

This is the document marked "A" referred to in the annexed declaration of Telecommunications Users Association of New Zealand Incorporated made at Auckland

this _____ day of _____

before me :Name _____ Signature _____

Signed by solicitor, JP or other person authorised officer

1.0 NAME

- 1.1 The Association referred to in this Constitution shall be known as "The Telecommunications Users Association of New Zealand Incorporated" (TUANZ) hereafter referred to as ("The Association").

2.0 OBJECT

- 2.1 The primary object of this Association is to represent the interests of Members in the use of technology enabled communications and in doing so pursue an environment which can offer, in the broadest sense, cost effective services and technology that reflect both the requirements of the users and those of the national interest.
- 2.2 The Board, together with the Chief Executive, will develop an annual business plan that delivers to the strategic plan and meets the object of the association.

3. MEMBERSHIP

- 3.1 Membership will be open to all organisations and individuals having an interest in technology enabled communications in New Zealand.
- 3.2 Members of the Association shall consist of categories as may be determined from time to time by the Association's Board with such rights as to voting and other matters as the Association may from time to time determine. The register of members shall be kept pursuant to the categories and shall have entered upon it the names of all members specifying the category of membership. Categories of membership will be as determined from time to time by resolution of the Board and ratified either by majority vote at any General meeting or by a Dissenting Poll (see Para 6.7). The current approved list of categories shall be appended to the Constitution as Schedule A.
- 3.3 Any person or corporation desiring to become a member of the Association shall submit to the Association Chief Executive an application in the prescribed form naming their authorised representatives and containing such particular information and undertakings as the Association may require. On receipt of a properly completed application the Chief Executive may assign each person or corporation to a Category of Membership. The acceptance of any application for membership, the category of membership of any proposed new member or change in category of an existing member shall be confirmed by the Board.
- 3.4 Carrier membership of TUANZ is provided for through a separate Carrier Category of Membership. Companies that are classed as Carriers will be determined from time to time by resolution of the Board. The current approved list of Carriers shall be appended to the Constitution as Schedule B, and notified to members within 60 days.

To avoid doubt, any change in this list of Carriers (updated in accordance with clause 3.4) shall not be deemed an alteration of this Constitution as provided for by clause 17.1

- 3.5 Related Companies (as defined by the Companies Act 1993) to the Members listed in Schedule B may become Members in their own right. Excepting as provided for in Clauses 4.2 and 7.2 iii, membership conditions, subscriptions and privileges shall apply to each of these Members as if they are non related.
- 3.6 Organisations may change their authorised representatives by giving notice in writing to the Association's Chief Executive.
- 3.7 Any member, or applicant for membership, may request a review of their membership status or category of membership by submitting relevant details in writing to the Association's Chief Executive.

4. VOTING RIGHTS

- 4.1 The number of Member Representatives with voting rights varies according to the member's Category. The number of Representatives with voting rights for each member category will be as determined from time to time by resolution of the Board, and ratified either by majority vote at any General meeting or by a Dissenting Poll (see Para 6.7). The current approved list of categories shall be appended to the Constitution as Schedule A.
- 4.2 Notwithstanding clause 4.1, no Carrier Member, including Related Companies (as defined by the Companies Act 1993) will be entitled to more votes than the voting right entitlement of the largest category of non carrier membership.
- 4.3 No Member shall have any voting rights at a meeting if any of their subscriptions or levies are overdue at the date of that meeting.

5. RESIGNATION, SUSPENSION AND TERMINATION OF MEMBERSHIP

- 5.1 Any member may cease to be a Member of the Association by giving written notice of his/her resignation to the Chief Executive, who shall inform the Board forthwith of any such resignation.
- 5.2 Any Member whose subscription has been outstanding for six months or has failed to meet any other financial obligation for a similar period may be suspended from Membership of the Association by the Board until all outstanding subscriptions, or other financial obligations, owing by such Member shall have been paid. It will be necessary for the Chief Executive to report this at the Board meeting immediately following the 6 months period requiring the Board to make a decision in each particular instance as to action.
- 5.3 Any Member who, for any reason, in the opinion of the Board, ceases to qualify for Membership of the Association, shall be liable to have his Membership terminated. Such cases shall be considered by the Board who may request, by notice in writing, that the Member resign within a time to be specified in such notice, and in default of the receipt of such a resignation the Board shall deem that Member's Membership to be terminated.
- 5.4 A member may appeal a notice of request to resign. A written application may be made to the Board, within a time to be specified in the notice of request to resign, requesting reconsideration and stating the grounds for the request.

