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# CONSTITUTION OF THE NEW ZEALAND SEAFOOD INDUSTRY COUNCIL LIMITED

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Incorporating amendments effected by approval of Levy Order by the Minister on 21 December 2001, resolutions passed at the Special General Meeting on 13 February 2002 and resolutions passed at the Annual General Meeting on 22 March 2002.

# CONSTITUTION OF THE NEW ZEALAND SEAFOOD INDUSTRY COUNCIL LIMITED

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## PART A: INTRODUCTION

### INTERPRETATION

#### 1 Defined Terms

In this constitution:

*the Act* means the Companies Act 1993;

*Annual Landing* means, in respect of any Non-Quota Management Stock, the aggregate amount in Greenweight tonnes (expressed in kilograms) of that Stock landed to a Licensed Fish Receiver or sold during any Levy Year.

*the Board* means Directors who numbers not less than the required quorum acting together as the board of directors of the Company or, if the Company has only one Director, that Director;

*Commercial Stakeholder Organisation* means a body corporate that can demonstrate to the satisfaction of the Board, at the absolute discretion of the Board, that –

- it represents the holders of not less than 51% of the Quota for a fish stock or group of fish stocks that is the subject of the Quota Management System; or
- in any case where catch limits in respect of any fish stock or group of fish stocks are held under Individual Catch Entitlements, it represents the holders of not less than 51% of the total Individual Catch Entitlements issued for that fish stock or group of fish stocks; or
- in any other case, it represents the holders of equivalent rights for Fish Farmers or non-ITQ species permit holders who in each case can similarly demonstrate that they represent not less than 51% of the catch or production for a fish stock or group of fish stocks;

*the Company* means The New Zealand Seafood Industry Council Limited;

*this constitution* means this constitution as it may be altered from time to time in accordance with the Act;

*Core Services Levy* means, for the purposes of *clause 12* of this Constitution and in respect of any Stock, the amount equal to  $x$  in the following formula:

$$\chi = (a \times b)$$

where:

$a$  is the Core Services Levy Rate for that Stock; and

$b$  is the Relative Dollar Value of Quota or Annual Landing for that Stock.

*Core Services Levy Rate* has the meaning set out in *clause 2* of the Fifth Schedule;

*Declared Port Price* means a price (exclusive of GST), to be declared by the Company from time to time, and to be determined by using an independent survey to establish the average port price that would have been paid during the previous 3 years for one kilogram of a given Stock by an independent processor to an independent fisher.

*Director* means a person appointed as a director of the Company in accordance with this constitution;

*Escrow Agent* means any company appointed by the Board as Escrow Agent from time to time;

*Fish* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Fish Farmer* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Greenweight* has the meaning set out in section 2(1) of the Fisheries Act 1996.

*Individual Catch Entitlements* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Levy Order* means the order made under section 4 of the Commodity Levies Act 1990, which imposes a levy payable to the Company;

*Levy Payer* means a person who is one of the persons primarily responsible for paying a levy imposed under the Levy Order (which for the avoidance of doubt does not include the Crown);

*Levy Year* means an initial period determined by the Board, and, after that initial period, each 12 month period commencing on 1 October every year;

*Licensed Fish Receiver* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Non-Quota Management Stock* means any Stock which is not a Quota Management Stock;

*Ordinary Share* means a share that confers all of the rights specified in clause 11 on its holder;

*Quota* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Quota Management Stock* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Quota Management System* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Relative Dollar Value* means, in relation to a Levy Payer -

- (a) in respect of any Stock that is a Quota Management Stock, an amount which is equal to the sum of the Quota (expressed in kilograms) owned by the Levy Payer on a date nominated by the Company from time to time, multiplied by the Declared Port Price for that Stock; and
- (b) in respect of any Stock that is a Non-Quota Management Stock, an amount which is equal to the sum of the Annual Landing of the Levy Payer in the previous Levy Year, multiplied by the Declared Port Price for that Stock;

*SeaFIC Levies* means the levies payable under the Levy Order;

*Share* means a share in the Company;

*Stock* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*written* or *in writing* in relation to words, figures and symbols includes all modes of presenting or reproducing those words, figures and symbols in a tangible and visible form;

An expression which is defined in the Act (generally or for a particular provision) has the same meaning, unless it is defined in this clause. Where an expression is defined in the Act more than once and in different contexts, its meaning will be governed by the context in which it appears in this constitution.

## **2 Construction**

In this constitution:

- 2.1 headings appear as a matter of convenience and do not affect the interpretation of this constitution;
- 2.2 the singular includes the plural and vice versa, and words importing one gender include the other genders;
- 2.3 a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;
- 2.4 the Schedules form part of this constitution.

### THE RELATIONSHIP BETWEEN THIS CONSTITUTION AND THE ACT

## **3 Effect of the Act on this constitution**

The Company, the Board, each Director, and each shareholder 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.

## **4 Effect of this constitution**

This constitution has no effect to the extent that it contravenes the Act or is inconsistent with it.

## **5 Shareholders may alter or revoke this constitution**

The Shareholders may alter or revoke this constitution by special resolution.

## **6 Capacity of the Company**

- 6.1 The Company is incorporated to provide stakeholders in the seafood industry in New Zealand with generic services relating to the promotion of their interests and the seafood industry in New Zealand with technical services relating to that industry.
- 6.2 Without limiting the powers of the Company, the main operating objective of the Company at the date of adoption of this constitution is to carry out certain functions in the New Zealand fishing industry.
- 6.3 The Company shall not carry on business in competition with its shareholders, unless where that is deemed appropriate by the Board.

### **6A Power to set and collect SeaFIC Levies**

The Company shall, pursuant to the Levy Order, determine in accordance with the Fifth Schedule the rate, or rates, at which the SeaFIC Levies are to be paid under the Levy Order.

### **6B Purposes for which SeaFIC Levies may be used**

The Company shall use all amounts received by the Company in payment of SeaFIC Levies for purposes set out in the Fifth Schedule.

### **6C Auditor to verify proper use**

The Company's Auditor shall verify each year that all amounts received by the Company in payment of SeaFIC Levies have been used for the purposes for which those SeaFIC Levies were levied.

### **6D Restriction on Amendments**

The Fifth and Sixth Schedules, together with this *clause 6D* of this Constitution, may only be amended or altered during the term of the Levy Order with, and in accordance with, the prior written approval of the Minister of Fisheries.

## **PART B: SHARES AND SHAREHOLDERS**

### SHAREHOLDERS

## **7 Eligibility to hold Shares**

- 7.1 Persons (other than the Company) who may be a shareholder in the Company are:

7.1.1 any Commercial Stakeholder Organisation; or

7.1.2 the Escrow Agent; or

7.1.3 any other person approved by the Board.

7.2 For the avoidance of doubt, the Crown cannot become a shareholder.

## SHARES AND ISSUE OF SHARES

### **8 Company's Shares**

At the date of adoption of this constitution the Company has 100 Shares.

### **9 Board to Issue Shares**

9.1 The Board may issue a Share at any time to any person eligible to be a shareholder for a nominal consideration of \$1.00.

9.2 Each Commercial Stakeholder Organisation shall only be entitled to hold one (1) Share in the Company at any time.

### **10 Board need not comply with statutory pre-emptive rights**

If the Board issues Shares that rank as to voting or distribution rights, or both, equally with or prior to existing Shares, the Board need not offer those shares first to existing shareholders for acquisition.

## SHAREHOLDER RIGHTS

### **11 Ordinary Share confers rights on shareholder**

Subject to *clause 27* (in respect of Shares held by the Escrow Agent), an Ordinary Share confers on its holder:

11.1 the right at any time to require the Company to redeem the share for its issue price;

11.2 the right to a number of votes, calculated in the manner set out in *clause 12*, on a poll at a meeting of shareholders on any resolution, including any resolution to:

11.2.1 appoint or remove a Director or auditor;

11.2.2 adopt a constitution;

11.2.3 alter this constitution;

11.2.4 approve a major transaction;

11.2.5 approve an amalgamation under the Act; and

11.2.6 put the Company into liquidation;

11.3 the right to a share in dividends authorised by the Board; and

11.4 the right to a share in the distribution of the Company's surplus assets.

## 12 Calculation of number of votes

The number of votes to which a shareholder is entitled on a poll of shareholders shall be calculated in accordance with the following formula (and then expressed as a whole number, ignoring fractions):

$$x = \left( \frac{a}{b} \times 100 \right)$$

where:

x is the number of votes to which the relevant shareholder is entitled;

a is:

- (i) the value of any levies under the Fishing Industry Board Act 1963 paid in respect of Stock(s), in the last complete financial year of the New Zealand Fishing Industry Board immediately preceding the meeting of shareholders at which the vote is to be exercised and for which Stock(s) the relevant shareholder is the Commercial Stakeholder Organisation; and
- (ii) from 1 October 2003, the value of any Core Services Levies levied pursuant to any statute or regulatory regime under which levies are paid by persons in the seafood industry in New Zealand for the purpose of funding the core services activities undertaken by the Company in respect of Stock(s), for which Stock(s) the relevant shareholder is the Commercial Stakeholder Organisation, in the last complete financial year of the Company immediately preceding the meeting of shareholders at which the vote is to be exercised.

