

Please note the form of Constitution attached refers to PPNZ Music Licensing Limited before it was renamed to Recorded Music New Zealand Limited.

The Constitution does not need to be re-adopted so please read the name PPNZ / company as Recorded Music NZ / company.



**CONSTITUTION OF
PPNZ MUSIC LICENSING LIMITED**

Adoption of constitution: I certify that this document was adopted as the constitution of the company by special resolution on **23 May 2013**.

A handwritten signature in black ink, appearing to read "Nensi D".

Director

TABLE OF CONTENTS

1.	DEFINITIONS AND INTERPRETATION	1
2.	CAPACITY AND POWERS OF COMPANY	4
3.	SHARES	4
4.	PURCHASE OF OWN SHARES	7
5.	FORFEITURE AND CANCELLATION OF SHARES	7
6.	TRANSFER OF SHARES	8
7.	SHARE REGISTER	9
8.	TRANSITIONAL PROVISIONS	10
9.	MEETINGS OF SHAREHOLDERS	10
10.	VOTING AT MEETINGS	13
11.	APPOINTMENT AND REMOVAL OF DIRECTORS.....	14
12.	PROCEEDINGS OF DIRECTORS	18
13.	ALTERNATE DIRECTORS, COMMITTEES OF DIRECTORS.....	22
14.	INDEMNITY AND INSURANCE	23
15.	POWERS AND DUTIES OF THE BOARD	24
16.	AUTHORITY TO BIND.....	25
17.	LIQUIDATION	25

**CONSTITUTION OF
PPNZ MUSIC LICENSING LIMITED
UNDER THE COMPANIES ACT 1993**

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** In this constitution, unless the context otherwise requires, the following words and expressions have the meanings given to them in this clause:

“Act” means the Companies Act 1993.

“alternate director” means a director appointed pursuant to clause 13.

“amalgamation” means the completed act of the company and one or more other companies amalgamating pursuant to Part XIII of the Act and continuing as one company, which may be one of the amalgamating companies or may be a new company.

“annual meeting” means a meeting of Shareholders held pursuant to clause 9.1.

“Artist Representative Director” means a director appointed by the Independent Shareholders under clause 11.7.

“balance date” means 31 December in any year, unless determined otherwise by the Board.

“Board” means the directors numbering not less than the required quorum acting as the Board of directors of the company as specified in clause 12.6.

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

“chairperson” means the director of the Board appointed under clause 12.2.

“company” means PPNZ Music Licensing Limited.

“constitution” means this constitution of the company and all amendments to it as duly made from time to time.

“director” means a person appointed and continuing in office for the time being, in accordance with this constitution, as a director of the company.

“Distributable Sum” means the total payments made by the company to Licensors in a financial year pursuant to the Input Agreements and the distribution policy set by the Board from time to time.

“distribution”, in relation to Shares held by a Shareholder, means:

- (a) the direct or indirect transfer of money or property, other than Shares or all or any part of the Distributable Sum, by the company to or for the benefit of that Shareholder; or
- (b) the incurring of a debt by the company to or for the benefit of a 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.

“dividend” means a distribution by the company, other than a distribution to which section 59 or section 76 of the Act applies and not the Distributable Sum.

“financial year” for the company means the period 1 January to 31 December, unless the balance date of the company is otherwise changed by the Board in which case it shall be the twelve month period ending on that new balance date.

“Independent Director” means the director appointed by the Independent Shareholders under clause 11.7.

“Independent Share” means a Share in the company as defined in clause 3.7.

“Independent Shareholder” means the registered holder of an Independent Share.

“Input Agreement” means each written agreement in the form approved by the Board from time to time, between a Licensor and the company under which a Licensor licences to the company rights in relation to sound recordings and/or music videos (or any other such thing) or enters into any similar arrangement with the company in a form approved by the Board.

“interests register” means a register kept by the company at its registered office as required by section 189(1)(c) of the Act.

“Licensor” means a Recorded Rights Holder who has a valid and enforceable, and current, Input Agreement with the company.

“major transaction”, in relation to the company, means:

- (a) the acquisition of, or an agreement to acquire (whether contingent or not), assets the value of which is more than half the value of the company’s assets before the acquisition; or
- (b) the disposition of, or an agreement to dispose of (whether contingent or not), assets of the company, the value of which is more than half the value of the company’s assets before the disposition; or
- (c) a transaction which has or is likely to have the effect of the company acquiring rights or interests or incurring obligations or liabilities including contingent liabilities, the value of which is more than half the value of the company’s assets before the transaction;

but does not include:

- (d) any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the property of the company.

Nothing in paragraph (b) or paragraph (c) of this definition applies by reason only of the company giving, or entering into an agreement to give, a charge secured over assets of the company the value of which is more than half the value of the company’s assets for the purpose of securing the repayment of money or the performance of an obligation.

In assessing the value of any contingent liability for the purposes of paragraph (c) of this definition, the directors:

- (e) must have regard to all circumstances that the directors know, or ought to know, affect or may affect, the value of the contingent liability; and
- (f) may rely on estimates of the contingent liability that are reasonable in the circumstances; and
- (g) may take account of:
 - (i) the likelihood of the contingency occurring; and
 - (ii) any claim the company is entitled to make and can reasonably expect to be met to reduce or extinguish the contingent liability.

“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.

“postal vote” includes the right to vote by any electronic means approved by the Board either generally or for that particular vote.

“Recorded Rights Holder” means a person that owns or controls rights in any sound recording and/or music video (or any other such thing) as more particularly defined in the relevant Input Agreement.

“register” means the register of Shares required by clause 7 of this constitution and section 87 of the Act to be kept by the company.

“Registrar” means the Registrar of Companies appointed under section 357(1) of the Act.

“Related company” means a company related to another company as defined in section 2(3) of the Act.

“Share” means a share in the company.

“Shareholder” means a person registered in the register as the holder of a Share or until the person’s name is entered in the register, a person who is entitled to have that person’s name entered in the register as a Shareholder under a registered amalgamation proposal in respect of which the company is the amalgamated company.

“solvency test” means an examination to be applied to the financial state of the company, which will be satisfied if:

- (a) the company is able to pay its debts as they become due in the normal course of business; and

- (b) the value of the company's assets is greater than the value of its liabilities, including contingent liabilities, and in respect of which regard has been had to the matters referred to in section 4(2) of the Act.

For the purpose of this definition "debts" and "liabilities" have the meaning given to those terms in sections 52(4) or 108(5) of the Act as applicable.

"special meeting" means any meeting (other than an annual meeting) of Shareholders entitled to vote on an issue and so voting, called at any time by the Board, or by any other person who is authorised by the Board to call meetings of Shareholders.

"special resolution" means a resolution of Shareholders approved by seventy five (75) per cent or more of the votes of those Shareholders entitled to vote and voting on the question.

"TS Director" means a director appointed under clause 11.3.

"TS Share" means a Threshold Share in the company as defined in clause 3.2.

"TS Shareholder" means the registered holder of a TS Share.

"working day" means a day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Waitangi Day, or any other public holiday in New Zealand;
- (b) a day in the period commencing with the 25th day of December in any year and ending with the 5th day of January in the following year;
- (c) if the 1st day of January in any year falls on a Friday, the following Monday; and
- (d) if the 1st day of January in any year falls on a Saturday or Sunday, the following Monday and Tuesday.

1.2 **Interpretation:** In this constitution unless the context otherwise requires:

- (a) headings are inserted for convenience only and shall be ignored in construing this constitution;
- (b) the singular includes the plural and vice versa;
- (c) one gender includes the other genders;
- (d) a reference to a person includes an individual, partnership, firm, company, corporation, association, trust, estate, state or agency of a state, government or government department or agency, municipal or local authority and any other entity, whether or not incorporated and whether or not having separate legal personality;
- (e) "written" and "in writing" includes any means of reproducing words, figures or symbols:
 - (i) in a tangible and visible form in any medium; or
 - (ii) in a visible form in any medium by electronic means that enables them to be stored in a permanent form and be retrieved and read; and
- (f) "signature" includes, in relation to a document in electronic form, an electronic signature created by a method which identifies the signatory and indicates the signatory's approval of the information contained in the document; and
- (g) a reference to a clause is to that clause in this constitution unless stated otherwise.

