

CONSTITUTION
OF
RICEGROWERS LIMITED
ACN 007 481 156

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RICEGROWERS LIMITED

ACN 007 481 156

1. PRELIMINARY

1.1 Definitions

In this Constitution unless the context requires otherwise:

“**A Class Share**” means a redeemable preference Share having the rights conferred on A Class Shares by this Constitution;

“**A Class Shareholder**” means the holder of an A Class Share;

“**Act**” means the *Corporations Act 2001* (Cth) as amended or replaced from time to time;

“**Active Co-operative Member**” means a person who was, as at the date on which the Co-operative was registered as a company, an active member of the Co-operative as defined in the Co-operative’s rules;

“**Active Grower**” means any person who, on a particular date (“**Test Date**”) has supplied not less than one tonne of paddy rice (being the produce of that grower and not acquired for delivery) to the Company during the period from and including the beginning of the Two Year Delivery Period up to and including the day before the Test Date;

“**Active Grower Director**” means a Director who holds, or is the Representative of a body corporate that holds, an A Class Share;

“**Approved Entity**” means, in relation to a Member, the trustee of a superannuation fund:

- (a) of which the person is a beneficiary; and
- (b) that has been approved by the Directors;

“**Approved Rearrangement**” means a restructure of a Member’s rice farming business which has been approved by the Board;

“**ASTC**” means ASX Settlement and Transfer Corporation Pty Limited as approved as the Securities Clearing House under the Act;

“**ASTC Business Rules**” means the Business Rules of ASTC from time to time;

“**Auditor**” means the Company’s auditor;

“**B Class Share**” means a Share having the rights conferred on B Class Shares by this Constitution;

“**B Class Shareholder**” means the holder of a B Class Share;

“**Board**” means the board of Directors from time to time;

“**Business Day**” means a day other than a Saturday, Sunday or public holiday in New South Wales;

“**CHESS approved securities**” means securities approved by ASTC in accordance with the ASTC Business Rules;

“Company” means Ricegrowers Limited, being the company formed upon registration of the Co-operative as a company under Part 5B.1 of the Act;

“Constitution” means this document as amended from time to time and the reference to any “Rule” or “Part” is a reference to the rule or part, respectively, of that number in this Constitution;

“Co-operative” means the Ricegrowers’ Co-operative Limited (ARBN 007 481 156), being a co-operative registered under the Co-operatives Act;

“Co-operatives Act” means the Co-operatives Act 1992 (NSW);

“Delivery Period” means the period from and including 1 July in a year up to and including 30 June in the following year;

“Director” means a person appointed to the position of a director of the Company;

“Elected RMB Member” means an elected member of the Rice Marketing Board for the State of New South Wales (“RMB”), including a person who is deemed by the Marketing Primary Products Act 1983 (NSW) to be an elected member of RMB;

“Employee Share Plan” means a plan approved by A Class Shareholders in general meeting under which B Class Shares may be issued to, or for the benefit of, employees or Independent Directors of the Company and its related bodies corporate;

“Financial Market” means a financial market as defined in the Act which is operated by the holder of an Australian market licence;

“Independent Director” means a Director other than an Active Grower Director;

“Initial Directors” means those persons who were directors of the Co-operative immediately before the registration of the Co-operative as a Company under Part 5.B1 of the Act;

“Initial Members” means persons who are entitled to receive B Class Shares upon registration of the Co-operative as a company under Part 5B.1 of the Act, being:

- (a) each member of the Co-operative who held shares in the Co-operative at the date of its registration as a company; and
- (b) each former member of the Co-operative who is entitled to be regarded as the holder of shares in the Co-operative under Part 6 Division 5 of the Co-operatives Act upon its registration as a company and has not lost that entitlement under section 141 of the Co-operatives Act;

“Initial Period” means the period commencing on the registration of the Co-operative as a company under Part 5B.1 of the Act and ending on the earlier of:

- (a) the date determined by the Board as the end of the Initial Period; and
- (b) the date on which any of the B Class Shares are admitted to quotation on a Financial Market;

“Initial Shares” means the B Class Shares issued to Initial Members upon registration of the Co-operative as a company under the Act;

“Market Rules” means the rules of a Financial Market applicable to the Company while any of its Shares are admitted to quotation on that Financial Market;

“Member” means the registered holder of a Share;

“Minimum B Shareholding” means:

- (a) in relation to Initial Members, the lesser of 1,000 B Class Shares and the number of B Class Shares that they hold upon implementation of the Restructure; and
- (b) in relation to other Members, 1,000 B Class Shares.

“month” means calendar month;

“New Supplier Member” means a person who has been admitted as a Member on the basis that they are, or the Board believes that they will become, as Active Grower;

“paddy rice” means harvested rice in an unprocessed state;

“Primary Notice” means a written notice addressed to a Member requiring the Member to provide to the Company a written statement setting out:

- (a) full particulars of their own relevant interest in Shares and of the circumstances that give rise to that interest;
- (b) so far as is known the Member, the name and address of each other person who has a relevant interest in any of those Shares together with full details of the nature and extent of the interest and the circumstances that give rise to the other person’s interest; and
- (c) so far as is known to the Member, the name and address of each person who has given to the Member instructions about:
 - (i) the acquisition or disposal of any of those Shares; or
 - (ii) the exercise of any voting or other rights attached to any of those Shares; or
 - (iii) any other matter relating to any of those Shares;

together with full details of those instructions, including the date or dates on which they were given.

“Register” means the register of Members kept pursuant to the Act;

“related body corporate” has the meaning given to that term in the Act;

“Representative”, in relation to a body corporate, means a representative of the body corporate appointed under section 250D(1) of the Act;

“Rice Bonds” means subordinated loans previously made to the Co-operative and known as Rice Bonds;

“RMB” means the Rice Marketing Board for the State of New South Wales;

“RMB Equity Holder” means a person entitled to receive a payment from RMB under the RMB Capital Equity Rollover Scheme;

“Secondary Notice” means a written notice addressed to a person (“the recipient”) requiring the recipient to provide to the Company a written statement setting out:

- (a) full particulars of their own relevant interest in Shares and of the circumstances that give rise to that interest;

- (b) so far as is known the recipient, the name and address of each other person who has a relevant interest in any of those Shares together with full details of the nature and extent of the interest and the circumstances that give rise to the other person's interest; and
- (c) so far as is known to the recipient, the name and address of each person who has given to the recipient instructions about:
 - (i) the acquisition or disposal of any of those Shares; or
 - (ii) the exercise of any voting or other rights attached to any of those Shares; or
 - (iii) any other matter relating to any of those Shares;

together with full details of those instructions, including the date or dates on which they were given.

"Share" means a share in the capital of the Company of whatever class;

"Share Issue Formula" means the procedures and principles set out in Schedule Two;

"Shareholder" means the registered holder of a Share;

"Supplier Member" means any Member who supplies rice to the Company and any New Supplier Member;

"Suppliers Share Plan" means the plan set out in Schedule One under which Supplier Members are required to subscribe for additional B Class Shares upon the terms of the plan;

"Transmission Event" means:

- (a) in respect of a Member who is an individual:
 - (i) the death of the Member;
 - (ii) the bankruptcy of the Member;
 - (iii) the Member becoming of unsound mind; or
 - (iv) the Member becoming liable to be dealt with in any way under the law relating to mental health; and
- (b) in respect of a Member who is a body corporate, the dissolution of the Member or the succession by another body corporate to the assets and liabilities of the Member; and

"Two Year Delivery Date" means the two most recently completed Delivery Periods.

1.2 Interpretation

In this Constitution, headings are for convenience only and do not affect interpretation and, unless the context requires otherwise:

- (a) a reference in a Rule to a partly paid Share is a reference to a Share on which there is an amount unpaid;
- (b) a reference in a Rule to a call or an amount called in respect of a partly paid Share includes a reference to a sum that, by the terms of issue of a Share, becomes payable on allotment or at a fixed date;

- (c) a Member is to be taken to be present at a general meeting if the Member is present in person or by proxy, attorney or Representative;
- (d) a Director is to be taken to be present at a meeting of Directors if the Director is present in person or by an alternate Director;
- (e) a reference in a Rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being;
- (f) words importing the singular include the plural and vice versa;
- (g) words importing a gender include every other gender;
- (h) a reference to a person includes a natural person, company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
- (i) a reference to a person includes that person's successors and legal personal representatives including in the case of a body corporate, a liquidator or administrator;
- (j) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (k) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
- (l) a reference to "shall", "must" or a similar word or expression, used in relation to a power of the Directors, indicates that the power must be used, subject to the Act or the Rule granting the power.

