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Notice of adoption, alteration or revocation of constitution

Section 32(3) Companies Act 1993

Company name

Company number

Syft Technologies Limited

1243328



Use this form to revoke a constitution. To adopt or alter a constitution, upload the new document online at www.companies.govt.nz. Online applications are processed immediately.

1. The above named company has:
Place a tick in the appropriate box

adopted a constitution

altered its constitution

revoked its constitution

revoked its previous constitution and adopted the attached new constitution

on 24 September 2008

Please insert the date on which the company adopted, altered or revoked its constitution (as the case may be).

2. A copy of the * constitution as adopted / *alteration to the constitution* is attached to this notice
* Delete if not applicable

NPC# 08

- 2 OCT 2008

Signed by director or authorised person

Signature

Name of signatory

Ruth Richardson

Date

24 September 2008

Completed by

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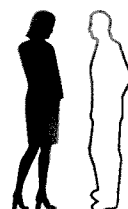
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Constitution

SYFT TECHNOLOGIES LIMITED



Lane Neave LAWYERS

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DATE

2008

CONSTITUTION OF

SYFT TECHNOLOGIES LIMITED

1. Interpretation

1.1 Definitions:

In this Constitution unless the context otherwise requires:

Act means the Companies Act 1993;

Associated Person has the meaning given to it in the Listing Rules;

Board means Directors who number not less than the required quorum acting together as the board of directors of the Company;

Class means a class of Securities having identical rights, privileges, limitations and conditions;

Company means Syft Technologies Limited;

Constitution means this constitution, as altered from time to time;

Director means a person appointed as a director of the Company;

Employee means an Employee or officer of the Company or any of its subsidiaries, a labour only contractor, consultant, or consultant company who or which contracts with the Company or any of its subsidiaries, any trustee or trustees on behalf of any such Employees or officers, and any trustee or trustees of or in respect of any pension, superannuation or like fund established for the benefit of any such Employees or officers.

Equity Security means an Equity Security, as defined in the Listing Rules, which has been issued, or is to be issued, by the Company as the case may require;

Independent Director has the meaning ascribed to it in the Listing Rules;

Listed has the meaning given in the Listing Rules;

Listing Rules means the Listing Rules of NZX in force from time to time;

Minimum Holding means a number of shares fixed by the Board from time to time as the minimum number of shares which a shareholder may hold;

NZX means New Zealand Exchange Limited, its successors and assigns;

Ordinary Resolution means a resolution passed by a simple majority of the votes of shareholders of the Company entitled to vote and voting on the resolution;

Personal Representative means:

1.1.1 in relation to a deceased individual shareholder, the executor, administrator or trustee of the estate of that shareholder;

- 1.1.2 in relation to a bankrupt individual shareholder, the assignee in bankruptcy of that shareholder; and
- 1.1.3 in relation to any other individual shareholder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed thereunder, and a donee of an enduring power of attorney complying with that Act;

Representative means a person appointed as a proxy or representative under clause 17 or a Personal Representative;

Security has the meaning given in the Listing Rules;

Share Register means the Company's Share Register;

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

Subsidiary means:

- 1.1.4 a subsidiary within the meaning of section 5 of the Act (read together with sections 6 to 8 of the Act); and
- 1.1.5 an entity treated as a subsidiary within the meaning of the New Zealand International Financial Reporting Standards 1 issued by the New Zealand Institute of Chartered Accountants or within the meaning of any financial reporting standard approved in terms of the Financial Reporting Act 1993;

Treasury Stock means shares which have been acquired by the Company and are held by it as treasury stock in accordance with the Act, and includes shares which are held by a subsidiary of the Company other than in accordance with section 82(6) of the Act;

Website means the primary website used by the Company as may be updated from time to time.

1.2 **Construction:** In this Constitution, unless the context otherwise requires:

- 1.2.1 the headings appear as a matter of convenience and shall not affect the construction of this Constitution;
- 1.2.2 in the absence of an express indication to the contrary, references to sections, clauses or paragraphs are to sections, clauses and paragraphs of this Constitution;
- 1.2.3 a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted;
- 1.2.4 a reference to a Listing Rule includes that Listing Rule as from time to time amended or substituted;
- 1.2.5 the singular includes the plural and vice versa and one gender includes the other gender;
- 1.2.6 the words *written* and *writing* include facsimile communications and any other means of communication resulting in permanent visible reproduction;
- 1.2.7 the word *person* includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality;

- 1.2.8 references to the Company's previous constitution include that constitution as amended from time to time; and
- 1.2.9 words or expressions defined in the Act or the Listing Rules have the same meaning in this Constitution except as otherwise expressly provided in this Constitution;
- 1.2.10 capitalised terms referred to in and not defined in this Constitution shall have the meaning ascribed to them under the Act or Listing Rules;
- 1.2.11 for the purpose of applying any Listing Rule if required by a clause of this Constitution, any reference to *the Issuer* in the relevant Listing Rule shall be read as and mean the *Company*.
- 1.3 **Powers of Shareholders:** Unless otherwise specified in the Act or this Constitution any power reserved to shareholders may be exercised and any approval of shareholders may be given by Ordinary Resolution.

2. The Companies Act

The Company, the Board, each Director and each shareholder of the Company have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified by this Constitution.

3. Rights Attaching to Shares

- 3.1 **Existing Ordinary Shares:** Each ordinary share in the Company at the date of adoption of this Constitution confers on the holder the following rights (in addition to the rights set out elsewhere in this Constitution):
- 3.1.1 subject to the rights of holders of any shares or other Equity Securities which confer special rights as to dividends, the right to an equal share in dividends authorised by the Board; and
- 3.1.2 subject to the rights of holders of any shares or other Equity Securities which confer special rights as to surplus assets, the right to an equal share in the distribution of surplus assets of the Company.
- 3.2 **New Shares:** Subject to section 4, further shares in the Company (including different Classes of shares) may be issued which:
- 3.2.1 rank equally with, or in priority to, existing shares in the Company; or
- 3.2.2 have deferred, preferred or other special rights or restrictions, whether as to voting rights or distributions or otherwise; or
- 3.2.3 confer preferential rights to distributions of capital or income; or
- 3.2.4 confer special, limited or conditional voting rights; or
- 3.2.5 do not confer voting rights; or
- 3.2.6 are redeemable in accordance with section 68 of the Act; or
- 3.2.7 are convertible; or
- 3.2.8 have any one or more of the rights or limitations set out in subclauses 3.2.1 to 3.2.7.

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

3.3.1 be permitted (subject to section 4); and

3.3.2 not be deemed to be action affecting the rights attached to those existing shares or other Equity Securities.

4. **Issue of New Equity Securities**

4.1 **Issue of New Equity Securities:** Subject to clause 4.2, the Board may issue shares or other Equity Securities to any person and in any number it thinks fit. The provisions of sections 45(1) and 45(2) of the Act shall not apply to any issue or proposed issue of shares by the Company.

4.2 **Restrictions on Issue:** An issue of Equity Securities may not be made unless it meets the criteria set out in one or more of the following sub-clauses:

4.2.1 **Specifically Approved Issues:** The precise terms and conditions of the specific proposal to issue those Equity Securities have been approved by separate resolutions (passed by a simple majority of votes) of the holders of each Class of Equity Securities whose rights or entitlements could be affected by the issue and the issue, if made solely to Employees is completed within 36 months after the passing of those resolutions, and in all other circumstances is completed within 12 months after the passing of those resolutions, provided that approval by a separate resolution of the holders of a Class of Securities is not required if the terms of issue of those Securities expressly reserved the right to make the proposed issue of new Equity Securities and specified at least the maximum number, and Class, of new Equity Securities which could be issued, and the time within which they could be issued.

