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# **Constitution of Westpac New Zealand Limited**

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Effective from February 2012.





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## 1. Definitions and interpretation

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

“**Act**” means the Companies Act 1993.

“**Board**” means Directors who number not less than the required quorum, acting together as a board of Directors.

“**BS14**” means RBNZ’s Corporate Governance banking supervision policy as amended or replaced from time to time.

“**Class**” means a class of Shares having attached to them identical rights, privileges, limitations and conditions.

“**Company**” means Westpac New Zealand Limited.

“**Conditions of Registration**” means RBNZ’s Conditions of Registration for the Company as amended or replaced from time to time.

“**Constitution**” means this constitution, as altered from time to time.

“**Director**” means a person appointed as a director of the Company in accordance with this Constitution.

“**Distribution**” means:

- (a) the direct or indirect transfer of money or property, other than Shares, to or for the benefit of a Shareholder; or
- (b) the incurring of a debt to or for the benefit of a Shareholder,

in relation to Shares held by that Shareholder, whether by means of a purchase of property, the redemption or other acquisition of Shares, a distribution of indebtedness or by some other means.

“**Independent Director**” means a Director who meets the criteria for independence provided for in the Conditions of Registration and BS14.

“**Interested**”, in relation to a Director, has the meaning set out in section 139 of the Act and “**Interest**” has a corresponding meaning.

“**month**” means calendar month.

“**Ordinary Resolution**” means a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the question.

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

“**RBNZ**” means the Reserve Bank of New Zealand under the Reserve Bank of New Zealand Act 1989 or any successor.

“**Records**” means the documents required to be kept by the Company under section 189(1) of the Act.

“**Share**” means a share issued, or to be issued, by the Company, as the case may require.

“**Shareholder**” means:

- (a) a person whose name is entered in the Share Register as the holder for the time being of one or more Shares;
- (b) until the person’s name is entered in the Share Register, a person named as a Shareholder in an application for the registration of the Company at the time of registration of the Company; and
- (c) until the person’s name is entered in the Share Register, a person who is entitled to have that person’s name entered in the Share Register as a Shareholder under a registered amalgamation proposal in respect of which the Company is the amalgamated company.

“**Share Register**” means the share register for the Company kept in accordance with the Act.

“**Special Resolution**” means a resolution approved by a majority of 75% or more of the votes of those Shareholders entitled to vote and voting on the question.

“**WBC**” means Westpac Banking Corporation ABN 33 007 457 141 or any successor.

“**Working Day**” has the meaning set out in section 2 of the Act.

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

- (a) the table of contents, headings, and descriptions relating to sections of the Act, are inserted for convenience only and shall be ignored in construing this Constitution;
- (b) the singular includes the plural and vice versa;
- (c) reference to any legislation or to any provision of any legislation (including regulations and orders) includes:
  - (i) that legislation or provision as from time to time amended, re-enacted or substituted;
  - (ii) any statutory instruments, regulations, rules and orders issued under that legislation or provision;
- (d) “written” and “in writing” include any means of reproducing words, figures and symbols in a tangible and visible form;
- (e) words and expressions defined or explained in the Act have the same meaning in this Constitution;
- (f) where any word or expression is defined in this Constitution, any other grammatical form of that word or expression has a corresponding meaning;
- (g) references to clauses and sections (other than sections of the Act) are references to clauses and sections in this Constitution, unless stated otherwise; and
- (h) any exercise by WBC of any approval or consent right (or equivalent) pursuant to this Constitution must be exercised in accordance with clause 19.4 (Notice to the Company).

1.3 **Constitution to prevail:** If there is any conflict between:

- (a) a provision in this Constitution and a provision in the Act which is expressly permitted to be altered by this Constitution; or
- (b) a word or expression defined or explained in the Act and a word or expression defined or explained in this Constitution, the provision, word or expression in this Constitution prevails.

## 2. Shares

2.1 **Classes of Shares:** Different Classes of Shares may be issued by the Company in accordance with the provisions of this Constitution. Without limiting the Classes which may be issued, any Share may be issued upon the basis that it:

- (a) confers preferential rights to distributions of capital or income;
- (b) confers special, limited or conditional voting rights;
- (c) does not confer voting rights; or
- (d) is redeemable in accordance with section 68 of the Act.