1.3 **Application of the Act**

- (a) This Constitution is to be interpreted subject to the Act.
- (b) Unless the contrary intention appears, an expression in a Rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision.

1.4 **Effect of Market Rules**

While any of the Shares are admitted to quotation on a Financial Market, the following provisions apply:

- (a) despite anything contained in this Constitution, if the Market Rules prohibit an act being done that act must not be done;
- (b) nothing contained this Constitution prevents an act being done that the Market Rules require to be done;
- (c) if the Market Rules require any act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Market Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;

- (e) if the Market Rules require this Constitution not to contain a provision and it does contain such a provision, this Constitution is deemed not to contain that provision;
- (f) if any provision of this Constitution is or becomes inconsistent with the Market Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

1.5 Replaceable Rules not to apply

The replaceable rules contained in the Act do not apply to the Company except to the extent that they are repeated in this Constitution.

1.6 ASTC Business Rules

Despite anything contained in this Constitution, the Company must comply with the ASTC Business Rules if any of its securities are CHES approved securities. In particular, the Company must comply with the requirements of the ASTC Business Rules regarding the maintenance of registers, the issuing of holding statements and transfers in relation to CHES approved securities.

2. OBJECTS AND POWERS

2.1 Primary Objects

The primary objects of the Company's business are:

- (a) to receive, process and market rice, rice products and rice by-products; and
- (b) to achieve long term improvement in the returns to Supplier Members for paddy rice supplied to the Company and the profitability of the Company's businesses.

2.2 Support of Primary Objects

The Directors shall manage the Company's business and exercise their powers and duties having due regard to the primary objects of the Company as set out in Rule 2.1.

2.3 Powers

The Company has the legal capacity and all of the powers conferred by the Act on a company limited by shares.

2.4 No Limitation on Powers

Rules 2.1 and 2.2 do not limit the powers that the Company has under the Corporations Act or restrict the Company's exercise of those powers.

3. SHARE CAPITAL

3.1 Classes of Shares

The share capital of the Company is divided into:

- (a) A Class Shares; and
- (b) B Class Shares.

3.2 A Class Shares

A Class Shares can only be issued to:

- (a) Initial Members who are Active Co-operative Members; and

- (b) Active Growers or persons whom the Directors believe, on reasonable grounds, will become Active Growers.

3.3 **A Class Shares to Initial Members**

Upon registration of the Co-operative as a company under Part 5B.1 of the Act, all Initial Members who are Active Co-operative Members will each be issued with one A Class Share. No amount is payable in relation to the issue of A Class Shares to those Initial Members.

3.4 **B Class Shares**

B Class Shares can only be issued to:

- (a) the Initial Members upon registration of the Co-operative as a company under the Act;
- (b) an A Class Shareholder or a person to whom the Directors have agreed to issue an A Class Share;
- (c) a person who is, at the time of the issue, an existing B Class Shareholder;
- (d) an Approved Entity of a person referred to in paragraph (b) or (c) of this Rule;
- (e) participants under an Employee Share Plan; or
- (f) RMB Equity Holders.

3.5 **Initial Shares**

Upon registration of the Co-operative as a company under Part 5B.1 of the Act:

- (a) each person who is a member of the Co-operative as at the date of registration will be issued with one (1) B Class Share for each share they held in the Co-operative at that date; and
- (b) each person who is entitled under Part 6 Division 5 of the Co-operatives Act to be regarded as the holder of shares in the Co-operative that were previously forfeited will, subject to any loss of that entitlement under section 141 of the Co-operatives Act, be issued with one (1) B Class Share for every share in the Co-operative they are regarded as the holder of.

3.6 **Minimum B Shareholding**

Each A Class Shareholder or their Approved Entity must hold, or have entered into an agreement with the Company to acquire by subscription or purchase, a number of B Class Shares which is not less than the Minimum B Shareholding.

3.7 **Other Classes of Shares**

Shares other than A Class Shares and B Class Shares can not be issued without the prior approval of A Class Shareholders by special resolution passed at a general meeting of the Company.

3.8 **Issue of Shares**

Without prejudice to any special rights conferred on the holders of any Share or class of Share but subject to the Act and this Constitution (in particular Rules 3.2, 3.3, 3.4, 3.5 and 3.7), the Directors may issue, allot or grant options in respect of, or otherwise dispose of, Shares to such persons, for such price, on such conditions, at such times and with such preferred, deferred or other special rights or special restrictions, whether with regard to dividend, voting, return of capital, participation in the property of the Company on a winding up or otherwise, as the Directors think fit. The Directors

may differentiate between the holders of partly paid Shares as to the amount of calls to be paid and the time for payment.

3.9 Share Issue Formula

Without limiting the Directors powers under Rule 3.8, the Directors are authorised to issue B Class Shares to Initial Members (in addition to their Initial Shares) on the basis of the Share Issue Formula at a nil issue price per Share.

3.10 Preference shares

Subject to the Act and this Constitution, the Directors may issue preference shares that are liable to be redeemed.

3.11 Application for Shares

Applications for Shares, shall be lodged at the registered office in the form approved by the Directors together with the amount required to be paid on issue of the Shares. Every such application shall be considered by the Directors. If the Directors approve of the application, the Directors shall allot the Shares applied for. The applicant's name together with the number of Shares allotted, date of allotment and any other information required by or under the Act shall be entered in the register of members. The Directors may, at their discretion, refuse any application for Shares and need not assign reasons for such refusal. Upon refusal the amount paid by the applicant shall be refunded without interest.

3.12 Dividend Re-investment Plan

The Directors may, subject to the Act and this Constitution:

- (a) establish a dividend reinvestment plan on terms determined by the Directors and issue B Class Shares under that plan; and
- (b) from time to time amend, suspend or terminate such plan.

3.13 Acquisition of B Class Shares by A Class Shareholders

The Directors may, in their absolute discretion, take steps and implement measures to encourage and facilitate the acquisition of B Class Shares by A Class Shareholders. Without limitation, those steps and measures may include the offer of B Class Shares to all or any of the A Class Shareholders on terms that facilitate their acquisition of B Class Shares.

3.14 Suppliers Share Plan

The Directors may:

- (a) require Supplier Members to subscribe for additional B Class Shares in accordance with the Suppliers Share Plan; and
- (b) apply amounts payable by the Company to a Supplier Member in respect of their supply of paddy rice to the Company in payment for additional B Class Shares that the Supplier Member is obliged to subscribe for under the Suppliers Share Plan.

The Suppliers Share Plan is binding on all current and future Supplier Members.

3.15 **Rice Bonds**

Upon registration of the Co-operative as a company under Part 5B.1 of the Act, all of the rights and obligations of the Co-operative relating to Rice Bonds continue as rights and obligations of the Company in accordance with section 601BM(1) of the Act. Without limitation, the Company may:

- (a) with the consent of the holder of Rice Bonds, repay or redeem Rice Bonds at any time before the final repayment or maturity date of the Rice Bonds; or
- (b) permit the holder of Rice Bonds to apply Rice Bonds to satisfy all or part of the issue price of Shares.

3.16 **Employee Share Plan**

The Company may establish an Employee Share Plan and, subject to the Act and this Constitution, issue B Class Shares to participants under that Plan.

4. MAXIMUM SHAREHOLDING

4.1 **Maximum A Class Shareholding**

A person must not hold more than five A Class Shares.

4.2 **Maximum B Class Shareholding**

A person must not hold a number of B Class Shares which, when aggregated with any B Class Shares held by all Associates of that person, exceeds 5% of the total number of issued B Class Shares.

4.3 **Restrictions on Share Issues and Transfers**

The Directors must not issue Shares or approve a transfer of Shares if, as a result of that issue or transfer, a person would breach Rule 4.1 or Rule 4.2.

4.4 **Disclosure of Shareholdings**

- (a) The Company may give a Primary Notice to any Member.
- (b) Within 5 Business Days of receipt of a Primary Notice, the Member must provide to the Company a written statement setting out the information required by the Primary Notice.
- (c) Where the Company receives (either in response to a Primary Notice or a Secondary Notice) information that:
 - (i) another person has a relevant interest in any Shares; or
 - (ii) another person has given relevant instructions in relation to any Shares, the Company may give to that other person a Secondary Notice in relation to those Shares.
- (d) Within 5 Business Days of receipt of a Secondary Notice, the recipient must provide to the Company a written statement setting out the information required by the Secondary Notice.
- (e) The Company may at any time withdraw a Primary Notice or Secondary Notice.

4.5 **Consequences of Breach in relation to A Class Shares**

- (a) If the Directors are satisfied that a Member holds an A Class Share in breach of Rule 4.1, the Directors may redeem the A Class Share in accordance with Rule 5.3.