4.2.2 **Pro-rata Issues:** The Equity Securities are:

- (a) offered to the holders of existing Equity Securities on a basis which, if the offer were accepted by all such holders, would maintain the existing proportionate rights of each existing holder (relative to other holders of Equity Securities) to votes and to Distribution Rights, and, that offer is Renounceable; or
- (b) issued to the holders of existing Equity Securities as fully paid Securities on a basis which maintains the existing proportionate rights of each existing holder (relative to other holders of Equity Securities) to votes and to Distribution Rights,

provided that notwithstanding clauses 4.2.2 (a) and 4.2.2 (b) the Board:

- (c) may issue any Equity Securities in respect of which the offer is not accepted, or which because of fractional entitlements are not otherwise offered, to such persons and in such manner as the Board considers equitable and in the interests of the Company if the price and terms and conditions of issue are not materially more favourable to the persons to whom they are issued than the terms of the original offer and the issue is completed within 3 months after the close of the original offer;
- (d) may offer and issue Equity Securities to the holders of existing Securities in accordance with specific rights attached to those existing Securities to participate in issues of Equity Securities, notwithstanding that the effect may be that existing proportionate rights to Votes and Distribution Rights are not maintained; or

- (e) may authorise a disproportionate offer to the extent necessary to round up holdings of Equity Securities to a Minimum Holding, or to avoid the creation of holdings which are not Minimum Holdings.

For the purposes of this subclause 4.2.2 the term Distribution Right means a right of the nature referred to in paragraphs (a) or (b) of the definition of Equity Security referred to in clause 1.1.

4.2.3 *Issues Within 15% Limit:* The issue is not made in whole or in part to any Director, or Associated Person of a Director, and is such that the total number of Equity Securities issued, together with all other Equity Securities of the same Class issued pursuant to this sub-clause 4.2.3 during the period of 12 months preceding the date of the issue will not exceed the aggregate of:

- (a) 15% of the total number of Equity Securities of that Class on issue at the commencement of that period; and
- (b) 15% of the total number of Equity Securities of that Class issued during that period pursuant to the other sub-clauses of this clause 4.2.

less:

- (c) 15% of the number of Equity Securities of that Class which have been acquired or redeemed by the Company during that period (other than Equity Securities held as Treasury Stock).

For the purposes of this sub-clause 4.2.3 Securities which will, or may, Convert to other Equity Securities are deemed to be of the same Class as, and to correspond in number to, the Equity Securities into which they will, or may, Convert.

4.2.4 *Other Issues:* The issue is of an offer made by the Company or any of its subsidiaries in accordance with:

- (a) the takeovers code approved under the Takeovers Code Approval Order 2000 or regulations made under section 19 of the Takeovers Act 1993 which amend or replace that code; or
- (b) the provisions of the constitution or other governing document of a Listed Company which comply with the relevant requirements of the Listing Rules where that Listed Company is not a Code Company; or
- (c) any takeover law regime of a jurisdiction other than New Zealand which provides for prior notice, publicity and disclosure which in the opinion of the Board is at least as useful to the recipients of the offer as the requirements of one or more of the provisions referred to in paragraphs (a) or (b) of this sub-clause,

and that offer is made to all holders (other than the Company and its Related Companies) of Equity Securities in any company or other entity Listed by NZX, or listed on a Recognised Stock Exchange, which is not a company or other entity that is an Associated Person of the Company or of any Director.

4.2.5 *Conversion of Convertible Securities:* The issue is made upon Conversion of:

- (a) any Equity Security; or
- (b) any other Security, which on issue was approved any manner set out in clause 4.2, as if clause 4.2 applied to that Security,

from time to time issued by the Company if the terms of issue of those Securities provided for Conversion to the kind of Equity Securities issued.

- 4.2.6 *Issues to Round Up Holdings:* The issue is made to a holder of Equity Securities in order to bring that person's holding up to a Minimum Holding.
- 4.2.7 *Issues on Amalgamation:* The issue is made pursuant to an arrangement, amalgamation or compromise effected pursuant to Part XIII or Part XV of the Act.
- 4.2.8 *Issues in Lieu of Dividends:* The issue is made pursuant to a plan for the issue of Securities in lieu of dividends or as part of a dividend re-investment plan which entitles a holder of existing Securities to subscribe for Securities by applying all or any specified part of any dividend payable by the Company to that holder, and that issue or plan would, except to the extent that the plan excludes existing holders in a jurisdiction outside New Zealand if the legal requirements of that jurisdiction are such that it is unduly onerous for the Company to extend the plan to that jurisdiction, maintain the existing proportionate rights of each existing holder (relative to other holders of Equity Securities) to votes and to Distribution Rights (as defined in clause 4.2.2), if the offer made pursuant to that plan were accepted in full by such holders.
- 4.3 **Transfer of Rights:** Every person to whom unissued Equity Securities are offered pursuant to clause 4.2.2(a) may decline or accept the offer, or transfer their Rights thereunder to any person or persons to whom the Equity Securities, when issued, could be transferred but the Directors have the same right to decline to accept any such transfer as they would have if the transfer were a transfer of shares, and the provisions of this Constitution as to the transfer of shares, with all necessary modifications, apply to transfers of Rights to unissued Equity Securities.
- 4.4 **Bonus Issues:** Subject to clause 4.2.2(b), the Board may resolve to apply any amount which is available for Distribution either:
- 4.4.1 in paying up in full shares or other Securities of the Company to be issued credited as fully paid to:
- (a) the shareholders who would be entitled to that amount if it were distributed by way of dividend, and in the same proportions; and
- (b) if applicable, the holders of any other Securities of the Company who are entitled by the terms of issue of such Securities to participate in bonus issues by the Company, whether at the time the bonus issue is made to the shareholders, or at some later time, in accordance with their respective entitlements; or
- 4.4.2 in paying up any amount which is unpaid on any shares held by the shareholders referred to in clause 4.4.1(a),
- or partly in one way and partly in the other.
- 4.5 **Consolidation and Subdivision of Shares:** The Board may:
- 4.5.1 consolidate and divide the Equity Securities or Equity Securities of any Class in proportion to those Equity Securities or the Equity Securities in that Class; or
- 4.5.2 subdivide the Equity Securities or Equity Securities of any Class in proportion to those Equity Securities or the Equity Securities in that Class.

5. Alteration of Rights of Security Holders

- 5.1 **Procedure in Respect of Shares:** The Company shall, before taking action affecting the rights attached to any shares, comply with the provisions of sections 116 and 117 of the Act.
- 5.2 **Issue of Equal or Prior Ranking Equity Securities:** For the purposes of clause 5.1, the issue of further shares which rank equally with, or in priority to, any existing shares, whether as to voting rights, Distributions or otherwise, is deemed not to be action affecting the rights attaching to those existing shares.

6. Acquisition and Redemption of Equity Securities

- 6.1 **Powers to Acquire, Hold and Redeem Securities:** The Company may in accordance with the provisions and subject to the restrictions of the Act and this Constitution:
- 6.1.1 purchase or otherwise acquire shares or other Equity Securities from one or more of the holders;
 - 6.1.2 hold any shares or other Equity Securities so purchased or acquired; and
 - 6.1.3 redeem any redeemable shares or other Equity Securities held by one or more of the holders.
- 6.2 **Acquisition or Redemption of Equity Securities other than Shares:** Equity Securities which are not shares may be acquired or redeemed pursuant to clause 6.1, if the Company complies with the relevant sections of the Act, on the basis that references in those sections of the Act to:
- 6.2.1 *shares* shall be deemed to be references to all Equity Securities of the Class of Equity Securities which is the subject of the acquisition or redemption and references to "shareholders" shall be read accordingly; and
 - 6.2.2 *constitution* shall be deemed to be references to the document which governs the rights attaching to those Equity Securities.