*b* is:

- (i) the aggregate of all levies under the Fishing Industry Board Act 1963 paid by all persons in respect of which there are Commercial Stakeholder Organisations holding Ordinary Shares in the Company in the last complete financial year of the New Zealand Fishing Industry Board immediately preceding the meeting of shareholders at which such a vote is to be exercised; or
- (ii) from 1 October 2003, the aggregate value of all Core Services Levies levied pursuant to any statute or regulatory regime under which levies are paid by persons in the seafood industry in New Zealand for the purpose of funding the core services activities undertaken by the Company, for which there are Commercial Stakeholder Organisations holding Ordinary Shares in the Company in the last complete financial year of the Company immediately preceding the meeting of shareholders at which such a vote is to be exercised.

### **13 Statement of rights to be given to shareholders**

Where the Act requires, the Company must issue a statement of shareholder rights complying with the Act to any shareholder who asks for one.

### **14 Company must obtain approval before altering shareholders' rights**

14.1 The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a special resolution of each interest group in accordance with the Act.

14.2 Subject to this constitution, the Board may issue Shares that rank as to voting or distribution rights, or both, equally with or prior to any existing Shares. The issue will not be treated as an action affecting the rights attached to existing Shares.

## SHARE REGISTER

### **15 Status of registered holder**

The Company may treat the registered holder of a Share as the only person entitled to:

15.1 exercise the right to vote attaching to the Share;

15.2 receive notices;

15.3 receive a distribution in respect of the Share; and

15.4 exercise the other rights and powers attaching to the Share.

#### **16 Trusts not to be entered on share register**

The Company is not bound or affected in any way by any notice of a trust, on the share register, whether that trust is express, implied or constructive.

### TRANSFER OF SHARES

#### **17 Restrictions on transfer of Shares**

Except as detailed in *clauses 21 to 25*, Shares are not transferable.

#### **18 Shares transferred by entry on share register**

Shares shall be transferred by entry on the Company's share register of the name of the transferee which appears on the transfer form delivered to the Company.

#### **19 Board may refuse or delay a Share transfer in certain cases**

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares if:

19.1 the holder of the Shares has failed to pay the Company an amount due in respect of those Shares, whether by way of consideration for the issue of the Shares or in respect of sums payable by the holder of the Shares in accordance with the terms of issue of those shares, any contract for the issue of those shares, or this constitution;

19.2 registration would impose a liability to the Company on the transferee and the transferee has not signed the transfer form;

19.3 the transfer is for more than one class of Shares; or

19.4 the transfer is not accompanied by such evidence as the Board may reasonably require to establish the right of the transferor to make the transfer.

#### **20 Board must refuse a Share transfer in certain cases**

The Board must refuse the registration of any transfer of Shares if:

20.1 it is required to do so by law; or

20.2 the transferee does not comply with the eligibility set out in *clause 7*.

## ACQUISITION AND REDEMPTION OF SHARES

### **21 Company may acquire and hold Shares**

21.1 The Company may purchase or otherwise acquire Shares and may hold those Shares in accordance with the Act.

21.2 Shares issued to a Commercial Stakeholder Organisation may be redeemed for their issue price:

21.2.1 at the request of the Commercial Stakeholder Organisation; or

21.2.2 at the option of the Company if the Board, following consultation with a Commercial Stakeholder Organisation, is reasonably satisfied that the relevant Commercial Stakeholder Organisation no longer satisfies the definition of "Commercial Stakeholder Organisation" set out in clause 1.

### **22 Board may acquire Shares in the Company on a non-proportional basis**

In addition to *clause 21.2*, the Board may purchase or otherwise acquire Shares from such shareholders and in such numbers or proportions as it thinks fit, in accordance with the Act, and on such terms and conditions which it considers to be in the interests of the Company.

### **23 Signed Acquisition Agreement or transfer to be delivered to the Company if shareholder ceases to be entitled to hold share**

Subject to *clause 24*, if any of the events referred to in *clause 21.2* occurs in relation to a shareholder, that shareholder shall, as the Board directs, deliver to the Company:

23.1 an Acquisition of Shares Agreement in the form set out in the Fourth Schedule; or

23.2 some other form of share transfer transferring the share to the Company;

signed by that shareholder, or by that shareholder's personal representative, or by any other person who may lawfully sign on behalf of

that shareholder, or by the Chairperson of the Board as that shareholder's attorney under *clause 24*.

## **24 Chairperson of the Board has Power of Attorney**

24.1 For the purposes of *clause 23*, each shareholder hereby appoints the Chairperson of the Board, as elected under *clause 35.2*, as his, her or its attorney to execute and deliver to the Company the documents referred to in *clause 23* on that shareholder's behalf if any of the events referred to in *clause 21.2* occurs in relation to a shareholder. Each shareholder hereby declares that this Power of Attorney shall have full force and effect and shall be irrevocable until the shareholder ceases to be a shareholder of the Company.

24.2 The Chairperson of the Board shall not execute any document pursuant to *clause 24.1* unless the Board has given its prior written approval for him or her to do so in the particular instance.

## **25 Repurchased Shares**

Subject to the Act, any shares acquired by the Company may, at the discretion of the Board:

25.1 be held by the Company as Treasury Stock pursuant to section 67A of the Act;

25.2 be held by the Escrow Agent; or

25.3 be cancelled.

### DUTIES OF ESCROW AGENT

## **26 Shares held in escrow pending transfer to Commercial Stakeholder Organisations**

26.1 Subject to *clause 27*, the Escrow Agent shall hold any Ordinary Shares not held by Commercial Stakeholder Organisations as agent for and on behalf of the Company. The Escrow Agent does not, and shall not be deemed to, hold any Ordinary Share as trustee for any person, including, without limitation, the Company, Commercial Stakeholder Organisations or other commercial stakeholders in the seafood industry in New Zealand.

26.2 The Escrow Agent shall, from time to time at the direction of the Board, transfer one (1) Ordinary Share to any Commercial Stakeholder Organisation which does not already hold an Ordinary Share.

**27 Rights and Obligations of Shares held by Escrow Agent suspended**

27.1 The rights and obligations attaching to an Ordinary Share held by the Escrow Agent shall not be exercised by or against the Escrow Agent while it holds the Ordinary Share.

27.2 Without limiting *clause 27.1*, while the Escrow Agent holds an Ordinary Share, the Escrow Agent shall not:

27.2.1 exercise any voting rights attaching to the Ordinary Share; or

27.2.2 receive any distribution authorised or payable in respect of the Ordinary Share.

## DISTRIBUTIONS

**28 Board may authorise distributions**

The Board may authorise a distribution by the Company in accordance with the Act.

**29 Shareholder may waive dividend**

A shareholder may waive his or her entitlement to receive a dividend by giving a written notice to the Company signed by or on behalf of the shareholder.

## MEETINGS OF SHAREHOLDERS

**30 Company must hold annual meeting of shareholders**

30.1 The Board must call an annual meeting of shareholders to be held:

30.1.1 once in each calendar year; and

30.1.2 not later than 15 months after the date of the previous annual meeting of shareholders; and

30.1.3 not later than 6 months (or such longer period as may be permitted by the Act) after the balance date of the Company.

However, no annual meeting need be called and held if everything required to be done at the meeting is done by written resolution in lieu of the annual meeting passed in accordance with this constitution.

30.2 The Company must hold the meeting on the date on which it is called by the Board to be held.

**31 Company may hold special meetings of shareholders**

A special meeting of shareholders entitled to vote on an issue;

31.1 may be called at any time by the Board; and

31.2 must be called by the Board on the written request of a shareholder or shareholders holding Shares carrying together not less than 5 percent of the voting rights entitled to be exercised on the issue.

**32 Written shareholders' resolution instead of holding a meeting**

A written resolution signed by not less than 75% of the shareholders who would be entitled to vote on that resolution at a meeting of shareholders, who together hold not less than 75% 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. Any such resolution may consist of several copies of the resolution, each signed by one or more shareholders. A copy of a resolution, which has been signed and sent by facsimile or any similar means of communication, will satisfy the requirements of this clause.

**33 Proceedings at meetings of shareholders**

The First Schedule governs the proceedings at meetings of shareholders.

**PART C: DIRECTORS**

**APPOINTMENT AND REMOVAL**

**34 Number of Directors**

Subject to *clause 36.2*, the number of Directors shall be no more than 8.