- (b) A Member that holds an A Class Share in breach of Rule 4.1 does not, while the breach continues, have any right to vote at any general meeting of the Company.

4.6 **Consequences of Breach in relation to B Class Shares**

- (a) If the Directors are of the opinion that a Member holds B Class Shares in breach of Rule 4.2, the Directors may by a written transfer notice to the Member require that the Member dispose of a number of B Class Shares to remedy that breach. The number of B Class Shares required to be disposed of will be specified in the transfer notice.
- (b) If the requirements of the transfer notice given under this Rule are not complied with by such Member to the satisfaction of the Directors within the time specified in the transfer notice the Directors may:
 - (i) cause such number of B Class Shares held by such Member as was specified in the transfer notice (or any lesser number of such B Class Shares) to be sold by a person nominated by the Directors, at the best price or prices which the person so appointed by the Directors is able to obtain within a reasonable time after the B Class Shares in question are offered for sale;
 - (ii) register the transfer of the B Class Shares notwithstanding that the certificates for the B Class Shares to be transferred may not have been delivered to the Company and issue new certificates to the transferee; and
 - (iii) appoint a person on behalf of such Member to execute the transfer of the B Class Shares being sold and to receive the purchase money.
- (c) The entry of the name of any purchaser of B Class Shares in the Register in respect of B Class Shares purchased under this Rule shall be final and binding on every Member.
- (d) The purchase money received on any sale under this Rule less the expenses of sale shall be paid to the Member whose B Class Shares were sold provided that the Member has delivered to the Company for cancellation the certificate relating to the B Class Shares.
- (e) A Member that holds B Class Shares in breach of Rule 4.2 does not, while the breach continues, have any right:
 - (i) to vote at any meeting of B Class Shareholders; or
 - (ii) to receive any dividend or other distribution made by the Company in relation to B Class Shares held by that Member.
- (f) At any meeting of B Class Shareholders:
 - (i) a ruling by the chairperson of that meeting that a Member does not have a right to vote for the reasons set out in Rule 4.5(e) will be final and bind the Member concerned; and
 - (ii) no resolution will be invalid by reason only that it is subsequently determined that a Member voted on that resolution when that Member did not have a right to vote for the reasons set out in Rule 4.5(e).
- (g) A Member who is paid a dividend or other distribution to which the Member is not entitled for the reasons set out in Rule 4.5(e), must refund that dividend or distribution to the Company promptly upon receipt of written notice from the Company requiring the amount to be refunded. The Company has a first and paramount lien on any B Class Shares on which a payment referred to in this Rule 4.5(g) is made and may enforce that lien in the manner

specified in Rule 8.5 as if the amount repayable to the Company were an amount unpaid on those B Class Shares.

4.7 **Definitions**

For the purposes of Rules 4.1 to 4.6:

- (a) a person will be deemed to hold a Share if that person has a relevant interest, as defined in the Act, in that Share;
- (b) subject to paragraph (c) of this Rule, an Associate of another person (“primary person”) means:
 - (i) if the primary person is a body corporate, a director or secretary of the body corporate, its related bodies corporate and a director or secretary of any of its related bodies corporate;
 - (ii) a person with whom the primary person has entered into, or proposes to enter into, a relevant agreement, as defined in the Act, for the purpose of controlling or influencing the composition of the Board or the conduct of the Company’s affairs;
 - (iii) a person with whom the primary person is acting, or proposes to act, in concert in relation to the Company’s affairs;
- (c) a person is not an Associate of another person merely because the person has been appointed as the proxy, representative or attorney of the other person provided that:
 - (i) the appointment is for one meeting only; and
 - (ii) neither the person nor any of their Associates gives valuable consideration for the appointment.

5. **RIGHTS APPLICABLE TO SHARES GENERALLY**

5.1 **A Class Shares**

Each A Class Share confers on its holder:

- (a) the right to receive notice of, attend and, subject to Rule 4.5, vote at all general meetings of the Company;
- (b) the right to be repaid the amount paid up on the Class A Share on redemption or winding up of the Company in preference to all other Shareholders; and
- (c) no right to participate in any dividends or distributions (other than as provided in paragraph (b)) made by the Company.

5.2 **B Class Shares**

Each B Class Share confers on its holder:

- (a) the right to receive dividends declared and other distributions made by the Company from time to time;
- (b) the right to participate equally with other B Class Shareholders in the distribution of surplus on a winding up the Company; and

- (c) the right to receive notice of and attend all general meetings of the Company, but no right to vote at general meetings.

5.3 **Redemption of A Class Shares**

Subject to Rules 5.4 and 5.5, the Directors may redeem the A Class Share held by a Member if:

- (a) the whereabouts of the Member are not presently known to the Company and have not been known to the Company for a continuous period of at least two years before the date on which redemption takes place;
- (b) at any time after 30 June 2006, the Member is not an Active Grower;
- (c) the Member or their Approved Entity does not hold, or has not entered into an agreement with the Company to acquire by subscription or purchase, a number of B Class Shares which is not less than the Minimum B Shareholding; or
- (d) a breach of Rule 4.1 exists in relation to the A Class Share.

The Directors shall redeem the A Class Share held by a Member upon the occurrence of a Transmission Event in relation to the Member.

5.4 **Redemption Process**

A Class Shares are redeemable by the Directors:

- (a) giving written notice of redemption to the holder; and
- (b) repaying to the holder the amount (if any) paid up on the A Class Share redeemed.

5.5 **Deferral of Redemption**

Rule 5.3(b) does not oblige the Directors to redeem the A Class Share of a Member immediately upon the Member ceasing to be an Active Grower and, without limiting the Directors' discretion under that Rule, the Directors may defer redemption of the A Class Share of a Member if the Directors believe that the Member will resume being an Active Grower.

5.6 **Variation of Class Rights**

The rights attaching to Shares in any class of Share may be varied or cancelled by:

- (a) a special resolution of the Company, voted on by those Members entitled to attend and vote at general meetings of the Company; and
- (b) a special resolution passed at a meeting of the class of Members holding Shares in the affected class.

The provisions of this Constitution applicable to general meetings will apply with any necessary changes, to a meeting of a class of Members. For the avoidance of doubt, at a class meeting of B Class Shareholders, each B Class Shareholder shall have one vote on a show of hands and, on a poll, one vote for each B Class Share held.

5.7 **Re-classification of Shares**

Subject to this Constitution, the Company may re-classify or convert Shares from one class to another by special resolution.

6. SUPPLIER MEMBERS

6.1 Dealings with Supplier Members

In accordance with its primary objects, the Company may acquire paddy rice from Supplier Members. The Company may enter into contracts with such Supplier Members in connection with the production or supply of paddy rice.

6.2 Payment arrangements

The Directors may declare and pay bonuses to Supplier Members in respect of their supply of paddy rice to the Company.

6.3 Provision of Services

The Company may provide services to Supplier Members in connection with their production or supply of paddy rice and enter into contracts with Supplier Members in relation to those services.

6.4 No limit on dealings

Rules 6.1, 6.2 and 6.3 do not limit the ways in which the Company may deal with Supplier Members.

7. SHAREHOLDING DETAILS

7.1 Equitable and other claims

- (a) Except as otherwise required by law or provided by this Constitution, the Company is entitled to treat the registered holder of a Share as the absolute owner of that Share and is not:
 - (i) compelled in any way to recognise a person as holding a Share upon any trust, even if the Company has notice of that trust; or
 - (ii) compelled in any way to recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a Share on the part of any other person except an absolute right of ownership in the registered holder, even if the Company has notice of that claim or interest.
- (b) With the consent of the Directors, Shares held by a trustee may be marked in the Register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in Rule 7.1(b) limits the operation of Rule 7.1(a).

7.2 Certificates

The Company will issue share certificate to Members if required by the Act. To the extent permitted by the Act, the Board may resolve not to issue certificates for Shares or to cancel certificates for Shares and not issue replacement certificates.

7.3 Joint holders of Shares

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

- (a) they and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the Share;

- (b) subject to Rule 7.1(a), on the death of any one of them the survivor or survivors are the only person or persons the Company will recognise as having any title to the Share;
- (c) any one of them may give effectual receipts for any dividend, interest or other distribution or payment in respect of the Share;
- (d) the Company is not bound to issue more than one certificate in respect of the Share; and
- (e) delivery of a certificate for the Share to any one of them is sufficient delivery to all of them.