7. Restrictions on Financial Assistance

Prohibition on Financial Assistance: The Company shall not give financial assistance for the purpose of, or in connection with, the acquisition of any Securities issued, or to be issued, by the Company unless the giving of that assistance is in accordance with the provisions of the Act.

8. Calls on Shares

- 8.1 **Board's Power:** The Board may, by notice in writing to a shareholder or shareholders, make calls in respect of all moneys unpaid on shares and which are not, by the terms applicable to the shares, payable at fixed times. The Board may revoke or postpone a call before payment is received.
- 8.2 **Liability to Pay:** Each relevant shareholder shall be liable (jointly and severally in the case of joint shareholders) to pay, in accordance with the relevant notice, every call and shall remain liable to do so notwithstanding the subsequent transfer of the relevant shares.
- 8.3 **Differential Calls:** Calls may be made in respect of certain shares and not others and for different amounts in respect of certain shares from others. The Board may, at the time of issue of any shares, differentiate between the holders as to the amount of calls to be paid and the time of payment.
- 8.4 **Instalments:** The Board may determine that a call is payable by instalments.

- 8.5 **Time Call is Made:** A call shall be deemed to have been made at the time the resolution of the Board authorising the call was passed.
- 8.6 **Interest on Overdue Amounts:** A call not paid when due shall bear interest from the due date to the date of actual receipt by the Company at the rate fixed in the notice of call or the terms applicable to the relevant shares or, if there is no such rate, as the Board determines. The Board may waive payment of interest wholly or in part.
- 8.7 **Unpaid Instalments:** Any amount payable on issue of a share or on any fixed date or as an instalment of a call shall be deemed to be a call and if not paid, the provisions of this clause 8 and clauses 9 and 10 shall apply as if that sum had become payable by the making of a call.
- 8.8 **Calls in Advance:** The Board may, in its discretion, receive any moneys uncalled and unpaid upon any shares in advance of its due date and, may pay interest on the amount received at such rate (if any) and on such terms as the Board determines.
- 8.9 **Cancellation of Unpaid Amounts:** No obligation to pay any amount which is unpaid on any Equity Security shall be cancelled, reduced or deferred without the authority of an Ordinary Resolution.
- 8.10 **Evidence:** In any proceedings for the recovery of moneys due in respect of any call a statutory declaration by a Director or any other person authorised by the Board that:
- 8.10.1 the name of the shareholder is entered in the share register as the holder (or one of the holders) of the relevant shares;
- 8.10.2 the resolution making the call is recorded in the records of the Company; and
- 8.10.3 notice of the call was sent to the shareholder,
- shall be conclusive evidence of the indebtedness of the shareholder to the Company in respect of the call.

9. Lien on Shares

- 9.1 **Lien on Unpaid and Partly Paid Shares:** The Company shall have a first and paramount lien on every share which is not a fully paid share (and any dividends or other distributions in respect of that share) for:
- 9.1.1 all unpaid calls, instalments, or other amounts, and any interest payable on those amounts, relating to that share; and
- 9.1.2 any amounts the Company may be called upon to pay under any legislation in respect of that share.
- 9.2 **Power of Sale:** If any amount due in respect of a share on which the Company has a lien is unpaid for more than 14 days after notice in writing demanding payment has been given to the shareholder or the person entitled to receive notices in respect of that share:
- 9.2.1 the Company may sell the share on such terms as the Board determines; and
- 9.2.2 to give effect to any such sale, the Board may authorise any person to execute a transfer of the share to, or at the direction of, the purchaser.
- 9.3 **Absolute Title of Purchaser:** The title of a purchaser of any shares sold pursuant to clause 9.2 shall not be affected by any irregularity or invalidity in any sale.
- 9.4 **Application of Sale Proceeds:** The net proceeds of sale of any share sold pursuant to clause 9.2, after deducting expenses of sale shall be applied in and towards satisfaction of

any unpaid calls, instalments or other amounts and any interest on those amounts and the balance (if any) shall be paid to the person entitled to the share at the date of sale.

10. Forfeiture of Shares

- 10.1 **Notice:** If a call on a share is not paid when due, the Board may give 14 days notice to the shareholder requiring payment of the call, together with interest on the amount of the call. The notice shall specify the place of payment and state that if the notice is not complied with the relevant share will be liable to be forfeited.
- 10.2 **Forfeiture:** If the notice is not complied with the share may, before payment of the overdue amount has been made, be forfeited by resolution of the Board.
- 10.3 **Sale of Forfeited Shares:** A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board determines. To give effect to any sale or disposal the Board may authorise any person to execute any relevant documentation. The Board may, at any time before the sale or disposal, cancel the forfeiture.
- 10.4 **Application of Sale Proceeds:** The net proceeds of sale of any forfeited share shall be applied in the same manner as set out in clause 9.4.
- 10.5 **Absolute Title of Purchaser:** The title of a purchaser of a forfeited share shall not be affected by any irregularity or invalidity in the forfeiture, sale or other disposal of the share.
- 10.6 **Consequences of Forfeiture:** A person whose shares have been forfeited shall cease to be a shareholder in respect of those shares but shall remain liable to the Company for all moneys due to the Company at the date of forfeiture in respect of the shares together with interest thereon.
- 10.7 **Evidence of Forfeiture:** A statutory declaration by a Director or any other person authorised by the Board that a share has been forfeited on a specified date shall be conclusive evidence of that forfeiture.

11. Transfer of Shares

- 11.1 **Transferor to Remain Holder Until Registration:** The transferor of a share shall remain the holder of the share until the name of the transferee is entered in the Share Register.
- 11.2 **Right to Transfer:** Subject to any restrictions contained in this Constitution, shares may be transferred:
- 11.2.1 under a system of transfer approved under section 7 of the Securities Transfer Act 1991 which is applicable to the Company;
- 11.2.2 under any other share transfer system which operates in relation to the trading of securities on any stock exchange outside New Zealand on which shares are listed and which is applicable to the Company; or
- 11.2.3 by an instrument of transfer which complies with this Constitution.
- 11.3 **Method of Transfer:** A share which is disposed of in a transaction which complies with the requirements of a system of transfer referred to in clause 11.2.1 or 11.2.2 may be transferred in accordance with the requirements of that system. Where an instrument of transfer would have complied with the provisions of the Securities Transfer Act 1991 if it had been executed by the transferor in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or the Company's share registrar.