**35 Nominations for Directors**

Nominations for Directors must comply with the following procedures:

35.1 a person (other than a Director retiring at the meeting) must not be elected as a Director at any annual meeting unless that person has been nominated by a shareholder entitled to attend and vote at that annual meeting;

35.2 no shareholder shall nominate as a Director any person who is disqualified under the Act from holding office as a Director;

35.3 any shareholder may, by notice in writing given by that shareholder and received by the Company not later than 10 working days prior to any annual meeting or such other date decided by the Board, nominate any person or persons for appointment at that annual meeting to any vacancy on the Board; and

35.4 each shareholder who nominates any person or persons for appointment at any annual meeting to any vacancy on the Board pursuant to *subclause 35.3* above shall provide to the Company, together with the notice referred to in *subclause 35.3*, a profile of each such nominee, including, without limitation, information relevant to that person's nomination for appointment to the Board.

### **36 Appointment of Directors**

36.1 Any person who is nominated in accordance with *clause 35* and is not disqualified under the Act may be appointed as a Director in accordance with this *clause 36*.

36.2 The persons holding office as directors of the Company on the date of adoption of this constitution continue in office and are deemed to have been appointed as Directors pursuant to this constitution but shall hold office only until the next meeting of shareholders following the adoption of this constitution (but are then eligible for re-election to the Board if nominated pursuant to *clause 35* above). Similarly the chairperson of the Board continues in office and is deemed to have been appointed as chairperson pursuant to *clause 40* of this constitution.

36.3 The Board may appoint any person who is not disqualified under the Act to be a Director to fill a casual vacancy on the Board, but subject to the maximum number of Directors under *clause 34*. Any Director appointed under this subclause may hold office only until the next annual meeting, and is then eligible for re-election, but must not be taken into account in determining the Directors who are to retire by rotation at that meeting.

36.4 In all other cases, Directors shall be appointed by shareholders at annual meetings in accordance with the following procedure:

36.4.1 each shareholder may, at any annual meeting, cast votes equal in aggregate to the number of votes to which that shareholder is entitled under *clause 12* in favour of one or more persons nominated for appointment to any vacancy on the Board, provided

that the total number of votes cast by any shareholder in favour of persons nominated for appointment to any vacancy on the Board shall not exceed the number of votes to which that shareholder is entitled under *clause 12*;

36.4.2 notwithstanding any other provision in this constitution, the appointment of any person nominated for appointment to any vacancy on the Board shall not be decided by a single resolution of the shareholders for the appointment of that person to the Board, but the appointment of all persons nominated for appointment to any vacancy on the Board shall be decided by a single poll of the shareholders for the appointment of all such persons to the Board;

36.4.3 if at any time the number of persons nominated for appointment to any vacancy on the Board exceeds the number of vacancies on the Board, the persons appointed to the Board shall be the number of persons equal to the number of vacancies on the Board in favour of whom the highest number of votes were cast by the shareholders on a poll pursuant to *subclause 34.4.2*;

36.4.4 if on any poll pursuant to *subclause 36.4.2*:

- (a) two or more persons nominated for appointment to the Board receive an equal number of votes cast by the shareholders on that poll; and
- (b) the number of persons referred to in *paragraph (a)* above, together with any other persons nominated for appointment to the Board who received a higher number of votes cast by the shareholders on that poll than the persons referred to in *paragraph (a)* above, exceeds the number of vacancies on the Board,

then:

- (c) those shareholders who cast votes on any poll pursuant to *subclause 36.4.2* in favour of any of the persons referred to in *paragraph (a)* above shall cast in favour of any one or more of those persons on a single poll a number of votes equal in aggregate to the number of votes cast by each such

shareholder in favour of those persons on the poll pursuant to *subclause 36.4.2*;

- (d) following any poll pursuant to *paragraph (c)* above, the persons appointed to the Board shall be such of those persons referred to in *paragraph (a)* above equal to the number of vacancies on the Board (after deducting from the number of vacancies on the Board any vacancies which are filled by any other persons nominated for appointment to the Board who received a higher of votes cast by the shareholders on a poll pursuant to *subclause 36.4.2* than the persons referred to in *paragraph (a)* above) in favour of whom the highest number of votes were cast by the relevant shareholders on a poll pursuant to *paragraph (c)* above; and
- (e) if, following any poll pursuant to *paragraph (c)* above, the persons referred to in *paragraph (a)* above receive an equal number of votes cast by the shareholders on a poll pursuant to *paragraph (c)* above, the persons appointed to the Board shall be determined by lot.

### **37 Removal of Directors**

37.1 Any person appointed as a Director pursuant to *clause 36.4* shall hold office as a Director until that Director:

37.1.1 retires from office in accordance with *clause 38*; or

37.1.2 vacates office under *clause 42*; or

37.1.3 is removed from office in accordance with *clause 37.2*.

37.2 Any Director may be removed from office by a special resolution of shareholders passed at a meeting of shareholders called for the purpose of, or for purposes that include, the removal from office of that Director.

### **38 Rotation of Directors**

38.1 Other than at the annual meeting first following the adoption of this constitution, at the annual meeting in each year at least one third of the Directors or, if their number is not a multiple of three, then the number nearest to one third, shall retire from office, but shall be eligible for re-election at that meeting.

38.2 The Directors to retire at an annual meeting will be those Directors who have been longest in office since their last election. Persons who became Directors on the same day must retire in the order determined by lot, unless the board resolves otherwise.

38.3 A retiring Director continues to hold office:

38.3.1 until he or she is re-elected; or

38.3.2 if he or she is not re-elected, until the meeting of shareholders at which he or she retires (or any adjournment of that meeting) elects someone in his or her place; or

38.3.3 if the meeting of shareholders does not elect someone in his or her place, until the end of the meeting or any adjournment of the meeting.

38.4 The shareholders may, by resolution in accordance with *clause 36.4*, fill the office vacated by a Director who is retiring in accordance with this clause by electing a person who is not disqualified under the Act to that office at the annual meeting at which the outgoing Director retires. If no new Director is elected and if the retiring Director (not being disqualified under the Act) is offering himself or herself for re-election, the retiring Director shall be deemed to be re-elected unless it is expressly resolved by ordinary resolution not to fill the vacated office or a resolution for the re-election of that Director is put to the meeting and lost.

### **39 Shareholder qualification for Directors**

There is no shareholding qualification for Directors.

## **CHAIRPERSON**

### **40 Directors to elect chairperson of the Board**

The Directors must elect one of their number as chairperson of the Board.

### **41 Chairperson to hold office on certain terms**

The chairperson of the Board holds that office until he or she vacates office or the Directors elect a chairperson in his or her place.

## VACATION OF OFFICE

### **42 Office of Director vacated in certain cases**

The office of Director is vacated if the person holding that office:

- 42.1 dies; or
- 42.2 becomes disqualified from being a Director pursuant to the Act;  
or
- 42.3 resigns that office in accordance with this constitution.

### **43 Directors' resignation procedure**

A Director may resign office by delivering a notice of resignation to the address for service of the Company. The notice is effective when it is received at that address or at a later time specified in the notice.

## MANAGEMENT OF THE COMPANY

### **44 Board to manage Company**

The Company's business and affairs must be managed by, and under the direction or supervision of, the Board, except to the extent that the Act or this constitution provides otherwise.

### **45 Board has powers necessary to manage Company**

The Board has all the powers necessary for managing, and for directing and supervising the management of, the Company's business and affairs, except to the extent that the Act or this constitution provides otherwise.

### **46 Board to formulate and submit annual business plan and annual budget**

Each year the Board shall formulate an annual business plan and an annual budget for the Company for that year.

### **47 Consultation with SeaFIC Policy Council**

The Board shall consult with the SeaFIC Policy Council established under *clause 55* in respect of the matters referred to in *clause 55.2*, including, without limitation, prior to finalising the Company's annual business plan, but the Board shall not at any time be required to act in accordance with any advice on any matter referred to in *clause 55.2* on which it receives advice from the SeaFIC Policy Council.

**48 Special resolutions necessary for major transactions**

The Company must not enter into a major transaction unless the transaction is:

48.1 approved by a special resolution of shareholders; or

48.2 contingent on approval by a special resolution of shareholders.

**PROCEEDINGS OF THE BOARD****49 Meetings of the Board**

The Second Schedule governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. The Third Schedule to the Act does not apply to proceedings of the Board.

**50 Written resolutions of Board permitted**

A written resolution signed or assented to by all the Directors then entitled to receive notice of a meeting of the Board (or their alternate Director) is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

**51 Written resolutions may be in counterparts**

Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors (or their alternate Director). A copy of a written resolution, which has been signed and is sent by facsimile or any similar means of communication, will satisfy the requirements of this clause.

**DELEGATION OF POWERS****52 Restriction on Board's right to delegate its powers**

Subject to the restrictions on delegation in the Act, the Board may delegate any one or more of its powers to a committee of Directors, a Director, an employee of the Company or any other person.

**53 Board delegates to comply with regulations**

In exercising the Board's delegated powers, any committee of Directors, Director, employee or employees of the Company or any other person must comply with any regulations that the Board may impose.

## **54 Committee proceedings**

The provisions of this constitution relating to proceedings of the Board also apply to proceedings of any committee of Directors, except to the extent the Board determines otherwise.

