

6 December 2024

Dear Shareholder,

Please find enclosed notice (**Notice**) of Marlborough Wine Estates Group Limited (**MWE** or the **Company**) annual shareholders’ meeting which will be held in person at the offices of MUFG Pension & Market Services (formerly Link Market Services), Level 30, PwC Tower, 15 Customs Street West, Auckland, on Friday, 20 December 2024, commencing at 9AM (the **Meeting**).

Background

Application to Delist from the NZX Main Board

The Board considers it to be in the best interests of the Company to delist from the NZX Main Board and focus on continuing its operations as an unlisted company. The independent directors unanimously recommend that you vote in favour of this resolution due to the following reasons:

1. **Infrequent Trading and Low Liquidity:** MWE’s shares experience infrequent trading at very low volumes. This lack of liquidity means that maintaining the Company’s listing on the NZX Main Board offers little advantage to shareholders given there is no active market in MWE shares.
2. **High Compliance Costs:** The ongoing costs associated with being listed on the NZX Main Board continue to increase over time, such as audit, legal and governance costs, while providing limited additional benefit to the Company or shareholders.
3. **More time to focus on core business activities:** As an unlisted company, the Board will be able to devote more time and investment into the core business activities.

The proposed timetable for the delisting will be as follows:

Event	Date
AGM	Friday, 20 December 2024
Last day of trading on the NZX (trading suspension applied close of business)	Tuesday, 31 December 2024
MWE shares delisted from the NZX	Monday, 6 January 2025
Adoption of amended Constitution	Monday, 6 January 2025

MWE may facilitate a liquidity event post delisting by way of a minimum holding buyback under the processes contemplated by the amended Constitution (to be approved by shareholders under Resolution 3).

MWE is an “overseas person” under the Overseas Investment Act 2005 due to over 75% of its shares being held by shareholders domiciled overseas. The minimum holding buyback can only occur once MWE has obtained all necessary consents and approvals from the Overseas Investment Office. This is to be investigated more fully in 2025.

Board recommendation

The Board considers that the resolutions to be passed at the Meeting are all in the best interests of MWE and its shareholders and recommends that shareholders vote in favour of the resolutions.

The Board encourages you to read this Notice and to exercise your right to vote. The enclosed proxy form has detailed instructions on how you may lodge your vote or appoint a proxy to vote on your behalf if you are unable to attend the Meeting. Shareholders attending the Meeting will be given the opportunity to raise questions. Shareholders may also submit written questions on the bottom of the Proxy Form. The main



themes will be aggregated and responded to at the Meeting. Alternatively, written questions can be sent online at <https://investorcentre.linkgroup.nz/voting/MWE> or by email to meetings@linkmarketservices.com.

I look forward to seeing you at the Meeting.

Min Jia
Chair

NOTICE OF ANNUAL MEETING

Notice is hereby given that the 2024 Annual Meeting of Shareholders of MWE will be held at the offices of MUFG Pension & Market Services, Level 30, PwC Tower, 15 Customs Street West, Auckland, on Friday, 20 December 2024, commencing at 9AM.

AGENDA

- 1. Chief Executive Officer's Review**
- 2. Receive and consider the Company's 2024 Annual Report**
- 3. Resolutions**
- 4. Other Business**

BUSINESS

A. Annual Report

To receive and consider the Company's 2024 Annual Report containing the financial statements and the auditor's report for the year ended 30 June 2024.

B. Resolutions

The shareholders of the Company (the **Shareholders**) are requested to consider and, if thought fit, pass the following ordinary resolutions:

- 1. Auditor's Remuneration:** That BDO is automatically re-appointed as the auditor of the Company and the Board is authorised to fix the auditor's remuneration for the forthcoming year.
- 2. Delisting from the NZX Main Board:** That the delisting of MWE from the NZX Main Board is approved and the directors of MWE are authorised to undertake all actions and enter into any agreements and other documents necessary to give effect to this resolution.

Shareholders are requested to consider and if thought fit, pass the following special resolution:

- 3. Amendment to the Company's Constitution:** That the existing constitution be amended as described in the Explanatory Notes with effect immediately following the Company delisting from the NZX Main Board and the directors of MWE are authorised to undertake all actions necessary to give effect to this special resolution.

Each of the above Resolutions is explained further in the Explanatory Notes.

C. Other Business

To consider any other matter that may properly be brought before the Meeting.

IMPORTANT INFORMATION

Capitalised terms that have not been defined in this Notice have the same meaning as in the NZX Listing Rules (**Listing Rules**).

Proxies

Any Shareholder who is entitled to attend and vote at the Meeting may appoint a proxy to attend and vote on their behalf. A corporation which is a Shareholder may appoint a representative to attend the Meeting on its behalf in the same manner as it could appoint a proxy. A proxy does not need to be a Shareholder of the Company. The Chairperson of the Meeting can be appointed as a proxy. The Chairman intends to vote in favour of all resolutions where he or she is appointed as a discretionary proxy and is not restricted from voting on those resolutions.

To appoint a proxy you should complete and sign the enclosed Proxy Form and return it by delivery, mail or email to the share registrar of the Company:

By delivery:

Marlborough Wine Estates Group Limited
C/- MUFG Corporate Markets
Level 30, PwC Tower
15 Customs Street West
Auckland 1010

By mail:

Marlborough Wine Estates Group Limited
C/- MUFG Corporate Markets
PO Box 91976
Victoria Street West
Auckland 1142

By Email:

meetings@linkmarketservices.com

(please put "MWE Proxy Form" as the subject of the email for easy identification)

Alternatively, you may lodge your proxy online at <https://investorcentre.linkgroup.nz/voting/MWE> and follow the instructions. You will be required to enter your CSN / Holder number and Authorisation Code (FIN) for security purposes. A Shareholder will be taken to have signed the Proxy Form by lodging it in accordance with the instructions on the website.

The completed Proxy Form must be received by MUFG Corporate Markets (formerly Link Market Services) on behalf of the Company no later than 48 hours before the Meeting, being 9AM (New Zealand time) on Wednesday, 18 December 2024. MWE proxy appointments must also be completed by this time.

Voting Entitlements

Voting entitlements of the Meeting will be determined with reference to the Company share register as at 9AM on Wednesday, 18 December 2024 (**Record Date**). Accordingly, only those persons who are registered Shareholders of the Company on the Record Date will be entitled to vote at the Meeting and the MWE voting rights which may be exercised at the Meeting by the same registered Shareholders are those attaching to shares which are registered as at the Record Date.

Discretionary proxies given to persons disqualified from voting will not be valid and will be ineligible to vote on motions from the floor.

Resolutions

Resolutions 1 and 2 as set out in this Notice of Meeting are ordinary resolutions. An ordinary resolution is a resolution passed by a simple majority of votes of those holders of securities of the Company which carry votes, are entitled to vote and are voting on the resolutions in person or by proxy.

Resolution 3 is a special resolution. A special resolution is a resolution passed by a majority of at least 75% of the votes of holders of securities of the Company which carry votes, are entitled to vote and are voting on the

resolutions in person or by proxy.

Resolution 3 is conditional on Resolution 2 being passed by Shareholders for Resolution 3 to have any effect.

Voting Restrictions

Any person who is an “Affiliated Holder”, and their Associated Persons (as defined in the Listing Rules), are restricted from voting on Resolution 2. An “Affiliated Holder” is a person who:

- holds 10% or more of the shares in MWE; or
- has the power to appoint one or more directors of MWE.

As a holder of 10% or more of MWE’s shares, Min Jia (a director of MWE) and his Associated Persons will be restricted from voting on Resolution 2.

There are no voting restrictions for Resolutions 1 and 3.

NZ RegCo No Objection

This Notice has been reviewed by NZX Regulation Limited (**NZ RegCo**). NZ RegCo has confirmed it has no objection to this Notice but takes no responsibility for the contents of this Notice.

EXPLANATORY NOTES

Resolution 1: Auditors

Section 207T of the Companies Act 1993 provides that a company’s auditor is automatically reappointed unless there is a resolution or other reason for the auditor not to be re-appointed. The Company wishes BDO to continue as the Company’s auditor, and BDO has indicated its willingness to do so.