- 11.4 **Other Forms of Transfer:** An instrument of transfer of shares to which the provisions of clause 11.3 are not applicable shall comply with the following provisions:
- 11.4.1 the form of the instrument of transfer shall be any usual or common form or any other form which the Board or the Company's share registrar may approve;
 - 11.4.2 the instrument of transfer must be signed or executed by or on behalf of the transferor; and
 - 11.4.3 where the shares being transferred are not fully paid up, the instrument of transfer must also be signed or executed by or on behalf of the transferee.
- 11.5 **Power to Refuse to Register:** The Board may decline to register any transfer of shares where:
- 11.5.1 the Company has a lien on any of the shares; or
 - 11.5.2 the transfer is not accompanied by such evidence as the Board or the Company's share registrar may reasonably require to show the right of the transferor to make the transfer; or
 - 11.5.3 registration, together with the registration of any further transfer then held by the Company and awaiting registration, would result in the proposed transferee holding shares of less than a Minimum Holding,
- provided that the Board resolves to exercise its powers under this clause 11.5 within 30 working days after receipt of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee within five working days of the resolution being passed by the Board.
- 11.6 **Sale of Less Than Minimum Holding:** The Board may at any time give notice to any shareholder holding less than a Minimum Holding of shares of any Class that if at the expiration of three months after the date the notice is given the shareholder still holds shares which are less than a Minimum Holding, the Board may exercise the power of sale of those shares set out in this clause 11.6. If that power of sale becomes exercisable:
- 11.6.1 the Board may arrange for the sale of those shares as the Board sees fit;
 - 11.6.2 the shareholder shall be deemed to have authorised the Company to act on the shareholder's behalf and to execute all necessary documents for the purposes of that sale;
 - 11.6.3 the Company shall account to the shareholder for the net proceeds of sale of the shares (after deduction of reasonable sale expenses), which shall be held on trust for the shareholder by the Company and paid to the shareholder on surrender of any certificates for the shares sold; and
 - 11.6.4 the title of a purchaser of any shares sold pursuant to this clause 11.6 shall not be affected by any irregularity or invalidity in the exercise of the power of sale specified in this clause and the receipt of the Company shall be a good discharge to the purchaser for the purchase price.
- 11.7 **Registration of Transfers:** Every instrument of transfer shall be delivered to the Company's share registrar, together with such evidence as the Board or the Company's share registrar may reasonably require to show the right of the transferor to make the transfer.
- 11.8 **Power to Divide Share Register:** The Share Register may be divided into two or more registers kept in different places.

- 11.9 **Transfer of Securities Other Than Shares:** This section 11 shall apply to transfers of Securities of the Company other than shares with any necessary modifications.

12. Transmission of Shares

- 12.1 **Transmission on Death of Shareholder:** If a shareholder dies the survivor, if the deceased was a joint shareholder, or the shareholder's Personal Representative, shall be the only persons recognised by the Company as having any title to or interest in the shares of the deceased shareholder. Nothing in this clause 12.1 shall release the estate of a deceased joint shareholder from any liability in respect of any share or constitute a release of any lien which the Company may have in respect of any share.
- 12.2 **Rights of Personal Representatives:** A shareholder's Personal Representative:
- 12.2.1 is entitled to exercise all rights (including without limitation the rights to receive distributions, to attend meetings and to vote in person or by representative), and is subject to all limitations, attached to the shares held by that shareholder; and
- 12.2.2 is entitled to be registered as holder of those shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the Personal Representative pursuant to this subclause 12.2.2.
- 12.3 **Joint Personal Representatives:** Where a share is subject to the control of two or more persons as Personal Representatives, they shall, for the purposes of this Constitution, be deemed to be joint holders of the share.

13. Meetings of Shareholders

- 13.1 **Methods of Holding Meetings:** A meeting of shareholders may be held either:
- 13.1.1 by a number of shareholders, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- 13.1.2 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.
- 13.2 **Meetings of Other Groups:** A meeting of the holders of Securities in an Interest Group may be called by the Board at any time, and shall be called on the written request of persons holding Securities carrying together not less than 5% of the voting rights entitled to be exercised on any of the questions to be considered at the meeting of the group in question. All the provisions of this Constitution relating to meetings of shareholders apply, with all necessary modifications, to a meeting of a group of Security holders, except that:
- 13.2.1 the necessary quorum is two persons holding, or representing the holders of, Securities of the group;
- 13.2.2 if the Board so elects, one meeting may be held of holders constituting more than one group, so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of members of each group; and
- 13.2.3 any holder of Securities in the group, present in person or by Representative, may demand a poll.
- 13.3 **Minutes of Shareholder Meetings:** The Board must ensure that minutes are kept of all proceedings at meetings of shareholders. Minutes which have been signed correct by the Chairman are prima facie evidence of the proceedings.

14. Notice of Meetings of Shareholders

- 14.1 **Written Notice:** Written notice of the time, date and place of a meeting of shareholders must be sent to every shareholder entitled to receive notice of the meeting and to every Director and the auditor of the Company not less than 10 working days before the meeting.
- 14.2 **Rights of Equity Security Holders and Directors:** Equity Security holders of all Classes shall be entitled to attend meetings of shareholders and to receive copies of all notices, reports and financial statements issued generally to holders of Securities carrying votes. Each Director who is not also a shareholder shall have the same rights.
- 14.3 **Contents of Notice:** The notice must state:
- 14.3.1 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; and
- 14.3.2 the text of any Special Resolution to be submitted to the meeting.
- 14.4 **Irregularity in Notice:** An irregularity in a notice of a meeting is waived if all the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such shareholders agree to the waiver. The accidental omission to give a notice of a meeting to, or the non-receipt of a notice of a meeting by, any person will not invalidate the proceedings at the meeting.
- 14.5 **Adjourned Meetings:** If a meeting of shareholders is adjourned for less than 30 days it is not necessary to give notice of the time, date and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clause 14.1.

15. Chairman of Meetings of Shareholders

- 15.1 **Chairman of the Board to Act:** If the Directors have elected a Chairman of the Board, and the Chairman of the Board is present at a meeting of shareholders, that Director must chair the meeting.
- 15.2 **Other Chairman:** If no Chairman of the Board has been elected or if at any meeting of shareholders the Chairman of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting or the Chairman is unwilling or unable to act, the Directors present, if any, may elect one of their number to be Chairman of the meeting. If no Director is willing to act as Chairman or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting, the shareholders present may choose one of their number to be Chairman.
- 15.3 **Regulation of Procedure:** Subject to the provisions of the Act, and except as otherwise provided in this Constitution, the Chairman may regulate the proceedings at meetings of shareholders.

16. Quorum for Meetings of Shareholders

- 16.1 **Quorum Required:** Subject to clause 16.3 no business may be transacted at a meeting of shareholders if a quorum is not present.
- 16.2 **Size of Quorum:** A quorum for a meeting of shareholders is 10 shareholders present in person or by Representative and are between them able to cast votes on the business to be transacted at the meeting.
- 16.3 **Lack of Quorum:** If a quorum is not present within 30 minutes after the time appointed for the meeting:

- 16.3.1 in the case of a meeting called by the Board on the request of shareholders under section 121(b) of the Act, the meeting is dissolved; and
- 16.3.2 in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the Directors may appoint and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the commencement of the meeting, the shareholders or their Representatives present will constitute a quorum.

17. Voting at Meetings of Shareholders

- 17.1 **Meetings in One Place:** In the case of a meeting of shareholders held under clause 13.1.1 unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the Chairman:
- 17.1.1 voting by voice; or
- 17.1.2 voting by show of hands.
- 17.2 **Audio-Visual Meetings:** In the case of a meeting of shareholders held under clause 13.1.2 unless a poll is demanded, voting at the meeting shall be by the shareholders signifying individually their assent or dissent by voice.
- 17.3 **Postal Votes:** Unless the Board determines otherwise, shareholders may not exercise the right to vote at a meeting by casting postal votes. If the Board determines that shareholders may exercise the right to vote at a meeting by casting postal votes, the procedures in relation to postal voting shall be those set out in clause 7 of the First Schedule to the Act together with any other procedures determined by the Board.
- 17.4 **Number of Votes:** Subject to the provisions of clause 18 and subject to any rights or restrictions attached to any share:
- 17.4.1 where voting is by voice or a show of hands, every shareholder present in person or by Representative has one vote;
- 17.4.2 on a poll every shareholder present in person or by Representative has:
- (a) one vote in respect of every fully paid share held by that shareholder;
- (b) in respect of each share held by that shareholder which is not fully paid, a fraction of the vote or votes which would be exercisable if that share was fully paid. That fraction must be equivalent to the proportion which the amount paid (not credited) is of the total amount paid and payable (excluding amounts credited and amounts paid in advance of a call).
- 17.5 **Declaration of Chairman Conclusive:** A declaration by the Chairman that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 17.6.
- 17.6 **Right to Demand Poll:** At a meeting of shareholders a poll may be demanded by:
- 17.6.1 not less than five shareholders having the right to vote at the meeting; or
- 17.6.2 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
- 17.6.3 a shareholder or shareholders holding shares in the Company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all shares that confer that right; or

17.6.4 the Chairman.