1.3 **Notices:** Any notice given on a day that is not a working day, or given after 5:00pm on a working day, is deemed to be given at 9:00 am on the next working day.

1.4 **Act:** Subject to this clause 1, words and expressions contained in this constitution bear the same meaning as specified in the Act as amended from time to time (and if a definition in the Act is in all material respects repeated in this constitution, and that definition in the Act is changed, then the definition in the Act shall prevail). Otherwise, if there is any conflict between the provisions of the Act and this constitution, then (to the extent permitted by law and unless specified otherwise) the provisions of this constitution will prevail.

1.5 **Changes to Act:** If the Act changes in a way that would, but for this clause, cause section 31 of the Act to apply to any clause then that clause shall be deemed to be amended in the same manner as the change in the Act so that the constitution does not contravene or become inconsistent with the Act.

1.6 **Electronic Means:** Where a legal requirement under the Act is reproduced in this constitution, the provision of this constitution which reproduces that legal requirement may be met by using electronic means in accordance with the Electronic Transactions Act 2002 in the same manner as is required by the Electronic Transaction Act 2002 to meet the legal requirement under the Act. In this clause the term “legal requirement” has the meaning given to it by the Electronic Transaction Act 2002 (section 15(2)).

1.7 **Electronic Transactions Act:** For the purposes of section 11 of the Electronic Transactions Act 2002, a document under this constitution, which is sent in electronic form and via an electronic communication is to be taken to be received:

- (a) if sent by the company, on the working day that it is sent or the next working day if sent after 5:00pm, provided that the electronic communication was correctly addressed to the address provided by the addressee for the receipt of electronic communications and no error message was received by the information systems used by the company to send the electronic communication; and
- (b) if sent to the company, at the time the electronic communication comes to the attention of the addressee or such other time as the sender and the company may agree in writing.

To avoid doubt, any document so sent may be in any widely used electronic form.

2. CAPACITY AND POWERS OF COMPANY

2.1 **Rights, powers and duties:** The company, the Board, each director and each Shareholder shall have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this constitution.

2.2 **Full capacity:** Subject to this constitution, the Act, and any other applicable law, the company has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any business or activity, do any act, or enter into any transaction.

3. SHARES

3.1 **Power to issue Shares and existing Shares:**

- (a) Unless the terms of issue of any class of Shares specifically otherwise provide, the Board may issue Shares that rank or would rank (including as to voting rights, distribution rights, liquidation preference or redemption terms, or all or some of those) equally with or prior to existing Shares without any requirement that the Shares be first offered to existing shareholders, and such an issue is not an action affecting the rights attached to the existing Shares.
- (b) The one hundred (100) shares in the company in existence at the date of adoption of this constitution will be allocated and / or reclassified by the Board as Shares governed by this constitution as they see fit (provided that they may only be so allocated or reclassified once).

3.2 **Threshold Shares:** Subject to the Act and this constitution, the Board will issue a Threshold Share (“**TS Share**”) to any person:

- (a) meeting the eligibility requirements set out in clause 3.3; and
- (b) making an application, and accepted by the Board, for admission as a TS Shareholder under clause 3.4.

3.3 **Eligibility to be a TS Shareholder:** A person is eligible to apply for admission as a TS Shareholder, and to remain a TS Shareholder if the person is designated as a TS Shareholder on or about the date of adoption of this constitution or:

- (a) the person is a Licensor; and
- (b) the person is a New Zealand citizen, a person legally resident in New Zealand or legally incorporated in New Zealand under the Act; and
- (c) distributions made by the company under an Input Agreement executed by the relevant Licensor total at least six (6) per cent of the aggregate Distributable Sum paid by the company to Licensors in each of

the three (3) financial years immediately prior to the date of that Licensor's application for admission as a TS Shareholder.

3.4 Application to be a TS Shareholder:

- (a) Any person who is eligible to be a TS Shareholder under the eligibility requirements set out in clause 3.3 above may apply to the Board for admission as a TS Shareholder.
- (b) An application for membership must be made in writing, signed by the applicant, and in a form specified by, or otherwise acceptable to, the Board.
- (c) The Board may require the relevant Licensor to supply such evidence of eligibility as the Board considers necessary, in its absolute discretion.
- (d) When the Board is satisfied that the relevant Licensor is eligible to be admitted as a TS Shareholder, the Board shall accept the relevant application and either:
 - (i) issue the applicant no more than one (1) TS Share; or
 - (ii) transfer to the applicant any TS Share (once again one (1) only) held by the company.

3.5 Rights attaching to a TS Share: Each TS Share has the following rights and restrictions:

- (a) the right to receive notice of and to attend a general or special meeting of the Shareholders, and to receive other notices provided to Shareholders generally;
- (b) the right to receive notices that are specifically for the TS Shareholders;
- (c) the right to vote at any Shareholder meeting.

For the avoidance of doubt, the number of TS Shares to which each TS Shareholder may be entitled is limited to one (1).

3.6 Voting rights attaching to a TS Share: Notwithstanding that each TS Shareholder can hold no more than one (1) TS Share:

- (a) the voting rights attaching to a TS Share at a general or special meeting of all Shareholders will be the percentage of the Distributable Sum that that TS Shareholder received as a total of the Distributable Sum paid to all Shareholders in the previous financial year; and
- (b) the voting rights attaching to a TS Share at a special meeting held for the TS Shareholders will be the percentage of the Distributable Sum that that TS Shareholder received as a total of that part of the Distributable Sum paid to all TS Shareholders in the previous financial year.

3.7 Independent Shares: Subject to the Act and this constitution, the Board will issue an Independent Share to any person:

- (a) meeting the eligibility requirements set out in clause 3.8; and
- (b) making an application, and accepted by the Board, for admission as an Independent Shareholder under clause 3.9.

3.8 Eligibility to be an Independent Shareholder: A person is eligible to apply for admission as an Independent Shareholder, and to remain an Independent Shareholder, if the person is designated as an Independent Shareholder on or about the date of adoption of this constitution or:

- (a) the person is a Licensor; and
- (b) is a New Zealand citizen, a person legally resident in New Zealand or legally incorporated in New Zealand under the Act; and
- (c) is not a TS Shareholder.

3.9 Application to be an Independent Shareholder:

- (a) Any person who is eligible to be an Independent Shareholder may apply to the Board for admission as an Independent Shareholder.
- (b) An application for membership must be made in writing, signed by the relevant Licensor, and in a form specified by or acceptable to, the Board.
- (c) The Board may require the relevant Licensor to supply such evidence of eligibility as the Board considers necessary, in its absolute discretion.

- (d) When the Board is satisfied that the relevant Licensor is eligible, the Board will accept the relevant application and will either:
- (i) issue the Licensor no more than one (1) Independent Share; or
 - (ii) transfer to the applicant any Independent Share (once again one (1) and one (1) only) held by the company.

3.10 **Rights attaching to the Independent Shares:** Each Independent Share has the following rights and restrictions:

- (a) the right to receive notice of and to attend a general or special meeting of the Shareholders, and to receive other notices provided to Shareholders generally;
- (b) the right to receive notices that are specifically for Independent Shareholders;
- (c) the right to vote only as follows:
 - (i) in accordance with clause 11.7(a), but subject to sub-clause (ii), an Independent Shareholder irrevocably appoints (and is deemed to have irrevocably appointed for all purposes) the Independent Director as their proxy to vote at any Shareholder meeting (and the Independent Shareholder has no right to exercise such a vote themselves);
 - (ii) an Independent Shareholder may vote directly:
 - (A) to appoint the Independent Director and/or the Artist Representative Director; and
 - (B) on any proposal that affects the rights attached to the Independent Shares at any meeting held to consider that, or on any vote held to consider that by any other means, and whether at a meeting of Shareholders generally or at a meeting of Independent Shareholders only.

For the avoidance of doubt, the number of Independent Shares to which each Independent Shareholder may be entitled is limited to one (1).

3.11 **Voting rights attaching to an Independent Share:** Notwithstanding that each Independent Shareholder can hold no more than one (1) Independent Share, the voting rights attaching to an Independent Share at:

- (a) a general or special meeting of all Shareholders, shall be the percentage of the Distributable Sum that Independent Shareholder received as a total of that part of the Distributable Sum paid to all Shareholders in the previous financial year; and
- (b) a special meeting of all Independent Shareholders, shall be the percentage of the Distributable Sum that Independent Shareholder received as a total of that part of the Distributable Sum paid to all Independent Shareholders in the previous financial year.