Section 207S of the Companies Act 1993 provides that the fees and expenses of the auditor are to be fixed in such a manner as the Company determines at the Annual Meeting.

This resolution authorises the Board to reappoint BDO as the Company’s auditor and fix the fees and expenses of the auditor for the current financial year.

Resolution 2: Delisting from the NZX Main Board

Background

MWE first listed on the NXT Market on 30 June 2016 with the intention to provide prospective investors with exposure to a growing New Zealand based but export focused wine company. The New Zealand wine industry has however, faced challenges in the recent years as global customers reduced inventory levels which saw a decline in wine export volumes. The Board now considers that growth prospects for the Company have softened in the short term and as the costs of being a small, listed company outweigh the benefits that MWE receives and therefore, considers that it is in the best interests of the Company to delist from the NZX Main Board (subject to certain conditions) and focus on continuing its operations as an unlisted widely held company.

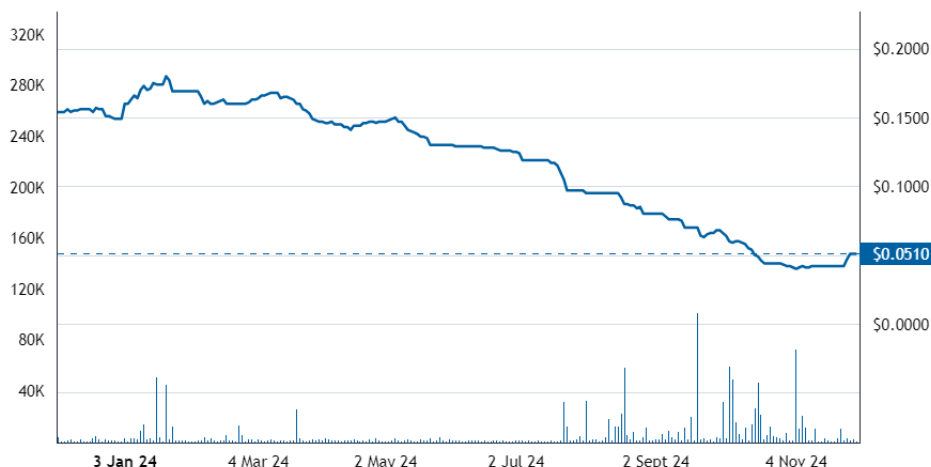
The independent Directors recommend that you vote in favour of this resolution due to the reasons described below.

Infrequent Trading and Low Liquidity

While listed on the NZX, MWE’s shares have experienced infrequent trading at very low volumes. The low liquidity means that maintaining the Company’s listing on the NZX Main Board offers little advantage to Shareholders given there is no active market in MWE shares. The low liquidity is likely to continue in the foreseeable future as the Company’s top five Shareholders hold, in aggregate, over 90% of MWE’s shares on issue and the market price consistently trades at a discount to net asset value.

As such, the Board considers that the NZX listing does not provide significant benefit to Shareholders and the low liquidity in the Company’s shares does not merit the significant compliance costs associated with maintaining a listing on the NZX Main Board.

The graph below provides a snapshot of trading volume of MWE shares on the NZX Main Board against its share price, from the last 12 months to November 2024:



High Compliance Cost

The ongoing costs associated with being an entity listed on the NZX Main Board and being an FMC reporting entity for the purposes of the Financial Markets Conduct Act 2013 are a significant overhead for MWE and are disproportionate to the profitability of the Company. Audit costs have increased substantially from the initial \$70k in 2016 to around \$120 - 150k each year in recent years. Due to increasing design and publication fees associated with the preparation of annual reports, the Company has moved to insourcing this workload in the past year, saving \$5k to 10K in costs. Director fees are generally on the rise each year and the Company will look to addressing this once becoming a private Company.

The below table summarising the expected savings estimates are based on the existing costs associated with being a NZX listed company incurred in the most recent financial year compared to expected costs as an unlisted, non-FMC Reporting Entity company.

Associated Fees as a NZX Listed Company	Existing costs as a NZX Listed Company	Expected costs as an unlisted, non-FMC reporting entity	Expected Savings Post Delisting
Directors Fees	\$150,000	\$30,000	\$120,000*
Audit & General Legal Fees	\$120,000	\$10,000	\$110,000
Annual Listing fees	\$30,000	\$0	\$30,000
Other NZX Fees	\$5,000	\$0	\$5,000
AGM meeting & Annual Report Costs	\$5,000	\$0	\$5,000
Total	\$310,000	\$40,000	\$270,000

*MWE is not committed to retaining its independent directors post delisting.

More time to focus on core business activities

Compliance with the ongoing obligations of a listed company involves a significant investment of Board and management time, notably due to corporate governance requirements and reporting requirements that are disproportionate to MWE's size and spread. As an unlisted company, the Board will be able to devote more time and investment to core business activities.

Procedure

Listing Rule 9.9.1(c) enables the Company to make a written request to NZX that it wishes to cease to be listed on the NZX Main Board. [NZ RegCo has approved the Company's delisting on the following conditions:

- that the Company obtains, by way of ordinary resolution, approval from Shareholders who are Non-Affiliated Shareholders and/or do not hold more than 10% of the Company's ordinary shares, to delist from the NZX Main Board;
- that NZ RegCo reviews prior to publication any delisting announcement and communication that the Company sends its Shareholders;
- that the Company pays any outstanding fees to NZX, including the delisting fee and NZX or NZ RegCo's costs relating to delisting application;
- that the Company provides at least one month's notice of the delisting to the market; and
- that NZX reviews and provides non-objection to this notice of meeting.

This means if Resolution 2 is passed, the de-listing is expected to follow the indicative timetable below. Note the trading suspension is to allow time for share trades to be settled by NZX prior to MWE's shares being delisted from the NZX Main Board. Any trades placed prior to the trading suspension will be processed in the normal way:

Date	Impact on Shareholders
Friday, 20 December 2024	MWE Annual General Meeting (shares continue to be listed and traded on the NZX Main Board)
Tuesday, 31 December 2024	Last day of trading on the NZX. Trading suspension applied to shares at close of business.
Monday, 6 January 2025	MWE shares delisted from the NZX

*This indicative timetable is subject to change at the Company’s discretion (as a result of market conditions otherwise) and due to any other legal or regulatory requirements (including those of NZX). The Company will announce to Shareholders any changes to the indicative timetable.

Regulatory Changes from De-listing

The following regulations imposed on MWE as a listed company will change as a consequence of delisting from the NZX Main Board:

Regulation	Application to listed company	Application to private company
NZX Listing Rules		
Overall application	The Listing Rules contain a number of rules designed to protect the interests of Shareholders and ensure there is an informed market for the trading of financial products.	The Company will no longer be subject to the Listing Rules but will still be subject to the Companies Act 1993, the Financial Markets Conduct Act 2013 (up until one year after delisting) and the Takeovers Code.
Independent directors	<ul style="list-style-type: none"> Listed companies are required to have at least two independent directors. An audit committee must comprise of a majority of independent directors. Non-independent directors are more likely to have conflicts of interest. Directors of a listed company are not entitled to vote on a matter in which they are interested. 	<ul style="list-style-type: none"> Private companies are not required to have independent directors and are not required to have an audit committee. Directors of a private company must disclose matters in which they are interested but can remain entitled to vote on the matter in which they are interested. The overarching duties of directors under the Companies Act 1993 to act in good faith and in the best interests of the Company remain applicable.
NZX Corporate Governance Code	<ul style="list-style-type: none"> The Company must report (on a comply or explain basis) against recommendations in the NZX Corporate Governance Code. 	<ul style="list-style-type: none"> The Company will continue to provide annual reports to Shareholders post delisting in accordance with the Companies Act 1993, but the Company does not need to report against the NZX Corporate Governance Code.
Issue of further shares	<ul style="list-style-type: none"> Listed companies are generally only allowed to issue shares not exceeding 15% of all shares on issue, calculated over a rolling twelve-month period or share offers must be made to existing shareholders. 	<ul style="list-style-type: none"> Upon being delisted, the 15% limit will no longer apply to the Company and the Board will be entitled to issue shares in excess of this limit. However, if the Company does issue shares for any reason, the Companies Act 1993 requires the Board to resolve and certify that the share

