authorise the use of the Common Seal.

23.6 Mode of execution by Common Seal

An instrument is validly executed under the Common Seal where the Common Seal is affixed to it in the presence of:

- (a) a Director; and
- (b) another person who is either a Director, Secretary or a person appointed by the Board for the purpose,

and each of those persons signs the instrument to attest the affixing of the Common Seal.

23.7 Official Seal

The Company may have, for use in any place outside Papua New Guinea a duplicate common seal (known as the Official Seal for that place) which shall be a facsimile of the Common Seal but with the addition on its face of the name of the place where it is to be used.

23.8 Authority to affix an Official Seal

The Company may by instrument under the Common Seal authorise any person either generally or in specified circumstances to affix the Official Seal for a particular place in that place to any instrument to which the Company is a party and determine any manner required for the affixing by that person of that Official Seal in that place.

23.9 Effect of Official Seal

Where an Official Seal is affixed to an instrument in the place to which it relates by a person authorised and in the circumstances authorised for that person under clause 23.8 in the manner described in clause 23.8 (if any), that instrument is to be treated for all purposes as having been validly executed under the Common Seal.

23.10 Execution of bills and cheques

All cheques, bills of exchange and other negotiable instruments, all orders for payment and all receipts for money paid to the Company, may only be signed for and on behalf of the Company in the manner (which may include the use of facsimile signatures) determined, and by the persons appointed for the purpose, by the Board from time to time.

24. DIVIDENDS AND OTHER DISTRIBUTIONS

24.1 Declaration of Dividends

Subject to the Act, and in particular section 50, the Board may authorise the distribution of a Dividend to be distributed to the Shareholders according to their respective rights and interests, determine the property to constitute the Dividend and fix the time for distribution.

24.2 No interest on Dividends

No Dividend (whether in money or otherwise) bears interest as against the Company.

24.3 Obligation to distribute

Where the Board declares a Dividend under clause 24.1 the obligation of the Company to make the distribution only arises where the Board fixes the time for distribution and that time has arrived and, if the Dividend is a distribution of money, no debt arises in respect of the Dividend until that time.

24.4 Payment of Dividend in specie

Without limiting clause 24.1 but subject to section 52, where the Board authorises the distribution of a Dividend by a distribution of money it may also decide that all or any part of that Dividend be paid and satisfied by the distribution of specific assets (including, without limitation, paid up shares or other securities of the Company or of any other body corporate).

24.5 Share plans generally

The Board may adopt and implement any number of plans on terms it determines by which a Shareholder may elect to receive Shares as, or instead of, Dividends.

24.6 Kinds of share plans

The plans which the Board may adopt and implement under clause 24.5 include (without limitation) plans under which future Dividends to be distributed as money to a Shareholder in respect of a Share is, if the Shareholder elects that the Share participate in the plan, retained by the Company and applied in subscribing for fully paid Shares until such time as the Member elects that the Share not participate in the plan.

24.7 Powers concerning share plans

The Board has all powers necessary or desirable to implement and carry out fully any plan adopted by it under clause 24.5 and may (without limitation):

- (a) amend the terms of any plan as it considers desirable; and
- (b) suspend for any period or terminate the operation of any plan as it considers desirable.

24.8 Apportionment for partly paid Shares

Where there are partly paid Shares in a class of Shares, each Dividend in respect of each Share must be distributed according to the amount paid up on that Share so that the Dividend to be distributed for a Share is (subject to clause 24.8) that calculated in accordance with the following formula:

$$D = \frac{T \times N}{C}$$

Where:

- D = the Dividend to be distributed;
- T = the total of the property to be distributed in respect of all Shares whose entitlement is determined by this clause **Error! Reference source not found. (Participating Shares)**;
- N = the aggregate of the amounts being, for every day in the period for which the Dividend is paid (**relevant period**), the fraction determined by dividing the greatest amount paid (not credited) on the Share by the total amounts paid or payable (excluding amounts credited) on the Share (**Numerator**); and
- C = the aggregate of the Numerators for all the Participating Shares.