For the purposes of this clause 17.6, the instrument appointing a proxy to vote at a meeting of the Company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a shareholder has the same effect as a demand by the shareholder.

- 17.7 **Time of Demand for Poll:** A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.
- 17.8 **Timing of Poll:** The Chairman may determine the time and manner in which a poll is to be taken and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.
- 17.9 **Counting of Votes on Poll:** If a poll is taken, votes must be counted according to the votes attached to the shares of each shareholder present in person or by Representative and voting.
- 17.10 **Scrutineers:** If a poll is taken the scrutineers shall be the auditors of the Company for the time being unless they are unable or unwilling to act or unless the Chairman directs to the contrary in which case the scrutineers shall be appointed by the Chairman.
- 17.11 **Declaration of Result:** The Chairman shall be entitled to declare the result of a poll upon the receipt of a certificate from the auditors setting out the maximum number of votes which could be cast at the meeting and upon receipt of notice from the scrutineers that, in the light of the auditors' certificate, sufficient votes to determine the result of the resolution have been counted. The auditors' certificate may set out the maximum number of votes which could be cast at the meeting if all persons entitled to attend and vote at the meeting did so, or it may set out the maximum number of votes which could be cast at the meeting if all persons at the meeting who are entitled to vote did vote.
- 17.12 **Chairman's Casting Vote:** The Chairman of the meeting shall not have a casting vote.
- 17.13 **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 Share Register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.
- 17.14 **Validity of Votes:** In the case of any dispute as to the admission or rejection of a vote the Chairman shall determine the same and such determination made in good faith shall be conclusive.

18. Voting Restrictions

- 18.1 **Voting Restrictions:** No shareholder shall be entitled to vote at any meeting:
- 18.1.1 in respect of shares on which any call or other moneys are due and unpaid; or
- 18.1.2 in respect of any resolution of the nature set out in clause 18.2.
- 18.2 **Disqualified Persons:** Notwithstanding anything to the contrary in this Constitution no vote in favour of a resolution of the nature listed in column 1 of the table below may be cast on any Securities held by a person of the nature listed in respect of that resolution in column 2 of the table below, or held by any Associated Person of such a person.

Column 1	Column 2
RESOLUTION	DISQUALIFIED PERSON
Resolution under clause 24.1 or 24.7	Any Director intended to receive a payment or benefit
Resolution under clause 4.2.1	Subject to clause 18.4: (a) Any person to whom it is proposed to issue the new Securities referred to in the resolution; or (b) If the resolution does not specify the persons to whom it is proposed to issue Securities, any Director who is not excluded by the terms of the resolution from participation in the issue.
Resolution under clause 4.2.2 to approve a rights issue of Equity Securities which is not renounceable	Any Director
Resolution under clause 4.2.4	Any Director intended or likely to benefit from the issue referred to in the resolution.
Resolution under clause 8.9	Any person who is intended to benefit from the reduction, deferral, or cancellation, unless the reduction, deferral, or cancellation benefits all holders of Equity Securities of the Company on the same basis.
18.3 Deadline for Challenge: Without prejudice to any remedy (other than those which take legal effect against the Company) which any holder of Securities may have against any disqualified person who casts a vote at a meeting in breach of clause 18.2, no resolution of, or proceeding at, that meeting may be impugned on the basis of a breach of that clause.	
18.4 Exception: On a resolution under clause 4.2.1, a person to whom it is proposed to issue the new Securities referred to in that resolution is not disqualified from voting if the new Securities are to be offered on the same basis to all holders of Securities of the same Class as the Securities held by that person.	
18.5 Proxies or Representatives: Clause 18.2 shall not prevent a person disqualified from voting under that clause, who has been appointed as a proxy or voting representative by another person who is not disqualified from voting under that clause, from voting in respect of the securities held by that other person in accordance with the express instructions of that other person.	
19. Proxies or Representatives	
19.1 Proxies Permitted: A shareholder may exercise the right to vote either by being present in person or by proxy. A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were the shareholder.	

- 19.2 **Form of Proxy:** A proxy must be appointed by notice in writing signed by the shareholder and the notice must state whether the appointment is for a particular meeting or a specified term. The notice shall (so far as the subject matter and form of the resolutions to be proposed at the relevant meeting reasonably permit) provide for two way voting on all resolutions, enabling the appointer to instruct the proxy as to the casting of the vote.
- 19.3 **Lodging Proxy:** No proxy is effective in relation to a meeting unless the proxy form is received by or on behalf of the Company at any place specified for the purpose in the notice of meeting not later than 48 hours before the start of the meeting.
- 19.4 **Proxy Form to be Sent With Notice of Meeting:** A proxy form shall be sent with each notice of meeting of shareholders.
- 19.5 **Proxy Form Must Not Name Proxy:** The Company shall not issue any form of notice of appointment with a proxy named in it, either by name or by reference to an office which that proxy holds, but the Company may indicate in a footnote that certain persons or officers are willing to act as a proxy if a shareholder desires to appoint them or any of them.
- 19.6 **Validity of Proxy Vote:** A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or mental disorder of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, if no written notice of such death, mental disorder, revocation, or transfer has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.
- 19.7 **Corporate 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. A representative shall have the same rights and powers as if the representative were a proxy.

20. Shareholder Proposals

- 20.1 **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.
- 20.2 **Notice to Shareholders at Company's Expense:** If the notice is received by the Board not less than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, at the expense of the Company, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- 20.3 **Notice to Shareholders at Proposing Shareholder's Expense:** If the notice is received by the Board not less than five working days and not more than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- 20.4 **Late Notice:** If the notice is received by the Board less than five working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board may, if practicable, and at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.
- 20.5 **Proposing Shareholder's Right to Give Written Statement:** If the Directors intend that shareholders may vote on the proposal by proxy or by postal vote they must give the proposing shareholder the right to include in or with the notice given by the Board a statement

of not more than 1,000 words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.

- 20.6 **Defamatory, Frivolous or Vexatious Statements:** 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.
- 20.7 **Deposit of Costs by Proposing Shareholder:** 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 must, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

21. **Adjourned meetings and disorderly meetings**

21.1 **Chairman's Discretion to Adjourn Meetings:**

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

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

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

21.2 **Direction to Adjourn:** If directed by the meeting, the Chairman must adjourn the meeting.

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

21.4 **Adjournment of Disorderly Meetings:** If any meeting becomes so unruly, disorderly or inordinately protracted, that in the opinion of the Chairman the business of the meeting cannot be conducted in a proper and orderly manner, the Chairman, notwithstanding any provision to the contrary contained in this Constitution and without the consent of the meeting, may, in his or her sole and absolute discretion and without giving reasons, either adjourn or dissolve the meeting.

21.5 **Completion of Unfinished Business:** If any meeting is dissolved by the Chairman pursuant to clause 21.4, the unfinished business of the meeting shall be dealt with as follows:

21.5.1 in respect of any resolution concerning the approval or authorisation of a Distribution, the Board may, in the exercise of the powers conferred on it by the Act, authorise the Distribution;

21.5.2 in respect of any resolution concerning the remuneration of the auditors, the meeting shall be deemed to have resolved that the Board be authorised to fix the remuneration of the auditors;

21.5.3 the Chairman may direct that any item of business which is uncompleted at the meeting, and which in his or her opinion requires to be voted upon, be put to the vote by a poll without further discussion in accordance with clauses 17.8 to 17.14.