Regulation	Application to listed company	Application to private company
		<p>issue is in the best interests of the Company and is fair and reasonable to the Company and all its Shareholders.</p> <ul style="list-style-type: none"> The Takeovers Code will continue to apply as the Company remains a “code company” post delisting. Certain share offers will require the Company to seek shareholder approval and prepare an independent adviser’s report.
Major and related party transactions	<ul style="list-style-type: none"> The Listing Rules relating to major transactions require that transactions that significantly change the nature of the Company’s business or involve a gross value above 50% of the average market capitalisation of the Company be first approved by shareholders. The Listing Rules also require the approval of non-associated shareholders to the Company entering a transaction with a related party where the transaction is in excess of certain thresholds. An independent appraisal report on a related party transaction is required to be commissioned and sent to shareholders to consider before voting on such a transaction 	<ul style="list-style-type: none"> The Company will no longer be subject to the major and related party transaction restrictions under the Listing Rules. The Company will remain subject to the major transaction rules under the Companies Act which requires Shareholder approval if the gross value of the transaction is more than 50% of the market value of the Company’s assets. No independent appraisal report will be required to be prepared and distributed to Shareholders. <p>The Company does not intend to undertake any major or related party transactions under Rules 5.1 and 5.2 of the Listing Rules, in the near future.</p>
Voting restrictions	<ul style="list-style-type: none"> Voting restrictions apply to shareholders from time to time, depending on the nature of the resolution. 	<ul style="list-style-type: none"> No voting restrictions apply to the shareholders of a private company unless provided for in the company’s constitution (and the Company’s constitution does not prescribe restrictions once delisted). Interested shareholders will be entitled to vote on any transaction at their discretion. Shareholders do not have fiduciary duties like directors and are entitled to vote in their self-interest.
Financial Reporting	<p>Listed companies must prepare and release:</p> <ul style="list-style-type: none"> Half year financial statements within 60 days after the end of the half financial year; Preliminary (audited or unaudited) financial statements within 60 days after each end of the financial year; and Annual reports within three months after the end of the financial year. 	<ul style="list-style-type: none"> The Company will not be required to prepare and publish preliminary financial statements and half-year financial statements as it is required to do as a listed company. Annual reports will continue to be prepared by the Company within five months of the end of the financial year in accordance with the Companies Act and made available to Shareholders.

Regulation	Application to listed company	Application to private company
Financial Markets Conducts Act 2013 (FMCA)		
Insider trading rules	<ul style="list-style-type: none"> Insider trading is prohibited. 	<ul style="list-style-type: none"> Insider trading rules do not apply to private companies. This means it is no longer illegal for any person who knows material information about the Company to dispose of, or acquire, shares even though the other party may be unaware of the material information. However, the Companies Act 1993 restricts the ability of directors to sell shares in the Company if they are aware of inside information.
Disclosure obligations	<ul style="list-style-type: none"> Any share trading by directors, senior managers or persons owning 5% or more of all shares of the Company must be disclosed to the market through prescribed disclosure forms. 	<ul style="list-style-type: none"> Shareholders wanting to know about the largest shareholdings in the Company will be able to view this information on the Companies Office website (which is updated at least annually), or they can request such information off the share register from MUFG Corporate Markets in accordance with the relevant Companies Act 1993 provisions. The Company will still be subject to the FMCA in respect of any action, event or circumstance that occurred prior to delisting from the NZX Main Board.

The Board is of the view that the Company’s continuing obligations under applicable law will provide Shareholders with sufficient transparency in the absence of the obligations applicable while listed on the NZX Main Board. Notably:

1. The Company will need to complete audited financial statements for the year ending 30 June 2025 as an FMC Reporting Entity under the FMCA. These statements will be sent to shareholders as part of an annual report under the Companies Act 1993 and will be registered on the Companies Office website.
2. The Company will be required (following the reporting under 1. above when it will cease to be an FMC Reporting Entity) to prepare an annual report each year and send it to Shareholders within five months and twenty business days of its financial year end.
3. The Company intends to continue to use MUFG Corporate Markets (formerly Link Market Services) to maintain the share register. Shareholders can expect to continue receiving details relating to the Company, including major updates and notices of Shareholders’ meetings via email. If Shareholders don’t have an email address recorded with the share registry, they can expect to keep receiving statutorily required information by post.
4. Shareholder meetings will be held as required, including an Annual Shareholders Meeting.
5. MWE will remain a “code company” post delisting. As such, the Takeovers Code will continue to apply and MWE will continue considering the application of the Takeovers Code when conducting any liquidity event post delisting.

Consequences if Resolution 2 is Approved

If Resolution 2 is passed by Shareholders, it is expected that MWE will delist on 6 January 2025. This date is subject to change at the Company's discretion (as a result of market conditions or otherwise) or due to any other legal or regulatory requirements (including those of NZ RegCo). The Company will announce to the market any changes to the intended date of delisting.

Upon delisting, shares in the Company can no longer be publicly traded, which could reduce the ability of Shareholders to sell their shares. Shareholders who wish to sell shares can still transfer them by way of an off-market transfer.

Shareholders wishing to sell following the delisting who do not have a buyer arranged can contact MWE. MWE will assist by matching those Shareholders with any interested buyers (as they arise) at its discretion. MWE may however, decline to provide such assistance if the associated costs to facilitate the transfer is disproportionate to the number of shares in question.

The Company will have the ability to facilitate a liquidity event for small shareholders by way of a minimum holding buyback as contemplated in the proposed amended Constitution presented to Shareholders at this Meeting. Shareholders holding less than the minimum holding (as set by Board post delisting) may have the opportunity to either sell their shares back to the Company, or if determined by the Board, top up their shareholding up to the minimum holding. Any liquidity event considered by the Board will be subject to compliance with the Overseas Investment Act 2005 and Takeovers Code.

If Resolution 2 is passed, the Company will cease being subject to the governance and disclosure requirements of the NZX, as described in the table above. NZ RegCo will no longer regulate the Company's compliance with the Listing Rules.

This will mean that, in order to reduce costs and enable proposed transactions to be developed in confidence, it is likely that Shareholders will be given fewer disclosures compared to when it was listed. The directors however, believe that these compromises are desirable to enable the Company to direct its available cash flow into the business, rather than meeting compliance costs given its scale.

Consequences if Resolution 2 is not Approved

If Resolution 2 does not pass, MWE will continue to be listed on the NZX Main Board. This will be detrimental to the Company as the costs of maintaining an NZX listing are considered disproportionate compared to the benefits of the Company being listed. The Company's ability to reduce costs, improve its balance sheet and ultimately capitalise on a recovery as global economic conditions improve may be hindered. MWE will have to consider alternative ways to reduce costs, which may be detrimental to the efficiency and productivity of the Company.

Board Recommendation

The independent directors unanimously recommend that shareholders vote in favour of Resolution 2.

Resolution 3: Amendment to the Company's Constitution

Should Shareholders approve MWE delisting from the NZX Main Board, the Board recommends that the constitution of the Company (**Constitution**) is amended to reflect MWE's status as an unlisted company.

Accordingly, Shareholders are being asked to resolve that MWE's existing Constitution be revoked, and an amended Constitution be adopted with effect from the date MWE is delisted from the NZX Main Board (subject to Shareholders passing Resolution 2).

A summary of the changes to the Constitution is set out below. References to clause numbers below are references to clause numbers in the Constitution as proposed to be amended.

1. **NZX:** The Constitution has been amended to remove all references to the NZX and the Listing Rules as they will no longer be relevant once the Company delists from the NZX, including removing:
 - a. minimum Board composition and Board rotation requirements; and
 - b. references to Listing Rule requirements pertaining to the authorisation of director remuneration and benefits.
2. **Voting:** The existing Constitution currently requires all voting at a meeting of shareholders to be conducted by way of a poll as required under the Listing Rules. The Constitution has been amended to remove this requirement to provide flexibility for the Company and reduce administrative costs of meetings of Shareholders.
3. **Sale of less than minimum holding:** Clause 8 of the Constitution has been amended to:
 - a. clarify the process of sale of MWE shares (either through purchasers or by way of a buyback in accordance with section 61 of the Companies Act 1993) from Shareholders holding shares below the minimum holding level (as set by the Board from time to time);
 - b. state that the Company to provide 20 working days notice to Shareholders holding below the minimum holding level before exercising the sale process in order to provide Shareholders with reasonable opportunity to increase their holding up to the minimum holding level;
 - c. state that the Board will set the sale price of the shares to be at a fair and reasonable price; and
 - d. clarify the process for paying out the proceeds of sale.
4. **Administrative Changes:** Opportunity has been taken to make general administrative and formatting changes to the Constitution where required.