24.9 Amounts paid on Shares

For the purposes of clause 24.8, amounts paid or credited as paid in advance of a call being made are not treated as having been paid up on the Share.

24.10 Deductions from Dividends

The Board may deduct from any Dividend which is a distribution of money payable to a Shareholder any money presently payable by the Shareholder to the Company in respect of which a lien then exists under clause 7.

24.11 Retention of Dividends

The Board may retain any Dividend in respect of which the Company has a lien and:

- (a) if the Dividend is a distribution of property other than money, realise that property so that it is represented by money; and
- (b) apply the Dividend in or towards the satisfaction of the debts or liabilities in respect of which the lien exists.

24.12 Settlement of difficulties

The Board may settle any difficulty that may arise in respect of any distribution under clauses 24.1 to 24.11 (inclusive) as it considers desirable to adjust the rights of all parties and, in particular, may (without limitation):

- (a) round or disregard any fractional entitlement;
- (b) set the value of each asset to be distributed;
- (c) determine that money to be paid to any Shareholder instead of a particular distribution;
- (d) vest any property in trustees for any Shareholder; and
- (d) appoint a person to execute as agent or attorney on behalf of each Shareholder entitled to a Dividend to be distributed otherwise than as money any instrument of transfer or other document necessary to vest in the Shareholder full legal and equitable title to the property the subject of the Dividend.

24.13 Entitlement to Dividend pending registration

Subject, in the case of a Market Transfer, to the Electronic Business Rules, the right to any Dividend declared on a Share does not pass until the transfer of that Share has been registered and the name of the transferee is entered in the Register.

24.14 Retention of transmittee's Dividends

The Company may retain any Dividend to be distributed in respect of a Share which is subject to clause 10.1 until the name of the person entitled to be registered under that clause is entered in the Register as the holder of that Share.

24.15 Joint holders' entitlement to Dividend

Where more than one person holds a Share, any one of those joint holders may give an effective receipt for any Dividend, in relation to that Share.

24.16 Payment of Dividends

Any Dividend distributed as money may be paid:

- (a) by cheque;
- (b) if the Board approves, by deposit to the credit of the Shareholder in an account with a bank or other financial institution nominated in writing by the Shareholder; or
- (c) in any other manner agreed by the Company and the Shareholder.

24.17 Notification of Dividends

Notification of any Dividend and the Dividend may be dispatched to the Shareholder through the post directed:

- (a) to the address of the Shareholder (or, in the case of a Share held by more than one person, the address of the first-named of those joint holders) as shown in the Register; or
- (b) to any other address that the Shareholder (or, in the case of a Share held by more than one person, all of those joint holders) directs in writing.

24.18 Unclaimed Dividend

All Dividends declared but unclaimed may:

- (a) in the case of Dividends not to be distributed as money, be realised into money; and

- (b) in any case, be invested for the benefit of the Company until claimed or until required to be dealt with under any applicable law dealing with unclaimed money.

25. NOTICES

25.1 Service

Any document required to be served by or on the Company may be served in accordance with the provisions of the Act.

25.2 Notices to joint holders

Where more than one person holds a Share, a notice required or permitted to be given to the holder of that Share is effectively given when given to the person whose name first appears in the Register in respect of that Share.

25.3 Notices when Shareholder dies

Any notice or document given in accordance with the Act, notwithstanding that the Share in respect of which it is given is then subject to clause 10.1, is to be treated as validly given to each person entitled to be registered in respect of the Share and all persons who claim through such person.

25.4 Binding on others

Any person entitled to a Share (whether by transfer, operation of law or otherwise) is to be treated as having duly received every notice in respect of that Share which was duly given to the person from whom that person derives that entitlement before the person entitled is entered in the Register as the holder of the Share.

25.5 Signature of notice

The signature to any notice given by the Company may be written or affixed in any way.

25.6 Certificate of Director or Secretary

If a Director or Secretary signs a certificate that a notice was given in the manner set out in the certificate, that certificate is prima facie evidence of the accuracy of the matters set out in it.

26. INSPECTION AND SECRECY

26.1 No right to inspect

No Shareholder is entitled to require discovery of, inspection of, or any information concerning the affairs of the Company, except as provided by the Act or as permitted by the Board.