6 MEETINGS

- 6.1 The Association shall hold a General Meeting in each calendar year as its Annual General Meeting at such time and place as the Chairperson or any resolution of the members at a General Meeting may determine but not later than eleven months following the close of the financial year. The financial year shall be from 1 January to 31 December in the same year. If election of the Board is to be held by postal or secure electronic ballot (hereinafter referred to as "ballot"), then results of the ballot must be available at the time of the Annual General Meeting. If no ballot is held, the office-bearers shall be elected at the Annual General Meeting for the ensuing year.
- 6.2 All General Meetings, other than Annual General Meetings, shall be called Special General Meetings and shall be convened by the Chairperson of the Association upon the written request of two or more members or upon the resolution of the Board.
- 6.3 The Board shall cause to be sent to each member by prepaid post or electronically transmitted notice of the time, date, agenda and place of each Special or Annual General Meeting at least fourteen (14) days prior to the date of the meeting. If Board members are to be elected at the meeting, such notice shall specify the positions which are to be filled at the meeting. If Board members are to be elected by ballot, the voting forms must be sent to voting authorities and be postmarked or transmission dated at least twenty one (21) days prior to the date of the Annual General Meeting.
- 6.4 A General Meeting of the Association shall not proceed without a quorum present. A quorum shall consist of voting representatives totaling at least one tenth, minimum 15, of the total voting rights in good standing as at the meeting date.
- 6.5 Proxies shall be accepted at meetings. Written proxies must reference a specific meeting and be signed by the authorised representative of the member organisation granting the proxy. Proxies shall be scrutinised, collected, and made part of the minutes by the meeting convener.

- 6.6 Voting on all issues requiring a vote, except election of office-bearers, will be by secret ballot or show of hands as determined by the Chairperson at the time.
- 6.7 Where a dissenting poll is required, a notice shall be sent to all members outlining the proposed change and allow a minimum period of 30 days for members who disagree with the proposed change to advise the Secretary. If the number of dissenting members exceeds 25% of the voting authorities, a full ballot of members shall be required to confirm the change. If there are 25% or less dissenting voting authorities the change shall take effect and members shall be advised of the outcome of the poll.

7 TUANZ BOARD

- 7.1 The Office Bearers of the Association shall comprise a Chairperson, Vice-Chairperson, Secretary and Treasurer. The Board shall comprise these officers and no less than four (4) and no more than seven (7) other members provided that no person who is an employee of, or primarily a contractor to a telecommunications carrier, shall be eligible for membership of the Board. The Board shall administer the Association subject to the direction of the members by resolution at the Annual General Meeting or General Meetings.
- 7.2 The Board shall be elected from authorised representatives and individual members at the time of their nomination at each Annual General Meeting.
- i At each Annual General Meeting of the Association, the members of the Board whose term of office expires at such meeting shall retire but be eligible for re-election.
 - ii In the event of a casual vacancy occurring on the Board the remaining members of the Board may appoint a representative of a member of the Association to hold office until the next Annual General Meeting.
 - iii No more than one person from any member organisation may be elected to the Board irrespective of the number of votes which such member may hold or the category of membership of such member. In this specific instance, members who are related companies (as defined by the Companies Act 1993) will be treated as a single member except where, in the opinion of the Board a related company of a non Carrier Member is in a significantly different industry to its parent company then this clause shall not apply.
 - iv The Chairperson shall hold office for one year and all other Board Members for two years.
 - v The outgoing Chairperson, should he/she not be re-elected, becomes an ex-officio member of the Board for the following year.
- 7.3 At the first meeting of the Board, following the Annual General Meeting of the Association, the Board shall appoint from their number individuals to the Office Holder positions of Vice Chairperson, Secretary and Treasurer. These positions will be for a term of one year. Office holders may present themselves for reappointment to any of these positions in subsequent years.
- 7.4 Members wishing to nominate persons to hold position on the Board of the Association shall submit a written nomination signed by a representative of the member and specifying the office to which the nominee desires to be elected to the Secretary of the Association. Where a ballot is not being held, nominations must be lodged with the Secretary at least 48 hours prior to the designated starting time of the Annual General Meeting. In the event of there being no nominations for a particular position, nominations shall be called for and accepted at the Annual General Meeting.
- 7.5 There shall be separate elections for the position of Chairperson and for ordinary Board member positions. Voting in the elections shall be by secret ballot. Members shall be entitled to vote in a ballot only if their voting papers are received at the Association offices at least 48 hours prior to the Annual General Meeting. If no ballot is held members shall be entitled to vote by their representative being present at the Annual General Meeting.
- 7.6
As this clause covers everyone in NZ it was considered unnecessary.
- 7.6 At all meetings of the Board the Chairperson, Vice Chairperson, Secretary or Treasurer, together with three other Board Members shall form a quorum.
- 7.7 The Board shall be authorised to co-opt the assistance from time to time of any persons who are not members of the Board or the Association but whom they consider may assist them to further the objects of the Association.
- 7.8 Any Board member of the Association who changes employment during their term of office shall immediately