A full mark-up of the Constitution has been provided to Shareholders alongside this Notice.

As the amendments to the Constitution do not impose or remove restrictions on the activities of MWE or affect the rights attaching to shares, the Shareholder minority buy-out rights under section 110 of the Companies Act 1993 do not apply.

As noted in the explanatory notes for Resolution 2 above, MWE has the ability to facilitate a liquidity event post delisting by way of a minimum holding buyback following the processes underlined in clause 8 of the amended Constitution. Any liquidity event can only occur once MWE has obtained all necessary consents and approvals from the Overseas Investment Office (if applicable), considered any Takeovers Code and Companies Act 1993 requirements, and to reduce further compliance costs, will only occur if the Company is delisted from the NZX.

The sale price of the Company's shares will be determined by the Board after consideration of usual valuation metrics such as:

- net tangible assets;
- earnings (applying an industry multiple); and
- discounted cash flows.

Depending on prevailing circumstances, the Board may obtain external valuation advice.

Board Recommendation

The Board unanimously recommends that Shareholders vote in favour of Resolution 3.

Constitution

**Marlborough Wine
Estates Group Limited**



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CONSTITUTION OF MARLBOROUGH WINE ESTATES GROUP LIMITED

1 Definitions and Interpretation

1.1 Definitions - In this Constitution unless the context otherwise requires:

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

Companies Act means the Companies Act 1993.

Company means Marlborough Wine Estates Group Limited (company number 5639568).

Constitution means this constitution of the Company as amended from time to time.

Class means a class of equities securities in the Company having attached to them identical rights, privileges, limitations and conditions.

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

~~**Listed** has the meaning given to it in the Rules.~~

Minimum Holding means the minimum number of Shares comprising a share parcel that a Shareholder must hold.

~~for so long as the Company is Listed, the same meaning as given to the term in the Rules or otherwise such level of equity security holding as unanimously approved by the Board.~~

~~**NZX** means NZX Limited and includes its successors and assignees and as the context permits any duly authorised delegate of NZX (including the NZ Markets Disciplinary Tribunal and its successors).~~

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

Personal Representative means:

- (a) in relation to a deceased individual Shareholder, the executor, administrator or trustee of the estate of that Shareholder;
- (b) in relation to a bankrupt individual Shareholder, the assignee in bankruptcy of that Shareholder; and
- (c) in relation to any other individual Shareholder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed thereunder, and under a donee of an enduring power of attorney complying with that Act.

~~**Rules** means the NZX Listing Rules in force from time to time except to the extent of any Ruling relevant to the Company.~~

~~**Ruling** has the meaning given to it in the Rules.~~

Share means a share in the capital of the Company, and **Shares** has a corresponding meaning.

Shareholder means a person whose name is entered in the Share Register as the holder for the time being of one or more Shares.

Share Register means the share register for the Company kept in accordance with the Companies Act.

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

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

- 1.2.1 any expression not defined in this Constitution but defined in ~~either~~ the Companies Act ~~or the Rules~~ shall bear the same meaning in this Constitution as in the Companies Act ~~or in the Rules~~;
- 1.2.2 words importing the singular number shall include the plural, and vice versa;
- 1.2.3 words importing persons include firms and corporations and firm includes partnership;
- 1.2.4 headings shall not affect the interpretation of this Constitution;
- 1.2.5 if there is any conflict between a provision in this Constitution and a provision in the Companies Act which is expressly permitted to be altered by this Constitution, the provision, word or expression in this Constitution prevails;
- 1.2.6 a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted;
- 1.2.7 a reference to a Rule includes that Rule as from time to time amended or substituted; and
- 1.2.8 the words “written” and “writing” include electronic communications and any other means of communication resulting in permanent visible reproduction.

2 General

- 2.1 **Rights, powers and duties** – The Company, the Board, each Director and each Shareholder have the rights, powers, duties and obligations set out in the Companies Act except to the extent that they are negated, modified or extended by this Constitution.
- 2.2 **Powers of Shareholders** – Unless otherwise specified in the Companies Act or this Constitution, any power reserved to Shareholders may be exercised, and any approval of Shareholders may be given, by Ordinary Resolution.

~~3 Relationship between Constitution and Rules~~

~~3.1 Incorporation of Rules – For so long as the Company is Listed:~~

- ~~3.1.1 this Constitution is deemed to incorporate all provisions of the Rules required under the Rules to be contained or incorporated by reference in this Constitution;~~
- ~~3.1.2 a security holder must not cast a vote if prohibited from doing so by the Rules; and~~
- ~~3.1.3 Directors must not cast a vote if prohibited from doing so by the Rules.~~

~~3.2 Compliance with Rules – For so long as the Company is Listed, the Company must comply with the Rules. If this Constitution contains any provision inconsistent with the Rules, then the Rules prevail.~~

~~3.3 Rulings – If NZX has granted a Ruling in relation to the Company authorising any act or omission which in the absence of that Ruling would be in contravention of the Rules or this Constitution, that act or omission will, unless a contrary intention appears in this Constitution, be deemed to be authorised by the Rules and this Constitution.~~

~~3.4 Failure to comply with Rules – Any failure to comply with the Rules while the Company is Listed does not affect the validity or enforceability of any transaction, contract, action, decision or vote taken at a meeting of equity security holders, or other matter entered into by, or affecting the Company. However, a party to a transaction or contract who knew of the failure to comply with the Rules is not entitled to enforce that transaction or contract. This clause~~

~~does not limit the rights of equity security holders against the Company or the Directors arising from the failure to comply with the Rules.~~

~~3.5 — **Amendments to the Rules** — If the Rules are changed so that any act or omission by the Company which was formerly prohibited by the Rules, is subsequently required or permitted by the change, the act or omission is deemed to be authorised by this Constitution with effect from the date of the change.~~

43 Shares

4.13.1 Classes of shares – Different classes of Shares may be issued by the Company. Without limiting the foregoing or the Classes listed in section 37(2) of the Companies Act which may be issued, any share may be issued on the basis that it:

~~4.1.13.1.1~~ ranks equally with, or in priority to, any existing Shares;

~~4.1.23.1.2~~ confers preferential rights to distributions of capital or income;

~~4.1.33.1.3~~ confers special, limited or conditional voting rights;

~~4.1.43.1.4~~ is convertible;

~~4.1.53.1.5~~ is limited or restricted as to transfer;

~~4.1.63.1.6~~ does not confer voting rights;

~~4.1.73.1.7~~ is redeemable in accordance with section 68 of the Companies Act; or

~~4.1.83.1.8~~ possesses any combination of two or more of the foregoing characteristics.

4.23.2 Section 45 Negated – Section 45 of the Companies Act will not apply to the Company.

4.33.3 Issue of New Shares – Subject to this Constitution, the Companies Act and the terms of issue of any existing Shares, the Board may issue Shares, securities that are convertible into or exchangeable for Shares, or options to acquire Shares at any time, to any person, and in any number it determines.

4.43.4 Alteration of Shareholders Rights – For the purposes of section 117 of the Companies Act, the issue of equity securities ranking equally with, or in priority to, any existing Shares, whether as to voting rights, Distributions or otherwise, is permitted (subject to clause [34](#)) and is deemed to not be an action affecting the rights attached to existing shares of that Class.

4.53.5 Consolidation and Subdivision – The Board may:

~~4.5.13.5.1~~ consolidate and divide the Shares or any Class; and

~~4.5.23.5.2~~ subdivide the Shares or any Class,

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

4.63.6 Shares in lieu of dividends – The Board may 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 under section 54 of the Companies Act.

4.73.7 Share register may be divided – The ~~S~~share ~~R~~register may be divided into two or more registers kept in different places.