3.12 **Consolidation and subdivision of Shares:**

- (a) The Board may authorise:
 - (i) the consolidation and division of Shares or any class of Shares in proportion to those Shares or the Shares in that class; and
 - (ii) the subdivision of the Shares or any class of Shares in proportion to those Shares or the Shares in the class.
- (b) In such a case, the Board may need to arrange to have the Shareholders make due amendment to the terms of this constitution on the basis it was on its initial adoption prescribing that there be only one (1) Share per Licensor.

3.13 **Joint holders of Shares:** Where two or more persons are registered as the holders of a Share they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) the company is not bound to register more than three (3) of those persons as joint holders of the Share;
- (b) each of those persons and their representative legal or personal representatives are liable severally as well as jointly for all payments which ought to be made in respect of the Share;

- (c) on the death of any one of them the company is entitled to recognise the survivor or survivors as the only person or persons who have any title to the Share; and
- (d) the company is not bound to issue more than one certificate for the Share and delivery of a certificate to any one of those persons is sufficient delivery to all of them.

3.14 Trust not to be registered or recognised:

- (a) No notice of a trust, whether express, implied, or constructive, may be entered on the register.
- (b) Except as required by law, no person will be recognised by the company as holding any Share upon trust or holding any interest in a Share (whether equitable, contingent, future or partial) except the absolute legal right to the entirety of the Share vested in the registered holder.
- (c) A personal representative of a deceased holder of Shares is entitled to be entered in the register as the holder of such Shares as a personal representative.
- (d) The registration of a trustee, executor or administrator as a personal representative of a deceased Shareholder does not constitute notice of a trust.

3.15 No interests: A Shareholder must not create or permit to subsist any mortgage, charge or other encumbrance or third party interest of any nature over any of the Shares (or any interest in those Shares).

4. PURCHASE OF OWN SHARES

The company may purchase or otherwise acquire its Shares in accordance with, and subject to, sections 58 to 65, 107, 108 and 110 to 112 of the Act, and may hold the acquired Shares in accordance with sections 67A to 67C of the Act.

5. FORFEITURE AND CANCELLATION OF SHARES

5.1 If any of the following events occur, the Board may determine that the relevant Shareholder immediately forfeits the Share in the company registered in their/its name:

- (a) in the case of a TS Shareholder, distributions made by the company to that TS shareholder fail to maintain an average of at least six (6) per cent of the Distributable Sum over any continuous period of three (3) financial years, or ceasing to meet the eligibility criteria in clause 3.3(a) or (b);
- (b) in the case of an Independent Shareholder, the Independent Shareholder ceasing to meet the eligibility criteria in clause 3.7;
- (c) the Shareholder (being a company) becomes insolvent or goes into compulsory or voluntary liquidation, except in cases of corporate reconstruction or amalgamation;
- (d) the Shareholder is held by any Court, exercising either civil or criminal jurisdiction, to have contravened any statutory provision relating to an infringement of copyright;
- (e) the Shareholder (being a company), becomes a Related company of a company whose interests or primary business is, in the opinion of the Board (in its sole discretion), contrary to the interests of the company or its Shareholders taken as a whole;
- (f) the Shareholder (being an individual), becomes associated with any person whose interests or primary business is, in the opinion of the Board (in its sole discretion), contrary to the interests of the company or its Shareholders taken as a whole;
- (g) the Shareholder in the opinion of the Board (in its sole discretion), has wilfully and persistently refused to perform its obligations towards the company or conducted itself so as to bring discredit on the company or the recorded music industry or to disrupt or affect the activities of the company and to make continued holding of a Share in the company undesirable in the best interests of the company or of other Shareholders. The company shall not make a determination upon any motion pursuant to this sub-clause (f) until at least 14 days after the relevant Shareholder has been notified of the complaint against it. The Shareholder will be entitled to answer the complaint either in writing delivered to the

company prior to the date on which the company is to deliberate on such a motion or by appearing before the company at the appropriate time; or

(h) the Shareholder has declined to pay any sum due and payable to the company.

5.2 **One (1) Share:** Unless the Board unanimously resolves otherwise, a Shareholder who at any time holds more than one Share (by acquisition or otherwise), forfeits all Shares in the company registered in its name, other than the one Share held by that Shareholder and in respect of which the Board is then satisfied that the Shareholder meets the applicable eligibility criteria, such that no Shareholder may hold more than one (1) Share at any time.

5.3 **Rights suspended:** Immediately upon a Share becoming forfeited under clauses 5.1 or 5.2, the rights attaching to that Share are suspended and the Board may (in its sole discretion):

(a) cancel that Share in accordance with the Act and remove the name of that Shareholder from the company register; or

(b) deem that Share to be sold back to the company for the sum of \$1 and any share so repurchased will be held by the company as treasury stock, subject to the Act permitting that to occur at the applicable time.

6. TRANSFER OF SHARES

6.1 No Disposal of Shares:

(a) Subject to any rights or restrictions attached to any Share or class of Shares, a TS Shareholder or Independent Shareholder may only dispose of a TS Share or an Independent Share in the manner allowed by this clause 6.

(b) A TS Shareholder may transfer its TS Share to a Related company of the TS Shareholder, provided that the Related company satisfies the eligibility criteria set out in clause 3.3.

(c) An Independent Shareholder may transfer its Independent Share to a Related company of the Independent Shareholder, provided that the Related company satisfies the eligibility criteria set out in clause 3.8.

6.2 **Entry in register:** Subject to clause 6.1, Shares may be transferred by entry of the name of the transferee(s) on the register.

6.3 **Signed transfer:** For the purpose of transferring Shares, a form of transfer meeting the requirements of clause 6.4 signed by the present holder of the Share or the holder's personal representative must be delivered to the company or to the agent of the company who maintains the register.

6.4 Form of transfer:

(a) The form of transfer may be in the form set out in the First Schedule to the Securities Transfer Act 1991 or in any usual or common form, or any other form approved by the Board.

(b) The form of transfer must be signed by the transferee(s) if registration as holder of the Share would impose a liability to the company on the transferee(s).

6.5 Board's right to refuse or delay registration of transfer:

(a) The Board may, within thirty (30) working days of the receipt of a form of transfer of Share, refuse or delay the registration of the transfer if:

(i) the Board considers that to effect the transfer would result in a breach of the law or this constitution; or

(ii) the Board does not consider that the transferee is eligible to be a Shareholder on which matter the Board shall have absolute discretion in its decision; or

(iii) clause 6.3 has not been complied with or the form of transfer has not been properly executed or does not comply with clause 6.4.

- (b) A resolution of the Board to refuse or delay a transfer of a Share must set out in full the reason for doing so, and a copy of the resolution must be sent to the transferor and transferee(s) within ten (10) working days of the date of the resolution being passed.

6.6 **Registration of transfer:** Subject to clause 6.1 and on receipt of a duly completed form of transfer complying with this constitution, the company must enter the name of the transferee(s) on the register as holder of the Share, unless the Board has resolved in accordance with clause 6.5 to refuse or delay the registration of the transfer of the Share.

6.7 **Transmission of a Share:**

- (a) In the case of the death of a Shareholder, the only persons the company will recognise as having any title to the deceased Shareholder's Share or any benefits accruing in respect of that Share are:
- (i) the legal personal representative of the deceased where the deceased was a sole holder; and
 - (ii) the survivor or survivors where the deceased was a joint holder,
 - (iii) provided that the person meets the eligibility set out in clause 3.3 in the case of a TS Shareholder, or clause 3.8 in the case of an Independent Shareholder.
- (b) Nothing in sub clause (a) releases the estate of a deceased Shareholder from any liability in respect of a Share, whether that Share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a Share as a result of a transmission may elect:
- (i) to be registered as the holder of the Share by signing and serving on the company a notice in writing stating that election; or
 - (ii) to nominate some other person to be registered as the transferee of the Share by executing or otherwise effecting a transfer of the Share to that other person provided that the person to be registered as the holder of a TS Share satisfies the eligibility criteria set out in clause 3.3 in the case of a TS Shareholder, or clause 3.8 in the case of an Independent Shareholder, and provided that the person produces any evidence the directors require to prove that person's entitlement to the relevant Share.
- (d) The provisions of this constitution relating to the right of transfer, and the registration of transfers of, a Share apply, so far as they can and with such changes as are necessary, to any transfer under sub clause (c) (ii) above as if the relevant transmission had not occurred and the transfer were executed or effected by the registered holder of the Share.
- (e) If two or more persons become jointly entitled to a Share under a transmission, on registration as the holders of the Share, those persons are taken to hold the Share as joint tenants subject to clause 3.11.