offer their resignation to the Board, which shall decide at its next meeting whether or not to accept such resignations.

7.9 Members of the Board will be required to sign a declaration of the form as shown in Schedule C.

7.10 For the purposes of carrying out the objects of the Association the Board shall have power:

- i to borrow or raise money on such terms and on such security as may be thought fit.
- ii to invest the moneys of the Association not immediately required, in or upon such investments, securities or property as may be thought fit.

8 DUTIES OF CHAIRPERSON

8.1 The duties of the Chairperson shall be to preside at all meetings of the Association and to report upon all transactions and negotiations affecting the work of the Association.

8.2 The Chairperson may seek guidance from Standing Orders, which shall be agreed to, from time to time, by the Board.

8.3 The Chairperson shall have a deliberative and, where necessary, a casting vote at all meetings.

8.4 The Chairperson shall have the right to exclude any Board Member from any part of a meeting where it is believed a conflict of interest may exist.

9 SECRETARY

9.1 The duties of the Secretary shall be to attend all meetings. All statements and certificates required to be submitted to the Registrar of Incorporated Societies, shall be the responsibility of the Secretary.

10 TREASURER

10.1 The duties of the Treasurer shall be to attend all meetings. The Treasurer shall be responsible for;; all monies due to the Association from levies or from other sources; payment of monies into a bank account in the name of the Association; the keeping of a true and correct account of the income and expenditure of the Association; preparation of annual accounts on 31 December (or at such other times as a resolution of the Members at a General Meeting may require) for submission to the Auditor; recovery of all debts.

11 REMOVAL OF BOARD MEMBERS

11.1 Any member of the Board may be removed from office or position by resolution of the Members at a Special General Meeting of the Association called for that purpose.

12 SUBSCRIPTIONS

12.1 Each member shall pay such subscription or levy as fixed by the members of the Association at a General Meeting.

12.2 The Chief Executive shall give written notification to each member as to the due date for payment of all subscriptions and levies and the amount thereof at least 21 days prior to such due date.

13 MEMBERS NOT PARTNERS

13.1 The members of the Association are not Partners.

14 SUB-COMMITTEES

14.1 The Board of the Association or the members by resolution in meetings may convene sub-committees composed of representatives of members or other appropriate persons. The Board and/or the members of the Association may delegate such powers to such sub-committees as the Board or the members (as the case may be) think fit.

15 ASSOCIATION ACCOUNTS

15.1 The Treasurer shall cause proper books of accounts of the Association to be kept and shall record a true account of the financial transactions of the Association and of all receipts and expenditure and of the assets, credits and

liabilities of the Association. Such accounts shall be available for inspection by any member of the Association at any time during business hours upon reasonable prior notice. The accounts shall be subject to independent annual audit.

16 BANK ACCOUNT

- 16.1 Cheques of the Association or other withdrawals from the Association bank accounts shall be signed by two signatories authorised by the Board. The Board will define and record specific maximum limits for such authorised signatories.

17 ALTERATION OF CONSTITUTION

- 17.1 The constitution of the Association may be altered, added to or rescinded at any time upon resolution of members at a Special General Meeting of the Association or the Annual General Meeting of the Association provided that any resolution passed is carried by not less than 75% of the voting rights of the Association who are present at the Special General Meeting of the Association or the Annual General Meeting of the Association, and providing that at least fourteen (14) days notice in writing of the date, time, place and content of the proposed resolution has been sent to each member of the Association.

18 INDEMNITY

- 18.1 Every officer-bearer of the Association shall be indemnified to the maximum extent permitted by law and it shall be the Association's duty out of its funds to pay all costs, losses, charges, damages and expenses which any such office-bearer may in good faith incur or become liable for by reason of any contract entered into or act or deed done by him in good faith as such office-bearer in the discharge of his duties in accordance with these rules.