2.2 **Rights attached to Shares:** Except with the prior written approval of WBC, Shares other than ordinary Shares shall carry no voting rights.

2.3 **Board may issue Shares and other securities:** The Board may issue Shares, securities that are convertible into or exchangeable for Shares or options to acquire Shares at any time and in any number it thinks fit. Section 45 of the Act shall not apply to the Company, provided however that WBC must give its prior written approval to any issue of shares or any other securities issued in accordance with this clause. For the purpose of section 117 of the Act, the issue of further Shares which rank equally with, or in priority to, any existing Shares is deemed not to be any action affecting the rights attaching to those existing Shares.

2.4 **Consolidation and subdivision of Shares:** The Board may, with the prior written approval of WBC:

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

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

2.5 **Bonus issues:** The Board may, with the prior written approval of WBC, resolve to apply any amount which is available for Distribution either 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.

2.6 **Shares in lieu of dividends:** The Board may, with the prior written approval of WBC, exercise the right conferred by section 54 of the Act to issue Shares to any Shareholders who have agreed to accept the issue of Shares, wholly or partly, in lieu of proposed dividends or proposed future dividends.

2.7 **Fractional entitlements:** The Board may, in exercising any powers pursuant to this section, deal with fractional entitlements to Shares or other securities in such manner as the Board considers equitable and in the interests of the Company.

### 3. Acquisition and redemption of company's own shares

3.1 **Company may purchase Shares:** The Company may, with the prior written approval of WBC, purchase or otherwise acquire Shares from one or more Shareholders in accordance with the provisions of the Act and may, subject to any requirements or restrictions imposed by law, hold any Shares so purchased or acquired.

3.2 **Company may redeem any redeemable Shares:** The Company may, with the prior written approval of WBC, redeem any redeemable Shares from one or more Shareholders in accordance with the provisions of the Act.

### 4. Share certificates

4.1 **Issue of Share certificates:** The Company may issue Share certificates in respect of all or any Shares and must, within 20 Working Days after receiving an application by a Shareholder, send to that Shareholder a Share certificate, in accordance with section 95 of the Act.

4.2 **Replacement Share certificates:** The Company:

- (a) may issue a replacement certificate for any Share certificate that is worn out or defaced; and
- (b) shall issue a replacement Share certificate for one that has been lost or destroyed,

subject to satisfactory proof of that fact, payment of the reasonable expenses of the Company and, if so required by the Board, an appropriate indemnity being given to the Company.

### 5. Equitable interests in shares

5.1 **No notice of trusts:** No notice of a trust, whether express, implied, or constructive, may be entered on the Share Register.

5.2 **No recognition of equitable interests:** Except as required by law, no person shall be recognised by the Company as holding any Share upon trust and the Company shall not be bound by, nor be compelled to recognise (even after notice), any equitable, contingent, future or partial interest in any Share, or any interest in any fraction or part of a Share or (except as provided by this Constitution or by law) any other rights in respect of any Share, except an absolute right of the registered holder to the entire Share.

### 6. Calls on shares

6.1 **Shares to be fully paid:** All Shares issued by the Company must be fully paid on allotment.

6.2 **Fixed instalments deemed calls:** An amount which is fully payable on allotment is deemed for the purposes of this Constitution to be a call duly made and payable on the date of allotment.

6.3 **Manner of payment:** A Shareholder by whom a call is payable shall pay the amount of the call to the Company at the place specified by the Board.

### 7. Transfer of shares

7.1 **Right to transfer:** Subject to any restrictions contained in this Constitution, a Shareholder may, with the prior written approval of WBC, transfer any Share by an instrument of transfer which complies with this Constitution.

7.2 **Securities Transfer Act:** A Share which is disposed of in a transaction to which the provisions of the Securities Transfer Act 1991 apply may be transferred in accordance with the provisions of that Act.

7.3 **Other forms of transfer:** An instrument of transfer to which the provisions of clause 7.2 are not applicable shall:

- (a) be in any common form or any other form which the Board may approve;
- (b) be signed or executed by or on behalf of the transferor; and
- (c) if registration as holder of the Share imposes a liability on the transferee, be signed or executed by or on behalf of the transferee.