8. CALLS, FORFEITURE, INDEMNITIES, LIEN AND SURRENDER

8.1 Calls

- (a) Subject to this Constitution and to the terms upon which any Share may be issued, the Directors may make calls upon the Members in respect of any money unpaid on their Shares which is not by the terms of issue of those Shares made payable at fixed times.
- (b) A call may be required by the Directors to be paid by instalments.
- (c) Upon receiving at least ten Business Days' notice specifying the time and place of payment, each Member must pay to the Company by the time and at the place so specified the amount called on the Member's Shares.
- (d) A call is to be taken as having been made when the resolution of the Directors authorising the call was passed.
- (e) The Directors may revoke a call.
- (f) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any Member does not invalidate the call.
- (g) If a sum called in respect of a Share is not paid in full by the day appointed for payment of the sum, the person from whom the sum is due must pay:
 - (i) interest on so much of the sum as is unpaid from time to time, from the date appointed for payment of the sum to the date of actual payment, at a rate determined under Rule 8.9; and
 - (ii) any costs, expenses or damages incurred by the Company in relation to the non-payment or late payment of the sum.
- (h) Any sum unpaid on a Share that, by the terms of issue of the Share, becomes payable on allotment or at a fixed date:
 - (i) is to be treated for the purposes of this Constitution as if that sum was payable pursuant to a call duly made and notified; and
 - (ii) must be paid on the date on which it is payable under the terms of issue of the Share.
- (i) The Directors may, to the extent permitted by law, waive or compromise all or any part of any payment due to the Company under the terms of issue of a Share or under this Rule 8.1.

8.2 Proceedings for recovery of calls

- (a) In an action or other proceedings for the recovery of a call, or interest or costs or expenses incurred in relation to the non-payment or late payment of a call, proof that:

- (i) the name of the defendant is entered in the Register as the holder or one of the holders of the Shares in respect of which the call is claimed;
- (ii) the resolution making the call is recorded in the minute book; and
- (iii) notice of the call was given to the defendant in accordance with this Constitution,

is conclusive evidence of the debt and it is not necessary to prove the appointment of the Directors who made the call or any other matter.

- (b) In Rule 8.2(a), “defendant” includes a person against whom a set-off or counter-claim is alleged by the Company and “action or other proceedings for the recovery of a call” is to be construed accordingly.

8.3 **Payments in advance of calls**

- (a) The Directors may accept from a Member the whole or a part of the amount unpaid on a Share although no part of that amount has been called.
- (b) The Directors may authorise payment by the Company of interest upon the whole or any part of an amount accepted under Rule 8.3(a), until the amount becomes payable, at a rate agreed between the Directors and the Member paying the amount (but which must not exceed six per cent (6%) per annum unless approved by the Company in general meeting).
- (c) The Directors may repay to a Member all or any of the amount accepted under Rule 8.3(a).

8.4 **Forfeiture of partly paid Shares**

- (a) If a Member fails to pay the whole of a call or instalment of a call by the time appointed for payment of the call or instalment, the Directors may serve a notice on that Member:
 - (i) requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs, expenses or damages that may have been incurred by the Company by reason of the non-payment or late payment of the call or instalment;
 - (ii) naming a further day (at least 14 days after the date of service of the notice) by which, and a place at which, the amount payable under Rule 8.4(a)(i) is to be paid; and
 - (iii) stating that, in the event of non-payment of the whole of the amount payable under Rule 8.4(a)(i) by the time and at the place named, the Shares in respect of which the call was made will be liable to be forfeited.
- (b) If the requirements of a notice served under Rule 8.4(a) are not complied with, the Directors may by resolution forfeit any Shares in respect of which the notice was given at any time after the day named in the notice and before the payment required by the notice is made.
- (c) A forfeiture under Rule 8.4(b) will include all dividends, interest and other money payable by the Company in respect of the forfeited Shares and not actually paid before the forfeiture.
- (d) Where Shares have been forfeited:
 - (i) notice of the resolution passed pursuant to Rule 8.4(b) must be given to the Member in whose name the Shares stood immediately before the forfeiture; and
 - (ii) an entry of the forfeiture, with the date, must be made in the Register.

- (e) Failure to give the notice or to make the entry required under Rule 8.4(d) does not invalidate the forfeiture.
- (f) A forfeited Share becomes the property of the Company and the Directors may, subject to this Constitution, sell, reissue or otherwise dispose of the Shares in such manner as they think fit and, in the case of reissue or other disposal, with or without any money paid on the Shares by any former holder being credited as paid up.
- (g) A person whose Shares have been forfeited ceases to be a Member in respect of the forfeited Shares, but remains liable to pay, and must immediately pay, to the Company:
 - (i) all calls, instalments, interest, costs, expenses and damages owing in respect of the Shares at the time of the forfeiture; and
 - (ii) interest on so much of the amount payable under Rule 8.4(g)(i) as is unpaid from time to time, from the date of the forfeiture to the date of actual payment, at a rate determined under Rule 8.9.
- (h) Except as otherwise provided by this Constitution, the forfeiture of a Share extinguishes all interest in, and all claims and demands against the Company in respect of, the forfeited Share and all other rights incident to the Share.
- (i) The Directors may:
 - (i) exempt a Share from all or any part of this Rule 8.4;
 - (ii) waive or compromise all or any part of any payment due to the Company under this Rule 8.4; and
 - (iii) before a forfeited Share has been sold, reissued or otherwise disposed of, annul the forfeiture upon such conditions as they think fit.

8.5 Lien on Shares

- (a) The Company has a first and paramount lien on:
 - (i) each partly paid Share for all unpaid calls and instalments due in respect of that Share; and
 - (ii) each Share for such amounts (if any) as the Company may be called upon by law to pay (and has paid) in respect of that Share.
- (b) The Company's lien on a Share extends to all dividends payable in respect of the Share and to the proceeds of sale of the Share.
- (c) The Directors may sell any Shares on which the Company has a lien in such manner as they think fit where:
 - (i) an amount in respect of which a lien exists under this Rule 8.5 is presently payable; and
 - (ii) the Company has, not less than 14 days before the date of the sale, given to the registered holder of the Shares a notice in writing setting out, and demanding payment of, such amount in respect of which the lien exists as is presently payable and stating that, upon failure to make payment of the sum demanded within the time stipulated, the Shares will be sold.

- (d) Where the highest offer received by the Directors is less than the amount paid up on Shares to be sold, the Directors shall, before accepting the offer, notify the Member of the receipt of such offer and the amount of the offer, and of the Directors' intention to accept the offer at the expiration of 14 days, if no payment is made before then to the Company of all moneys in respect of which the charge exists.
- (e) From the proceeds of any such sale the Company may deduct the expenses, if any, associated with the sale and may apply the balance to reduce the liability of the Member. However, if a surplus remains after such deduction the surplus shall be payable to the Member whose Shares were sold.
- (f) For giving effect to any such sale the Directors may authorise a person to transfer the Shares sold to the purchaser of them.
- (g) Registration by the Company of a transfer of Shares on which the Company has a lien without giving to the transferee notice of its claim releases the Company's lien in so far as it relates to sums owing by the transferor or any predecessor in title.
- (h) The Directors may:
 - (i) exempt a Share from all or any part of this Rule 8.5; and
 - (ii) waive or compromise all or any part of any payment due to the Company under this Rule 8.5.

8.6 **Surrender of Shares**

- (a) The Directors may accept a surrender of a Share by way of compromise of any claim as to whether or not that Share has been validly issued or in any other case where the surrender is within the powers of the Company.
- (b) Any Share so surrendered may be sold, reissued or otherwise disposed in the same manner as a forfeited Share under Rule 8.4.

8.7 **Indemnity for payments by the Company**

If the Company becomes liable under any law to make any payment:

- (a) in respect of Shares held solely or jointly by a Member;
- (b) in respect of a transfer or transmission of Shares by a Member;
- (c) in respect of dividends, bonuses or other money due or payable or which may become due and payable to a Member; or
- (d) otherwise for or on account of or in respect of a Member,

whether as a consequence of:

- (e) the death of that Member;
- (f) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that Member or the legal personal representative of that Member;
- (g) the non-payment of any estate, probate, succession, death, stamp or other duty by that Member or the legal personal representative of that Member; or
- (h) any other act or thing,

then, in addition to any right or remedy that law may confer on the Company:

- (i) the Member or, if the Member is dead, the Member's legal personal representative must:
 - (i) fully indemnify the Company against that liability;
 - (ii) reimburse the Company for any payment made under or as a consequence of that law immediately on demand by the Company; and
 - (iii) pay interest on so much of the amount payable to the Company under Rule 8.7(i)(ii) as is unpaid from time to time, from the date the Company makes a payment under that law until the date the Company is reimbursed in full for that payment under Rule 8.7(i)(ii), at a rate determined under Rule 8.9.
- (j) The Directors may:
 - (i) exempt a Share from all or any part of this Rule 8.7; and
 - (ii) waive or compromise all or any part of any payment due to the Company under this Rule 8.7.

