THE CONSTITUTION OF RETAIL NZ INC.

Registered No WN/345871

AS ADOPTED BY A POLL OF MEMBERS IN DECEMBER 2022 REPLACING THE RULES ADOPTED BY THE ANNUAL GENERAL MEETING HELD ON 15 JUNE 1987 (AND AS SUBSEQUENTLY AMENDED).

1. THE NAME

1(a) The name of the society shall be "Retail NZ Incorporated" ("Retail NZ").

2.PURPOSE

2(a) The purpose of the society is "to help retailers succeed and strengthen NZ inc". This means supporting the growth of the industry for the benefit of the community, including by advocating:

- 2(a)(i) to promote better goods and services
- 2(a)(ii) to promote better employment practices and frameworks;
- 2(a)(iii) to promote the value of thriving and vibrant town centres for the benefit of the community;
- 2(a)(iv) for the advancement of education in relation to retail careers;
- 2(a)(v) in relation to "fair pay" negotiations or other industrial relations negotiations;
- 2(a)(vi) challenges facing the retail sector, and the impacts of those challenges on the community;
- 2(a)(vii) for policy or other action to support the sector.

2(b) In fulfilling these goals, Retail NZ may:

- 2(b)(i) make submissions on laws and other policy changes;
- 2(b)(ii) undertake research;
- 2(b)(iii) organise conferences, awards and other events;
- 2(b)(iv) provide advice to members;
- 2(b)(v) provide ancillary benefits to members; and
- 2(b)(vi) other services as determined from time to time.

2(c) The organisation does not have the purpose of making a profit for a proprietor, member, or shareholder and prohibits a distribution of property in any form to a member proprietor or shareholder; and has a constitution that prohibits a distribution of property in any form to a member, proprietor, or shareholder.

2(d) No member of the organisation or any person associated with a member, shall participate in or materially influence any decision made by the organisation, in respect of the payment to or on behalf of that member or associated person of any income, benefit, or advantage whatsoever. Any such income shall be reasonable and relative to that which would be paid in an arm's length transaction (being open market value).

3. REGISTERED OFFICE

3(a) The registered office of Retail NZ will be at such address as the Board of Directors may from time to time determine.

4. CLASSES OF MEMBERSHIP

4(a) There are two classes of Retail NZ membership:

4(a)(i) Ordinary membership of Retail NZ is open to corporate bodies, partnerships or individuals who are retailers, e-commerce retailers, retail entrepreneurs, or wholesalers engaged in trade, or any organisation associated with retail, including the provision of services to retailers.

4(a)(ii) Life membership of Retail NZ may be conferred on any person who has, in the opinion of the Board of Directors rendered conspicuous service to the retail sector or Retail NZ.

5. APPLYING FOR MEMBERSHIP

5(a) An ordinary member may apply for membership of Retail NZ on an application form on Retail NZ's website, or in such other form as may be accepted by the Chief Executive.

5(b) A membership begins on payment of a membership subscription.

5(b) The Board of Directors has absolute power to grant or refuse such application on such terms and conditions as it thinks fit and its decision shall be final and binding.

5(c) In general, such authority is delegated to the Chief Executive who may, if he or she believes it appropriate, refer the acceptance of a member to the Board of Directors.

5(d) A person becomes a Life Member of Retail NZ by notifying the Chief Executive that he or she will accept the Membership offered by the Board.

6. TERMINATION OF MEMBERSHIP

6(a) Any member may at any time retire from Retail NZ by giving one month's notice in writing or by email to that effect to the Chief Executive. Resignation shall not absolve the member from any obligation or debt that has accrued to Retail NZ prior to resignation, and membership fees paid will not be refunded.

6(b) Any member whose subscription is unpaid 30 days after subscriptions become due shall cease to be a member, unless alternative arrangements have been agreed.

6(c) The Board of Directors may expel any member whose conduct, in its opinion, renders that member unfit to be a member. Such member shall cease to be a member of Retail NZ from the date of its resolution.

6(d) Written notice of the intention to move a resolution to expel a member under Rule 6(c) must be given to the Chief Executive at least one calendar month before the meeting of the Board of Directors at which such resolution is to be moved and the Chief Executive must inform the member concerned of the notice at least 21 days before the day of such meeting. The member concerned has the right to attend the said meeting and make representations prior to the resolution being put. Such a person has the right to have representation at such a meeting.

7. RECORDS OF MEMBERSHIP

7(a) The Chief Executive shall maintain a database of Members and ensure that it is kept up to date as members join and resign.