4.83.8 Redemption of Shares – The Company may redeem any Share which is issued as redeemable pursuant to its terms of issue and in accordance with the Companies Act (including under the procedure provided for by section 71 of the Companies Act).

4.93.9 Company may acquire its own Shares – The Company is permitted to purchase or otherwise acquire its own Shares from one or more Shareholders in any way permitted under this Constitution or by the Companies Act.

4.103.10 Company may hold its own Shares – The Company is permitted to hold its own Shares as Treasury Stock in accordance with the Companies Act.

54 Call on Shares

5.14.1 Power to call – The Board may, from time to time, make calls upon the Shareholders in respect of all moneys unpaid on Shares held by them which are not payable at fixed times by the terms of issue of those Shares.

5.24.2 Timing of call – A call shall be deemed to have been made at the time when the resolution of the Board making the call was passed.

5.34.3 Payment of calls – Each Shareholder will, subject to receiving at least 10 working days' written notice specifying the time or times, and place, of payment, pay to the Company or person appointed by the Board for the purpose at the time or times and place so specified by the Board, the amount called. A call may be made payable by instalments and may be revoked, reduced or postponed as the Board may determine. The Company is not required to give notice and particulars of a call to a subsequent holder of those Shares.

5.44.4 Fixed instalments deemed calls – An amount which, by the terms of issue of a Share, is payable on allotment or at a fixed date is deemed for the purposes of this Constitution to be a call duly made and payable on the date on which the amount is payable.

5.54.5 Differential calls – The Board may, on the issue of Shares, differentiate between the Shareholders as to the amounts to be paid in respect of the Shares and the times of payment of such amounts.

5.64.6 Joint Shareholders – The joint holders of a Share are jointly and severally liable to pay all calls in respect of Shares registered in their names.

5.74.7 Default interest – If a call in respect of a Share is not paid on or before the due date, the Shareholder from whom the call is payable will pay interest on the call from the day specified for payment by the Board to the date of actual payment at such rate as the Board may reasonably determine or as set out in the terms of issue of the Share, and will pay all expenses incurred by the Company (including reasonable legal fees) by reason of the delay in payment or non-payment. The Board may waive payment of that interest wholly or in part.

5.84.8 Proceedings for recovery of call – In any proceeding for recovery of a call:

5.8.14.8.1 it is sufficient to prove that:

- (a) the name of the relevant Shareholder is entered in the Share Register as the holder, or one of the holders, of the Shares to which the call relates; and
- (b) except in relation to any amount which, by the terms of issue of a share, is payable on allotment or at a fixed date, the resolution making the call is entered in the Records and notice of the call has been duly given,

and proof of the matters mentioned in this clause is conclusive evidence of the debt;
and

[5.8.24.8.2](#) it is not necessary to prove the appointment or qualification of any member of the Board which made the call nor any other matter.

65 Forfeiture of Shares

[6.45.1](#) **Notice requiring payment of call** – If a Shareholder fails to pay any call or instalment or any other sum which by the terms of issue of a Share becomes payable at a fixed time, on the due date the Board may by written notice to that Shareholder at any time after such non-payment require payment of the amount unpaid together with any accrued interest and all expenses incurred by the Company by reason of such non-payment.

[6.25.2](#) **Contents of notice** – Any notice to a Shareholder under clause [5.16.4](#) must specify a further date (not earlier than 10 working days after the date of service of the notice) on or before which the payment is to be made, and must state that, in the event of non-payment by the specified date, the Shares in respect of which the call, instalment or other amount relates are liable to be forfeited.

[6.35.3](#) **Forfeiture for non-payment** – If payment is not made by the date specified in the notice then, at any time thereafter before the payment required by the notice has been made, any Share in respect of which the notice has been given may be forfeited by a resolution of the Board to that effect. The forfeiture will include any Distribution declared in respect of the forfeited Share and not paid before the forfeiture.

[6.45.4](#) **Cancellation of forfeiture** – A forfeiture may be cancelled at any time before the sale of the forfeited Share, on such terms as the Board thinks fit.

[6.55.5](#) **Effect of forfeiture** – The holder of Shares which have been forfeited ceases to be a Shareholder in respect of the forfeited Shares and have any rights in respected of the forfeited Shares, but remains liable to the Company for all money payable in respect of the forfeited Shares, until the Company receives payment in full of all outstanding amounts in respect of those forfeited Shares.

[6.65.6](#) **Evidence of forfeiture** – An entry in the Share Register that a Share has been forfeited on a date stated in the Share Register shall be conclusive evidence of those facts as against all persons claiming to be entitled to the Share.

[6.75.7](#) **Disposal** – Forfeited Shares may be disposed of in such a manner as the Board determines.

[6.85.8](#) **Proceeds of forfeited Shares** – If Shares are forfeited and sold the proceeds of sale shall first be applied in payment of all costs and expenses of such sale and any attempted sale and then in satisfaction of unpaid calls, instalments or interest. The residue, if any, will be paid to the holder of the Share at the time of its forfeiture.

[6.95.9](#) **Disposal procedure** – Any Director may execute a transfer of the forfeited Shares in favour of the person to whom the Shares are disposed of, and the Company may receive consideration for such disposal. Upon registration of such transfer the transferee shall be the Shareholder of such Shares discharged from all calls due prior to transfer. The transferee shall not be bound to see to the application of the purchase money nor shall the transferee's title to the Shares be affected by any irregularity or invalidity in the forfeiture or disposal. The remedy of the former Shareholder, and of any person claiming under or through the former Shareholder, shall be against the Company exclusively and in damages only.

76 Lien on Shares

[7.16.1](#) **Lien on Shares** – The Company has a first and paramount lien on each Share registered in the name of each Shareholder (whether solely or jointly), the proceeds of sale of the Share, and all Distributions declared in respect of the Share, for:

~~7.1.46.1.1~~ all unpaid calls and instalments and any interest payable on such amounts, in respect of those Shares; and

~~7.1.26.1.2~~ any amount which the Company may be called upon to pay by law in respect of those Shares, including withholding and other taxes, whether or not the due date for payment of such amounts has arrived.

~~7.26.2~~ **Waiver of lien** – Unless otherwise agreed between the Company and the relevant Shareholder, the registration of a transfer of a Share will operate as a waiver of any lien which the Company may have on that share, except as provided in clause ~~78~~.

~~7.36.3~~ **Company may sell Shares** – The Company may sell any Share on which the Company has a lien, in such manner as the Board thinks fit if:

~~7.3.46.3.1~~ a sum in respect of which the lien exists is due and payable; and

~~7.3.26.3.2~~ the sum remains due and payable after the expiry of 10 working days after written notice demanding payment of the amount owing was given to the person entitled to receive notice of meetings of Shareholders in respect of the Shares.

~~7.46.4~~ **Proceeds of sale** – If Shares are sold pursuant to clause ~~6.37.3~~, the proceeds of sale shall first be applied in payment of all costs and expenses of such sale and any attempted sale and then in satisfaction of unpaid calls, instalments, interest or other amount in respect of which any lien exists. The residue, if any, will be paid to the holder of the Share immediately prior to the sale or, if applicable, to the Personal Representative of the holder. The registration of a transfer of Shares shall operate as a waiver of the lien by the Company but not as a release of any outstanding liability owed by any holder of the Share immediately prior to the sale.

~~7.56.5~~ **Evidence** – A certificate by a Director that any power of sale has arisen and is exercisable by the Company under this Constitution, will be conclusive evidence of those facts.

~~7.66.6~~ **Sale procedure** – For giving effect to any sale under clause ~~6.37.3~~, the Board may execute a transfer of the Shares to the transferee. The transferee will be registered as the holder of the Share discharged from all calls due prior to sale. The transferee shall not be bound to see the application of the purchase money nor shall the transferees' title to the Share be affected by any irregularity or invalidity on the sale. The remedy of any person having a cause of action in relation to the sale is in damages only and solely against the Company.

~~87~~ **Transfer of Shares**

~~8.17.1~~ **Power to refuse or delay** – The Board may refuse or delay the registration of a transfer of Shares if:

~~8.1.47.1.1~~ the Company has a lien over the Shares; or

~~8.1.27.1.2~~ a Share certificate has been issued in respect of the Shares, unless the form of transfer required by this clause ~~78~~ is accompanied by the Share certificate, or by evidence as to its loss or destruction and, if required, an indemnity in a form prescribed by the Board,

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.