8.8 General provisions applicable to a disposal of Shares under this Constitution

- (a) A reference in this Rule 8.8 to a "disposal of Shares under this Constitution" is a reference to:
 - (i) any sale, reissue or other disposal of a forfeited Share under Rule 8.4 or a surrendered Share under Rule 8.6; and
 - (ii) any sale of a Share on which the Company has a lien under Rule 8.5.
- (b) Where any Shares are "disposed of under this Constitution", the Directors may:
 - (i) receive the purchase money or consideration given for the Shares on the disposal;
 - (ii) effect a transfer of the Shares and execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the Shares or any other instrument for the purpose of giving effect to the disposal; and
 - (iii) register as the holder of the Shares the person to whom the Shares have been "disposed of under this Constitution".
- (c) A person to whom Shares are "disposed of under this Constitution" is not bound to see to the regularity or validity of, or to the application of the purchase money or consideration on, the disposal and the title of that person to the Shares is not affected by any irregularity or invalidity in the forfeiture or surrender of the Shares or the exercise of the Company's lien on the Shares (as the case may be).
- (d) The remedy of any person aggrieved by a "disposal of Shares under this Constitution" is limited to damages only and is against the Company exclusively.
- (e) The proceeds of a "disposal of Shares under this Constitution" must be applied in the payment of:
 - (i) the expenses of the disposal; and then
 - (ii) all money presently payable by the former holder whose Shares have been "disposed of under this Constitution"; and then

- (iii) the balance (if any) must be paid (subject to any lien that exists under Rule 8.5 in respect of money not presently payable) to the former holder on the former holder delivering to the Company the certificate for the Shares that have been “disposed of under this Constitution” or such other proof of title as the Directors may accept.
- (f) A statement in writing signed by a Director or secretary of the Company to the effect that a Share in the Company has been:
- (i) duly forfeited under Rule 8.4;
 - (ii) duly sold, reissued or otherwise disposed of under Rule 8.4 or Rule 8.6 of this Constitution; or
 - (iii) duly sold under Rule 8.5,
- on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the Share and of the right of the Company to forfeit, sell, reissue or otherwise “dispose of the Share under this Constitution”.

8.9 Interest payable by Member

- (a) For the purposes of Rules 8.1(g)(i), 8.4(g)(ii) and 8.7(i)(iii), the rate of interest payable to the Company is:
- (i) if the Directors have fixed a rate, the rate so fixed; or
 - (ii) in any other case, six per cent (6%) per annum.
- (b) Interest payable under Rules 8.1(g)(i), 8.4(g)(ii) and 8.7(i)(iii) accrues daily and may be capitalised monthly or at such other intervals as the Directors think fit.

9. TRANSFER AND TRANSMISSION OF SHARES

9.1 No Transfer of A Class Shares

A Class Shares cannot be transferred to any person.

9.2 No Transfer of B Class Shares in Initial Period

B Class Shares can not be transferred to any person during the Initial Period except as provided in Rule 9.3.

9.3 Limited exceptions during Initial Period

Rule 9.2 does not prevent:

- (a) the transmission of B Class Shares into the name of a person who becomes entitled to B Class Shares as a result of a Transmission Event;
- (b) the transfer of B Class Shares to a Member or an Approved Entity of a Member as part of an Approved Rearrangement;
- (c) the transfer of B Class Shares by a Member to their Approved Entity; or
- (d) the buy back of B Class Shares by the Company in accordance with the Act.

9.4 Transfer of B Class Shares

After the Initial Period B Class Shares can only be transferred:

- (a) to a Member;
- (b) to an Approved Entity of a Member;
- (c) to a person who is a joint holder of Shares and is approved by the Board in its absolute discretion;
- (d) into the name of a person who becomes entitled to B Class Shares upon the occurrence of a Transmission Event in accordance with Rule 9.8; or
- (e) pursuant to a buy back of B Class Shares by the Company in accordance with the Act.

9.5 **General Requirements for Transfer**

- (a) Subject to this Constitution and in particular Rules 9.2, 9.3 and 9.4, B Class Shares may be transferred by a form of written instrument that complies with the Act and is approved by the Directors.
- (b) A transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares.
- (c) The Company must not charge a fee for the registration of a transfer of Shares.
- (d) An instrument of transfer referred to in Rule 9.5(a) must:
 - (i) be signed by or on behalf of both the transferor and the transferee unless:
 - (A) the instrument of transfer relates only to fully paid Shares and signature by the transferee has been dispensed with by the Directors; or
 - (B) the transfer of the Shares is effected by a document which is, or documents which together are, a sufficient transfer of those Shares under the Act;
 - (ii) if required by law to be stamped, be duly stamped;
 - (iii) if so required by the Directors either generally or in any particular case, include or be accompanied by a statutory declaration in a form prescribed by the Directors made by the transferee containing such particulars as may be required by the Directors to enable them to make a decision on whether to register the transfer; and
 - (iv) be left for registration at the registered office of the Company, or at such other place as the Directors determine, accompanied by:
 - (A) the relevant share certificate(s), if any, and such other evidence (if any) as the Directors may require to prove the title of the transferor or the transferor's right to transfer the Shares; and
 - (B) such evidence (if any) as the Directors may require to prove the status and identity of the transferee.
- (e) The Company may retain any registered instrument of transfer received by the Company under Rule 9.5(d) for such period as the Directors think fit.
- (f) Except in the case of fraud, the Company must return any instrument of transfer received under Rule 9.5(d) that the Directors decline to register to the person who deposited it with the Company.

- (g) The Directors may do anything that is necessary or desirable for the Company to participate in any computerised, electronic or other system for facilitating the transfer of Shares.
- (h) The Directors may, to the extent permitted by law, waive all or any of the requirements of this Rule 9.5, whether for the purpose of giving effect to Rule 9.5(g) or otherwise.

9.6 **[Deleted 24-8-07]**

9.7 **[Deleted 24-8-07]**

9.8 **Transmission of Shares**

- (a) In the case of the death of a Member, the only persons the Company will recognise as having any title to the Member's B Class Shares or any benefits accruing in respect of those Shares are:
 - (i) the legal personal representative of the deceased where the deceased was a sole holder; and
 - (ii) the survivor or survivors where the deceased was a joint holder.
- (b) Nothing contained in Rule 9.8(a) releases the estate of a deceased Member from any liability in respect of a B Class Share, whether that Share was held by the deceased Member solely or jointly with other persons.
- (c) Subject to Rule 9.8(f), a person who becomes entitled to a B Class Share as a result of a Transmission Event may, upon written application (accompanied by such particulars as are required by the Directors) and the production of such evidence as the Directors may require to prove that person's entitlement to the Share, elect:
 - (i) to be registered as the holder of the B Class Share by signing and serving on the Company a notice in writing stating that election; or
 - (ii) subject to Rules 9.2, 9.3 and 9.4, to transfer the B Class Share.
- (d) A person becoming entitled to a B Class Share as a result of a Transmission Event shall be entitled to the dividends and other advantages to which that person would be entitled if he or she were the registered holder of the Share.
- (e) A person registered pursuant to Rules 9.8(c) is, while so registered, subject to the same liabilities in respect of the Share as those to which that person would have been subject if the Share had remained, or had been registered in the name of the deceased, mentally incapable person or the bankrupt.
- (f) The provisions of this Constitution relating to the right to transfer B Class Shares, and the registration of transfers of Shares, apply, so far as they can and with such changes as are necessary, to any transfer under Rule 9.8(c) as if the relevant Transmission Event had not occurred and the transfer were executed or effected by the registered holder of the Shares. Without limitation, a person who becomes entitled to B Class Shares upon the occurrence of a Transmission Event can only transfer those Shares in accordance with Rules 9.2, 9.3 and 9.4.
- (g) For the purpose of this Constitution, where two or more persons are jointly entitled to any B Class Share as a result of a Transmission Event they will, upon being registered as the holders of the B Class Share, be taken to hold the B Class Share as joint tenants and Rule 7.4 will apply to them.

- (h) Notwithstanding this Rule 9.8, but subject to Rules 9.2, 9.3 and 9.4, the Directors may register a transfer of B Class Shares signed by a Member prior to a Transmission Event even though the Company has notice of the Transmission Event.

10. GENERAL MEETINGS

10.1 Convening of general meetings

- (a) The Board may, whenever it thinks fit, convene a general meeting.
- (b) A general meeting may only be convened as provided by this Rule 10.1 or as provided by the Act.
- (c) Subject to the Act, the Board may, by notice to all persons entitled to be given notice of general meetings, postpone, cancel or change the venue for a general meeting.