6.8 **Transmission of a Share:** Notwithstanding clause 6.1, the assignee of the property of a bankrupt Shareholder is entitled to be registered as the holder of a Share held by the bankrupt.

7. SHARE REGISTER

7.1 **Maintain register:**

- (a) The company must maintain a register which records all Shares issued by the company and which states:
- (i) whether, under this constitution or the terms of issue of any Shares, there are any restrictions or limitations on their transfer; and
 - (ii) where any document that contains the restrictions or limitations may be inspected.
- (b) The company may appoint an agent to maintain the register.

7.2 **Contents of register:** The register must state, with respect to each class of Shares:

- (a) the names (alphabetically arranged) and the latest known address of each person who is, and each person who has been within the last ten (10) years, a Shareholder;
- (b) the number of Shares (which in each instance should only be one (1)) held by each Shareholder within the last ten (10) years; and

- (c) the date of any:
- (i) issue of a Share to;
 - (ii) repurchase or redemption of a Share from; or
 - (iii) transfer of a Share by or to;
- each Shareholder within the last ten (10) years; and in relation to the transfer, the name of the person to or from whom the Share was transferred.

7.3 **Directors' duty to supervise register:** It is the duty of each director to take reasonable steps to ensure that the register is properly kept and that the transferees' names are promptly entered on it in accordance with clause 7.1.

7.4 **Register prima facie evidence:** Subject to section 91 of the Act, the entry of the name of a person in the register as holder of a Share is prima facie evidence that the legal title to the Share is vested in that person.

7.5 **Register evidence of rights:** The company may treat the registered holder of a Share as the only person entitled to:

- (a) exercise any right to vote attaching to the Share;
- (b) receive notices in respect of the Share;
- (c) receive any distribution in respect of the Share; and
- (d) exercise the other rights and powers attaching to the Share.

8. TRANSITIONAL PROVISIONS

Notwithstanding any other provision of this constitution:

8.1 **Initial TS Shareholders:** On adoption of this constitution, the TS Shareholders shall be those persons meeting the criteria in clause 3.3 who prior to the meeting at which this constitution is adopted ("**Approval Meeting**") have applied to the company to become a TS Shareholder, and have been so confirmed at that meeting.

8.2 **Initial Independent Shareholders:** On adoption of this constitution, the Independent Shareholders shall be those persons meeting the criteria in clause 3.7 who prior to the Approval Meeting have applied to the company to become an Independent Shareholder and have been so confirmed at that meeting.

8.3 **Initial TS Directors:** On adoption of this constitution, the initial TS Directors shall be those persons notified by the TS Shareholders at or prior to the Approval Meeting.

8.4 **Initial Independent Director and Artist Representative Director:** On adoption of this constitution, the Independent Director and the Artist Representative Director shall be those persons nominated and elected by the Independent Shareholders prior to the Approval Meeting.

8.5 **Initial chairperson:** On adoption of this constitution, the initial chairperson shall be Henri Eliot.

9. MEETINGS OF SHAREHOLDERS

9.1 **The First Schedule:** The provisions of the First Schedule to the Act are deleted and replaced by this clause 9.

9.2 **Annual meeting:**

- (a) The Board must, in accordance with section 120 of the Act, call an annual meeting of Shareholders to be held:
 - (i) not later than six (6) months after the balance date of the company; and
 - (ii) not later than fifteen (15) months after the previous annual meeting.
- (b) The company must hold the annual meeting on the date on which it is called to be held.
- (c) It is not necessary for the company to hold an annual meeting if everything required to be done at that meeting (by resolution or otherwise) is done by resolution in accordance with sections 122(2) and 122(3) of the Act.

9.3 **Resolution in lieu of meeting:**

- (a) Subject to clause 9.3(c) following, a resolution in writing signed by not less than seventy five (75) per cent of the Shareholders who would be entitled to vote on that resolution at a meeting of Shareholders, who together hold not less than seventy five (75) per cent of the votes entitled to be cast on that resolution, is as valid as if it had been passed at a meeting of those Shareholders.
- (b) Any such resolution may consist of one (1) or more documents in similar form (including letter, , facsimiles, electronic mail, or other similar means of communication) each signed or assented to by or on behalf of one or more of the Shareholders entitled to vote on the resolution.
- (c) A resolution pursuant to section 196(2) of the Act to not appoint an auditor may be passed as provided above, provided that the resolution must be signed by all the Shareholders entitled to vote on the resolution.
- (d) Within five (5) working days of a resolution being passed under this clause 9.3, the company must send a copy of the resolution to every Shareholder who did not sign the resolution or on whose behalf the resolution was not signed.

9.4 Chairperson of meetings of Shareholders:

- (a) The chairperson, if present at a meeting of Shareholders, must chair the meeting.
- (b) If the chairperson is not present within fifteen (15) minutes of the time appointed for the commencement of the meeting, the Shareholders present may choose one of their number to chair the meeting.

9.5 Shareholders entitled to notice of meeting:

- (a) The Shareholders entitled to receive notice of a meeting of shareholders are those Shareholders of each relevant class:
 - (i) if the Board has fixed a date for the purpose of establishing an entitlement to receive notice of meeting, whose names are registered in the register on that date; or
 - (ii) if the Board does not fix a date for the purpose of establishing an entitlement to receive the notice of meeting, whose names are registered in the register at the close of business on the day immediately preceding the day on which the notice is given.
- (b) A date fixed by the Board under clause 9.5(a)(i) must not precede by more than thirty (30) working days nor less than ten (10) working days the date on which the meeting is to be held.

9.6 Notice of meeting:

Written notice of the time 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 ten (10) working days before the meeting.

9.7 Contents of notice: The notice referred to in clause 9.6 above must state:

- (a) the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it;
- (b) the text of any special resolution to be submitted to the meeting;
- (c) the postal (or electronic) address to which postal votes may be sent and the name or office of the person to whom they may be sent; and
- (d) that the postal vote must be received by the person referred to in paragraph (c) at least forty eight (48) hours prior to the start of the meeting,

and each Shareholder shall also receive, prior to the applicable meeting, notice of that Shareholder's percentage voting rights for the meeting (except in the case of a vote on which the Independent Director will act as proxy for the Independent Shareholders in accordance with this constitution, in which case notice of only the total percentage of the vote which that Independent Director represents will be given).

9.8 Irregularities in notice:

- (a) 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.
- (b) The accidental omission to give notice of a meeting to, or a failure to receive notice of a meeting by, a Shareholder does not invalidate the proceedings at that meeting.

9.9 **Method of holding meeting:** A meeting of Shareholders may be held either:

- (a) by a number of Shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) 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.

9.10 **Adjournments:**

- (a) The chairperson of a meeting of Shareholders may, at the request of those Shareholders present in person or by proxy who are between them able to exercise a majority of the votes able to be cast at the meeting, adjourn the meeting.
- (b) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) If a meeting of Shareholders is adjourned for less than thirty (30) days, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clauses 9.6 and 9.7 above.

9.11 **Minutes:**

- (a) The Board must ensure that accurate minutes are kept of all proceedings at meetings of Shareholders.
- (b) Minutes which have been signed as correct by the chairperson of the meeting are prima facie evidence of the proceedings.

9.12 **Other proceedings:** Except as provided in this constitution, the Shareholders may otherwise regulate the meetings as they see fit.