7.4 **Delivery to Company:** An instrument transferring shares must be delivered to the Company or to the agent of the Company who maintains the Share Register, together with the Share certificate (if any) relating to the Shares to be transferred, and the transferee shall provide such evidence as the Board or the agent reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Shares.

7.5 **Board may refuse to register:** Subject to section 84 of the Act (which imposes certain procedural requirements on a board), the Board may refuse to register a transfer of any Share if the instrument of transfer is not accompanied by the relevant Share certificate (if any) and such other evidence as the Board reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Share, provided that the Board resolves to exercise its power under this clause 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.

7.6 **When transfer effective:** A transferor of a Share is deemed to remain the holder of the Share until the name of the transferee is entered in the Share Register in respect of the Share.

7.7 **Company to retain transfer:** If the Company registers a transfer it shall retain the instrument of transfer.

7.8 **Multiple registers:** The Share Register may, by resolution of the Board, be divided into two or more registers, which may be kept in different places.

### 8. Distributions

8.1 **Power to authorise:** The Board, if satisfied on reasonable grounds that the Company will immediately after the Distribution satisfy the solvency test, may, with the prior written approval of WBC and subject to the Act and this Constitution, authorise Distributions by the Company at times, and of amounts, and to any Shareholders, as it thinks fit and may do everything which is necessary or expedient to give effect to any such Distribution.

8.2 **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 shall not differentiate between Shareholders as to the form in which a Distribution is made without the prior approval of the Shareholders.

8.3 **Entitlement to dividends:** Subject to section 107 of the Act (relating to unanimous consent to certain actions), the Board shall not authorise a dividend:

- (a) in respect of some but not all the Shares in a Class; or
- (b) 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 that Shareholder.

8.4 **Method of payment:** A Distribution payable in cash may be paid in such manner as the Board thinks fit to the entitled Shareholders or, in the case of joint Shareholders, to the Shareholder named first in the Share Register, or to such other person and in such manner as the

Shareholder or joint Shareholders may in writing direct. Any one of two or more joint Shareholders may give a receipt for any payment in respect of the Shares held by them as joint Shareholders.

- 8.5 **No interest on Distributions:** The Company is not liable to pay interest in respect of any Distribution.

## 9. Exercise of powers of Shareholders

- 9.1 **Exercise of powers:** A power reserved to the Shareholders of the Company by the Act may be exercised either at a meeting or by a resolution in writing signed in accordance with section 122 of the Act and, unless otherwise specified in the Act, may be exercised by Ordinary Resolution.

- 9.2 **Annual meetings:** The Company shall hold annual meetings of Shareholders in accordance with section 120 of the Act unless, in the case of any annual meeting, everything required to be done at that meeting (by resolution or otherwise) is done by resolution in writing signed in accordance with section 122 of the Act.

- 9.3 **Special meetings:** Special meetings of Shareholders may be called by the Board at any time, and shall be called by the Board on written request of WBC.

- 9.4 **Proceedings at meetings:** The provisions of the first schedule to the Act govern proceedings at all meetings of Shareholders.

- 9.5 **Quorum at meetings:** A quorum for a meeting of Shareholders is a majority of Shareholders present in person or by attorney or representative. No business may be transacted at any meeting except the election of a Chair and the adjournment of the meeting, unless a quorum is present at the commencement of the meeting.

## 10. Shareholder proposals and management review

- 10.1 **Shareholder proposals:** A Shareholder may give written notice to the Board of a matter which the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote. The provisions of clause 9 of the first schedule to the Act apply to any notice given pursuant to this clause.

- 10.2 **Management review by Shareholders:** The Chair of a meeting of Shareholders shall allow a reasonable opportunity for Shareholders at the meeting to question, discuss, or comment on the management of the Company. The Shareholders may pass a resolution relating to the management of the Company at that meeting but the resolution, unless it is a resolution in respect of a matter that requires the approval of WBC in accordance with this Constitution (in which case that resolution will only be binding where such consent has been obtained), will not be binding on the Board.