26.2 Board may permit inspection

Subject to the Act, the Board may determine whether any of the books, accounts and other information of the Company is to be available for inspection by Shareholders and, if so, the extent, time, place and conditions of inspection so permitted.

26.3 Obligation of secrecy

Except for disclosure made (either confidentially or not as the Board considers appropriate) to the Exchange as required by the Listing Rules, every officer of the Company must:

- (a) keep strictly secret all transactions and affairs of, the accounts of and all information concerning the Company; and
- (b) if so required by the Board, sign a declaration accepting the obligation of secrecy and undertaking not to disclose any information within the officer's knowledge the subject of that obligation to any person, except in the proper course and performance of the officer's duties, as required by law or as required by the Board.

27. LIQUIDATION

27.1 Power of Board

The Board may authorise the making of an application by the Company for the appointment by the Court of a liquidator to the Company.

27.2 Distribution if insufficient assets

Subject to the terms of issue of a Share, if the Company is in liquidation and the assets available for distribution among the Shareholders (in that capacity) are insufficient to repay all the paid up capital, those assets will be distributed so that, to the greatest possible extent, the amount distributed to a Shareholder in respect of each Share is proportional to the amount paid up (or which at the commencement of the liquidation ought to have been paid up) on that Share compared with the total paid up capital of the Company.

27.3 Distribution of surplus assets

Subject to the terms of issue of a Share, if the Company is in liquidation and after distribution of assets to repay paid up capital there remain assets available for distribution to the Shareholders (in that capacity), those assets will be distributed so that, to the greatest possible extent, the amount distributed to a Shareholder in respect of each Share is equal.

28. MISCELLANEOUS

28.1 Restricted Securities

If the Company is Listed and has on issue any securities which are then restricted securities for the purposes of the Listing Rules (**Restricted Securities**) notwithstanding any other provision of this constitution:

- (a) the Restricted Securities may not be disposed of except as permitted by the Listing Rules or by POMSoX;
- (b) the Company must refuse to acknowledge a disposal of the Restricted Securities (including by registering a transfer of them) except as permitted by the Listing Rules or by POMSOX; and
- (c) if there is a breach of the Listing Rules in relation to restricted securities or of a restriction agreement in relation to any Restricted Securities (**defaulting restricted securities**), while that breach continues the Shareholder holding the defaulting restricted securities automatically ceases to be entitled to receive any

Dividends or distributions or to exercise any voting rights in respect of the defaulting restricted securities.

28.2 Indemnity

The Company is authorised to indemnify and shall indemnify to the fullest extent permitted by the Act each Director and employee of the Company or a related company:

- (a) for any costs incurred by that person in any proceeding of the kind described in section 140(3); and
- (b) for any:
 - (i) liability to any person other than the Company or a related company for any act or omission in that person's capacity as a Director or employee; and
 - (ii) costs incurred by that person in defending or settling any claim or proceeding relating to any 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 112 or, in the case of an employee, of any fiduciary duty owed to the Company or a related company.

28.3 Insurance

The Company is authorised with the prior approval of the Board, to effect insurance for each Director and employee of the Company or a related company in respect of:

- (a) liability, not being criminal liability, for any act or omission in his capacity as a Director or employee;
- (b) costs incurred by that Director or employee in defending or settling any claim or proceeding relating to any such liability; and
- (c) costs incurred by that Director or employee in defending any criminal proceedings in which he is acquitted.

28.4 Interpretation

Words having extended meanings by section 140(9) shall have those extended meanings in clauses 28.2 and 28.3.

28.5 General authorisation

Where the Act authorises or permits a company to do any thing if so authorised by its constitution, the Company is authorised by this clause to do that thing.