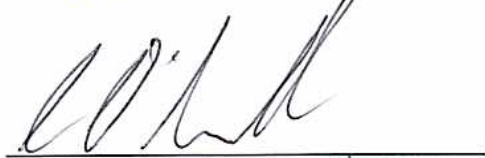
19 DISSOLUTION


- 19.1 For the dissolution of the Association the affirmative vote of members representing a simple majority of the voting rights of the Association shall be requisite provided that at least fourteen (14) days notice in writing has been given to each member of the Association. Upon such dissolution all funds, property and effects standing to the credit of the Association shall be bequeathed by the Association for the purpose of furthering education and knowledge in the field of telecommunications as appropriate to the aims and objectives of the Association.

20 COMMON SEAL

- 20.1 The Board shall provide for the safe custody of the common seal which shall only be used by the Board pursuant to a resolution of the Association. Every instrument to which the seal is affixed shall be signed by two members of the Board.

Signature: 
Name: M. Altments
Office: Chairman

Signature: 
Name: Chris O'Connell
Office: Deputy Chairman.

Signature: 
Name: DAVID CATLAND
Office: TREASURER

SCHEDULE A

1 CATEGORIES OF MEMBERSHIP

1.1 The following are the TUANZ categories of Membership as defined and agreed by the TUANZ Board on 4 February 1998 and amended at the AGM on the 28th July 2005.

- | | |
|-----------------|---|
| 1 | Very Large Organisations |
| 2 | Large Organisations |
| 3 | Medium Organisations |
| 4 | Small to Medium Organisations. |
| 5 | Start-up Membership category for individuals and owner-operator type businesses
Benefits pertain to one individual only. |
| CARRIER & ISP | Organisations subject to the following categories: |
| CARRIER & ISP A | Large Carriers & ISP's |
| CARRIER & ISP B | Intermediate Carriers & ISP's |
| CARRIER & ISP C | Small Carriers & ISP's |

2. VOTING RIGHTS

- | | |
|---|-----------|
| 1 | two votes |
| 2 | two votes |
| 3 | two votes |
| 4 | two vote |
| 5 | one vote |

- | | |
|-----------------|-----------|
| CARRIER & ISP A | two votes |
| CARRIER & ISP B | two votes |
| CARRIER & ISP C | two votes |

SCHEDULE B

1. DEFINED CARRIERS

1.1 The following is a list of Carriers as defined and agreed by the TUANZ Board .

- i Telecom Corporation of New Zealand
- ii CLEAR Communications Limited
- iii Vodafone
- iv Global One Communications Ltd
- v Telstra NZ Limited
- vi Optus Networks Pty Ltd
- vii World xChange Limited
- viii British Telecom

This list is correct as at 5 August 1999

SCHEDULE C

CONFIDENTIALITY

You shall maintain as confidential at all times and must not at any time, directly or indirectly disclose or permit to be disclosed to any person or make use of, any confidential information, except:

- (a) as required by law; or
- (b) as is already or becomes public knowledge otherwise than as a result of your breach of this clause; or
- (c) as authorised in writing by TUANZ; or
- (d) that obtained by you

In this clause, '**confidential information**' means any information in any form relating directly or indirectly to research or development by, accounting for, or the marketing, strategies or the business of TUANZ and its members; or disclosed by TUANZ to you on the express basis that such information is confidential; or which might reasonably be expected by TUANZ to be confidential in nature. This clause shall survive the termination or expiry of the term of your office.

[NOTE: The suggested clause is narrower. The current clause is very wide, ie it involves "any confidential information ...", whereas the proposed clause covers information relating to TUANZ and its members]

COPYRIGHT

You agree that TUANZ shall have an irrevocable licence to freely use any intellectual property in any material that you prepare for TUANZ during your term of office. This clause shall survive the termination or expiry of the term of your office.

Conflict of Interest

It is understood that members of the Board may have interests outside of their role on the TUANZ Board that from time to time may appear to give rise to conflicts of interest. Board members are required to bring such potential conflicts to the notice of the Board. At the first meeting of the Board following the Annual General Meeting, Board members will be required to state their interests where they consider these may give rise to conflicts of interest.

I _____ on _____ (date)

Being a TUANZ Board member accept the terms of the constitution and furnish the above declaration.