10.2 Notice of general meetings

- (a) Subject to this Constitution at least 21 days' notice of a general meeting must be given to each person who is at the date of the notice:
 - (i) an A Class Shareholder ;
 - (ii) a Director; or
 - (iii) an Auditor of the Company.
- (b) A notice of a general meeting must:
 - (i) specify the place, date and time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this) and, subject to the Act and this Constitution, state the general nature of the business to be transacted at the meeting;
 - (ii) contain any statement or information required by the Act;
 - (iii) be accompanied by a proxy form which will:
 - (A) enable the Member to vote for or against, or abstain from, each resolution to be voted on at the meeting; and
 - (B) allow for the insertion by the Member of the name of the person to be appointed as proxy and may also provide that, in such circumstances and on such conditions specified in the form as are not inconsistent with this Constitution, the chairperson of the relevant meeting (or another person specified in the proxy form) is appointed as proxy.
- (c) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this Rule 10.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if the non-receipt or failure occurred by accident or error.
- (d) A person's attendance at a general meeting:
 - (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and

- (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.
- (e) A general meeting may be held at two or more venues simultaneously using any technology which gives the A Class Shareholders as a whole a reasonable opportunity to participate.
- (f) Except as otherwise provided by the Act, no person shall be at liberty to move at any meeting any resolution not previously approved of by the Directors.

10.3 Admission to general meetings

The chairperson of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) in possession of a pictorial-recording or sound-recording device;
- (b) in possession of a placard or banner;
- (c) in possession of any article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) who is not:
 - (i) a Member who has the right to attend the general meeting or a proxy, attorney or Representative of such Member;
 - (ii) a Director; or
 - (iii) an Auditor of the Company.

10.4 Business of annual general meetings

- (a) The Company must hold an annual general meeting in accordance with the Act.
- (b) It is not necessary for the notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of the annual financial statements and the reports of the Directors and Auditor and any other business which is required by the Act to be transacted at the annual general meeting.

10.5 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of Members is present when the meeting proceeds to business.
- (b) Ten or more A Class Shareholders who are present personally or separately represented by proxy, Representative or attorney shall be a quorum for a general meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened upon the requisition of Members, the meeting must be dissolved; or

- (ii) in any other case:
 - (A) the meeting stands adjourned to the same day in the next week, and at the same time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
 - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the A Class Shareholders present shall constitute a quorum.

10.6 Chairperson of general meetings

- (a) The chairperson of the Board must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting:
 - (i) there is no chairperson of the Board;
 - (ii) the chairperson of the Board is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the chairperson of the Board is present within that time but is not willing to act as chairperson of the meeting,

then, if the Directors have elected a deputy chairperson of the Board, the deputy chairperson of the Board must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at the meeting.

- (c) Subject to Rules 10.6(a) and 10.6(b), if at a general meeting:
 - (i) there is no deputy chairperson of the Board;
 - (ii) the deputy chairperson of the Board is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the deputy chairperson of the Board is present within that time but is not willing to act as chairperson of the meeting,

the A Class Shareholders present must elect as chairperson of the meeting:

- (iv) another Director who is present and willing to act; or
- (v) if no other Director willing to act is present at the meeting, an A Class Shareholder who is present and willing to act,

until such time as the chairperson of the Board attends and is willing to act.

10.7 Conduct of general meetings

- (a) The chairperson of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in his or her opinion necessary or desirable for:
 - (i) proper and orderly debate or discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting; and

- (ii) the proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- (b) The chairperson of a general meeting may at any time he or she considers it necessary or desirable for the proper and orderly conduct of the meeting:
 - (i) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the A Class Shareholders present; or
 - (ii) allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.
- (c) The chairperson of a general meeting:
 - (i) may, subject to Rules 10.7(c)(iii) and 10.7(c)(iv), refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting or Rule 10.2(b);
 - (ii) may, refuse to allow any amendment to be moved to a resolution of which notice has been given under Rule 10.2(b);
 - (iii) must, in respect of an annual general meeting, allow a reasonable opportunity for the A Class Shareholders as a whole at the meeting to ask questions about or make comments on the management of the Company; and
 - (iv) must, if the Auditor or their representative is at the meeting, allow a reasonable opportunity for the A Class Shareholders as a whole at the meeting to ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report.
- (d) A decision by a chairperson under Rule 10.7(a), Rule 10.7(b) or Rule 10.7(c) is final.
- (e) The chairperson of a general meeting may, with the consent of the meeting at which a quorum is present, and must, if so directed by the meeting, adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting.
- (f) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (g) Where a meeting is adjourned, the Directors may postpone, cancel or change the venue of the adjourned meeting.
- (h) When a meeting is adjourned for 14 days or more, notice of the adjourned meeting shall be given as if the original meeting was being convened. Apart from this, it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

10.8 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting will be decided by a majority of votes cast by the A Class Shareholders present at the meeting and entitled to vote and any such decision is a decision of the Company in general meeting for all purposes.
- (b) If there is an equality of votes upon any proposed resolution the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

- (c) A resolution put to the vote of a general meeting must be decided on a show of hands, unless a poll is demanded before or immediately after the declaration of the result of the show of hands:
 - (i) by the chairperson of the meeting;
 - (ii) by at least five A Class Shareholders entitled to vote on the resolution; or
 - (iii) by A Class Shareholders representing not less than five per cent (5%) of the votes that may be cast on the resolution on a poll.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment shall be taken immediately.
- (h) The demand for a poll may be withdrawn.

10.9 **Voting Rights**

- (a) Subject to this Constitution, at a general meeting on a show of hands or on a poll, every A Class Shareholder who is present in person or represented by proxy, attorney or Representative, shall have one vote.
- (b) Subject to this Constitution, in a postal ballot held under Rule 11.2 each A Class Shareholder shall have one vote.
- (c) Where a person present at a general meeting represents personally or by proxy, attorney or Representative more than one A Class Shareholder:
 - (i) on a show of hands or on a poll the person is entitled to one vote for each of the A Class Shareholder the person represents; and
 - (ii) the person must not exercise that vote in a way which would contravene any directions given to the person in accordance with Rule 10.10(f) in any instrument appointing the person as a proxy or attorney.
- (d) A joint holder of an A Class Share may vote at any general meeting in person or by proxy, attorney or Representative as if that person was the sole holder. If more than one joint holder tenders a vote, the vote of the holder named first in the Register must be accepted to the exclusion of the other or others.
- (e) The parent or guardian of an infant A Class Shareholder may vote at any general meeting upon such evidence being produced of the relationship or of the appointment of the guardian as the Directors may require and any vote so tendered by a parent or guardian of an infant A Class Shareholder must be accepted to the exclusion of the vote of the infant Member.

- (f) Where a Member holds an A Class Share upon which any call or other sum of money payable to the Company has not been duly paid the Member has no right to vote in respect of that Share.
- (g) An objection to the qualification of a person to vote at a general meeting:
 - (i) must be raised before or at the meeting at which the vote objected to is given or tendered; and
 - (ii) must be referred to the chairperson of the meeting, whose decision is final.
- (h) A vote not disallowed by the chairperson of a meeting under Rule 10.9(g) is valid for all purposes.

10.10 Representation at general meetings

- (a) Subject to this Constitution, each A Class Shareholder entitled to vote at a general meeting may vote:
 - (i) in person or, where an A Class Shareholder is a body corporate, by its Representative;
 - (ii) by not more than one proxy; or
 - (iii) by not more than one attorney.
- (b) A proxy, attorney or Representative may, but need not, be a Member of the Company.
- (c) A proxy, attorney or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or Representative will be taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by the Act or by this Constitution;
 - (ii) to agree to a resolution being proposed and passed at a meeting of which less than 21 days' notice has been given;
 - (iii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (iv) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (v) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and

- (vi) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) The chairperson of a general meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chairperson that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (f) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument. If it does so direct:
 - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way; and
 - (ii) if the proxy is the chairperson – the proxy must vote on a poll, and must vote that way; and
 - (iii) if the proxy is not the chairperson – the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

This Rule 10.10(f) does not affect the way that the person can cast any votes they hold as a Member.