## **55 Policy Council**

55.1 There shall be established a committee of the Board to be known as the "SeaFIC Policy Council".

55.2 The functions of the SeaFIC Policy Council shall be to advise the Board on the following:

55.2.1 the content of the Company's annual business plan;

55.2.2 generic policy issues relating to the seafood industry in New Zealand;

55.2.3 issues relating to the seafood industry in New Zealand of concern to stakeholders in the seafood industry in New Zealand;

55.2.4 the level at which the Core Services Levy rate should be set; and

55.2.5 any other matter relating to the fishing industry on which advice is sought from the SeaFIC Policy Council by the Board.

55.3 The SeaFIC Policy Council shall comprise the following persons:

55.3.1 the Directors;

55.3.2 the duly appointed representative of any Commercial Stakeholder Organisation;

55.3.3 the duly appointed representative of any incorporated or unincorporated body, association or group that represents participants in a sector of the commercial seafood industry in New Zealand; and

55.3.4 any other person specifically invited by the Board.

55.4 As far as possible, advice shall be given to the Board by the SeaFIC Policy Council with the consensus of the members of the SeaFIC Policy

Council. Where, however, consensus is not possible, advice shall be determined in accordance with the following provisions:

55.4.1 advice to be given to the Board shall be determined by a vote of the SeaFIC Policy Council;

55.4.2 only Commercial Stakeholder Organisations, or their representatives, shall be entitled to vote at meetings of the SeaFIC Policy Council; and

55.4.3 voting shall be conducted in accordance with *clause 12*.

55.5 Subject to clause 61, no person attending a meeting of the SeaFIC Policy Council shall be entitled to recover from the Company any amount by way of remuneration or reimbursement of expenses in respect of their membership of, or attendance at, the SeaFIC Policy Council.

## INTERESTED DIRECTORS

### **56 Directors must disclose their interests**

As soon as a Director becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, then unless the Act provides otherwise or all entitled persons have agreed to or concur in the Company entering into the transaction, that Director must disclose that interest, and cause it to be entered into the interests register, in accordance with the Act.

### **57 Failure to disclose does not affect validity of transaction**

Any failure by a Director to comply with *clause 56* does not affect the validity of a transaction entered into by the Company or the Director. However, the transaction may be avoided under *clause 58*.

### **58 Company may avoid transaction if Director interested**

Where the Company enters into a transaction in which a Director is interested, the Company may avoid that transaction if it is permitted to do so by, and in accordance with, the Act. However, if all entitled persons have agreed to or concur in the Company entering into such a transaction, this clause will not apply.

### **59 Interested Director may vote**

A Director who is interested in a transaction entered into, or to be entered into, by the Company may:

59.1 unless prohibited by a resolution of a majority of the members of the Board who are not interested in the transaction, vote on a matter relating to the transaction;

59.2 attend a meeting of Directors at which a matter relating to the transaction arises, and be included among the Directors present at the meeting for the purpose of a quorum;

59.3 sign a document relating to the transaction on behalf of the Company; and

59.4 do anything else as a Director in relation to the transaction;

as if he or she were not interested in the transaction.

#### REMUNERATION

### **60 Board's power to authorise remuneration and other benefits is limited**

The Board may authorise:

60.1 the payment of remuneration or the provision of other benefits by the Company to a Director for services as a Director or in any other capacity; and

60.2 the entering into of a contract to do any of the things referred to in *clause 60.1*.

### **61 Expenses**

A Director may be reimbursed for reasonable travelling, accommodation and other expenses incurred in the course of performing duties or exercising powers as a Director of the company.

#### ALTERNATE DIRECTORS

### **62 Directors may appoint and remove alternate Directors**

Every Director may, with the approval of a majority of the Board:

62.1 appoint any person who is not disqualified by the Act from being a Director to act as an alternate Director in his or her place; and

62.2 remove that person from that office,

by giving written notice to that effect to the Company.

**63 Alternate Director has powers of appointor**

While acting in the place of the Director who appointed him or her, the alternate Director:

63.1 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 of, participate in, and vote at a meeting of the Board and to sign any document, including a written resolution, but excluding the right to act as chairperson of the Board or to appoint an alternate Director); and

63.2 is subject to the same terms and conditions of appointment as that Director, except in respect of remuneration.

**64 Termination of appointment of alternative Director**

The appointment of an alternate Director terminates automatically if the Director who appointed him or her ceases to be a Director.

**PART D: GENERAL**

**CHANGE OF COMPANY NAME**

**65 A Director may apply to change Company name**

A Director may apply to the Registrar of Companies to change the name of the Company if the Board has approved the Director doing so.

**INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES**

**66 Company may indemnify Directors and employees for certain liabilities**

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

**67 Company may effect insurance for Director and employees**

The Company may, with the 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 Act. The Board may determine the amounts and the terms and conditions of any such insurance.

## EXECUTION OF CONTRACTS

### **68 Manner of execution**

A contract or other enforceable obligations approved, or subsequently ratified, by the Board may be entered into by the Company as follows:

68.1 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 or more Directors; or
- (b) a Director, and any other person authorised by the Board, whose signatures must be witnessed; or
- (c) one or more attorneys appointed by the Company in accordance with *clause 69*;

68.2 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 by a person acting under the Company's express or implied authority; and

68.3 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.

### **69 Company may appoint attorneys**

The Company may, by an instrument in writing executed in accordance with *clause 68.1*, 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 in accordance with the instrument binds the Company.

## LIQUIDATION

### **70 Distribution of assets in kind**

If the Company is liquidated the liquidator may, with the approval of the holders of each class of shares entitled to share in the distribution of

assets of the Company, by ordinary resolution and any other sanctions required by the Act:

70.1 divide among those shareholders in kind the whole or any part of the assets of the Company and for that purpose the liquidator may:

70.1.1 fix such values for assets as the liquidator considers to be appropriate, and

70.1.2 determine how the division will be carried out as between shareholders or different classes of shareholder; and

70.2 vest the whole or any part of any such assets in trustees upon such trusts for the benefit such of those shareholders as the liquidator thinks fit, but so that no shareholder is compelled to accept any shares or other securities on which there is any liability.

#### REMOVAL OF COMPANY FROM REGISTER

#### **71 Directors may remove Company from register**

If the Company:

71.1 has ceased to carry on business, discharged in full its liabilities to all known creditors, and distributed its surplus assets in accordance with the Act; or

71.2 has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court for an order putting the Company into liquidation,

the Board may request the Registrar to remove the Company from the New Zealand register.

## **FIRST SCHEDULE: PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

### INTERPRETATION

#### **1 Construction**

- 1.1 Unless stated otherwise, references to clauses are references to clauses in this Schedule.
- 1.2 A reference in this Schedule to a shareholder present at a meeting or entitled to vote at a meeting includes a reference to a proxy of a shareholder, a representative of a corporate shareholder, an attorney of a shareholder, and any person who may lawfully act on behalf of a shareholder.

### NOTICE

#### **2 Written notice must be given to shareholders, Directors and auditors**

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 any auditor of the Company not less than 10 working days before the meeting.

#### **3 Notice must state nature of business**

The notice must state:

- 3.1 the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgement in relation to it; and
- 3.2 the text of any special resolution to be submitted to the meeting.

#### **4 Irregularities in notice may be waived**

Any irregularity in the 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.

#### **5 Company's accidental failure to send notice does not invalidate meeting**

If the Company accidentally fails to send notice of a meeting to a person entitled to that notice, the failure to send the notice will not invalidate the proceedings at that meeting.

**6 Notice of an adjournment**

If a meeting is adjourned for less than 30 days no notice of the time and place of the adjourned meeting need be given other than by announcement at the meeting from which the adjournment took place.

**7 Methods of holding meetings**

A meeting of shareholders may be held either;

7.1 by a number of shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or

7.2 by means of an audio, or audio and visual, communication by which all shareholders participating and constituting a quorum can simultaneously hear each other throughout the meeting.

The Company is not required to hold meetings of shareholders in the manner specified in *clause 7.2*. Meetings will be held in that manner only if the notice of meeting so specifies or the Board otherwise decides that the Company should do so.

**8 Business to be transacted only if a quorum is present**

Business may be transacted at a meeting of shareholders only if a quorum is present at the time when the meeting proceeds to business.

**9 Quorum for shareholders' meeting**

A quorum for a meeting of shareholders is present if the shareholders who are present represent not less than 50 percent of the shareholders who would be entitled to vote on any business to be transacted at the meeting and are able between them to exercise more than 50 percent of the votes to be cast on the business to be transacted by the meeting.

**10 Meeting convened at shareholders' request dissolved if no quorum**

If a quorum is not present within 30 minutes after the time appointed for the meeting convened on the written request of shareholders holding Shares together carrying at least 5 percent of the voting rights entitled to be exercised, the meeting will be dissolved automatically.

**11 Other meetings to be adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting (other than a meeting convened under *clause 31* of this constitution), the meeting will be adjourned to the same day in the

following week at the same time and place, or to such other day, 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 present will constitute a quorum.

## CHAIRPERSON

### **12 Chairperson of Board to be chairperson of meeting**

The chairperson of the Board, if present at a meeting of shareholders, will chair the meeting.