9.13 **Admission to meetings:**

- (a) The chairperson of a Shareholder meeting may refuse admission to a person or require that person to leave and remain out of the meeting, if that person:
 - (i) has a camera, tape recorder or video camera, or another audio or visual recording device;
 - (ii) has a placard or banner;
 - (iii) has an article which the chair considers to be dangerous, offensive or liable to cause disruption;
 - (iv) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vi) is not:
 - (A) a Shareholder or a proxy of a Shareholder;
 - (B) a director;
 - (C) an auditor of the company;
 - (D) a legal adviser to the company; or
 - (E) a person requested by the Board to attend the meeting.
- (b) A person requested by the Board or the chair to attend a general meeting is entitled to be present, whether the person is a Shareholder or not.

10. VOTING AT MEETINGS

10.1 Quorum:

- (a) Subject to the separate requirements for a postal meeting of the Independent Shareholders to appoint the Independent Director and the Artist Representative Director (see clause 11.7 of this constitution), a quorum for a meeting of Shareholders is present if those Shareholders who have cast postal votes or who are present, or their proxies or other legal representatives who are present, are between them able to exercise a majority of the votes to be cast on the business to be transacted by the meeting.
- (b) Subject to clause 10.1(c) and the requirements for a postal meeting of the Independent Shareholders to appoint the Independent Director (see clause 11.7 of this constitution), no business may be transacted at a meeting of Shareholders if a quorum is not present.
- (c) If a quorum is not present within thirty (30) minutes after the time appointed for the 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.

10.2 Voting:

- (a) In the case of a meeting of Shareholders held under clause 9.9(a), unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting:
 - (i) voting by voice; or
 - (ii) voting by show of hands.
- (b) In the case of a meeting of Shareholders held under clause 9.9(b) unless a poll is demanded, voting at the meeting shall be by the Shareholders signifying individually their assent or dissent by voice.
- (c) A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact, unless a poll is demanded in accordance with clause 10.2(d).
- (d) At a meeting of Shareholders, a poll may be demanded by:
 - (i) not less than two (2) Shareholders having the right to vote at the meeting; or
 - (ii) a Shareholder or Shareholders representing not less than six (6) per cent of the total voting rights of all Shareholders having the right to vote at the meeting; or
 - (iii) the chairperson of the meeting.
- (e) A poll may be demanded either before or after the vote is taken on a resolution.
- (f) 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 proxy) and voting.
- (g) The chairperson of a Shareholders' meeting is not entitled to a casting vote.
- (h) For the purposes of this clause, the instrument appointing a proxy to vote at a meeting 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.

10.3 Proxies and representatives:

- (a) A Shareholder may exercise the right to vote either by being present or by proxy.
- (b) A proxy for a Shareholder is entitled to attend, be heard, and vote at a meeting of Shareholders as if the proxy were the Shareholder.
- (c) 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.
- (d) No proxy is effective in relation to a meeting unless a copy of the notice of appointment is delivered to the company no later than forty eight hours (48) hours before the meeting.
- (e) 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.

10.4 Postal votes:

- (a) A Shareholder may exercise the right to vote at a meeting by casting a postal vote in accordance with the provisions of this clause 10.4.
- (b) The notice of a meeting at which Shareholders are entitled to cast a postal vote must state the name of the person authorised by the Board to receive and count postal votes at that meeting.
- (c) If no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every director is deemed to be so authorised.
- (d) A Shareholder may cast a postal vote on all or any of the matters to be voted on at the meeting, by sending a notice of the manner in which his or her Shares are to be voted to a person authorised to receive and count postal votes at that meeting. The notice must reach that person not less than forty eight (48) hours before the start of the meeting.
- (e) It is the duty of the person authorised to receive and count postal votes at a meeting:
 - (i) to collect together all postal votes received by him or her, or by any other authorised person, or by the company;
 - (ii) in relation to each resolution to be voted on at the meeting, to count:
 - (A) the number of Shareholders voting in favour of the resolution and the number of votes cast by each Shareholder in favour of the resolution; and
 - (B) the number of Shareholders voting against the resolution, and the number of votes cast by each Shareholder against the resolution;
 - (iii) to sign a certificate stating that he or she has carried out the duties set out in paragraph (e)(i) and (e)(ii) of this clause and which sets out the results of the counts required by paragraphs (e)(ii) of this clause; and
 - (iv) to ensure that the certificate required by paragraph (e)(iii) of this clause is presented to the chairperson of the meeting.
- (f) If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting must:
 - (i) on a vote by show of hands, count each Shareholder who has submitted a postal vote for or against the resolution; or
 - (ii) on a poll, count the votes cast by each Shareholder who has submitted a postal vote for or against the resolution.
- (g) The chairperson of a meeting must call for a poll on a resolution on which the chairperson holds sufficient postal votes that if a poll were taken the result could differ from that obtained on a show of hands.
- (h) The chairperson of a meeting must ensure that a certificate of postal votes held by the chairperson is annexed to the minutes of the meeting.

10.5 **Votes of joint holders:** Where two or more persons are recorded in the register as the holder of a Share, the vote of the person named first in the register and voting on a resolution will be accepted to the exclusion of the votes of the other joint holders.

10.6 **Unpaid sums:** If a sum due to the company in respect of a Share has not been paid, that Shareholder may not vote at a Shareholders' meeting.

11. APPOINTMENT AND REMOVAL OF DIRECTORS

11.1 Number of directors:

- (a) Subject to clause 12.11, the number of directors will not be fewer than three (3).
- (b) If a Shareholder is a Related company of another Shareholder, then notwithstanding any other provision of this constitution both the Related company and that other Shareholder shall together only be entitled to appoint one Shareholder director.

- 11.2 **The Board will comprise:**
- (a) Those directors appointed by each of the TS Shareholders under clause 11.3; and
 - (b) The two (2) directors to be appointed by the Independent Shareholders under clause 11.7 (the Independent Director and the Artist Representative Director); and
 - (c) The director to be appointed as the chairperson under clause 11.11.
- 11.3 **TS Directors Provisions: Appointment and removal of TS Directors by notice:**
- (a) Each TS Shareholder is entitled to appoint one (1) TS Director by notice in writing signed by the relevant TS Shareholder appointing that TS Director.
 - (b) Each TS Director must be the Chief Executive Officer/Country Manager of or hold an equivalent position with the TS Shareholder appointing him or her its director.
 - (c) A TS Director holds office until his or her resignation, disqualification, expiration of notified term (if any) or removal in accordance with this constitution.
 - (d) A TS Director may be removed from office at any time by a notice in writing signed by the TS Shareholder who appointed that TS Director.
 - (e) A notice given under clauses 11.3(a) or 11.3(d) takes effect upon receipt of it at the registered office of the company (including the receipt of a facsimile or electronic copy) unless the notice specifies a later time at which such time the notice will take effect.
- 11.4 **Disqualification and removal of a TS Director:** A person will be disqualified from holding the office of a TS Director
- (a) upon expiry of the term of that TS Director if any was set out in the notice of appointment given pursuant to clause 11.3(a); or if he or she:
 - (b) is removed under clause 11.3(d); or
 - (c) resigns in writing under clause 11.5 and is not then reappointed in accordance with this constitution; or
 - (d) if the TS Director ceases to be a Chief Executive Office/Country Manager of or hold an equivalent position with the TS Shareholder who appointed him or her;
 - (e) if the TS Shareholder who appointed that TS Director has forfeited its TS Share, had its TS Share bought back by the company, or otherwise ceases to be entitled to be a TS Shareholder; or
 - (f) becomes disqualified from being a director pursuant to section 151 of the Act; or
 - (g) is prohibited from being a director or promoter of or being concerned with or taking part in the management of a company under section 382, section 383 or section 385 of the Act; or
 - (h) dies; or
 - (i) becomes a protected person under the Protection of Personal and Property Rights Act 1988; or
 - (j) is under 18 years of age; or
 - (k) is an un discharged bankrupt; or
 - (l) is prohibited by the Act from being a director or would be so prohibited but for the repeal of that statute; or
 - (m) otherwise vacates his or her office in accordance with this constitution; or
 - (n) becomes bankrupt or insolvent or makes any arrangement or compromise with his or her creditors generally; or
 - (o) is convicted of an indictable offence and the TS Shareholder which appointed that TS Director does not within one (1) month of that conviction resolve to confirm that TS Director's appointment as its TS Director or otherwise; or
 - (p) fails to attend meetings of the Board for more than three (3) consecutive meetings without leave of absence from the Board.
- 11.5 **Resignation of TS Directors:** A TS Director may resign office by signing a written notice of resignation and delivering it to the company. The notice takes effect upon the later of the receipt of it at the registered office of

the company (including receipt of a facsimile or electronic copy), the expiry of any term of appointment or any later time specified in the notice (provided not beyond the term).