7(b) Membership records must be retained for a minimum of seven years.

8. SUBSCRIPTIONS AND FINANCIAL YEAR

8(a) The annual subscription payable by members for each year shall be as determined by the Board of Directors. The financial year shall end on 31st March in each year.

9. GOVERNANCE

9(a) The affairs of Retail NZ will be governed by a committee known as the Board of Directors.

9(b) The Board of Directors is comprised of: a minimum of five and up to nine people, as the Board determines from time to time. A member of the Board of Directors must be an ordinary member or authorised representative of an ordinary member of Retail NZ.

9(c) In addition to the maximum of nine elected Directors, the Board of Directors may co-opt up to two additional Directors for specific purposes and times.

10. APPOINTMENT, RESIGNATION AND TERM OF DIRECTORS

10(a) Elections for the Board of Directors will be held every two years.

10(b) Directors will be elected by the members for a two-year term, commencing on 31 August in the year of election and ending on 31 August two years late.

10(c) Directors will be elected by the membership at large, using an online voting system, as determined from time to time by the Chief Executive.

10(d) All Retail NZ members which are fully paid up to are eligible to vote in the Board elections. Each principal member will have one vote for each $1,000 or part thereof that it pays in membership subscriptions.

10(e) Subsidiaries of a principal member are not eligible to vote unless they pay a separate membership fee.

10(f) The candidates with the highest number of votes will be elected to the Board. In the event of a tie between two candidates, the outcome will be decided by a coin toss; and in the event of a tie between more than two candidates, the outcome will be decided by lot.

10(g) Directors will serve for a two-year term, beginning on 1 September in the year of election.

10(h) A Director retiring by rotation may offer himself or herself for re-election, except that no individual may serve more than five terms as a Director.

10(i) The term limits specified in Rule 10(h) do not apply to directors who were elected prior to 2022.

10(j) The Chief Executive must call for Nominations for those who wish to be elected to the Board of Directors no later than 12 July each election year.

10(k) Nominations, including the name, organisation, photograph and biographical information of each candidate must be received by the Chief Executive, in such form as the Chief Executive requires, no later than 26 July each election year.

10(l) Nominations are only valid if the nominee is a paid-up member or is an authorised representative of a paid-up member at the time nominations close. Nominations will not be valid if a membership account is in arrears.

10(m) A nominee may withdraw his or her Nomination at any stage before the results of the election are announced.

10(n) The Chief Executive must arrange for details of each Nomination, along with voting instructions to be circulated to each voting member by 2 August each election year.

10(o) Votes must be received by midnight on the 16th day of August each election year.

10(p) The Chief Executive must notify members of the outcomes of the election by 23 August of each election year.

10(q) A Director is deemed to have resigned if he or she:

10(q)(i) does not attend three consecutive Board meetings; or

10(q)(ii) ceases to be an authorised representative of an Ordinary Member of Retail NZ.

10(r) In the event of a Director resigning, being declared bankrupt or dying the Board of Directors may co-opt a replacement who shall serve the remainder of the former Director's term.

11. PRESIDENT AND VICE-PRESIDENT

11(a) Every two years following Board elections, or as required, the Directors will elect one of their number as President, and one further member as Vice-President.

11(b) In principle, the President and Vice-President will serve for a two-year term.

11(c) In the temporary absence of the President, the Vice-President shall assume his or her powers.

11(d) In the event that the President becomes temporarily incapacitated or is unable to fulfil his or her duties, the Board may appoint the Vice- President as Acting President.

11(e) In the event that the President resigns or dies, the Vice-President shall become the President, and a new Vice-President will be elected.

11(f) The President shall:

11(f)(i) Supervise the business and affairs of Retail NZ;

11(f)(ii) Assume the position of Chairperson at all meetings and undertake such lawful duties as may relate to the office of Chairperson;

11(f)(iii) Undertake such other lawful things and acts as may be or desirable to carry on the business of a meeting with order and regularity.

12. MEETINGS OF THE BOARD

12(a) The Board will meet as and where it determines, but not less than three times per year.

12(b) The Board may meet in person, or by videoconference.

12(c) The Board may also pass resolutions by email.

12(d) The quorum for meetings of the Board of Directors will be five.

12(e) Voting in relation to Board decisions will be on the basis of one vote per Director.

12(e)(i) At meetings, resolutions of the Board will generally be passed by affirmation. However, if a formal vote is required, this will be by a show of hands or roll call if requested.