## 11. Appointment and removal of directors

- 11.1 **Number of Directors:** The number of Directors shall not at any time be less than five (or such other minimum number that may be determined by RBNZ or any other relevant regulatory body from time to time) and of which three must be Independent Directors.

- 11.2 **Appointment:** Subject to any approval requirement of RBNZ or any other relevant regulatory body, a person may be appointed as a Director at any time by WBC by written notice to the Company. Two or more persons may be appointed as Directors by a single resolution or notice.

- 11.3 **Removal:** A Director may at any time be removed from office by WBC by written notice to the Company.

- 11.4 **Vacation of office:** A Director ceases to be a Director if he or she:
- dies, or becomes mentally disordered or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988; or
  - resigns by written notice delivered to the Company at its address for service or at its registered office (such notice to be effective at the time when it is so received unless a later time is specified in the notice); or
  - becomes disqualified from being a Director pursuant to the Act; or
  - is removed from office in accordance with clause 11.3; or
  - becomes bankrupt or makes an arrangement or composition with his or her creditors generally.

## 12. Remuneration and other benefits of Directors

- 12.1 **Power to authorise:** The Board may exercise the power conferred by section 161 of the Act to authorise any payment or other benefit of the kind referred to in that section.

## 13. Indemnity and insurance

- 13.1 **Indemnity of Directors:** Subject to clause 13.3 every Director shall be indemnified by the Company:

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

and this indemnity shall continue in force, despite any subsequent revocation or amendment of this clause, in relation to any liability which arises out of any act or omission by a Director prior to the date of such revocation or amendment, but shall be subject to any limitations contained in any deed or agreement from time to time in force between the Company and the Director relating to indemnities.

- 13.2 **Other indemnities:** Subject to clause 13.3 the Company may, with the prior approval of the Board, indemnify a director of a related company, or an employee of the Company or a related company:

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

- 13.3 **Exceptions:** An indemnity conferred by clause 13.1(b) or given pursuant to clause 13.2(b), shall not apply in respect of

- any criminal liability; or
- in the case of an employee of the Company or a related company, any liability in respect of a breach of any fiduciary duty owed to the Company or related company;
- in the case of a Director or a director of a related company, any liability in respect of a breach of the duty specified in section 131 of the Act; or
- any other liability in respect of which an indemnity is prohibited by any legislation.

- 13.4 **Insurance:** The Company may, with the prior approval of the Board, effect insurance for a Director or employee of the Company or a director or employee of a related company, in respect of:

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

- 13.5 **Definitions:** In this section 13:

- “Director” includes a former Director and “director” includes a former director; and
- other words given extended meanings in section 162(9) of the Act have those extended meanings.

## 14. Powers of Directors

- 14.1 **Management of Company:** The business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board.