11.6 **Shareholding qualification:** TS Directors: A TS director is not required to hold a Share of any kind.

11.7 **Independent Director and Artist Representative Director Provisions:** Appointment and removal of the Independent Director and the Artist Representative Director by notice:

- (a) The directors appointed to represent all the Independent Shareholders are:
 - (i) the Independent Director who must be a current Independent Shareholder as required under clause 11.10; and
 - (ii) the Artist Representative Director, who need not be an Independent Shareholder.
- (b) Subject to clause 11.7(e), the Independent Director and the Artist Representative Director will be those persons specified as such in the latest notice in writing signed by the company confirming the relevant persons that received the most votes from the Independent Shareholders voting and entitled to vote to be appointed as the Independent Director and the Artist Representative Director in accordance with this constitution.
- (c) Subject to clause 11.7(e), the vote to be held to appoint the Independent Director and the Artist Representative Director will be a postal vote (and no physical meeting is required, unless otherwise determined by the Board in its discretion) conducted every three (3) calendar years by the company and otherwise as it sees fit but will ensure due and reasonable notice and other procedures be followed as prescribed in this constitution for meetings of Shareholders.
- (d) Subject to clause 11.7(e), the Independent Director and the Artist Representative Director will each be appointed for a term of three (3) years but may be re-elected for a further term or terms.
- (e) The Independent Director and the Artist Representative Director each hold office until his or her resignation, disqualification, expiry of term (clause 11.7(d)) or removal in accordance with this constitution.
- (f) Either of the Independent Director or the Artist Representative Director may be removed from office at any time by a postal vote of Independent Shareholders undertaken for the purpose of removing that person.
- (g) A notice given under clauses 11.7(b) or 11.7(f) takes effect upon receipt of it at the registered office of the company (including the receipt of a facsimile or electronic copy) unless the notice specifies a later time at which the notice will take effect, but in any event will be no later than the term the relevant Director was originally appointed for. The notice may comprise one or more similar documents separately signed by either the company in the case of the situation set out in clause 11.7(b) or the relevant Independent Shareholders giving the notice in the case of the situation envisaged in clause 11.7(f).

11.8 **Disqualification and removal of the Independent Director and the Artist Representative Director:** A person will be disqualified from holding the office of the Independent Director or the Artist Representative Director upon expiry of the term of their appointment as set out in the notice given pursuant to clause 11.7(b); or earlier if he or she:

- (a) resigns in writing under clause 11.9 and is not reappointed in accordance with this constitution; or
- (b) in the case of the Independent Director, the Director ceases to be an Independent Shareholder (or a confirmed principal of an Independent Shareholder) as is the requirement under clause 11.10; or
- (c) is removed in accordance with the notice given by the Independent Shareholders pursuant to clause 11.7(f) above; or
- (d) becomes disqualified from being a director pursuant to section 151 of the Act; or
- (e) is prohibited from being a director or promoter of or being concerned with or taking part in the management of a company under section 382, 383 or section 385 of the Act; or
- (f) dies; or

- (g) becomes a protected person under the Protection of Personal and Property Rights Act 1988; or
- (h) is under 18 years of age; or
- (i) is an undischarged bankrupt; or
- (j) is prohibited by the Act from being a director or would be so prohibited but for the repeal of that statute; or
- (k) otherwise vacates office in accordance with this constitution; or
- (l) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally; or
- (m) is convicted of an indictable offence and the Board (other than the applicable Director) does not within one (1) month of that conviction resolve to confirm the applicable Director's appointment or re-election (as the case may be) to the office of Independent Director or Artist Representative Director, as applicable; or
- (n) fails to attend meetings of the Board for more than three (3) consecutive meetings without leave of absence from the Board.

11.9 **Resignation of Independent Director or the Artist Representative Director:** The Independent Director or the Artist Representative Director may resign office by signing a written notice of resignation and delivering it to the company. The notice takes effect upon the later of the receipt of it at the registered office of the company (including receipt of a facsimile or electronic copy) and any later time specified in the notice provided within the term of original appointment of the relevant Director.

11.10 **Shareholding qualification of Independent Director and Artist Representative Director:** An Independent Director must be an Independent Shareholder, or, where that shareholder is not an individual, a principal of an Independent Shareholder. In the case of a principal, the relevant Independent Shareholder must confirm to the company that the person is a principal, and both the principal and that shareholder must advise the company immediately upon the person ceasing to be a principal. There is no shareholding requirement for the Artist Representative Director.

11.11 **Independent Director to be proxy for the Independent Shareholders at any shareholders meeting:** Notwithstanding clause 10 or any other provision of this constitution to the contrary, as a condition of the company accepting their application to become Independent Shareholders, all Independent Shareholders are deemed to have irrevocably appointed the Independent Director as their proxy to vote at all Shareholder meetings, other than meetings at which the Independent Shareholders have a right to vote themselves in respect of the matters referred to in clause 3.11. The Independent Shareholders will still maintain the right to attend all Shareholder meetings and receive notices of them.

11.12 **Appointment and removal by notice of the chairperson:**

- (a) The chairperson will be appointed as a director for a term of three (3) years by the TS Directors, the Independent Director and the Artist Representative Director ("Appointing Directors of the chairperson") by a notice in writing signed by a majority of the Appointing Directors of the chairperson.
- (b) Upon the expiry of the term of the person serving as the chairperson, that person may be reappointed by the then relevant Appointing Directors of the chairperson for a further term or terms by notice in writing signed by the Appointing Directors of the chairperson.
- (c) The chairperson holds office until his or her resignation, disqualification, expiry of the relevant term or removal in accordance with this constitution.
- (d) The chairperson may be removed by notice in writing by the Appointing Directors of the chairperson if either:
 - (i) in their unanimous reasonable opinion the chairperson is no longer considered "independent" having regard to the definition of the chairperson set out in clause 11.15(b); or
 - (ii) they unanimously agree.

- (e) A notice given under clause 11.12(a), clause 11.12(b) or clause 11.12(c) takes effect upon receipt of it at the registered office of the company (including the receipt of a facsimile or electronic copy) unless the notice specifies a later time at which the notice will take effect. The notice may comprise one or more similar documents separately signed by the Appointing Directors of the chairperson giving the notice.

11.13 **Disqualification and removal of the chairperson:** A person will be disqualified from holding the office of the chairperson upon the expiry of the term as set out in the notice pursuant to clause 11.12(a); or if he or she:

- (a) is removed under clause 11.12(c); or
- (b) resigns in writing under clause 11.14 and is not reappointed in accordance with this constitution; or
- (c) becomes disqualified from being a director pursuant to section 151 of the Act; or
- (d) is prohibited from being a director or promoter of or being concerned with or taking part in the management of a company under section 382, 383 or section 385 of the Act; or
- (e) dies; or
- (f) becomes a protected person under the Protection of Personal and Property Rights Act 1988; or
- (g) is under 18 years of age; or
- (h) is an undischarged bankrupt; or
- (i) is prohibited by the Act from being a director or would be so prohibited but for the repeal of that statute;
- (j) otherwise vacates office in accordance with this constitution;
- (k) in the reasonable opinion of the Appointing Directors of the chairperson, the chairperson acts contrary to the best interests or reputation of the recorded music industry;
- (l) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally; or
- (m) is convicted of an indictable offence and the Board (other than the chairperson) does not within one month of that conviction resolve to confirm the chairperson's appointment or election (as the case may be) to the office of director; or
- (n) fails to attend meetings of the Board for more than three (3) consecutive meetings without leave of absence from the Board.

11.14 **Resignation of the chairperson:** The chairperson may resign from office as chairperson by signing a written notice of resignation and delivering it to the company. The notice takes effect upon the later of the receipt of it at the registered office of the company (including receipt of a facsimile or electronic copy) and any later time specified in the notice provided it is no later than the term for which the chairperson was appointed.