12(e)(ii) If a resolution is being passed by email, then Board agreement shall be indicated by the number of emails in support of a motion.

12(e)(iii) In the event of a tie, the President shall have a casting vote.

12(f) Any member of the Board of Directors may, by giving notice in writing to the Chief Executive, appoint any other Board member as his/ her proxy for a meeting of the Board of Directors. Such persons holding proxies shall have the full powers of the absent members.

13. ROLE AND POWERS OF THE BOARD

13(a) The role of the board is to effectively represent Retail NZ's members, and promote the interests of the organisation. The Board's job is to provide oversight and direction to management, in particular:

13(a)(i) ensuring that goals are set, and management strategies are in place for achieving them

13(a)(ii) establishing policies for strengthening the performance of Retail NZ;

13(a)(iii) monitoring the performance of management;

13(a)(iv) appointing the CEO, setting the terms of the CEO’s employment contract and, where necessary, terminating the CEO’s employment with Retail NZ

13(a)(v) deciding on whatever steps are necessary to protect Retail NZ's financial position and the ability to meet its debts and other obligations when they fall due, and ensuring that such steps are taken;

13(a)(vi) ensuring Retail NZ's financial statements are true and fair and otherwise conform with law;

13(a)(vii) ensuring Retail NZ adheres to high standards of ethics and corporate behaviour; and

13(a)(viii) ensuring Retail NZ has appropriate risk management/regulatory compliance policies in place.

13(b) In the normal course of events, day-to-day management of Retail NZ will be in the hands of management.

13(c) In fulfilling its duties, the Board may, by resolution:

13(c)(i) establish and dis-establish committees for particular purposes;

13(c)(ii) make, amend or rescind By-Laws;

13(c)(iii) establish or disestablish Trade Groups to represent the interests of a sector or sectors of Retail NZ's membership which would operate on conditions and rules as provided for in the By-Laws.

14. CONTACT PERSONS

14(a) The following people will be the Contact Persons for Retail NZ:

14(a)(i) the Chief Executive;

14(a)(ii) the President; and

14(a)(iii) any other person as determined from time to time by the Board.

15. FINANCES OF RETAIL NZ

15(a) All monies received by Retail NZ are to be paid into bank accounts opened in the name of Retail NZ and from which authorised payments are to be made in accordance with Policies determined from time to time by the Board of Directors.

15(b) Retail NZ, by resolution of the Board, may:

15(b)(i) Borrow money for the purpose of Retail NZ and may give security for any such monies upon any property of Retail NZ.

15(b)(ii) Acquire or lease any lands, buildings or parts of buildings and chattels and may sell, let or dispose of the same as and when it thinks fit.

15(b)(iii) Invest and deal with the monies of Retail NZ not immediately required in such manner as may from time to time be decided subject to the supervision of the Board of Directors.

15(b)(iv) Enter into, do and perform all contracts, acts, matters and things in any way connected with the objectives of Retail NZ or related thereto.

16. **ANNUAL GENERAL MEETINGS**

16(a) The Annual General Meeting of Retail NZ must be held each year within six months of the end of the financial year at a time and place to be determined by the Board of Directors.

16(b) At each Annual General Meeting, members shall receive a report from the President; a report from the Chief Executive; and a financial report.

17. **SPECIAL AND EXTRAORDINARY GENERAL MEETINGS**

17(a) Special General Meetings must be called by the Chief Executive at the request, in writing, of a minimum of 50 ordinary members.

17(b) Extraordinary meetings of Retail NZ may be called by the President on his own motion and must be called by the President on his being requested to do so by a majority of the Board of Directors.

18. **PROCEDURES FOR ANNUAL, SPECIAL AND EXTRAORDINARY GENERAL MEETINGS**

18(a) Unless otherwise agreed by the Board, provision will be made for Members to attend all Annual General Meetings, Special General Meetings and Extraordinary Meetings by videoconference.

18(b) Notice of all General Meetings must be published on the Retail NZ website and provided by email to members at least 21 days in advance of the meeting.

18(c) Every Notice of Meeting must state the nature of the business to be transacted, the date, time, venue, and instructions for registering to attend by video conference.

18(d) The quorum for general and extraordinary meetings will be five financial members.

18(e) Any member attending a general or extraordinary meeting of Retail NZ Incorporated is entitled to speak when recognised by the Chair.

18(f) Minutes will be kept of general meetings of Retail NZ, recording the quorum, apologies and key decisions made.