Schedule 1

PREFERENCE SHARES

(clause 2.2)

1. In this schedule, unless the context otherwise requires:

Dividend Date means, in relation to a Preference Share, a date specified in the Issue Resolution on which a Dividend in respect of that Preference Share is payable;

Dividend Rate means, in relation to a Preference Share, the terms specified in the Issue Resolution for the calculation of the amount of Dividend to be paid in respect of that Preference Share on any Dividend Date, which calculation may be wholly or partly established by reference to an algebraic formula;

Issue Resolution means the resolution specified in clause 4 of this Schedule 1;

Preference Share means a Share issued under this Schedule 1;

Redeemable Preference Share means a Preference Share which the Issue Resolution specifies as being, or being at the option of the Company to be, liable to be redeemed;

Redemption Amount means, in relation to a Redeemable Preference Share, the amount specified to be paid on redemption of the Redeemable Preference Share;

Redemption Date means, in relation to a Redeemable Preference Share, the date specified in the Issue Resolution for the redemption of that Preference Share; and

2. Each Preference Share confers upon its holder:

- (a) the right on liquidation of the Company to payment in cash of the capital (including any premium) then paid up on it, and any arrears of Dividend in respect of that Preference Share, in priority to any other class of Shares;
- (b) the right in priority to any payment of Dividend to any other class of Shares to a cumulative preferential Dividend payable on each Dividend Date in relation to that Preference Share calculated in accordance with the Dividend Rate in relation to that Preference Share; and
- (c) no right to participate beyond the extent elsewhere specified in clause 2 of this Schedule 1 in surplus assets or profits of the Company, whether on a liquidation of the Company or otherwise.

3. Each Preference Share also confers upon its holder the same rights as the holders of ordinary Shares to receive notices, reports and audited accounts of the Company and to attend meetings of Shareholders but does not confer upon its holder the right to vote at any meeting of Shareholders of the Company unless either:

- (a) at the date of the notice convening the meeting any Dividend payable in respect of the Preference Share is in arrears or the Company is in liquidation; or
- (b) the business of the meeting includes a proposal to appoint a liquidator of the Company, a proposal that affects rights attached to the Preference Share, a proposal for the disposal of the whole of the Company's property, business and undertaking or a proposal that the terms of a buy back agreement be approved,

but in the latter case the holder of that Preference Share is not entitled to vote generally at that meeting, but only on the resolutions in respect of which that Preference Share confers a vote on its holder.

4. The Board may only allot a Preference Share where by resolution it specifies the Dividend Date, the Dividend Rate, and whether the Preference Share is or is not, or at the option of the Company is to be, liable to be redeemed, and, if the Preference Share is a Redeemable Preference Share, the Redemption Amount and Redemption Date for that Redeemable Preference Share and any other terms and conditions to apply to that Preference Share.
5. The Issue Resolution in establishing the Dividend Rate for a Preference Share may specify that the Dividend is to be one of:
 - (a) fixed;
 - (b) variable depending upon any variation of the respective values of any factors in an algebraic formula specified in the Issue Resolution; or
 - (c) variable depending upon such other factors as the Board may specify in the Issue Resolution.
6. Subject to the Act, the Company must redeem a Redeemable Preference Share on issue:
 - (a) on the specified date where the Company, at least 15 Business Days before that date, has given a notice to the holder of that Redeemable Preference Share stating that the Redeemable Preference Share will be so redeemed on the specified date; and
 - (b) in any event, on the Redemption Date,

but no Redeemable Preference Share may be redeemed and no notice of redemption may be given before the second anniversary of the date upon which that Redeemable Preference Share is issued.
7. The certificate issued by the Company in relation to any Preference Share must specify in relation to that Preference Share:
 - (a) the date of issue of the Preference Share;
 - (b) the Dividend Rate and Dividend Dates;
 - (c) whether the Preference Share is a Redeemable Preference Share and if it is:
 - (i) the Redemption Amount and Redemption Date; and
 - (ii) (ii) the conditions of redemption (if any);
 - (d) the conditions of participation (if any) in respect of the Preference Share set out in clause 3 of this schedule; and
 - (e) any other matter the Board determines.
8. On redemption of a Redeemable Preference Share, the Company, after the holder has surrendered to the Company the certificate in respect of that Redeemable Preference Share, must pay to the holder the Redemption Amount in cash, by cheque or in any other form that the holder agrees to in writing.