11.15 **Shareholding qualification and independence of chairperson:**

- (a) The chairperson may not hold a Share of any kind.
- (b) It is a requirement of this constitution that the chairperson must be:
 - (i) independent of the management of the company; and
 - (ii) independent of any Shareholder; and
 - (iii) otherwise free from any business or other relationship or circumstance that could materially interfere with the exercise of independent judgement and impartiality by the director appointed as the chairperson of the company.

11.16 **Liability Continues:** Notwithstanding the vacation of office, a person who held office as a director remains liable under the provisions of this Act that impose liabilities on directors in relation to acts and omissions and decisions made while that person was a director.

12. PROCEEDINGS OF DIRECTORS

12.1 **Third Schedule:** The provisions of the third schedule to the Act are deleted and replaced by this clause 12.

12.2 **Chairperson:**

- (a) The chairperson of the Board shall be the person appointed under clause 11.2.

- (b) If at a meeting of the Board the chairperson is not present within fifteen (15) minutes after the time appointed for the commencement of the meeting or there is no chairperson, the directors present may (by majority vote) choose one of their number to be the chairperson at the meeting.

12.3 **Remuneration of directors:**

- (a) Each director is entitled to remuneration out of the funds of the company as the Board determines.
- (b) The remuneration of directors:
- (i) may be a fixed sum for attendance at each meeting of directors or both; or
 - (ii) may be a share of a fixed sum determined by the company in general meetings to be the remuneration payable to all directors which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally;
- and, if it is a share of a fixed sum under this clause 12.3(b)(ii), it will be taken to accrue from day to day.
- (c) In addition to the directors remuneration under clause 12.3(a) and clause 12.3(b), if any, the Board may determine that each director is also entitled to be paid all travelling and other expenses properly incurred by him or her in conjunction with the affairs of the company, including:
- (i) attending and returning from general meetings of the company or meetings of the directors or of committees of the directors; or
 - (ii) carrying out authorised company business agreed in advance by the Board.
- (d) If a director renders or is called on to perform extra services or to make any special exertions in connection with the affairs of the company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration paid pursuant to clause 12.3(a) and clause 12.3(b).
- (e) Nothing in the above provisions of this clause 12.3 restricts the remuneration to which a director may be entitled as an officer of the company or of a Related company in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under this clause 12.3.

12.4 **Convening:** A director may, whenever the director thinks fit, convene a meeting of the directors.

12.5 **Notice of meetings of directors:**

- (a) A director or, if requested by a director to do so, an employee of the company, may convene a meeting of the Board by giving two (2) working days' notice in accordance with this clause 12.5.
- (b) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
- (i) a director, other than a director on leave of absence approved by the directors; or
 - (ii) an alternate director appointed under clause 13.
- (c) A notice of a meeting of directors:
- (i) must specify the time and place of, or form of technology for, the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may be given in person, by post or, subject to the Act, by a form of technology; and
 - (iv) will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (d) A director or alternate director may waive notice of a meeting of directors by notifying the company to that effect in person, by post or by a form of technology.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director or an alternate director appointed by the director:

- (A) has waived or waives notice of that meeting under clause 12.5(c); or
- (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally, by post or by a form of technology; or
- (iii) the director or an alternate director appointed by the director attended the meeting.
- (f) Attendance by a director or his or her alternative at a meeting of directors waives any objection that person have had to a failure to give notice of the meeting.

12.6 **Quorum:**

- (a) Subject to clause 12.6(d), no business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of four (4) directors, consisting of:
 - (i) at least two (2) TS Directors (or if there are less than two (2) TS Directors, then such lesser number); and
 - (ii) any two (2) of the chairperson, the Independent Director and the Artist Representative Director.
- (c) In accordance with clause 13.1, an alternate director present at a meeting will be included for the purpose of establishing a quorum.
- (d) Subject to sub-clause (e), no business may be transacted at a meeting of Directors if a quorum is not present.
- (e) If a quorum is not present within thirty (30) minutes after the time appointed for the meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other later date, time and place as the directors present may appoint.
- (f) If there is a vacancy in the office of a director, the remaining director or directors will act promptly to fill such vacancy or vacancies provided that, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only in an emergency; for the purpose of appointing a new directors or directors; increasing the number of directors to a number sufficient to constitute a quorum or to convene a general meeting of the company.

12.7 **Voting:**

- (a) Every director has one (1) vote.
- (b) The chairperson does not have a casting vote.
- (c) 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 are in favour of it.
- (d) A director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board, unless he or she expressly dissents from (or votes against) the resolution at the meeting.
- (e) A director may vote in respect of any transaction in which the director is interested and if the director does so the director's vote will be counted and the director will be counted in the quorum present at the meeting.
- (f) An alternate director may attend and vote at meetings of the Board in accordance with and subject to clause 13.1 if the director that has appointed the alternate director is absent from the meeting.

12.8 **Minutes:**

- (a) The Board must ensure that accurate minutes are kept of all proceedings at meetings of the Board.
- (b) Minutes of proceedings of the Board which have been signed correct by the chairperson are prima facie evidence of such proceedings.

12.9 **Unanimous resolution:**

- (a) A resolution in writing, signed or assented to by all directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

- (b) Any such resolution may consist of several documents (including facsimile, electronic or other similar means of communication) in like form each signed or assented to by one or more directors.
- (c) A copy of any such resolution must be entered in the minute book of Board proceedings.

12.10 **Proceedings:**

- (a) The directors may hold meetings for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) Subject to the Act and this constitution, the contemporaneous linking together by a form of technology of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors held using a form of technology.

12.11 **Share qualification:** A director who is not required to have a share qualification (see section 11) is entitled to attend and speak at any meeting of Shareholders even if he or she is not a Shareholder of the company.

12.12 **Interested directors:**

- (a) A director, other than the chairperson, may hold any directorship, other office or place of profit, other than auditor, in the company or a Related company in conjunction with his or her directorship. A director, other than the chairperson, may be appointed to that office or place of profit on the terms as to remuneration, tenure of office and otherwise as the Board thinks fit.
- (b) A director, other than the chairperson, of the company may be a director of a body corporate in which the company is interested, as shareholder or otherwise, or be otherwise interested in any of those bodies corporate. Such a director is not accountable to the company for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate.
- (c) The Board, other than the chairperson, may exercise the voting rights conferred by shares in any such body corporate held or owned by the company as the Board thinks fit. This includes voting in favour of any resolution appointing a director as a director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if he or she is, or may be about to be appointed, a director or other officer of that other body corporate.
- (d) A director, other than the chairperson, is not disqualified merely because of being a director from contracting with the company in any respect including, without limitation:
 - (i) selling any property to, or purchasing any property from, the company;
 - (ii) lending any money to, or borrowing any money from, the company with or without interest and with or without security;
 - (iii) guaranteeing the repayment of any money borrowed by the company for a commission or profit; and
 - (iv) being employed by the company or acting in any professional capacity, other than auditor, on behalf of the company.
- (e) No contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director, other than the chairperson, contracting with the company or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.

- (g) A director must, forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the company, cause to be entered in the interests register, and disclose to the Board:
 - (i) if the monetary value of the director's interest is able to be quantified, the nature and monetary value of that interest; or
 - (ii) if the monetary value of the director's interest cannot be quantified, the nature and extent of that interest.
- (h) A director is not required to comply with clause 12.12(g) if:
 - (i) the transaction or proposed transaction is between the director and the company; and
 - (ii) the transaction or proposed transaction is or is to be entered into in the ordinary course of the company's business and on usual terms and conditions.
- (i) For the purposes of clause 12.12(h), a general notice entered in the interests register or disclosed to the Board to the effect that a director is a Shareholder, director, officer or trustee of another named company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction.