- 14.2 **Exercise of powers by Board:** The Board may exercise all the powers of the Company which are not required, either by the Act or this Constitution, to be exercised by the Shareholders, WBC or with the prior written consent of WBC.
- 14.3 **Delegation of powers:** The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in the second schedule to the Act.
- 14.4 **Appointment of attorney:** The Company may exercise the power conferred by section 181 of the Act to appoint a person as its attorney, either generally or in relation to a specified matter. Any such power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.
- 14.5 **Ratification by Shareholders:** Subject to the provisions of section 177 of the Act (relating to ratification of directors' actions) the Shareholders, or any other person in whom a power is vested by this Constitution or the Act, may ratify the purported exercise of that power by a Director or the Board in the same manner as the power may be exercised. The purported exercise of a power that is ratified under this clause is deemed to be, and always to have been, a proper and valid exercise of that power.
- 15. Interests of Directors**
- 15.1 **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 15.2.
- 15.2 **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:
- contract with the Company in any capacity;
  - be a party to any transaction with the Company;
  - 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;
  - 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
  - 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.
- 15.3 **Interested Directors may vote:** A Director who is Interested in a transaction entered into, or to be entered into, by the Company:
- may vote on any matter relating to the transaction;
  - may attend a meeting of the Board at which any matter relating to the transaction arises and be included among the Directors present at the meeting for the purposes of a quorum; and
  - 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.
- 16. Proceedings of Board**
- 16.1 **Third schedule to Act not to apply:** The provisions of the third schedule to the Act (relating to proceedings of a board) do not apply to the Company, except to the extent expressly incorporated in this Constitution.
- 16.2 **Alternative forms of meeting:** A meeting of the Board may be held either:
- by a number of the Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
  - by means of audio, or audio and visual, communication or other form of technology by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 16.3 **Procedure:** Except as provided in this Constitution, the Board may regulate its own procedure.
- 16.4 **Convening of meeting:** A Director may, at any time, and an employee of the Company must at the request of a Director, convene a meeting of the Board.
- 16.5 **Notice of meeting:** The following provisions apply in relation to meetings of the Board (except where otherwise agreed by all Directors in relation to any particular meeting or meetings):
- Not less than seven days' notice of a meeting of the Board shall be sent to each Director, unless:
    - the Director waives that right; or
    - in the opinion of the Chair, 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 to a Director of a meeting of the Board may be:
    - given to the Director in person by telephone or other oral communication;
    - delivered to the Director;
    - posted to the address given by the Director to the Company for such purpose;
    - sent by facsimile transmission to the facsimile telephone number given by the Director to the Company for such purpose; or
    - sent by electronic means in accordance with any request made by the Director from time to time for such purpose.
  - A notice of meeting shall:
    - specify the date, time and place of the meeting; and
    - in the case of a meeting by means of audio, or audio and visual, communication, specify the manner in which each Director may participate in the proceedings of the meeting; and
    - give an indication of the matters to be discussed, in sufficient detail to enable a reasonable Director to appreciate the general import of the matters, unless this is already known to all the Directors or is impracticable in any particular circumstances.
  - A notice of meeting given to a Director pursuant to this clause is deemed to be given:
    - in the case of oral communication, at the time of notification;
    - in the case of delivery, by handing the notice to the Director or by delivery of the notice to the address of the Director;
    - in the case of posting, three days after it is posted;
    - in the case of facsimile transmission, when the Company receives a transmission report by the sending machine which indicates that the facsimile was sent in its entirety to the facsimile telephone number given by the Director; or
    - in the case of electronic means, at the time of transmission.
  - If all reasonable efforts have been made to give notice of a meeting to a Director in accordance with this clause 16.5 but the Director cannot be contacted, notice of the meeting shall be deemed to have been duly given to that Director.
- 16.6 **Waiver of notice irregularity:** An irregularity in the giving of notice of a meeting is waived if each of the Directors either attends the meeting without protest as to the irregularity or agrees (whether before, during, or after the meeting) to the waiver.

- 16.7 **Quorum:** A quorum for a meeting of the Board is a majority of the Directors. No matter may be considered at a meeting of the Board if a quorum is not present.
- 16.8 **Chair:** WBC may, by written notice to the Company, appoint a person to be the Chair of the Board (and determine the period for which he or she is to hold office), provided that the person so appointed satisfies any requirements of the Conditions of Registration and BS14 in relation to the Chair. If no Chair is appointed by WBC or if, at a meeting of the Board, the Chair is not present within 15 minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their numbers to be Chair of the meeting.
- 16.9 **Voting:** Every Director has one vote. The Chair does not have a casting vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent, or if a majority of the votes cast on it are in favour of the resolution. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he or she expressly dissents from or votes against, or expressly abstains from voting on, the resolution at the meeting.
- 16.10 **Written resolution:** A resolution in writing signed or assented to by a majority of the Directors entitled to vote on that resolution is as valid and effective as if passed at a meeting of the Board duly convened and held provided those Directors would constitute a quorum for consideration of the resolution at a meeting of the Board. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in similar form, each signed or assented to by one or more Directors. A copy of any such resolution shall be entered in the Records. The Company shall, within seven days after any resolution is passed in accordance with this clause, send a copy of the resolution to each Director who has not signed or assented to the resolution but failure to do so shall not invalidate the resolution.
- 16.11 **Committees:** A committee of Directors shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this Constitution relating to proceedings of Directors apply, with appropriate modification, to meetings of a committee of Directors.
- 16.12 **Validity of actions:** The acts of a person as a Director are valid even though the person's appointment was defective or the person is not qualified for appointment.
- 16.13 **Minutes:** The Board shall ensure that minutes are kept of all proceedings at meetings of the Shareholders and of the Board. Minutes which have been signed correct by the Chair of the meeting are prima facie evidence of the proceedings.
- 16.14 **Company Secretary:** The Board may appoint at least one person to be the Company Secretary.