### **13 Directors may elect chairperson if chairperson of Board not available**

If no chairperson of the Board has been elected or, if at any meeting of shareholders the chairperson of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting or is unwilling to act, the Directors present may elect one of their number to be chairperson of the meeting.

### **14 As a last resort shareholders may elect chairperson**

If at any meeting of shareholders, no Director is willing to act as chairperson or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting, the shareholders present may elect one of their number to be chairperson of the meeting.

### **15 Chairperson's power to adjourn meeting**

The chairperson of a meeting at which a quorum is present:

15.1 may adjourn the meeting with the consent of the shareholders entitled to attend and vote at that meeting; and

15.2 must adjourn the meeting if directed by the meeting to do so.

The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

## VOTING

### **16 Voting by show of hands or voice vote at meeting**

In the case of a meeting of shareholders held under *clause 7.1*, unless a poll is demanded, voting at the meeting will be by a show of hands or by voice vote, as the chairperson may determine. On a vote by voices or

show of hands, each shareholder entitled to vote on the issue and present at the meeting is entitled to one vote.

**17 Voting by voice if audio-conference meeting**

In the case of a meeting of shareholders held under *clause 7.2*, unless a poll is demanded, voting at the meeting will be by the shareholders signifying individually their assent or dissent by voice or by such other manner as the chairperson may decide.

**18 Chairperson not allowed casting vote**

In the case of an equality of votes, whether on a show of hands, voice vote or on a poll, the chairperson of the meeting is not entitled to a casting vote.

**19 Chairperson's declaration of result**

Unless a poll is demanded, a declaration by the chairperson of the meeting that a resolution on a show of hands or voice vote or by such manner as the chairperson may have decided under *clause 17* is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

POLLS

**20 Poll may be demanded by chairperson or shareholders**

At a meeting of shareholders, a poll may be demanded, either before or after a vote by show of hands or voice vote, by any shareholder having the right to vote at the meeting.

**21 Time at which polls to be taken**

A poll demanded on the election of a chairperson of a meeting or on a question of adjournment must be taken immediately. A poll demanded on any other question is to be taken at such time as the chairperson of the meeting directs. The meeting may proceed to deal with any business other than that upon which a poll has been demanded pending the taking of the poll.

**22 Counting votes cast in a poll**

If a poll is taken, votes must be counted according to the votes attached to the Shares of each shareholder present and voting. A resolution on which a poll is taken is passed if it is agreed to by shareholders who together hold not less than 75 percent of the votes entitled to be cast on that resolution.

**23 Result of a poll to be treated as resolution of the meeting**

The result of a poll declared by the chairperson of the meeting will be treated as the resolution of the meeting at which the poll was demanded on the issue for which the poll was taken.

**24 Proxy allowed to demand a poll**

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.

## SHAREHOLDER PROPOSALS

**25 Shareholder proposals by written notice**

A shareholder may give written notice to the Board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote.

**26 Board to give notice of proposal at shareholder's expense**

If the Board receives the notice at least 5 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board must, at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

**27 Board may give notice of proposal on short notice**

If the notice is received by the Board less than 5 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the Board, the Board may, if reasonably practicable, and at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

**28 Shareholder to give security for costs for proposal with short notice**

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

## PROXIES

### **29 Proxies permitted**

A shareholder may exercise the right to vote by being present in person or represented by proxy.

### **30 Proxy to be treated as shareholder**

A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were the shareholder.

### **31 Appointment of proxy must be in writing and specify restrictions**

A proxy must be appointed by a notice in writing that is signed by the shareholder, and the notice must state whether the appointment is for a particular meeting or a specified term not exceeding 12 months. A proxy need not be a shareholder of the Company.

### **32 Notice of proxy to be produced at least 48 hours before meeting**

No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

### **33 Form of notice of proxy**

A notice of appointing a proxy shall be in the form set out in the Third Schedule or in a form as near to it as circumstances allow, or in such form as the Board may direct.

### **34 Vote by proxy valid where Company not notified before meeting of disqualified proxy**

Where:

34.1 the shareholder has died or become incapacitated; or

34.2 the proxy, or the authority under which the proxy was executed, has been revoked; or

34.3 the Share in respect of which the notice of proxy is given has been transferred,

before a meeting at which a proxy exercises a vote in terms of a notice of proxy but the Company does not receive written notice of that death, incapacity, revocation, or transfer before the start of the meeting, the vote of the proxy is valid.

#### POSTAL VOTES

**35 Postal votes are not permitted**

A shareholder may not exercise the right to vote at a meeting by casting a postal vote.

#### CORPORATE REPRESENTATIVES

**36 Corporations may act by representative**

A body corporate which is a shareholder may appoint a representative to attend any meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy. The representative shall be entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder.

#### MINUTES

**37 Board must keep minutes of proceedings**

The Board must ensure that minutes are kept of all proceedings at meetings of shareholders and that a record is kept of all written resolutions of shareholders. Minutes which have been signed correct by the chairperson of the meetings are prima facie evidence of the proceedings.

#### OTHER PROCEEDINGS

**38 Meeting may regulate other proceedings**

Except as provided in this Schedule, a meeting of shareholders may regulate its own procedure through the chairperson.

## SECOND SCHEDULE: PROCEEDINGS OF THE BOARD

### NOTICE OF MEETING

#### **1 Director's power to convene meetings**

Three Directors may convene a meeting of the Board by giving notice in accordance with this Schedule.

#### **2 Notice to be sent to Director's address**

The notice of meeting must be a written notice sent to the address or facsimile number, or an electronic mail message sent to the electronic mail address, which the Director provides to the Company for that purpose, or if an address or facsimile number, or electronic mail address, is not provided, then a written notice to his or her last place of employment or residence or facsimile number known to the Company.

#### **3 Notice to contain certain details**

The notice of meeting must include the date, time and place of the meeting and an indication of the matters to be discussed in sufficient detail to enable a reasonable Director to appreciate the general import of the matters.

#### **4 Period of notice required to be given to Directors**

At least 10 days' notice of a meeting of the Board must be given unless the chairperson (or, in the chairperson's absence from New Zealand, any other Director) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice of the meeting of the Board may be given, so long as at least all Directors entitled to receive notice of the meeting agree to shorter notice.

#### **5 Absent Directors**

If a Director, who is for the time being absent from New Zealand, supplies the Company with a facsimile number or address or electronic mail address to which notices are to be sent during his or her absence, then notice must be given to that Director. Otherwise, notice need not be given to any Director for the time being absent from New Zealand. However, if he or she has an alternate Director who is in New Zealand, then notice must be given to that person.

#### **6 Directors may waive irregularities in notice**

Any irregularity in the notice of a meeting, or failure to comply with *clauses 1 to 5* of this Schedule, is waived if all Directors entitled to receive notice

of the meeting attend the meeting without protest as to the irregularity or failure, or if all Directors entitled to receive notice of the meeting agree to the waiver.

## MEETING AND QUORUM

### **7 Methods of holding meetings**

A meeting of the Board may be held either:

- 7.1 by a number of Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- 7.2 by means of audio, or audio and visual, communication by which a quorum of Directors participating can simultaneously hear each other throughout the meeting.

### **8 Quorum for Board meeting**

The quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

### **9 Meeting adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the same day in the following week at the same time and place.

## CHAIRPERSON

### **10 Chairperson to chair meetings**

The chairperson of the Board will chair all meetings of the Board at which he or she is present. If no chairperson of the Board is elected, or if at a meeting of the Board the chairperson of the Board is not present within 5 minutes from the time appointed for the meeting, then the Directors present may elect one of their number to chair the meeting.

## VOTING

### **11 Voting on resolutions**

Each Director has one vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board may abstain from voting on a resolution, and any Director who

abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Act.

**12 Chairperson has casting vote**

In the case of an equality of votes, the chairperson of the Board has a casting vote.

MINUTES

**13 Board must keep minutes of proceedings**

The Board must ensure that minutes are kept of proceedings at meetings of the Board. Minutes which have been signed correct by the chairperson of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

OTHER PROCEEDINGS

**14 Board may regulate other proceedings**

Except as set out in this Schedule, the Board may regulate its own procedure.

**THIRD SCHEDULE: PROXY FORM****THE NEW ZEALAND SEAFOOD INDUSTRY COUNCIL LIMITED  
PROXY FORM****SECTION 1: SHAREHOLDER DETAILS (please print clearly)**

Full name:

Full address:

**SECTION 2: APPOINTMENT OF PROXY**

I appoint

Full name;

Full address:

as my proxy to exercise my vote at the \*[annual/special] meeting of shareholders of the Company to be held on \*[date], and at any adjournment of that meeting. If the person I have appointed is unable to be my proxy then I appoint

Full name;

Full address:

**SECTION 3: VOTING INSTRUCTIONS**

(Please note that if the shares are held jointly, the voting instructions given in this section are given on behalf of each joint holder).