~~8.27.2~~ **Transmission on death of Shareholder** – If a Shareholder dies the survivor, if the deceased was a joint Shareholder, or the Personal Representative, will be the only persons recognised by the Company as having any title to or interest in the Shares of the deceased Shareholder, but nothing in this clause will release the estate of a deceased joint Shareholder from any

liability in respect of any Share, or constitute a release of any lien which the Company may have in respect of any Share.

8.37.3 Joint Personal Representatives – Where a Share is subject to the control of two or more persons as Personal Representatives, they will, for the purposes of this Constitution, be deemed to be joint holders of the Share.

98 Compulsory Sale of Less than Minimum Holdings

~~9.1 **Notice of compulsory sale** – The Company may at any time give notice to an equity security holder holding less than a Minimum Holding that if, at the expiration of 3 months after the date the notice is given, equity securities then registered in the name of the holder are less than a Minimum Holding the Company may sell these securities (including through a broker acting on the Company's behalf).~~

~~9.2 **Sale procedure** – The Board may authorise the transfer of equity securities sold by the Company under this clause 9 and the holder is deemed to have authorised the Company to act on behalf of the holder and to sign all necessary documents relating to the sale. The purchaser of equity securities sold by the Company under this clause 9 shall have no obligation to ensure the proceeds of the sale of those equity securities is applied in accordance with this clause 9 nor shall the title to the equity securities be affected by any irregularity or invalidity in the procedures under this Constitution in relation to the sale. The remedy of any person aggrieved by the sale is in damages only and against the Company exclusively.~~

~~8.1 **Minimum Holding** – The Board may from time to time by set a Minimum Holding at a level the Board considers to be in the best interests of the Company.~~

~~8.2 **Minimum Holding Notice** – For any Shareholders that hold less than a Minimum Holding:~~

~~8.2.1 the Company may at any time give notice to those Shareholders to increase their shareholding to the Minimum Holding. The Company will give such shareholders a reasonable opportunity to increase their shareholding to the Minimum Holding provided that the compliance costs in doing so are reasonable and proportionate; and~~

~~8.2.2 if at the expiration of 20 working days after the date that Shareholders receive notice under clause 8.2.1, those Shareholders still hold less than a Minimum Holding, then the Board may exercise the power of sale over all of those Shareholder's Shares in accordance with clause 8.3.~~

~~8.3 **Power of sale** – If the power of sale under clause 8.2.2 becomes exercisable:~~

~~8.3.1 the Board may arrange for the sale of the relevant Shares on behalf of the Shareholder (either to purchasers or under a share buyback undertaken in accordance with the Companies Act);~~

~~8.3.2 the Shareholder shall be deemed to have authorised any Director to act on behalf of the Shareholder in relation to the sale of the relevant Shares, and to sign all necessary documents relating to such sale;~~

~~8.3.3 the Company shall account to the Shareholder for the proceeds of sale in accordance with 8.5;~~

~~8.3.4 title to the Shares shall not be affected by any irregularity or invalidity in the procedures under this Constitution in relation to the sale and the remedy of any Shareholder aggrieved by the sale is in damages only and against the Company exclusively.~~

8.4 Price per Share – For any Shares sold by the Company under clause 8.2.2, the sale price per Share shall be a fair and reasonable price determined by the Board at its discretion.

9.38.5 Proceeds of sale – The proceeds of any equity securities sold under this clause 8 must be applied as follows:

9.3.18.5.1 first, in payment of any reasonable sale expenses;

9.3.28.5.2 second, in satisfaction of any unpaid calls or other amounts owing to the Company in respect of the ~~equity securities~~ Shares; and

8.5.3 the residue, if any, must be paid to the person who was the holder immediately before the sale or his or her executors, administrators or assigns.

8.6 Reasonable attempt to pay out proceeds – Where the Company does not hold former bank account details for any former Shareholder that is entitled to proceeds under clause 8.5.3, the Company must make a reasonable attempt to obtain those Shareholder's account details. The Company will discharge this obligation if it has sent one follow up payment notice to that former Shareholder's most recent contact details that were recorded in the Share Register. The payment notice must advise the amount of proceeds that Shareholder is entitled to, specify the final date to provide the account details for payment, and if the account details are not received by that date, any proceeds will be forfeited and donated to charity in accordance with clause 8.7.

9.48.7 Unclaimed proceeds – Any proceeds payable to a person under clause 8.5.3 for Shares sold or acquired by the Company under this clause 8 that are unclaimed for six months after having become payable may be donated to any charity registered under the Charities Act 2005 and as nominated by the Board from time to time. The donation of any unclaimed proceeds under this clause shall be a full discharge of all amounts owing by the Company to the relevant former Shareholder.

9.58.8 Directors certificate – A certificate, signed by a Director that records that a power of sale under this clause has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.

409 Distributions

40.19.1 Deductions from Distribution – The Board may deduct from a Distribution payable to a Shareholder all such sums of money as may be due from him or her to the Company on account of:

40.1.19.1.1 unpaid calls and instalments, and any interest payable on such amounts, in respect of the Shares for which the Distribution is being paid; and

40.1.29.1.2 such amounts as the Company may be called upon to pay under law in respect of the Shares.

40.29.2 Manner of payment – A Distribution may be paid in any manner approved by the Board and otherwise directed by the entitled Shareholder. Failing any direction, payment may be made by cheque and sent by post:

40.2.19.2.1 to the registered address of the Shareholder;

40.2.29.2.2 in the case of joint holders to any one of the joint holders at his or her registered address; or

40.2.39.2.3 to the person and the address as the Shareholder may direct,

and the Company shall not be responsible for any loss arising from such mode of transmission.

40.39.3 No interest on Distributions – The Company is not liable to pay interest in respect of any Distribution.

40.49.4 Unclaimed Distribution – A Distribution unclaimed for one year after having become payable may be made use of by the Board for the benefit of the Company until claimed. The Company shall be entitled to mingle the Distribution with other money of the Company and shall not be required to hold it or regard it as being impressed with any trust. A Distribution unclaimed for five years after having become payable, may, at the expiry of such period be forfeited by the Board for the benefit of the Company, provided always that the Board may at any time after such forfeiture annul the same and pay such Distribution to the person producing evidence of entitlement.

41.10 Shareholder Meetings

41.110.1 Proceedings at meetings – The provisions of schedule 1 of the Companies Act as modified by schedule one of this Constitution governs proceedings at meetings of Shareholders. The same procedures also govern the proceedings of meetings of any interest group required to be held, with all necessary consequential modifications.

42.11 Appointment and Removal of Directors

42.111.1 Existing Directors continue – The Directors in office at the date of adoption of this Constitution shall continue in office subject to the provisions of this Constitution.

42.211.2 Appointment of Directors – A Director may be appointed by:

42.2.111.2.1 Ordinary Resolution; or

42.2.211.2.2 a resolution of the Board,

and there is no shareholding qualification for Directors.

42.311.3 Director ceasing to hold office – The office of Director is vacated if the person holding that office:

42.3.111.3.1 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;

42.3.211.3.2 resigns in accordance with the Companies Act;

42.3.311.3.3 is removed from office by Ordinary Resolution or otherwise in accordance with the Companies Act; or

42.3.411.3.4 becomes disqualified from being a Director pursuant to the Companies Act.

~~42.4 — **Comply with the Rules** — For so long as the Company is Listed:~~

~~42.4.1 — the Company shall comply with the minimum Board composition requirements of the Rules; and~~

~~42.4.2 — each Director shall retire from the office when required by the Rules but, subject to the Rules, shall be eligible for re-election.~~

43.12 Remuneration of Directors

13.112.1 Authorisation – The Board may, ~~subject to the Rules (where applicable)~~, exercise the power conferred by section 161 of the Companies Act to authorise remuneration and other benefits to and for Directors.

13.212.2 Expenses – Each Director is entitled to be paid for all reasonable travelling, accommodation and other expenses incurred by the Director in connection with the Director's attendance at meetings or otherwise in connection with the Company's business.