Schedule 2

UNMARKETABLE PARCELS

(clause 9.11)

1. If at any time a Shareholder holds an Unmarketable Parcel of Shares (including Shares held jointly with other Shareholders) (**Relevant Shares**), the Board may give a notice (**First Notice**) to that Shareholder stating that unless the Shareholder gives notice to the Company by a specified date (being at least 45 days after the date of giving of the First Notice) requiring that the provisions of this schedule are not to apply to the Relevant Shares, then the Relevant Shares are liable to be sold or disposed of under this schedule.
2. If the Listing Rules so require, where the Board gives a First Notice to a Shareholder under clause 1 of this schedule, the Board must also give a First Notice to every other Shareholder who at that time holds an Unmarketable Parcel of Shares (including Shares held jointly with other Shareholders).
3. Subject to the following provisions of this schedule, where a Shareholder has been given a First Notice the Board may sell or otherwise dispose of (**Divest**) the Relevant Shares (together with all rights attaching to them including any Dividends declared but unpaid).
4. Where the Board proposes to Divest any Relevant Shares under this schedule the Company must:
 - (a) publish in a newspaper circulating generally in the area in which the Shareholder holding the Relevant Shares has his address for the purposes of being given notices by the Company, a notice specifying the intention to Divest the Relevant Shares:
 - (iii) the name of the relevant Shareholder;
 - (iv) the number of the Relevant Shares; and
 - (b) give a notice of intention to Divest the Relevant Shares (**Second Notice**) to the Shareholder which, if the Electronic Business Rules apply to the Relevant Shares, complies with the Electronic Business Rules, and notifies the Shareholder that the Relevant Shares are liable to be Divested under this schedule on a day which is at least 25 days after the date of giving of the Second Notice.
5. Where a First Notice or a Second Notice is given in respect of Shares which are held by Shareholders jointly, that notice must be given to each of those joint holders.
6. Each Shareholder to whom a First Notice or a Second Notice has been given may, by notice in writing addressed to the Secretary and delivered to the Company prior to the Relevant Shares being Divested, require the Company not to Divest the Relevant Shares, in which case the Relevant Shares may not be Divested unless a new First Notice is given to that Shareholder.
7. If a Shareholder who gives notice under clause 6 of this schedule is a joint holder of a parcel of Relevant Shares, that notice will only prevent those relevant Shares being Divested but will not prevent any other Shares held by any of the joint holders of that parcel being Divested and any First Notice or Second Notice concerning those other Relevant Shares will apply only to those other Relevant Shares.

8. Any Shares to be Divested may be Divested on the terms and in the manner and at the time the Board determines (including by means of the Shares being bought back by the Company if and to the extent that it is permitted to do so by the Act and for the purpose of the Shares being Divested:
 - (a) the Shareholder appoints the Company as its agent; and
 - (b) the Shareholder appoints the Company and each Director and Secretary from time to time jointly and severally as its attorney in its name and on its behalf to execute any instrument of transfer or disposal of the Shares or to effect a Market Transfer of the Shares.
9. The Company must pay all costs and expenses in connection with the Divestiture of any Relevant Shares under this schedule unless to do so would be to give financial assistance not permitted by the Act to be given.
10. The transferee of any Relevant Shares Divested under this schedule is not required to see to the regularity of the Divestiture or the application of the purchase money and, after the transferee's name has been entered in the Register in respect of the Relevant Shares, the validity of the Divestiture to the transferee may not be impeached by any person and the remedy of any person aggrieved by the Divestiture is damages only and against the Company exclusively.
11. Where the Company receives any consideration as a result of the Divestiture of any Relevant Shares, the Company's receipt is a good discharge to the transferee of those Relevant Shares and any person claiming through that transferee.
12. The title of the transferee to any Relevant Shares Divested under this schedule is not affected by any irregularity or invalidity in connection with the Divestiture of the Relevant Shares to the transferee.
13. The proceeds of Divestiture of Relevant Shares under this schedule (following deduction of any Money Due (if any) in respect of the Relevant Shares) (**Sale Consideration**) must be dealt with as follows:
 - (a) the Sale Consideration must be paid into a separate bank account opened and maintained by the Company for that purpose only;
 - (b) the Sale Consideration must be held in trust for the Shareholder whose Relevant Shares were Divested;
 - (c) the Company must, immediately following the receipt of the Sale Consideration, notify the Shareholder in writing that the Sale Consideration in respect of the Relevant Shares has been received by the Company and is being held by the Company pending instructions from the Shareholder as to how it is to be dealt with;
 - (d) the Company must deal with the Sale Consideration as instructed by the Shareholder on whose behalf it is held, provided that the Shareholder accompanies that instruction with the certificate for the Relevant Shares (unless the Relevant Shares are uncertificated securities within the meaning of the Listing Rules (**Uncertificated Securities**) or, if any such certificate has been lost or destroyed, by a statutory declaration and undertaking pursuant to section 76(2) of the Act; and
 - (e) where the Sale Consideration has been held in trust for more than two years, the Company may deal with the money according to any applicable legislation concerning unclaimed moneys.