- (g) An instrument appointing a proxy or attorney need not be in any particular form provided it is in writing, legally valid and:
 - (i) in the case of a natural person, signed by the appointer;
 - (ii) in the case of a body corporate, executed by the appointer; or
 - (iii) in either case, signed by the appointer's attorney.
- (h) An instrument of proxy is not invalid or ineffective merely if any or all of the following applies:-
 - (i) it does not contain the address of the Member giving it;
 - (ii) it does not contain the address of the person appointed by it;
 - (iii) it is not dated (in this case it will be taken to have been dated on the day it is given to the Company); and
 - (iv) it does not contain a direction to the appointee as to how to vote on any or all items of business.
- (i) The appointment of a proxy or attorney is not effective unless the instrument appointing the proxy or attorney, and the original or an attested copy of the power of attorney or other authority (if any) under which the instrument is signed, are received by the Company not less than 48 hours before the time for holding the general meeting or adjourned meeting or taking the poll (as the case may be). The Company receives a document under this Rule when the document is received at the Company's registered office, a fax number at the Company's registered office or at such other address, fax number or electronic address specified for the purpose in the notice of meeting.

- (j) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:
 - (i) a Transmission Event occurring in relation to the appointer; or
 - (ii) the revocation of the instrument or of the authority under which the instrument was executed,if no notice in writing of the Transmission Event or revocation has been received by the Company by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be deposited under Rule 10.10(i).
- (k) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the Share in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be deposited under Rule 10.10(i).
- (l) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.
- (m) A proxy form issued by the Company must allow for the insertion of the name of the person to be primarily appointed as proxy and may provide that, in such circumstances and on such conditions specified in the form as are not inconsistent with this Constitution, the chairperson of the relevant meeting (or another person specified in the proxy form) is appointed as proxy.

11. DIRECTORS

11.1 Appointment and removal of Directors

- (a) The Board will comprise up to ten (10) Directors made up from the following categories, all of whom shall be natural persons and at least 18 years old:
 - (i) up to three (3) Directors who are Elected RMB Members and satisfy the qualification requirements of Rule 11.1(b)(i);
 - (ii) up to three (3) Directors who satisfy the qualification requirements of Rule 11.1(b)(ii) or 11.1(b)(iii) and are nominated for election by the Directors provided that only one (1) of such Directors may be an employee of the Company; and
 - (iii) up to four (4) Directors who satisfy the qualification requirements of Rule 11.1(b)(i) (not counting Directors elected under Rule 11.1(a)(i)).
- (b) A person is not eligible to be elected as Director of the Company unless that person:
 - (i) holds, or is the Representative of a body corporate that holds, an A Class Share;
 - (ii) is an employee of the Company; or
 - (iii) is, in the opinion of the Directors, a person with appropriate experience to be appointed as a Director.
- (c) The minimum number of Directors is three (3) and at least two (2) of the Directors must ordinarily reside in Australia.

- (d) Upon registration of the Co-operative as a company under Part 5B.1 of the Act, the Initial Directors will comprise the Board. The Initial Directors will hold office on the terms and conditions set out in this Constitution.
- (e) If a casual vacancy arises on the Board, it may be filled by the appointment of a new Director who satisfies the qualification requirements applicable to the position left vacant by resolution of:
 - (i) A Class Shareholders in general meeting; or
 - (ii) the Board.

A Director elected by resolution of the A Class Shareholders under this Rule holds office for the same period that would have applied to the former Director whose position was filled had that former Director continued in office. A Director elected under this Rule by the Board holds office until the next annual general meeting.

- (f) Elected RMB Members who satisfy the qualification requirements of Rule 11.1(b)(i) and consent to act, will be appointed as Directors for the same period as their term of office as elected RMB Members. Such appointment will be made;
 - (i) by the Directors under Rule 11.1(e) on the basis that their appointment will be confirmed by the Members at the next Annual General Meeting; or
 - (ii) by A Class Shareholders in general meeting.
 - (g) The Initial Directors who satisfy the qualification requirements of Rule 11.1(a)(iii) will hold office until the completion of the annual general meeting in 2007. Elections for the Directors who satisfy the qualification requirements of Rule 11.1(a)(iii) will be held in accordance with Rule 11.2 and the elected Directors will hold office for four (4) years or such other period as the A Class Shareholders may determine concluding at the end of the annual general meeting in the last year of their term of office.
 - (h) Directors referred to in Rule 11.1(a)(ii) will be nominated by the Board and elected by A Class Shareholders in general meeting for such term as the A Class Shareholders may determine. The Initial Directors who satisfy the qualification requirements of Rule 11.1(a)(ii) will hold office until the end of the Company's first annual general meeting.
 - (i) A Class Shareholders in general meeting may:
 - (i) by resolution in accordance with section 203D of the Act remove a Director from office; and
 - (ii) by resolution fill the office vacated by electing another person who satisfies the qualifications applicable to the former Director who was removed from office.
- A person elected as a Director under this Rule holds office for the same period as would have applied to the former Director whose position was filled if that former Director had continued in office.
- (j) A person may only be elected to the office of a Director if the person has consented in writing to act as a Director. This does not apply to a Director retiring from office and standing for re-election.

11.2 Election of Active Grower Directors

- (a) Directors who satisfy the qualification requirements of Rule 11.1(a)(iii) will be elected:

- (i) by the A Class Shareholders at the annual general meeting which marks the end of the current Directors' term of office; or
 - (ii) by postal ballot vote of the A Class Shareholders held prior to the annual general meeting which marks the end of the current Directors' term of office.
- (b) The method of election and the manner in which the election is conducted under rule 11.2(a) will be determined by the Board subject to the requirements of the Act.
- (c) A person may only be elected as a Director under Rule 11.2(a) if:
- (i) he or she is a Director whose term of office is concluding under Rule 11.1(g); or
 - (ii) written notice of his or her nomination for the position of Director signed by two (2) or more A Class Shareholders has been given to the Company before the date fixed by the Board for the closing of nominations.

11.3 **Vacation of office**

In addition to the circumstances prescribed by the Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally;
- (c) is convicted of a felony and the Directors do not within one month of that conviction resolve to confirm the Director's appointment or election (as the case may be) to the office of Director;
- (d) fails to attend meetings of the Directors for more than three consecutive months without leave of absence from the Directors;
- (e) resigns by notice in writing to the Company; or
- (f) ceases to satisfy the qualification requirements on which the Director was elected.

11.4 **Remuneration of Directors**

- (a) Each non-executive Director is to be paid:
- (i) the remuneration approved as the remuneration of directors of the Co-operative prior to its registration as a company; or
 - (ii) such other remuneration as is approved by the Company in general meeting from time to time.
- (b) The remuneration of non-executive Directors:
- (i) may be a stated allowance or a fixed sum for attendance at each meeting of Directors or both; or
 - (ii) may be a share of a fixed sum determined by the Company in general meeting to be the remuneration payable to all Directors which is to be divided between the Directors in the proportions agreed between them or, failing agreement, equally,

and if it is a stated allowance under Rule 11.4(b)(i) or a share of a fixed sum under Rule 11.4(b)(ii), will be taken to accrue from day to day.

- (c) The remuneration of executive Directors will be determined by the Board.
- (d) In addition to their remuneration, the Directors are entitled to be paid all travelling and other expenses properly incurred by them in connection with the affairs of the Company, including attending and returning from general meetings of the Company or meetings of the Directors or of committees of the Directors.
- (e) A Director who renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of the Company, may be paid extra remuneration as determined by the Board.
- (f) Nothing in Rule 11.4(a) restricts the remuneration to which a Director may be entitled as an officer of the Company or of a Related Body Corporate in a capacity other than Director, which may be either in addition to or in substitution for that Director's remuneration under Rule 11.4(a).
- (g) Subject to the Act, the Directors may:
 - (i) at any time after a Director dies or otherwise ceases to hold office as a Director, pay to the Director or a legal personal representative, spouse, relative or dependant of the Director, in addition to the remuneration of that Director, a pension or lump sum payment in respect of past services rendered by that Director; and
 - (ii) cause the Company to enter into a contract with the Director for the purpose of providing for or giving effect to such a payment.
- (h) The Directors may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the Directors or former Directors.