13.312.3 Special remuneration – Without limiting clause ~~12.113.4~~, the Board may authorise special remuneration to any Director who is or has been engaged by the Company or a subsidiary to carry out any work or perform any services which is not in the capacity of a director of the Company or a subsidiary.

1413 Alternate Directors

14.113.1 Appointment – Each Director may appoint, by notice to the Company, any person who:

14.1.113.1.1 is not already a Director;

14.1.213.1.2 is approved by a majority of the other Directors; and

14.1.313.1.3 is not disqualified under the Companies Act or this Constitution from being a Director,

to act as an alternate Director in his or her place.

14.213.2 Alternate Director powers – While acting in the place of the Director who appointed him or her, an alternate Director:

14.2.113.2.1 has, and may exercise and discharge, all the powers, rights, duties and privileges of that Director (including the right to receive notice of, be counted as part of the quorum, and participate in a meeting, of the Board, and to sign any document, including a written resolution, and to act as chairperson of the Board, but excluding the right to appoint an alternate Director);

14.2.213.2.2 is also subject to the same terms and conditions of appointment as that Director, except that he or she is not entitled to receive remuneration other than such proportion (if any) of the remuneration otherwise payable to his or her appointer as the appointer may direct by notice in writing to the Company.

14.313.3 Termination of appointment – The appointment of an alternate Director terminates automatically if the Director who appointed him or her ceases to be a Director or if an event occurs which would cause him or her to vacate office if he or she were a Director. A Director retiring by rotation and being re-elected is not to be treated as having ceased to be a Director for the purposes of this clause.

14.413.4 Removal of Alternate – The appointing Director or the Board by majority vote may at any time revoke the appointment of any alternate Director by written notice to that alternate Director.

1514 Indemnity and Insurance

15.114.1 Company indemnity – The Company shall indemnify a Director of the Company, and may indemnify an employee of the Company or a director or employee of a related company, for any liability or costs for which a Director or employee may be indemnified under the Companies Act. The Board may determine the terms and conditions of such an indemnity.

15.214.2 Company may effect insurance – The Company may, with prior approval of the Board, effect insurance for a director or employee of the Company or a related company for any liability or costs for which a company may effect insurance for a director or employee under the Companies Act. The Board may determine the amounts and the terms and conditions of any such insurance.

1615 Proceedings of Directors

16.115.1 Proceedings governed by Schedule Two – The provisions set out in schedule two to this Constitution govern the proceedings of the Board and, except to the extent the Board determines otherwise, govern the proceedings of any committee of Directors. Schedule 3 of the Companies Act shall not apply to the Company.

1716 Method of Contracting

17.116.1 Deeds – A deed which is to be entered into by the Company may be signed on behalf of the Company, by:

17.1.116.1.1 a Director; or

17.1.216.1.2 any other person authorised by the Board whose signature must be witnessed.

17.216.2 Attorneys – The Company may, by deed, appoint one or more persons as its attorney or attorneys either generally or in relation to a specified matter or matters. An act of an attorney within the powers of the appointing deed binds the Company.

1817 Notices

18.117.1 Joint Shareholders – A notice may be given by the Company to joint Shareholders by giving the notice to the joint Shareholder named first in the Share Register in respect of the Share.

18.217.2 Shareholder deceased or bankrupt – If a Shareholder dies or is adjudicated bankrupt, notice may be given in any manner in which notice might have been given if the death or bankruptcy had not occurred, or by giving notice in the manner provided in section 391 of the Companies Act to the Personal Representative of the Shareholder at the address supplied to the Company for that purpose.

1918 Liquidation

19.118.1 Division of surplus assets – Subject to the Companies Act and in particular the satisfaction of the claims of creditors of the Company under section 312 of the Companies Act, the liquidator may divide among the Shareholders in kind the whole or any part of the surplus assets of the Company (whether they consist of property of the same kind or not). The liquidator may for that purpose set such value as he or she deems fair upon any property to be divided and may determine how the division shall be carried out as between the Shareholders or different Classes of Shareholders. The liquidator shall divide the surplus assets of the Company so as to ensure that each Shareholder receives his or her right to share in the distribution of the surplus assets of the Company pro rata according to the Shares held by the Shareholder.

19.218.2 Distribution in kind – With the approval of an Ordinary Resolution, the liquidator of the Company may divide amongst the Shareholders in kind the whole or any part of the surplus assets of the Company (whether or not they are of the same kind) and for that purpose the liquidator may:

[19.2.18.2.1](#) attribute values to assets as the liquidator considers appropriate; and

[19.2.218.2.2](#) determine how the division will be carried out between the Shareholders or different Classes of Shareholders.

[19.318.3](#) **Trusts** – With the approval of an Ordinary Resolution, the liquidator may vest the whole or any part of any surplus assets of the Company in trustees upon trust for the benefit of Shareholders. The liquidator may determine the terms of the trust.

SCHEDULE ONE

Proceedings at Meetings of Shareholders

1 Chairperson

- 1.1 **Chairperson** – If the Directors have elected a chairperson of the Board, and he or she is present at a meeting of Shareholders, he or she must chair the meeting.
- 1.2 **Directors may appoint chairperson** – If:
- 1.2.1 no chairperson of the Board has been elected;
 - 1.2.2 at any meeting of Shareholders, the chairperson of the Board is not present within 15 minutes after the time appointed for the commencement of the meeting; or
 - 1.2.3 the chairperson of the Board considers it not proper or desirable to act as chairperson, (either in relation to the entire meeting or in relation to any particular business to be considered at the meeting),

the Directors present may elect one of their number to chair the entire meeting or that part of the meeting which relates to particular business.

2 Notice of Meetings

- 2.1 **Written notice** - Written notice of the time and place of a meeting of Shareholders must be sent or electronically delivered to every Shareholder entitled to receive notice of the meeting and to every Director, and to the auditor (if any) of the Company, not less than 10 working days before the meeting.
- 2.2 **Contents of notice** - A notice of meeting must state:
- 2.2.1 the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it;
 - 2.2.2 the text of any Special Resolution to be submitted to the meeting;
 - 2.2.3 the text of any resolution for the purposes of section 207I or 207J of the Companies Act to be submitted to the meeting; and
 - 2.2.4 in the case of Special Resolution required by section 106(1)(a) or (b) of the Companies Act, the right of a Shareholder under section 110 of the Companies Act.
- 2.3 **Waiver of notice irregularity** - 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.
- 2.4 **Accidental omission** - The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a Shareholder, does not invalidate the proceedings at that meeting.
- 2.5 **Notice of adjourned meeting** - If a meeting of Shareholders is adjourned for less than 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.

3 Methods of holding meetings

- 3.1 **Methods** - A meeting of Shareholders may be held by a quorum of the Shareholders:

- 3.1.1 being assembled together at the time and place appointed for the meeting;
- 3.1.2 participating in the meeting by means of audio, audio and visual, or electronic communication; or
- 3.1.3 by a combination of such methods.

4 Quorum

- 4.1 **Requirement for quorum** - No business may be transacted at a meeting of Shareholders if a quorum is not present.
- 4.2 **Quorum** - Subject to clause 4.3 of this schedule, a quorum for a meeting of Shareholders shall be three (3) Shareholders present either in person, by proxy or by corporate representative. To avoid doubt, a shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.
- 4.3 **Lack of quorum** - If a quorum is not present within 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. If at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the Shareholders or their proxies and their corporate representatives present are a quorum.

5 Adjourned and Dissolved Meetings

- 5.1 **Chairperson's discretion** – The chairperson at the meeting may, at any time during a meeting at which a quorum is present, adjourn the meeting (including to a later time at the same meeting or to an adjourned meeting).
- 5.2 **Adjourned meetings** – No business can be transacted at an adjourned meeting other than the unfinished business from the original meeting. A notice of meeting need not be prepared for the adjourned meeting provided that the adjourned meeting is held within 30 days of the original meeting.
- 5.3 **Unruly meetings** – The chairperson at the meeting may adjourn or dissolve the meeting if in their opinion the meeting has become so unruly, disorderly or protracted that the business of the meeting cannot be conducted in a proper and orderly manner. Such decision is at the sole discretion of the chairperson of the meeting and reasons for the decision need not be given.
- 5.4 **Unfinished business** – If a meeting is to be dissolved and there is an item of unfinished business which is yet to be voted on, then the chairperson of the meeting may direct that such item(s) be put to the vote by a poll without further discussion.