14. Where a certificate in writing under the hand of any Director or the Secretary states that:
 - (a) any notice required to be served by or on the Company was or was not served, as the case may be;
 - (b) any advertisement required to be published was published; and
 - (c) any resolution of the Board required to be made was made, that certificate is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to any Shares affected by that certificate and to the right and title of the Company to Divest the same.
15. Except where the Relevant Shares are Uncertificated Securities, the Company must cancel the share certificate for all Relevant Shares Divested and the Company indemnifies and holds harmless any stockbroker who may offer those Relevant Shares for sale without knowledge of such cancellation.
16. The Company may not proceed with the Divestiture of any Relevant Shares where a takeover offer or takeover scheme has been announced but notwithstanding clause 17 of this schedule the Divestiture of those Relevant Shares may be recommenced in accordance with the Listing Rules, after the close of the offers made under the takeover offer or takeover scheme.
17. This schedule ceases to have operation (but is not deleted from this constitution) 12 months after it is last adopted or re-adopted and if this schedule has ceased to have operation, it can only be given operation again if it is re-adopted by Special Resolution.
18. If the Listing Rules so require, the provisions of this schedule may only be invoked once, except where otherwise agreed to by the Exchange, in any 12 month period after its last adoption or re-adoption.

Schedule 3

PROXY FORM (clause 13.6)

(Name of shareholder or shareholders)

of

(Address of shareholder or shareholders)

(Shareholder), a shareholder of the Company, appoints

(Name of proxy)

of

(Address of proxy)

or, failing that person, the chairman of the meeting as the Shareholder's proxy to vote for the Shareholder and on the Shareholder's behalf at the [special] meeting of Shareholders of the Company to be held on [] at [] am/pm and at any adjournment of that meeting [or until [] being not more than one year from the date of appointment].

The proxy is directed to vote in the following manner:

Resolution #:

FOR:

AGAINST:

ABSTAIN:

(A mark should be placed in the appropriate box if the Shareholder wishes to direct the proxy to vote in a specified way in relation to the above resolution[s]. If no direction is given, the proxy may vote or not as the proxy sees fit.)

This form must be signed by the Shareholder (in the case of a body corporate under its common seal) or by an attorney of the Shareholder.

Dated:

Signed:

SIGNED for and on behalf of the Shareholder specified above by its duly appointed attorney in the presence of:

Attorney

Signature of Witness

Name

Name

Date of Power of Attorney

THE COMMON SEAL of the Shareholder (being a body corporate) specified above was affixed in the presence of:

Signature of director

Signature of director/secretary

Name

Name

Schedule 4

FORM OF APPOINTMENT OF ALTERNATE DIRECTOR (clause 18.2)

I, the undersigned, a Director of the Company, exercise the power given to me by the constitution of that company and appoint, subject to the approval of the Board, [insert name] of [insert address] to act as Alternate Director for me. This appointment takes effect *immediately/*on [insert date] and extends until *[insert date]/*revoked by me.

Notice of meetings of the Board *is/*is not to be given to the person appointed by this notice.

Dated:

.....
(Signature)

(Name printed)

* Delete and complete as required