19. VOTING AT MEETINGS

19(a) Unless members seek a formal poll, voting shall be conducted by acclamation or by an informal ballot conducted using videoconference software, with each member present being entitled to one vote.

19(b) In the case of a tie, the President shall have a casting vote.

19(c) At any meeting, unless a poll is demanded, a declaration by the Chairperson that a resolution has been carried or lost will be conclusive evidence without further proof of such fact.

19(d) At the request of any financial member present, a formal poll of all members shall be conducted to determine the outcomes of a vote.

19(e) In the event of a formal poll, each financial member shall have one vote for every $1,000 excluding GST (or part thereof) paid in membership subscriptions.

19(f) A formal poll will be completed be conducted using voting software as determined from time to time by the Board of Directors. Voting must open within one week of the General Meeting at which the Poll was requested, and most close two weeks after it opened.

19(g) A financial member may, by giving notice in writing to the Chief Executive, appoint any other member as his/ her proxy for voting at general meetings. Notice in writing may be given by email.

20. RETAIL NZ EMPLOYEES

20(a) The Board of Directors will appoint a Chief Executive who will be responsible for the implementation of policy and administration of Retail NZ.

20(b) The Board of Directors (or its delegated nominee) will set the salary of the Chief Executive and approve his/ her expenses.

20(c) The Chief Executive will be responsible for the keeping of minutes, a register of members and other duties as related to that office.

20(d) The Chief Executive may from time to time recruit other employees, subject to his or her financial delegations.

21. COMPLAINTS AND DISPUTE PROCEDURES

21(a) Complaints and disputes shall be referred, in the first instance to the Chief Executive.

21(b) The Chief Executive shall investigate any complaint or dispute seek to resolve the issue to the satisfaction of all parties.

21(c) In the event that the issue cannot be resolved by the Chief Executive, or relates to the conduct of the Chief Executive, the matter shall be referred to the Board.

21(d) The Board's decision in relation to all complaints and disputes shall be final.

22. ALTERATION OF CONSTITUTION

22(a) The Board of Directors may, by resolution, propose an alteration to the Constitution of Retail NZ.

22(b) Any financial member, with the support of 10 other financial members, may propose an alteration to the Constitution of Retail NZ.

22(c) Unless the Board otherwise determines, voting on proposed changes to the Constitution will take place at the same time, and in the same manner, as elections for the Board of Directors.

22(d) All Retail NZ members which are fully paid up to are eligible to vote in formal polls on changes to the Constitution. Each member will have one vote for each $1,000 or part thereof that it pays in membership subscriptions.

22(e) Notwithstanding Rules 22(a) to 22(d) above, no addition to or alteration of the objects, personal benefit clause or the winding up clause shall be made which affect the not-for-profit status. The provisions and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.

23. AUDITOR

23(a) The accounts of Retail NZ must be audited at least once in each year prior to the Annual General Meeting, or at such other time as the Board of Directors may decide.

23(b) The Auditors of Retail NZ must be a member or members of the Chartered Accountants Australia New Zealand.

23(c) The Auditors will be appointed by the Board.

24. WINDING UP OF RETAIL NZ

24(a) If a majority of the ordinary financial members of Retail NZ resolve at any general Meeting that Retail NZ should be wound up, and that resolution is confirmed at a later General Meeting called or that purpose and held not earlier than 30 days nor more than two months after the date on which the resolution so to be confirmed was passed, the Chief Executive must wind up Retail NZ.

24(b) In the event of a winding up being effected the Chief Executive and one other person appointed by the members must realise the assets and pay all costs, debts and liabilities of Retail NZ.

24(c) In the event of there being assets remaining after the payment of all costs, debts and liabilities then such assets are to be transferred to some other organisation with similar objects to Retail NZ, which has rules which prohibit the distribution of its property and/ or income amongst its members. The determination of the recipient of surplus assets of Retail NZ must be made at or before the time of resolution to wind up Retail NZ and, if not, by a judge of the High Court of New Zealand.

24(d) If Retail NZ is registered as a charity, then the organisation to which assets are transferred under section 24(c) must also be registered as a charity.

24(e) In the event of Retail NZ being wound up, otherwise than a voluntary winding-up, the assets will be disposed of in the manner set out in section 24(c) and 24(d) above.

25 COMMON SEAL

25(a) Retail NZ will have a Common Seal which will be held by the Chief Executive. Such seal may only be affixed in the presence of two people authorised for such purpose by the Board of Directors.