I direct my proxy to vote in the following manner:

*(Tick the box that applies)*

	For	Against
1.	<input type="checkbox"/>	<input type="checkbox"/>
2.	<input type="checkbox"/>	<input type="checkbox"/>
3.	<input type="checkbox"/>	<input type="checkbox"/>
<b>*[Special Business]</b>		
*[4. <i>Identify resolution</i> ]	<input type="checkbox"/>	<input type="checkbox"/>

**Signed by each shareholder named in Section 1**

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**Dated:**

**NOTES**

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1. *As a shareholder you may attend the meeting and vote, or you may appoint a proxy to attend the meeting. A proxy need not be a shareholder of the Company.*
  2. *If you are a Company this proxy form must be signed on behalf of the Company by a person acting under the Company's express or implied authority.*
  3. *For this proxy form to be valid, you must complete it and produce it to the Company at least 48 hours before the time for holding the meeting. You can produce it to the Company by:*
    - *Delivering it to the \*[Company's registered office at [full address]/other addressee details]; or*
    - *Posting it to the \*[Company's registered office at [postal address]/other addressee details]; or*

- *Faxing it to the Company at its facsimile number: \*[give facsimile number],*

*in each case, so that it is received at least 48 hours before the time for holding the meeting.*

4. *If this proxy form has been signed under a power of attorney a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must be produced to the Company with this proxy form.*
5. *If you return this form without directing the proxy how to vote on any particular matter, the proxy will vote as he or she thinks fit.*

**FOURTH SCHEDULE: ACQUISITION OF SHARES AGREEMENT****NEW ZEALAND SEAFOOD INDUSTRY COUNCIL LIMITED**

Dated: *[insert date]*

To: *[insert name & address of shareholder who has ceased to represent a sector of the fishing industry in New Zealand]*

**ACQUISITION OF SHARES**

1. New Zealand Seafood Industry Council Limited (“the Company”) hereby offers, on the terms and conditions set out in this letter, to acquire from *[insert name of shareholder]* on *[insert date]* (the “Acquisition Date”) *[insert number of Shares]* Shares issued by the Company.
2. The Shares referred to in paragraph 1 are to be acquired by the Company on the Acquisition Date and cancelled immediately.

Please sign and date this letter where indicated and return it to the Company to confirm that *[insert name of shareholder]* accepts the Company's offer to acquire the share referred to in paragraph 1 on the terms set out in this letter.

Yours faithfully,

*[insert name of person signing as or on behalf of the shareholder]*

*[insert name of shareholder]* accepts the Company's offer to acquire the share referred to in paragraph 1 above, on the terms and conditions in this letter.

For and on behalf of the New Zealand Seafood Industry Council Limited  
by:

*[insert name of Director signing]*

Director

Dated: *[insert date]*

## FIFTH SCHEDULE: PROCEDURE GOVERNING SETTING OF LEVY RATE

### INTERPRETATION

#### 1 Construction

Unless stated otherwise, references to clauses are references to clauses in this Schedule.

#### 2 Definitions

*Annual Landing* means, in respect of any Non-Quota Management Stock, the aggregate amount in Greenweight tonnes (expressed in kilograms) of Fish landed to a Licensed Fish Receiver or sold during any Levy Year;

*Core Services Levy Rate* means the rate at which the Core Services Levy is set in accordance with the procedure set out in *clauses 3-7* expressed as a percentage of the Relative Dollar Value of Quota or Annual Landing;

*Core Services Levy* means that part of the Total Levy that may be used by the Company for the purpose of funding its own activities and for the provision of services by the Company to Levy Payers;

*Declared Port Price* means a price (exclusive of GST), to be declared by the Company from time to time, and to be determined by using an independent survey to establish the average port price that would have been paid during the previous 3 years for one kilogram of a given Stock by an independent processor to an independent fisher;

*Greenweight* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Levy Payer* means a person who is one of the persons primarily responsible for paying a levy imposed under the Levy Order (which for the avoidance of doubt does not include the Crown);

*Levy Year* means an initial period determined by the Board, and, after that initial period, each 12 month period commencing on 1 October every year;

*Licensed Fish Receiver* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Maximum Levy Rate* means a rate equal to five (5) percent of the Relative Dollar Value of the Quota or Annual Landing of a particular Stock;

*Minister* has the meaning set out in section 2(1) of the Commodity Levies Act 1990;

*Non-Quota Management Stock* means any Stock which is not a Quota Management Stock;

*Owner* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Project Plan* means a written proposal for the introduction of, or an adjustment to the rate of, a Stock Specific Levy, that contains sufficient detail (including details of the Stock Specific Levy Rate proposed and the services to be performed, and a budget showing how any amounts levied under the Stock Specific Levy will be used) to enable those Levy Payers in respect of whom the proposed Stock Specific Levy would apply to form a reasoned judgement in relation to the proposal;

*Quota* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Quota Management Stock* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Relative Dollar Value* means, in relation to a Levy Payer -

- (a) in respect of any Stock that is a Quota Management Stock, an amount which is equal to the sum of the Quota (expressed in kilograms) owned by the Levy Payer on a date nominated by the Company from time to time, multiplied by the Declared Port Price for that Stock; and
- (b) in respect of any Stock that is a Non-Quota Management Stock, an amount which is equal to the sum of the Annual Landing of the Levy Payer in the previous Levy Year, multiplied by the Declared Port Price for that Stock;

*Stock* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Stock Specific Levy* means that part of the Total Levy that is to be levied in respect of a particular Stock for the purpose of funding services

provided by a Commercial Stakeholder Organisation in relation to that Stock;

*Stock Specific Levy Rate* means the rate at which the Stock-Specific Levy is set in accordance with the procedure set out in *clauses 8 and 9*, expressed as a percentage of the Relative Dollar Value of Quota or Annual Landing;

*Support Referendum* means the support referendum (as defined in section 2(1) of the Commodity Levies Act 1990) relied on by the Minister when the Minister recommended that the Governor-General make the Levy Order;

*Total Allowable Commercial Catch* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Total Levy Rate* means the rate determined in accordance with *clause 4*;

*Total Levy* means the total amount (exclusive of GST) to be levied under the Levy Order in respect of a particular Stock, and is determined by the following formula:

$$T = R \times V$$

where - T is the Total Levy;

R is the Total Levy Rate; and

V is the Relative Dollar Value of Quota or Annual Landing.

## DETERMINATION AND NOTIFICATION OF SEAFIC LEVIES

### **3 Board to determine SeaFIC Levies**

- 3.1 The Board shall, in accordance with the provisions of this Schedule, determine the SeaFIC Levy payable in respect of each Stock for each Levy Year.
- 3.2 The SeaFIC Levy payable in respect of a Stock shall be a rate (expressed as a percentage of the Relative Dollar Value of Quota or Annual Landing, as applicable) equal to the Total Levy Rate for that Stock.

#### **4 Calculation of Total Levy Rate**

The Total Levy Rate for a Stock shall be a rate equal to the aggregate of:

- 4.1 the Core Services Levy Rate; and
- 4.2 the Stock Specific Levy Rate for that Stock (if any),

but shall not exceed a rate equal to the Maximum Levy Rate.

#### **5 Notice of Total Levy Rate**

5.1 The Board shall give notice in the *New Zealand Gazette* of the Total Levy Rate, the Core Services Levy Rate and any Stock Specific Levy Rate for each Stock as follows:

5.1.1 the Board shall give notice of the Total Levy Rate for each Stock as at the commencement of a Levy Year not less than 14 days prior to the commencement of the relevant Levy Year;

5.1.2 the Board shall give notice of the Core Services Rate for each Stock as at the commencement of a Levy Year not less than 14 days prior to the commencement of the relevant Levy Year.

5.2 The Board may also give notice of the Total Levy Rate in Seafood Magazine or an equivalent commercial fishing industry publication.

#### SETTING THE CORE SERVICES LEVY RATE

#### **6 Core Services Levy Rate to be determined annually**

The Board shall determine the Core Services Levy Rate for a Levy Year in accordance with the following:

6.1 the Board shall, prior to determining the Core Services Levy Rate for a Levy Year, comply with the consultation requirements of *clauses 9 and 10* of this Schedule;

6.2 the Board shall determine, prior to the commencement of a Levy Year, the Core Services Levy Rate to apply in respect of that Levy Year;

6.3 the Core Services Levy Rate shall apply from and including the first calendar day of the relevant Levy Year to and including the last calendar day of that Levy Year;

6.4 the Core Services Levy Rate shall not exceed a rate which is equal to twenty (20) percent of the Maximum Levy Rate; and

6.5 subject to *clause 7*, the Core Services Levy Rate shall be the same for all Stocks.