13. ALTERNATE DIRECTORS, COMMITTEES OF DIRECTORS

13.1 Alternate Directors:

- (a) Except for the chairperson (who may not appoint an alternate), a director may, by notice given in writing to the company, appoint any person (including any other director) to act as an alternate director in the director's place in respect only of a specified meeting during the director's absence from that meeting. Such notice must be given at least 24 hours prior to the meeting, and must state the name of the alternate, their contact details (including mobile phone number and email address), and the specific meeting for which they are appointed. The relevant notice must be filed with the Companies Office in accordance with the Act.
- (b) An alternate director may, while acting in the place of the appointing director, represent, exercise and discharge all the powers, rights, duties and privileges of the appointing director. The alternate director is subject in all respects to the same terms and provisions as the appointing director, except as regards remuneration and except as regards the power to appoint an alternate director under this constitution.
- (c) For the purpose of establishing a quorum of the Board, an alternate director is deemed to be the director appointing him or her, and if the alternate director is a director he or she can count separately in both capacities.
- (d) An alternate director does not have a right to attend, speak or vote at a meeting of the Board while his or her appointing director is present.
- (e) An alternate director's appointment lapses upon the expiry of the relevant meeting for which he or she has been appointed, or if sooner, his or her appointing director ceasing to be a director.
- (f) The notice of appointment of an alternate director must include an address for service of notice of meetings of the Board. Failure to give an address will not invalidate the appointment, but notice of meetings of the Board need not be given to the alternate director until an address is provided to the company.
- (g) An alternate director will not be the agent of his or her appointer, and will exercise his or her duties as a director independently of his or her appointer.

13.2 Committees of directors:

- (a) The directors may resolve to delegate any of their powers to a committee or committees consisting of such number of directors or other persons as they think fit.

- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of any committee of directors.
- (d) Membership of a committee of directors may be treated as an extra service or special exertion performed by the members of the committee for the purposes of clause 12.3(c) if:
 - (i) the Board resolve to do so; and
 - (ii) the total amount fixed by the company for remuneration of non-executive directors under clause 12.3(b) will not be exceeded.
- (e) A committee may second in a person or persons from the recorded music industry to assist the committee from time to time provided the Board approves such secondment and any remuneration for such persons.

14. INDEMNITY AND INSURANCE

14.1 Indemnity of directors and employees:

- (a) The Board will cause the company to indemnify a director or employee of the company or a Related company for costs incurred by him or her in any proceeding:
 - (i) that relates to liability for any act or omission in his or her capacity as a director or employee; and
 - (ii) in which judgment is given in his or her favour or in which he or she is acquitted, or which is discontinued.
- (b) The Board will cause the company to indemnify a director or an employee of the company or a Related company in respect of:
 - (i) liability to any person other than the company or a Related company for any act or omission in his or her capacity as a director or employee; or
 - (ii) costs incurred by the director or employee in defending or settling any claim or proceeding relating to any liability under clause 14.1(a) above;
 not being:
 - (iii) criminal liability; or
 - (iv) liability for the breach of section 131 of the Act; or
 - (v) liability for breach of any fiduciary duty owed to the company or Related company.

14.2 Insurance of directors and employees:

- (a) The Board may, subject to section 162 of the Act, cause the company to effect insurance for directors and employees of the company or a Related company in respect of:
 - (i) liability, not being criminal liability, for any act or omission in his or her capacity as a director or employee; or
 - (ii) costs incurred by such directors or employees in defending or settling any claim or proceeding relating to any such liability; or
 - (iii) costs incurred by a director or employee 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.
- (b) The directors who vote in favour of authorising the effecting of insurance under clause 14.2(a) must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the company.
- (c) The directors must ensure that particulars of any indemnity given to, or insurance effected for, any director or employee of the company or related company are forthwith entered in the interests register.

- 14.3 **Definitions:** For the purpose of this clause 14, “director” includes a former director and “employee” includes a former employee.
- 15. POWERS AND DUTIES OF THE BOARD**
- 15.1 **Powers of the Board:**
- (a) Subject to clause 15.1(b) and any restrictions in the Act or this constitution, the business and affairs of the company must be managed by or under the direction or supervision of the Board.
- (b) The Board has, and may exercise, all the powers necessary for managing, directing and supervising the management of the business and affairs of the company except to the extent that this constitution or the Act expressly requires those powers to be exercised by the Shareholders or any other person.
- 15.2 **Delegation by Board:**
- (a) The Board may delegate to a committee of directors, a director, an employee of the company, or any other person any one or more of its powers, other than the powers referred to in the following sections of the Act:
- (i) section 23(1)(c) (change of company name);
 - (ii) section 42 (issue of other Shares);
 - (iii) section 44 (Shareholder approval for the issue of Shares);
 - (iv) section 49 (consideration for the issue of options and convertible securities);
 - (v) section 47 (consideration for the issue of Shares);
 - (vi) section 52 (distributions);
 - (vii) section 54 (Shares in lieu of dividends);
 - (viii) section 55 (Shareholder discounts);
 - (ix) section 60 (offers to acquire Shares);
 - (x) section 61 (special offers to acquire Shares);
 - (xi) section 63 (stock exchange acquisitions subject to prior notice to shareholders);
 - (xii) section 65 (stock exchange acquisitions not subject to prior notice to Shareholders);
 - (xiii) section 69 (redemption of Shares at the option of the company);
 - (xiv) section 71 (special redemptions of Shares);
 - (xv) section 76 (provision of financial assistance);
 - (xvi) section 78 (special financial assistance);
 - (xvii) section 80 (financial assistance not exceeding five (5) per cent of Shareholders’ funds);
 - (xviii) section 84(4) (transfer of Shares);
 - (xix) section 187 (change of registered office);
 - (xx) section 193 (change of address for service);
 - (xxi) section 221 (manner of approving an amalgamation proposal); and
 - (xxii) section 222 (short form amalgamations).
- (b) The Board is responsible for the exercise of a power by any delegate (where that power is delegated under this clause 15.2) as if the power had been exercised by the Board, unless the Board:
- (i) believed on reasonable grounds at all times before the exercise of the power that the delegate would exercise the power in conformity with the duties imposed on the directors by the Act and this constitution; and
 - (ii) has monitored, by means of reasonable methods properly used, the exercise of the power by the delegate.
- 15.3 **Directors to act in good faith:**
- (a) A director, when exercising powers or performing duties, must act in good faith.
- (b) A director must also act in what the director believes to be the best interests of the company.

- 15.4 **Major transactions:** The Board may not procure or permit the company to enter into a major transaction unless the transaction is:
- (a) approved by a special resolution; or
 - (b) made contingent on approval by a special resolution.
- 16. AUTHORITY TO BIND**
- 16.1 **Method of contracting:**
- (a) A contract or other enforceable obligation may be entered into by the company as follows:
 - (i) an obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the company in writing signed under the name of the company by:
 - (A) two (2) or more directors of the company; or
 - (B) a director or any other person or class of persons authorised by the Board for that purpose whose signature or signatures must be witnessed; or
 - (C) one (1) or more attorneys appointed by the company in accordance with clause 17.2; and
 - (ii) an obligation which, if entered into by a natural person, is by law, required to be in writing, may be entered into on behalf of the company in writing by a person acting under the company's express or implied authority; and
 - (iii) an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the company in writing or orally by a person acting under the company's express or implied authority.
 - (b) A copy of a resolution of the Board authorising a person to enter into a contract or other enforceable obligation on behalf of the company will be proof of such authority notwithstanding that the authority may have been subsequently revoked.
- 16.2 **Attorneys:**
- (a) The company may, by an instrument in writing executed in accordance with clause 16.1(a)(i), appoint a person as its attorney either generally or in relation to a specified matter.
 - (b) An act of the attorney in accordance with the instrument binds the company.
- 17. LIQUIDATION**
- 17.1 **Appointment of liquidator:** A liquidator of the company may be appointed by a special resolution of the Shareholders.
- 17.2 **Distribution of surplus assets:** Subject to the terms of issue of any Shares, upon the liquidation of the company, any assets of the company remaining after payment of the debts and liabilities of the company and the costs of liquidation shall be distributed among the Shareholders in the proportions of the Distributable Sum received by each Shareholder in the financial year immediately before such surplus asset distribution.
- 17.3 **Removal from New Zealand register:**
- (a) Subject to sections 318 and 320 of the Act, a director, who has been authorised by the Board to do so, may request the Registrar to remove the company from the New Zealand register on the grounds that:
 - (i) the company has ceased to carry on business, has discharged in full its liabilities to all its known creditors, and has distributed its surplus assets in accordance with this constitution and the Act; or
 - (ii) the company has no surplus assets after paying its debts in full or in part, and no creditor has applied to the court under section 241 of the Act for an order putting the company into liquidation.

- (b) For the purposes of clause 17.3(a) the company shall have distributed its surplus assets in accordance with this constitution if the company does so in accordance with clause.

Dated this 23rd day of May 2013.