22. Appointment and Removal of Directors

22.1 **Board Composition:** The composition of the Board shall be as follows:

22.1.1 The number of Directors must not at any time be more than eight nor less than four;

22.1.2 At least two Directors shall be ordinarily resident in New Zealand;

22.1.3 The minimum number of Independent Directors shall be two or, if there are eight Directors, three,

and subject to these limitations the number of Directors to hold office shall be fixed from time to time by the Board.

22.2 **Independent Directors:** The Board must identify which Directors it has determined, in its view, to be Independent Directors:

22.2.1 no later than 10 working days following the Company's annual meeting the Company shall release to the Website the names of those Directors determined by the Board to be Independent Directors;

22.2.2 no later than 10 Business Days following appointment by the Board in respect of any Director appointed by the Board; and

22.2.3 prior to publication of its annual report.

22.3 **Company to Obtain Necessary Information:** It is the responsibility of the Company to make the necessary arrangements to require its Directors to provide sufficient information to the Board in order for the Board to determine which Directors are to be Independent Directors.

22.4 **Existing Directors to Continue in Office:** The Directors in office at the date of adoption of this Constitution shall continue in office subject to the provisions of this Constitution.

22.5 **Appointment and Removal by Ordinary Resolution:** Subject to this clause 22, a Director may be appointed by Ordinary Resolution. All Directors shall be subject to removal from office as Director by Ordinary Resolution.

22.6 **Appointment by Board:** Subject to clause 22.2.1, the Board may at any time appoint additional Directors. Any person who is appointed as a Director by the Directors shall retire from office at the next annual meeting of the Company, and shall be eligible for re-election at that meeting.

22.7 **Rotation:**

22.7.1 At least one third of the Directors or, if their number is not a multiple of three, then the number nearest to one third, shall retire from office at the annual meeting of the Company each year, but shall be eligible for re-election at that meeting. The Directors to retire shall be those who have been the longest in office since they were last elected or deemed elected. If two or more of those Directors were last elected on the same day, the Directors to retire shall (unless otherwise agreed amongst themselves) be determined by lot. A retiring Director is eligible for re-election.

22.7.2 Directors appointed by the Directors, who are offered for re-election pursuant to clause 22.6 and shall be exempt from the obligation to retire pursuant to sub clause 22.8.1. and shall be included in the number of Directors upon which the calculation for the purposes of sub clause 22.7.1 is based.

- 22.8 Appointment of Directors to be Voted on Individually:** No resolution to appoint or elect a Director shall be put to the holders of Securities unless:
- 22.8.1 the resolution is for the appointment of one Director; or
 - 22.8.2 the resolution is a single resolution for the appointment of two or more Directors, and a separate resolution that it be so voted on has first been passed without a vote being cast against it.
- Nothing in this clause prevents the election of two or more Directors by ballot or poll.
- 22.9 Re-election of Retiring Director:** At a meeting at which a Director retires, the Company may elect a person to fill the vacated office. If no other person is elected, the retiring Director shall, if standing for re-election, be deemed to have been re-elected unless it is resolved not to fill the vacated office or unless a resolution for the re-election of that Director is put to the meeting and lost.
- 22.10 Vacation of Office:** A Director shall cease to hold office as a Director if the Director:
- 22.10.1 becomes bankrupt or makes an arrangement or compromise with the Director's creditors generally; or
 - 22.10.2 becomes disqualified from being a Director pursuant to Section 151 of the Act; or
 - 22.10.3 resigns from office by notice in writing to the Company; or
 - 22.10.4 is removed from office pursuant to this Constitution or the Act; or
 - 22.10.5 has for more than six months been absent without permission of the Board from meetings of the Board held during that period.
- 22.11 Timing of Retirement and Appointment: If:**
- 22.11.1 a Director retires at a meeting of shareholders and is not re-elected or deemed to be re-elected at that meeting, the Director shall remain in office until, and his or her retirement shall take effect at, the conclusion of the meeting;
 - 22.11.2 a Director is removed from office at a meeting of shareholders by Ordinary Resolution, the Director shall remain in office until, and his or her removal shall take effect at, the conclusion of the meeting;
 - 22.11.3 a person who is not already a Director is appointed or elected as a Director at a meeting of shareholders, that person shall take office as a Director immediately after the conclusion of the meeting.

23. Alternate Directors

- 23.1 Appointment:** Each Director may from time to time appoint any person who is not already a Director and who is approved by a majority of the other Directors to be the Director's alternate director (an "Alternate Director"). No Director may appoint a deputy or agent otherwise than by way of appointment of an Alternate Director.
- 23.2 Form of Appointment and Removal:** Any appointment or removal of an Alternate Director must be by notice in writing to the Company signed by the relevant Director.
- 23.3 Rights of Alternate Director:** Each Alternate Director will be entitled to:

- 23.3.1 receive notices of all meetings of the Board if the Director who appointed the Alternate Director is known to be either outside of New Zealand or otherwise unavailable to attend meetings;
- 23.3.2 attend and vote at any such meeting at which the Director who appointed the Alternate Director is not personally present; and
- 23.3.3 in the absence of the Director who appointed the Alternate Director, perform all the functions, and exercise all the powers, of that Director.
- 23.4 **Remuneration and Expenses:** Each Alternate Director's:
- 23.4.1 remuneration (if any) must be paid by the Director who appointed the Alternate Director; and
- 23.4.2 expenses incurred in attending meetings of the Directors and otherwise in relation to the discharge of duties will be paid by the Company.
- 23.5 **Cessation of Appointment:** An Alternate Director will cease to be an Alternate Director:
- 23.5.1 if the Director who appointed the Alternate Director ceases to be a Director or revokes the appointment; or
- 23.5.2 on the occurrence of any event relating to the Alternate Director which, if the Alternate Director were a Director, would disqualify the Alternate Director from being a Director; or
- 23.5.3 if a majority of the other Directors resolve to revoke the Alternate Director's appointment.

24. Remuneration and Other Benefits of Directors

- 24.1 **Restriction on Authorisation:** The Board may not exercise the power conferred by section 161 of the Act to authorise any payment of remuneration to Directors in their capacity as such, without the prior approval of an Ordinary Resolution, except as provided in this section 24. Each such resolution shall express the Directors' remuneration as either:
- 24.1.1 a monetary sum per annum payable to all Directors taken together; or
- 24.1.2 a monetary sum per annum payable to each person from time to time holding office as a Director.
- 24.2 **Power to Increase:** If at any time while the approved remuneration of the Directors is expressed in accordance with clause 24.1.1 the total number of Directors holding office is increased, the amount of remuneration then payable in accordance with that clause may be increased by the Board by such amount as is necessary to enable the Company to pay the additional Director or Directors by way of remuneration a fee not exceeding the average amount then being paid to each of the other non-executive Directors (other than the chairman).
- 24.3 **Notice of Proposed Increase:** No resolution which increases the amount of the Director's remuneration shall be approved at a meeting of shareholders unless notice of the amount of increase has been given in the notice of meeting.
- 24.4 **Payment of Expenses:** Notwithstanding the provisions of clause 24.1, Directors are entitled to be paid for all travelling, accommodation and other expenses properly incurred by them in attending meetings of the Board, or any committee of the Board, or meetings of shareholders, or in connection with the business of the Company.