## **7 Adjustment to Core Services Levy Rate for specific Stocks**

7.1 The Board may, in its absolute discretion, determine that the Core Services Levy Rate payable in respect of a particular Stock in any Levy Year shall be less than the Core Services Levy Rate for that Levy Year determined in accordance with *clause 6* of this Schedule if:

7.1.1 (in respect of any Stock which is a Quota Management Stock) the average annual total amount of that Stock landed to a Licensed Fish Receiver during the three years immediately preceding the Levy Year in respect of which a lesser Core Services Levy Rate for that Stock is proposed to be set is at least twenty (20) percent less than the Total Allowable Commercial Catch for that Stock; or

7.1.2 the Board is satisfied that a Commercial Stakeholder Organisation has entered into arrangements with the Company which will ensure that the Company will receive, in respect of the Stock for which a lesser Core Services Levy Rate for that Stock is proposed, funds available for use by the Company for the purposes for which any Core Services Levy may be used and which are equal to the funds which the Company would otherwise have received from the Levy Payers for whom the Commercial Stakeholder Organisation is the relevant shareholder; or

7.1.3 the Board is satisfied that the amount collected by the Company in any previous Levy Year in respect of any Stock Specific Levy was greater than the amount payable by the Company to a Commercial Stakeholder Organisation for the services provided by that Commercial Stakeholder Organisation to the Company under the relevant Project Plan,

in which case, the Board may adjust the Core Services Levy Rate for any such Stock in accordance with *subclause 2* of this *clause 7*.

7.2 If any of the circumstances described in *subclause 1* of this *clause 7* apply, the Board may adjust the Core Services Levy Rate for a Stock as follows:

- 7.2.1 in respect of any Stock to which *subclause 7.1.1* applies, the Board may adjust the Core Services Levy Rate for that Stock to a rate which is not less than the proportion which the average annual total amount of that Stock landed to a Licensed Fish Receiver during the three years immediately preceding the Levy Year in respect of which a lesser Core Services Levy Rate for that Stock equals as a percentage of the Total Allowable Commercial Catch for that Stock;
- 7.2.2 in respect of any Stock to which *subclause 7.1.2* applies, the Board may set the Core Services Levy Rate for that Stock at zero;  
or
- 7.2.3 in respect of any Stock to which *subclause 7.1.3* applies, the Board may, having regard to the amount of surplus funds retained by the Company in respect of that Stock, adjust the Core Services Levy Rate for that Stock to a rate which, in the reasonable opinion of the Board, is intended to result in the Company having funds available for use by the Company for the purposes for which any Core Services Levy may be used and which are equal to the funds which the Company would otherwise have received in respect of that Stock had no adjustment to the Core Services Levy Rate for that Stock been made.

## **8 Initial Core Services Levy Rate specified in Support Referendum**

The Board shall set the Core Services Levy Rate for the first Levy Year which does not exceed a rate which is equal to 10.5 percent of the Maximum Levy Rate at the rate specified in the Support Referendum.

## **9 Board must consult with Levy Payers**

The Board shall, prior to setting the Core Services Levy Rate for a Levy Year:

- 9.1 consult with Levy Payers at a Special Meeting of the SeaFIC Policy Council in respect of the proposed Core Services Levy Rate for the following Levy Year;
- 9.2 provide details of the proposed business plan for the Company for the Levy Year for which the Core Services Levy Rate will apply, by:
- 9.2.1 sending copies of the business plan to all Commercial Stakeholder Organisations;

9.2.2 publishing the business plan on the Company's website,

not less than four weeks prior to the Special Meeting of the SeaFIC Policy Council at which the business plan is to be discussed, and by publishing key details of the business plan in the Seafood magazine prior to the Special Meeting of the SeaFIC Policy Council and by providing a full copy of the business plan to any Levy Payer on request,

provided that, in respect of any Levy Year commencing before 1 October 2002:

- (a) the reference to "four weeks prior" shall be read as "1 working day prior (or longer if practicable)"; and
- (b) the requirement to publish key details of the business plan in the Seafood magazine prior to the Special Meeting of the SeaFIC Policy Council shall not apply.

## **10 Requirements for Special Meeting of the SeaFIC Policy Council**

The Special Meeting of the SeaFIC Policy Council referred to in *clause 9* must be held in accordance with the following provisions:

- 10.1 the Special Meeting shall be held prior to the Board meeting at which the SeaFIC Levies are to be determined;
- 10.2 all Levy Payers shall, for the purposes of *clause 55.3.4* of the Constitution, be deemed to have been invited to attend the Special Meeting by the Board;
- 10.3 the Board shall, in addition to any other notice requirements specified in this Constitution, give notice to Levy Payers of the time and place of the Special Meeting by publishing details of the meeting in Seafood Magazine or an equivalent commercial fishing industry publication and in other media including the Company's website; and
- 10.4 the Special Meeting shall be conducted in accordance with the provisions for meetings of the SeaFIC Policy Council set out in *clause 55* of the Constitution.

## SETTING THE STOCK SPECIFIC LEVY RATE

### **11 Board may set a Stock Specific Levy Rate**

The Board may set a Stock Specific Levy Rate to be paid in respect of any Stock for a Levy Year in accordance with the following:

11.1 the Board may determine, prior to the commencement of a Levy Year, a Stock Specific Levy Rate for a Stock to apply in respect of that Levy Year pursuant to *clause 13*;

11.2 any such Stock Specific Levy Rate shall apply from and including the first calendar day of the relevant Levy Year to and including the last calendar day of that Levy Year; and

11.3 the Stock Specific Levy Rate shall not exceed a rate which is equal to the difference between the Maximum Levy Rate less the Core Services Levy Rate for that Levy Year.

### **12 Stock Specific Levy Rate to be set at request of Commercial Stakeholder Organisation**

The Board may only approve a Stock Specific Levy Rate, or an adjustment to a Stock Specific Levy Rate, for a Stock if:

12.1 the Board has been requested to approve that Stock Specific Levy Rate, or the adjustment to that Stock Specific Levy Rate, by the Commercial Stakeholder Organisation which is the shareholder in respect of the Levy Payers who pay levies under the Levy Order in respect of that Stock;

12.2 the relevant Commercial Stakeholder Organisation has submitted a Project Plan to the Board which has been approved by:

12.2.1 the shareholders of that Commercial Stakeholder Organisation, in accordance with that Commercial Stakeholder Organisation's constitution; and

12.2.2 the Levy Payers who pay levies under the Levy Order in respect of that Stock, in accordance with an Approved Procedure,

provided that *clauses 12.2.1* and *12.2.2* do not apply in respect of any Levy Year commencing before 1 October 2002 if the Board is satisfied that:

- (a) notice of the proposed levy has been given to the Levy Payers;
- (b) copies of the Project Plan have been sent to Levy Payers; and
- (c) at a meeting of Levy Payers held in the manner provided in *clauses 4* to *25* of the Sixth Schedule (except that the notice requirement in *clause 6* need not be complied with) there have been sufficient votes in favour of the levy as required by that Schedule.

### **13 Approved Procedure**

An Approved Procedure for the purposes of *clause 12.2.2* is a procedure which:

13.1 is set out in the relevant Commercial Stakeholder Organisation's constitution; and

EITHER

13.2 is the same, in all material respects, as the procedure set out in the Sixth Schedule; or

13.3 has been approved by the Board.

PURPOSES FOR WHICH THE STOCK SPECIFIC LEVY MAY BE USED

### **14 Services to be provided by the Commercial Stakeholder Organisation**

If a Stock Specific Levy is approved by the Board then the Commercial Stakeholder Organisation that requested the imposition of that Stock Specific Levy shall be engaged by the Company to provide the services referred to in the relevant Project Plan.

**15 Price to be paid for services not to exceed amount collected**

The terms on which any Commercial Stakeholder Organisation is retained by the Company to provide services referred to in a Project Plan must provide, among other things, that the total amount payable by the Company to the relevant Commercial Stakeholder Organisation for those services shall be the lesser of:

15.1 the price to be paid by the Company for those services specified in those terms; or

15.2 the total amount of the Stock Specific Levy actually received by the Company in respect of that Stock.

**16 Application of excess Stock Specific Levy amounts**

If the amount collected by the Company for any Stock Specific Levy on a Stock exceeds the total amount payable by the Company to the relevant Commercial Stakeholder Organisation for the services referred to in the relevant Project Plan, then the balance may be retained by the Company and may be applied by the Company, against any Stock Specific Levy payable in respect of that Stock in any future Levy Year(s).

## **SIXTH SCHEDULE: APPROVED FORM OF CONSTITUTIONAL PROVISIONS SETTING OUT PROCEDURE FOR APPROVAL OF PROJECT PLAN BY LEVY PAYERS.**

### INTERPRETATION

#### **1 Construction**

Unless stated otherwise, references to clauses are references to clauses in this Schedule.