6 Voting

- 6.1 **Number of votes** - Subject to any applicable voting restrictions or rights or restrictions for the time being attached to any Class:
 - 6.1.1 on a poll every Shareholder has one vote in respect of each Share held; or
 - 6.1.2 in any other case, every Shareholder has one vote.

~~6.2 Poll – For so long as the Company is Listed voting at a meeting of Shareholders must be undertaken by way of a poll.~~

~~6.36.2 Voting at meeting – If clause 6.2 of this schedule does not apply, then, U~~unless a poll is undertaken or demanded, voting at the meeting will be by whichever of the following methods is determined by the chairperson of the meeting:

[6.3.46.2.1](#) voting by voice;

[6.3.26.2.2](#) voting by show of hands;

[6.3.36.2.3](#) voting by digital means; or

[6.3.46.2.4](#) an appropriate combination of the above which in all cases gives each Shareholder forming part of the quorum the opportunity to clearly indicate their assent or dissent.

[6.46.3](#) **Declaration by chairperson** – Except where voting has been undertaken by a poll, a declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact.

[6.56.4](#) **Right to demand poll** - At a meeting of Shareholders a poll may be demanded by:

[6.5.46.4.1](#) the chairperson of the meeting;

[6.5.26.4.2](#) not less than five Shareholders having the right to vote at the meeting;

[6.5.36.4.3](#) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting; or

[6.5.46.4.4](#) a Shareholder or Shareholders holding Shares that confer a right to vote on the resolution and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right.

[6.66.5](#) **When poll may be demanded** - A poll may be demanded either before or after the vote is taken on a resolution. The demand for a poll may be withdrawn.

[6.76.6](#) **Poll result** - The chairperson of the meeting may declare the result of a poll either at or after the meeting when the outcome is known (regardless of whether all votes have been counted).

[6.86.7](#) **Joint Shareholders** - Where two or more persons are registered as joint Shareholders, the vote of the person named first in the **Sshare #R**Register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

[6.96.8](#) **Chairperson's casting vote** - The chairperson of the meeting of Shareholders is not entitled to a casting vote.

[6.106.9](#) **Record date for voting** – The Board may determine in a notice of meeting for the purpose of voting at that meeting that only those Shareholders as at 5pm on a day not more than 2 working days before the date of the meeting may vote at the meeting and only in respect of the Shares held in their name at that time.

7 Proxies

7.1 **Right to vote** - A Shareholder may exercise the right to vote at a meeting either by being present in person or by proxy.

7.2 **Rights of proxy** – A proxy for a Shareholder is entitled to attend and be heard at the meeting and to demand or join in demanding a poll, as if the proxy were the Shareholder.

7.3 **Notice of appointment** - A proxy must be appointed by notice in writing signed by the appointing Shareholder or, in the case of an electronic notice, sent or submitted by the Shareholder. The notice must state whether the appointment is for a particular meeting or for a specified term.

- 7.4 **Multiple proxies** - A Shareholder may appoint more than 1 proxy for a particular meeting, provided that more than 1 proxy is not appointed to exercise the rights attached to a particular Share held by the Shareholder.
- 7.5 **Production of notice** - No appointment of a proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by the Company at its registered office, or at such other address as is specified for that purpose in the notice convening the meeting, not later than 48 hours prior to the start of the meeting.
- 7.6 **Proxy form with notice of meeting** – A proxy form must be sent by the Company with each notice of meeting.
- 8 Postal Votes**
- 8.1 **Board discretion** – The Board may at its discretion determine that Shareholders may exercise the right to vote at a meeting by casting postal votes. Where postal votes are permitted, clause 7 of the first schedule of the Companies Act shall apply together with any other procedures determined by the Board. Postal votes (whether submitted electronically or not) must be received by the Company at least 48 hours prior to the meeting.
- 9 Minutes**
- 9.1 **Minutes must be kept** – The Board must ensure that minutes are kept of all proceedings at meetings of Shareholders.
- 9.2 **Minutes are evidence** – Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.
- 10 Shareholder Proposals**
- 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 schedule 1 to the Companies Act apply to any notice given pursuant to this clause.
- 11 Corporate Representative**
- 11.1 **Appointment of representative** - 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.
- 12 Other proceedings**
- 12.1 **Chairperson may regulate** – Except as provided in this schedule, and subject to this Constitution, the chairperson of a meeting of Shareholders may regulate the proceedings at the meeting.

SCHEDULE TWO

Proceedings at meetings of Board

1 Chairperson

- 1.1 **Chairperson** - The Directors may elect one of their number as chairperson of the Board.
- 1.2 **Term of office** - The Director elected as chairperson holds that office until he or she dies or resigns or a new chairperson is elected by the Board.
- 1.3 **Election for particular meetings** - If no chairperson is elected, or if at a meeting of the Board the chairperson is not present within 30 minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be chairperson of the meeting.

2 Notice of Meeting

- 2.1 **Convening of a meeting** - 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 notice in accordance with this clause.
- 2.2 **Notice of meeting** – The notice of meeting must be a written notice that includes the date, time and place of the meeting and the matters to be discussed. The notice of meeting may be:
- 2.2.1 Delivered by hand to a Director;
- 2.2.2 Sent to the address of a Director; or
- 2.2.3 Emailed to the email address of a Director.

The address or email address of a Director that is to be used is the most recent address or email address which the Director has previously provided to the Company for communication purposes. If an address or email address has not previously been provided, the notice of meeting may be sent to such Director's last place of employment or residence that is known to the Company.

- 2.3 **Period of notice** - Not less than two calendar days' notice of a meeting must be given to each Director. However if the chairperson believes it is necessary to convene a meeting of the Board as a matter of urgency, no less than two hours' notice may be given and a written notice of meeting may be dispensed with provided that all Directors are contacted by telephone as soon as reasonably practicable and advised of the time and place of the meeting and the matters to be discussed.
- 2.4 **Absent directors** – Notice need not be given to a Director who is ordinarily resident in New Zealand but at the time of the notice is absent from New Zealand. However if such Director has an alternate director, then notice must be given to that person.
- 2.5 **Waiver of notice irregularity** - An irregularity in the notice is waived if all Directors entitled to receive the notice attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice agree (whether before, during or after the meeting) to the waiver.

3 Forms of Meeting

- 3.1 **Methods of Meeting** - A meeting of the Board may be held by a number of the Directors who together constitute a quorum:
- 3.1.1 being assembled together at the place, date, and time appointed for the meeting;

3.1.2 by means of audio, or audio and visual, communication by which all Directors can simultaneously hear each other throughout the meeting; or

3.1.3 by a combination of the above methods.

3.2 **Written resolution in lieu of meeting** - A resolution in writing, signed or assented to by a majority of the 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 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 PDF counterparts) in similar form, each signed by one or more Directors. A copy of any such resolution must be entered in the records of the Company. The Company will 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.

4 **Quorum**

4.1 **Quorum** - A quorum for a meeting of the Board is a majority of Directors. No business may be transacted at a meeting of Directors if a quorum is not present.

4.2 **Alternate Director may be included** – In accordance with this Constitution an alternate director present at a meeting may be included for the purposes of establishing a quorum.

4.3 **Lack of a quorum** - If a quorum is not present within 30 minutes after the time appointed for the meeting, the chairperson will adjourn the meeting to another time within the next three days at the same venue. Directors present at the adjourned meeting are deemed to constitute a quorum.

5 **Voting**

5.1 **Voting** - Every Director has one vote. A Director must not vote where that Director is not permitted to vote.

5.2 **Chairperson** - The chairperson does not have a casting vote.

5.3 **Majority** - 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. Any Director who abstains from voting shall not be deemed to have voted for or against the matter being voted on and accordingly shall not be required to execute any director's certificates required under the [Companies Act](#).

6 **Minutes**

6.1 **Minutes** - The Board must ensure that minutes are kept of all proceedings at meetings of the Board. Minutes that have been signed correct by the chairperson of the meeting, or by the chairperson of the next meeting, are prima facie evidence of the proceedings.

7 **Other Proceedings**

7.1 **Procedure** - Except as provided in this schedule the Board may regulate its own procedure.