- 24.5 **Special Remuneration:** Notwithstanding clause 24.1, the Board may authorise the Company to pay special remuneration to any Director who is, or has been, engaged by the Company to carry out work in a capacity other than that of Director.
- 24.6 **Executive Directors:** Nothing in clauses 24.1 to 24.5 affects the remuneration of an executive Director in that person's capacity as an executive.
- 24.7 **Subsidiary Directorship:** For the purposes of clauses 24.1 to 24.6, amounts paid to a Director in his or her capacity as a director of a subsidiary of the Company (other than a subsidiary which is Listed (as defined in the Listing Rules) (including any remuneration paid to that Director by a subsidiary other than a subsidiary which is also Listed) shall be deemed to be remuneration of that Director in his or her capacity as a Director.

25. Proceedings of the Board

- 25.1 **Methods of Holding Meetings:** A meeting of the Board may be held either:
- 25.1.1 by a number of the Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- 25.1.2 by means of audio, or audio and visual, communication by which all the Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 25.2 **Notice of Meeting:** A Director or, if requested by a Director to do so, an Employee of the Company approved by the Board for this purpose, may convene a meeting of the Board by giving notice in accordance with this clause 25.2 and clause 25.3. Each Director must be given not less than two days notice of a meeting of the Board, unless the Director waives that right or in the opinion of the Chairman or of Directors who would together constitute a quorum at the meeting, the meeting is necessary as a matter of urgency, in which event such notice as is practicable in the circumstances shall be given. Notice may be given to a Director in any of the following ways:
- 25.2.1 by delivery of the notice to the Director, in which case the notice will be deemed to be given when delivered; or
- 25.2.2 by sending the notice by facsimile transmission (or other similar means of communication such as email) to the facsimile number (or electronic address) given by the Director to the Company for the purpose of receiving notices, in which case the notice will be deemed to be given when sent; or
- 25.2.3 by posting the notice to the address given by the Director for the purpose of receiving notices, in which case the notice will be deemed to be given three days after it is posted.
- 25.3 **Contents of Notice:** A notice of a meeting must specify the date, time and place of the meeting and, if the meeting is to be by means of audio or audio and visual communication, the manner in which the Director will be contacted to participate at the time of the meeting.
- 25.4 **Waiver of Irregularity:** An irregularity in a notice of meeting is waived if all the Directors entitled to receive notice of the meeting attend or participate in the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.
- 25.5 **Quorum:** Unless otherwise determined by the Board, a quorum for a meeting of the Board is a simple majority of the Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

- 25.6 **Insufficient Number of Directors:** The Directors may act notwithstanding any vacancy in their body, but if and for so long as their number is reduced below the minimum number fixed by clause 22.1.1, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company, but for no other purpose.
- 25.7 **Chairman:** The Directors may elect one of their number as Chairman of the Board and determine the period for which the Chairman is to hold office. If no Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be Chairman of the meeting.
- 25.8 **Votes:** Every Director has one vote. The Chairman of a meeting shall not have a casting vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless that Director expressly dissents or expressly abstains from voting on, or votes against, the resolution.
- 25.9 **Resolutions in Writing:** A resolution in writing, signed or assented to by all Directors is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including facsimile or other similar means of communication such as email) in like form, each signed or assented to by one or more Directors. A copy of any such resolution must be entered in or kept with the records of Board proceedings.
- 25.10 **Minutes:** The Board must ensure that minutes are kept of all proceedings at meetings of the Board.
- 25.11 **Validity of Acts:** All acts done by any meeting of the Board or of a committee of Directors or by any person acting as a Director are valid notwithstanding:
- 25.11.1 any defect in the appointment of any Director or person acting as a Director; or
- 25.11.2 that they or any of them were disqualified; or
- 25.11.3 any irregularity in a notice of meeting.
- 25.12 **Other Procedures:** Except as set out in this section 25, the Board may regulate its own procedure. The provisions of the Third Schedule of the Act shall not apply to proceedings of the Board except to the extent that those provisions are included in this Constitution.
- 25.13 **Committees:** The Board may from time to time, form any committee to carry out certain responsibilities of the Board, to be determined in its sole discretion.

26. Interests of Directors

- 26.1 **Disclosure of Interests:** A Director shall comply with the provisions of section 140 of the Act (relating to disclosure of interest of directors) but failure to comply with that section does not affect the operation of clause 26.2.
- 26.2 **Personal Involvement of Directors:** Notwithstanding any rule of law or equity to the contrary, but subject to sections 107(3) and 141 of the Act (relating to avoidance of transactions in which a Director is interested) and section 199(2) of the Act (prohibiting a director from acting as auditor of a company), a Director may:
- 26.2.1 contract with the Company in any capacity;
- 26.2.2 be a party to any transaction with the Company;

- 26.2.3 have any direct or indirect personal involvement or interest in any transaction or arrangement to which the Company is a party or in which it is otherwise directly or indirectly interested or involved;
- 26.2.4 become a director or other officer of, or otherwise interested in, any corporation promoted by the Company or in which the Company may be directly or indirectly interested as a shareholder or otherwise; and
- 26.2.5 retain any remuneration, profit or benefits in relation to any of the foregoing,
and no contract or arrangement of any kind referred to in this clause may be avoided by reason of a Director's interest.
- 26.3 **Interested Directors May Not Vote:** A Director who is interested in a transaction entered into, or to be entered into, by the Company:
- 26.3.1 may attend a meeting of the Board at which any matter relating to the transaction arises but shall not be included in the quorum for the purposes of consideration of, and may not vote on, any matter relating to the transaction except as provided in clause 26.4;
- 26.3.2 may sign a document relating to the transaction on behalf of the Company, and may do any other thing in his or her capacity as a Director in relation to the transaction, as if the Director were not interested in the transaction.
- 26.4 **Exception to Voting Prohibition:** A Director may vote in respect of, and be counted in the quorum for the purposes of, a matter in which he or she is interested if that matter is one in respect of which, pursuant to an express provision of the Act, Directors are required to sign a certificate or one which relates to the grant of an indemnity pursuant to section 162 of the Act.

27. **Indemnity and Insurance for Directors and Employees**

- 27.1 **Indemnity for Directors:** Every Director shall be indemnified by the Company for any costs referred to in section 162(3) of the Act and any liability or costs referred to in section 162(4) of the Act.
- 27.2 **Other Indemnities and Insurance:** In addition to the indemnity set out in clause 27.1, the Company may:
- 27.2.1 indemnify a director or Employee of the Company or a related company for any costs referred to in section 162(3) of the Act;
- 27.2.2 indemnify a director or Employee of the Company or a related company in respect of any liability or costs referred to in section 162(4) of the Act; and
- 27.2.3 effect insurance for a director or Employee of the Company or a related company in respect of any liability or costs referred to in section 162(5) of the Act.
- 27.3 **Interpretation:** Words given extended meanings by section 162(9) of the Act have those extended meanings in this section 27.

28. **Audit Committee**

- 28.1 **Establishment of Audit Committee:** The Company must have an Audit Committee.
- 28.2 **Composition of Audit Committee:** The Board shall determine the composition of the Audit Committee in accordance with the following requirements:

- 28.2.1 Each member of the Audit Committee shall be a Director;
- 28.2.2 The minimum number of members of the Audit Committee is two;
- 28.2.3 One of the members of the Audit Committee shall be Independent Directors; and
- 28.2.4 At least one member of the Audit Committee shall have an accounting or financial background.

28.3 **Responsibilities:** The responsibilities of the Audit Committee include as a minimum:

- 28.3.1 Ensuring that processes are in place and monitoring those processes so that the Board is properly and regularly informed and updated on corporate financial matters;
- 28.3.2 Recommending the appointment and removal of the Company's independent auditor;
- 28.3.3 Meeting regularly to monitor and review the Company's independent and internal auditing practices;
- 28.3.4 Having direct communication with and unrestricted access to the independent auditor and any internal auditors or accountants;
- 28.3.5 Reviewing the Company's financial reports and advising all Directors whether they comply with the appropriate laws and regulations; and
- 28.3.6 Ensuring that the external auditor or lead audit partner is changed at least every five years.