#### **2 Definitions**

*Annual Landing* means, in respect of any Non-Quota Management Stock, the aggregate amount in Greenweight tonnes (expressed in kilograms) of that Stock landed to a Licensed Fish Receiver or sold during any Levy Year;

*Declared Port Price* means a price (exclusive of GST), to be declared by the Company from time to time, and to be determined by using an independent survey to establish the average port price that would have been paid during the previous 3 years for one kilogram of a given Stock by an independent processor to an independent fisher;

*Greenweight* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Levy Order* means the order made under section 4 of the Commodity Levies Act 1990, which imposes levy payable to the Company;

*Levy Payer* means a person in respect of whom the proposed Stock Specific Levy would apply (which for the avoidance of doubt does not include the Crown);

*Levy Year* means an initial period determined by the Board, and, after that initial period, each 12 month period commencing on 1 October every year;

*Licensed Fish Receiver* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Non-Quota Management Stock* means any Stock which is not a Quota Management Stock;

*Project Plan* means a written proposal for the introduction of, or an adjustment to the rate of, a Stock Specific Levy, that contains sufficient detail (including details of the Stock Specific Levy Rate proposed and the services to be performed, and a budget showing how any amounts levied under the Stock Specific Levy will be used) to enable those Levy Payers in respect of whom the proposed Stock Specific Levy would apply to form a reasoned judgement in relation to the proposal;

*Quota* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Quota Management Stock* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Relative Dollar Value* means, in relation to a Levy Payer -

- (a) in respect of any Stock that is a Quota Management Stock, an amount which is equal to the sum of the Quota (expressed in kilograms) owned by the Levy Payer on a date nominated by the Company from time to time, multiplied by the Declared Port Price for that Stock; and
- (b) in respect of any Stock that is a Non-Quota Management Stock, an amount which is equal to the sum of the Annual Catch of the Levy Payer in the previous Levy Year, multiplied by the Declared Port Price for that Stock;

*Stock* has the meaning set out in section 2(1) of the Fisheries Act 1996;

*Stock Specific Levy* means that part of the levy to be levied under the Levy Order at the request of the Commercial Stakeholder Organisation for the purpose of funding the services provided by the Commercial Stakeholder Organisation in relation to a particular Stock;

*Stock Specific Levy Rate* means the rate at which the Stock Specific Levy is levied, expressed as a percentage of the Relative Dollar Value of Quota or Annual Catch.

## PROCEDURE FOR ADJUSTING STOCK-SPECIFIC LEVY RATE

### **3 Method of Levy Payer approval of Project Plan**

If the Board of the Commercial Stakeholder Organisation intends to request that The New Zealand Seafood Industry Council Limited

(“*SeaFIC*”) impose a Stock Specific Levy in relation to the Stock for which that Commercial Stakeholder Organisation is the relevant *SeaFIC* shareholder, then the Board shall:

3.1 circulate copies of a Project Plan detailing the rate of the proposed Stock Specific Levy and the way in which funds levied will be used by:

3.1.1 sending copies of the Project Plan to Levy Payers; and

3.1.2 publishing key details of the Project Plan in a newsletter to Levy Payers (which, in the absence of a newsletter, may be done by way of publication in the *Seafood Magazine*) or an equivalent commercial fishing industry publication;

not less than 4 weeks prior to the meeting at which the Project Plan is to be discussed, and by providing a full copy of the Project Plan to any Levy Payer on request;

3.2 have the Project Plan approved by shareholders of the Commercial Stakeholder Organisation at an annual general meeting or special general meeting of the Commercial Stakeholder Organisation; and

3.3 have the Project Plan approved by Levy Payers at a meeting to which all Levy Payers have been invited (a “*Meeting*”).

#### PROCEEDINGS AT MEETINGS

#### **4 Reference to Levy Payers includes proxies**

A reference in this Schedule to a Levy Payer present at a Meeting or entitled to vote at a Meeting includes a reference to a proxy of a Levy Payer, a representative of a corporate Levy Payer, an attorney of a Levy Payer, and any person who may lawfully act on behalf of a Levy Payer.

#### **5 Proceedings otherwise the same as for ASM or SGM**

Except as provided in this Schedule, Meetings shall be conducted in accordance with the rules set out in the Commercial Stakeholder Organisation’s constitution for the holding of annual general meetings or special general meetings.

**6 Notice of Meeting**

The Board must give written notice of a Meeting to all Levy Payers not less than 10 working days prior to the date of the Meeting;

**7 Vote on Project Plan to be taken only if a quorum is present**

The chairperson of the Meeting may call for a vote by Levy Payers on the question of whether to approve the Project Plan only if a quorum of Levy Payers is present at the time when the vote is called.

**8 Quorum of Levy Payers for Meeting**

A quorum of Levy Payers for the Meeting is present if the Levy Payers who are present in person or by proxy are able between them to exercise  $[[66\frac{2}{3}]$  percent/a higher percentage specified by the Commercial Stakeholder Organisation's constitution], of the vote weighting (as provided in *clause 16*) to be cast on that question.

**9 Other meetings to be adjourned if no quorum**

If a quorum of Levy Payers is not present within 30 minutes after the time appointed for a Meeting, the Meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time, and place as the Directors may appoint. If, at the adjourned Meeting, a quorum of Levy Payers is not present within 30 minutes after the time appointed for the Meeting, the Levy Payers present will constitute a quorum of Levy Payers.

**10 Chairperson not allowed casting vote**

In the case of an equality of votes the chairperson of the Meeting is not entitled to a casting vote.

**11 Voting by show of hands or voice vote at meeting**

Unless a poll is demanded, voting at the Meeting will be by a show of hands or by voice vote, as the chairperson may determine. On a vote by voices or show of hands, each Levy Payer present at the Meeting is entitled to one vote.

**12 Chairperson's declaration of result**

Unless a poll is demanded, a declaration by the chairperson of the Meeting that a resolution on a show of hands or voice vote or by such manner as the chairperson may have decided under *clause 11* is carried by the requisite majority or lost, shall be conclusive evidence of that fact.

**13 Poll may be demanded by chairperson or shareholders**

At a Meeting, a poll may be demanded on the question of whether or not to approve the Project Plan, either before or after a vote by show of hands or voice vote, by any Levy Payer having the right to vote at the Meeting.

**14 Time at which polls to be taken**

A poll demanded on the question of whether or not to approve the Project Plan is to be taken at such time as the chairperson of the Meeting directs. The Meeting may proceed to deal with any business other than that upon which a poll has been demanded pending the taking of the poll.

**15 Counting votes cast in a poll**

In a poll taken when Levy Payers vote on the question of whether or not to approve the Project Plan, votes must be counted according to the weight to be attributed to the vote of each Levy Payer present and voting under *clause 16*. A resolution on which a poll is taken is passed if it is agreed to by Levy Payers who together hold the percentage  $[[66\frac{2}{3}]$  percent/a higher percentage specified by the Commercial Stakeholder Organisation's constitution] of the vote weighting entitled to be cast, and cast, on that poll.

**16 Weight to be attributed to votes in a poll**

If a poll is taken, the weight to be attributed to a Levy Payer's vote is determined according to the following formula:

$$W = \left( \frac{I \times 100}{T} \right)$$

where "W" is the weight to be attributed to a Levy Payer's vote;

"I" is the Relative Dollar Value of Quota held by, or Annual Catch of, a Levy Payer in relation to the Stock in question;  
and

"T" is the total Relative Dollar Value of Quota held by, or Annual Catch of, all those Levy Payers present and voting at the meeting in relation to the Stock in question.

**17 Proxies permitted**

A Levy Payer may exercise the right to vote by being present in person or represented by proxy.

**18 Proxy to be treated as Levy Payer**

A proxy for a Levy Payer is entitled to attend and be heard at a Meeting as if the proxy were the Levy Payer.

**19 Proxy allowed to demand a poll**

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 Levy Payer has the same effect as a demand by the Levy Payer.

**20 Appointment of proxy must be in writing and specify restrictions**

A proxy must be appointed by a notice in writing that is signed by the Levy Payer, and the notice must state whether the appointment is for a particular Meeting or a specified term not exceeding 12 months.

**21 Notice of proxy to be produced at least 48 hours before Meeting**

No proxy is effective in relation to a Meeting unless a copy of the notice of appointment is produced to the Company at least 48 hours before the time for holding the Meeting or adjourned Meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

**22 Vote by proxy valid where Company not notified before meeting of disqualified proxy**

Where:

22.1 the Levy Payer has died or become incapacitated; or

22.2 the proxy, or the authority under which the proxy was executed, has been revoked; or

22.3 any Quota in respect of which the notice of proxy is given has been transferred,

before a Meeting at which a proxy exercises a vote in terms of a notice of proxy but the Company does not receive written notice of that death, incapacity, revocation, or transfer before the start of the Meeting, the vote of the proxy is valid.

**23 Corporations may act by representative**

A body corporate which is a Levy Payer may appoint a representative to attend any Meeting on its behalf in the same manner as that in which it could appoint a proxy. The representative shall be entitled to attend and be heard at a Meeting as if the representative were the Levy Payer.

**24 Board must keep minutes of proceedings**

The Board must ensure that minutes are kept of all proceedings at Meetings. Minutes which have been signed correct by the chairperson of the Meeting are prima facie evidence of the proceedings.

**25 Meeting may regulate other proceedings**

Except as provided in this Schedule, a Meeting may regulate its own procedure through the chairperson.

# CONSTITUTION OF THE NEW ZEALAND SEAFOOD INDUSTRY COUNCIL LIMITED

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