## 17. Method of contracting

- 17.1 **Deeds:** A deed which is to be entered into by the Company may be signed on behalf of the Company, by:
- two or more Directors; or
  - if there is only one Director, by that Director whose signature must be witnessed; or
  - a Director, and any Company Secretary appointed by the Board under clause 16. 14, whose signatures must be witnessed; or
  - a Director, and any person authorised by the Board, whose signatures must be witnessed; or
  - one or more attorneys appointed by the Company.
- 17.2 **Other written contracts:** An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by a person acting under the express or implied authority of the Company.
- 17.3 **Other obligations:** Any other obligation or contract may be entered into on behalf of the Company in writing or orally by a person acting under the express or implied authority of the Company.

## 18. Inspection of records

- 18.1 **Inspection by Directors:** Subject to section 191(2) of the Act (which relates to the power of a court to limit inspection), all accounting and other records of the Company shall be open to the inspection of any Director.
- 18.2 **Inspection by Shareholders:** No Shareholder is entitled to inspect any accounting or other records of the Company except as expressly authorised by law or permitted by the Board. Subject to the provisions of section 216 of the Act (which permits inspection of certain records by Shareholders) the Board may from time to time determine whether, to what extent, at what times and places, and under what conditions, the accounting or other records of the Company or any of them are open to the inspection of Shareholders.
- 18.3 **Inspection by WBC:** WBC and any other person authorised by it is entitled to inspect any accounting or other records of the Company except customer records or as expressly prohibited by law.

## 19. Notices

- 19.1 **Reports, etc to Shareholders:** Annual reports, notices and other documents required to be sent to a Shareholder shall be sent in the manner provided in section 391 of the Act.
- 19.2 **Accidental omissions:** The failure to send an annual report, notice, or other document to a Shareholder in accordance with the Act or this Constitution does not invalidate the proceedings at a meeting of Shareholders if the failure to do so was accidental.
- 19.3 **Waiver by Shareholders:** Subject to section 210 of the Act (which requires financial statements to be sent to Shareholders who elect not to receive annual reports), a Shareholder may from time to time, by written notice to the Company, waive the right to receive all or any documents from the Company and may at any time thereafter revoke the waiver in the same manner. While any waiver is in effect, the Company need not send to the Shareholder the documents to which the waiver relates.
- 19.4 **Notice to the Company:** Except as may be provided otherwise by the Act or other relevant law or regulatory requirement, any notice to the Company pursuant to this Constitution (including exercise by WBC of a consent right, or of a right to appoint or remove a director) must:
- be signed, or purport to be signed, by the person exercising such right;
  - in the case of WBC, be signed, or purport to be signed, on behalf of WBC by any director, the WBC Company Secretary, any attorney appointed by WBC for that purpose or any other person holding requisite delegated authority in accordance with the WBC delegated authority policy requirements;
  - be given to the Company by delivering the notice to its registered office (marked for the attention of the Company Secretary) , or by sending the notice through the post or by facsimile or other electronic means of communication to a post office box, facsimile number or electronic address provided to WBC by the Company,

and may be comprised in one or more separate notices, each signed or purporting to be signed, by one or more persons. A notice shall be effective from the time of receipt of the notice by the Company.

## 20. Liquidation

- 20.1 **Distribution of assets:** If the Company is liquidated the liquidator may, with the approval of Shareholders by Special Resolution and any other sanction required by the Act:
- divide among the Shareholders in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may for that purpose fix such value as the liquidator deems fair in respect of any property to be so divided, and may determine how the division shall be carried out as between Shareholders or between different Classes; and
  - vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the persons so entitled as the liquidator thinks fit, but so that no Shareholder is compelled to accept any shares or other securities on which there is any liability.