29. Dividends

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

29.2 **Form of Distribution:** Subject to the rights of holders of any shares in a Class, the Board may make a Distribution in such form as it thinks fit, but except as provided in this clause 29 shall not differentiate between shareholders as to the form in which a Distribution is made without the prior approval of the shareholders.

29.3 **Entitlement to Dividends:** The Board shall not authorise a dividend:

29.3.1 in respect of some but not all the shares in a Class; or

29.3.2 that is of a greater value per share in respect of some shares of a Class than it is in respect of other shares of that Class,

unless the amount of the dividend in respect of a share of that Class is in proportion to the amount paid to the Company in satisfaction of the liability of the shareholder under this Constitution or under the terms of issue of the share, but a Shareholder may waive that Shareholder's entitlement to receive a dividend or any part thereof by written notice to the Company signed by or on behalf of the shareholder.

29.4 **Currency of Payment:** The Board may, in its discretion, differentiate between shareholders as to the currency in which dividends are to be paid. In exercising that discretion the Board may have regard to the registered address of a shareholder, the register on which a shareholder's shares are registered or any other matter the Board considers appropriate. In any case where a dividend is to be paid in a currency other than New Zealand currency, the

amount payable will be converted from New Zealand currency in a manner, at a time and at an exchange rate determined by the Board.

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

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

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

29.6 **Entitlement Date:** Dividends and other distributions or payments to holders of Securities of the Company will be payable to the persons who are registered as holders of those Securities on an entitlement date fixed by the Board.

29.7 **Unclaimed Dividends:** Dividends or other monetary distributions unclaimed for one year after having been authorised may be used for the benefit of the Company until claimed. All dividends or other monetary distributions unclaimed for five years after having been authorised may be forfeited by the Board for the benefit of the Company. The Company shall, nevertheless, annul the forfeiture and pay a claimant who produces evidence of entitlement.

30. Notices

30.1 **Method of Service:** All notices, reports, accounts or documents required to be sent to a shareholder shall be sent in the manner set out in section 391 of the Act. Notices to any other person shall be sent in the same manner as if that person was a shareholder.

30.2 **Service of Notices Outside New Zealand:** If a Security holder has no registered address within New Zealand and has not supplied to the Company an address within New Zealand for the giving of notices, but has supplied an address outside New Zealand, then notices shall be posted to the holder at that address and shall be deemed to have been received by the holder 24 hours after the time of the posting.

30.3 **Joint Holders:** A notice may be given by the Company to the joint holders of a Security by giving the notice to the joint holder named first in the register in respect of the Security.

31. Inspection of Records

31.1 **Inspection of Records:** Except as provided in the Act or unless the Board determines otherwise in any particular case, no holder of Securities shall be entitled to:

31.1.1 inspect any records, books, papers, correspondence or documents of the Company; or

31.1.2 require or receive any information concerning the Company's business, trading or customers, or any trade secret or secret process of or used by the Company.

32. Reporting

32.1 **Full Year and Half Year Announcements:** The Company shall make an announcement on the Company's Website for a full year or half year which shall include the information and otherwise address the matters specified by the relevant section of Appendix 1 of the Listing Rules (as applicable to the Company prior to being Listed), as soon as the information is available, and in any event;

32.1.1 before the release of each annual report, and not later than 60 days after the end of the financial year to which that report relates; and

- 32.1.2 before the release of each half-yearly report and not later than 60 days after the end of the financial half-year to which that report relates.
- 32.2 **Annual Report:** The Company shall within three months of the end of its financial year:
- 32.2.1 disclose on its Website; and
- 32.2.2 make available to each shareholder in accordance with clause 32.4,
an annual report. That annual report shall be uploaded onto the Website before or at the same time as it is made available to every shareholder and shall contain all information:
- 32.2.3 all information required by law;
- 32.2.4 all information required in a preliminary announcement by clause 32.5; and
- 32.2.5 all information required by clause 32.5;
- 32.2.6 audited financial statements accompanied by an audit report in accordance with the requirements of the Financial Reporting Act 1993.
- 32.3 **Half Year Report:** The Company shall within three months of the end of its half financial year:
- 32.3.1 Disclose on its Website; and
- 32.3.2 make available to each shareholder in accordance with clause 32.4,
a half yearly report. That half yearly report shall be uploaded onto the Website before or at the same time as it is made available to every shareholder and shall contain all information by the relevant section of Appendix I of the Listing Rules as applicable to the Company prior to it being Listed.
- 32.4 **Distribution of Reports:** The Company shall make an annual or half-yearly report available to shareholders as required by clauses 32.2.2 and 32.2.5 , by sending to shareholders either:
- 32.4.1 a copy of the annual report or half-yearly report (as the case may be); or
- 32.4.2 a notice containing the statements referred to in section 209(3) of the Companies Act 1993 and complying with sections 209A and 209B of the Companies Act 1993,
provided also that a Company will be deemed to have made any half-yearly report available to shareholders if that Company's most recent annual notification under section 209(1)(b) of the Companies Act 1993 explicitly stated that it applied to the next half-yearly report. Where a half yearly report is deemed to have been made available in this way, a shareholder's election in respect of receipt of the relevant annual report, if any, shall apply in connection with that half-yearly report, except that an election to receive a concise annual report must be treated to include an election to receive the relevant half-yearly report.
- 32.5 **Disclosures to be Contained in Annual Report:** The annual report of a Company shall contain the matters described in Listing Rule 10.5.3 (a) to (e) and (h) to (k).
- 32.6 **Financial Reporting Act 1993:** The financial statements of the Company shall comply with the provisions of the Financial Reporting Act 1993.
- 32.7 **Substantial Shareholders:** The Company shall list on the Company's Website the names of the 20 shareholders holding the 20 largest parcels of Securities in the Company, and shall promptly update such information as it may change from time to time.

33. Liquidation

- 33.1 **Distribution of Surplus:** Subject to the rights of the holders of any Securities in the Company and to clauses 33.2 and 33.3, upon the liquidation of the Company the surplus assets of the Company (if any) must be distributed among the shareholders in proportion to their shareholding. If any shareholder's shares are not fully paid up the liquidator of the Company may require those shares to be fully paid up before the shareholder receives any distribution of the surplus assets of the Company in respect of those shares.
- 33.2 **Distribution in Kind:** With the approval of the shareholders of the Company by Ordinary Resolution, the liquidator of the Company may divide amongst the shareholders in kind the whole or any part of the surplus assets of the Company (whether or not they are of the same kind) and for that purpose the liquidator may:
- 33.2.1 attribute values to assets as the liquidator considers appropriate; and
- 33.2.2 determine how the division will be carried out as between the shareholders or different Classes of shareholders.
- 33.3 **Trusts:** With the approval of the shareholders of the Company by Ordinary Resolution, the liquidator may vest the whole or any part of any surplus assets of the Company in trustees upon trust for the benefit of shareholders of the Company. The liquidator may determine the terms of the trust.

34. Execution of Deeds

- 34.1 A deed which is to be entered into by the Company may be signed on behalf of the Company by:
- 34.1.1 two or more Directors; or
- 34.1.2 any Director, or any person authorised by the Board, whose signature must be witnessed; or
- 34.1.3 one or more attorneys appointed by the Company in accordance with section 181 of the Act.

Certificate of Applicant

Hon. Ruth Richardson certifies this document comprising pages numbered from 1 to 27 to be the Constitution of Syft Technologies Limited in terms of section 29(a) of the Companies Act 1993.

Applicant

Date

[Handwritten Signature]
24 September, 2008.