11.5 Interested Directors

- (a) A Director may hold any other office or place of profit (other than Auditor) in the Company or any Related Body Corporate in conjunction with his or her directorship and may be appointed to that office or place upon such terms as to remuneration, tenure of office and otherwise as the Directors think fit.
- (b) A Director of the Company may be or become a Director or other officer of, or otherwise interested in, any Related Body Corporate or any other body corporate promoted by the Company or in which the Company may be interested as a Member or otherwise and is not accountable to the Company for any remuneration benefits received by the Director as a Director or officer of, or from having an interest in, that body corporate.
- (c) The Directors may exercise the voting rights conferred by any share in any body corporate held or owned by the Company in such manner in all respects as the Directors think fit (including voting in favour of any resolution appointing a Director as a Director or other officer of that body corporate or voting for the payment of remuneration to the Directors or other officers of that body corporate) and a Director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that he or she is, or may be about to be appointed, a Director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A Director is not disqualified, merely because of being a Director, from contracting with the Company in any respect including, without limitation:

- (i) supplying rice to the Company;
 - (ii) selling any property or goods to, or purchasing any property or goods from, the Company;
 - (iii) lending any money to, or borrowing any money from, the Company with or without interest and with or without security;
 - (iv) guaranteeing the repayment of any money borrowed by the Company for a commission or profit;
 - (v) underwriting or guaranteeing the subscription for securities in the Company or in any Related Body Corporate or any other body corporate promoted by the Company or in which the Company may be interested as a Member or otherwise, for a commission or profit; or
 - (vi) being employed by the Company or acting in any professional capacity (other than Auditor) on behalf of the Company.
- (e) No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- (f) No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- (g) Subject to Rule 11.5(h), a Director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
- (i) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement to which the Seal is affixed; and
 - (iii) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- (h) The provisions of Rule 11.5(g) do not apply if, and to the extent that, they would be contrary to the Act.
- (i) The Directors may make regulations requiring the disclosure of interests that a Director, and any person deemed by the Directors to be related to or associated with the Director, may have in any matter concerning the Company or a Related Body Corporate and any regulations made under this rule will bind all Directors.

11.6 Powers and duties of Directors

- (a) The Directors are responsible for managing the business of the Company and may exercise to the exclusion of the Company in general meeting all the powers of the Company which are not required, by the Act or this Constitution to be exercised by the Company in general meeting.

- (b) Without limiting the generality of Rule 11.6(a), the Directors may exercise all the powers of the Company to borrow or otherwise raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The Directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.
- (d) The Directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (e) The Directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the Company for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for such period and upon such conditions as they think fit;
 - (ii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (iii) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the Company at any time, with or without cause.
- (f) A power of attorney granted by the Company may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Directors think fit.
- (g) The Directors may from time to time appoint any Director to an executive office on such terms as they may determine.

11.7 **Proceedings of Directors**

- (a) The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting.
- (c) The contemporaneous linking together by technology of a number of the Directors sufficient to constitute a quorum, constitutes a meeting of the Directors and all the provisions in this Constitution relating to meetings of the Directors apply, so far as they can and with such changes as are necessary, to meetings of the Directors by technology.
- (d) A Director participating in a meeting by technology is to be taken to be present in person at the meeting.
- (e) A meeting by technology is to be taken to be held at the place determined by the chairperson of the meeting provided that at least one of the Directors involved was at that place for the duration of the meeting.

11.8 **Convening of meetings of Directors**

- (a) A Director may, whenever the Director thinks fit, convene a meeting of the Directors.

- (b) A secretary must, on the requisition of a Director, convene a meeting of the Directors.

11.9 Notice of meetings of Directors

- (a) Subject to this Constitution, notice of a meeting of Directors must be given (except in exceptional circumstances) at least 48 hours prior to the time of the meeting to each person who is at the time of giving the notice:
 - (i) a Director, other than a Director on leave of absence approved by the Directors; or
 - (ii) an alternate Director appointed under Rule 11.14 by a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of Directors:
 - (i) must specify the time and place of the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may be given immediately before the meeting;
 - (iv) may be given in person or by post, facsimile transmission, telephone, email or other electronic means; and
 - (v) will be taken to have been given to an alternate Director if it is given to the Director who appointed that alternate Director.
- (c) A Director or alternate Director may waive notice of any meeting of Directors by notifying the Company to that effect in person or by post, facsimile transmission, telephone or other electronic means.
- (d) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the Director or an alternate Director appointed by the Director:
 - (A) has waived or waives notice of that meeting under Rule 11.9(c); or
 - (B) has notified or notifies the Company of agreement to that act, matter, thing or resolution personally or by post, facsimile transmission, telephone or other electronic means; or
 - (iii) the Director or an alternate Director appointed by the Director attended the meeting.
- (e) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, an alternate Director of a Director on leave of absence approved by the Directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the alternate Director or the Director who appointed the alternate Director has notified or notifies the Company of agreement to that act,

matter, thing or resolution personally or by post, facsimile transmission, telephone or other electronic means; or

(iii) the alternate Director or the Director who appointed the alternate Director attended the meeting.

(f) Attendance by a person at a meeting of Directors waives any objection that person and:

(i) if the person is a Director, an alternate Director appointed by that person; or

(ii) if the person is an alternate Director, the Director who appointed that person as alternate Director,

may have to a failure to give notice of the meeting.

11.10 Quorum at meetings of Directors

(a) No business may be transacted at a meeting of Directors unless a quorum of Directors is present at the time the business is dealt with.

(b) The quorum for any meeting of the Directors shall be one-half (or where one half is not a whole number the whole number next higher than one-half) of the number of Directors. However, for a quorum to exist the number of Active Grower Directors present must exceed the number of Independent Directors present by at least one.

(c) If there is a vacancy in the office of a Director, the remaining Director or Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the remaining Director or Directors may act only in an emergency or for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or of convening a general meeting of the Company.

11.11 Chairperson and deputy chairperson of Directors

(a) The Directors may elect one of the Directors to the office of chairperson of the Board and may determine the period for which that Director is to be chairperson of the Board.

(b) The Directors may elect one of the Directors to the office of deputy chairperson of the Board and may determine the period for which that Director is to be deputy chairperson of the Board.

(c) The office of chairperson of the Board or deputy chairperson of the Board may, if the Directors so resolve, be treated as an extra service or special exertion performed by the Director holding that office for the purposes of Rule 11.4(e).

(d) The chairperson of the Board must (if present within ten minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at each meeting of Directors.

(e) If at a meeting of Directors:

(i) there is no chairperson of the Board;

(ii) the chairperson of the Board is not present within ten minutes after the time appointed for the holding of the meeting; or

(iii) the chairperson of the Board is present within that time but is not willing to act as chairperson of the meeting,

then if the Directors have elected a deputy chairperson of the Board, the deputy chairperson of the Board must (if present within ten minutes after the time appointed for the holding of the meeting and willing to act) preside as the chairperson of the meeting.

- (f) Subject to Rule 11.11(e), if at a meeting of Directors:
- (i) there is no deputy chairperson of the Board;
 - (ii) the deputy chairperson of the Board is not present within ten minutes after the time appointed for the holding of the meeting; or
 - (iii) the deputy chairperson of the Board is present within that time but is not willing to act as chairperson of the meeting,

the Directors present must elect one of themselves to be chairperson of the meeting.

11.12 Decisions of Directors

- (a) A meeting of Directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under this Constitution.
- (b) Questions arising at a meeting of Directors are to be decided by a majority of votes cast by the Directors present and any such decision is for all purposes a determination of the Directors.
- (c) Subject to Rule 11.12(d), in the case of an equality of votes upon any proposed resolution the chairperson of the meeting, in addition to his or her deliberative vote, has a casting vote.
- (d) Where only two Directors are present or qualified to vote at a meeting of Directors and there is an equality of votes upon any proposed resolution:
 - (i) the chairperson of the meeting will not have a second or casting vote; and
 - (ii) the proposed resolution is to be taken as having been lost.

11.13 Written resolutions

- (a) If:
 - (i) all of the Directors, other than:
 - (A) any Director on leave of absence approved by the Directors;
 - (B) any Director who disqualifies himself or herself from considering the act, matter, thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
 - (C) any Director whom the other Directors reasonably believe is not entitled at law to do the act, matter or thing or to vote on the resolution in question,are given a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed; and
 - (ii) the document is assented to by a number of Directors who would have constituted a quorum at a meeting of Directors held to consider that act, matter, thing or resolution,

then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the Directors.

- (b) For the purposes of Rule 11.13(a):
 - (i) the meeting is to be taken as having been held:
 - (A) if the Directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to by a Director; or
 - (B) if the Directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to by a Director;
 - (ii) two or more separate documents in identical terms each of which is assented to by one or more Directors are to be taken as constituting one document; and
 - (iii) a Director may signify assent to a document by signing the document or by notifying the Company of the Director's assent in person or by post, facsimile transmission, telephone, email or other electronic means.
- (c) Where a Director signifies assent to a document otherwise than by signing the document, the Director must by way of confirmation sign the document at the next meeting of the Directors attended by that Director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (d) Where a document is assented to in accordance with Rule 11.12(a), the document is to be taken as a minute of a meeting of Directors.

11.14 **Alternate Directors**

- (a) A Director may, with the approval of the Directors, appoint a person to be the Director's alternate Director for such period as the Director thinks fit.
- (b) An alternate Director may, but need not, be a Member or a Director of the Company.
- (c) One person may act as alternate Director to more than one Director.
- (d) An alternate Director is entitled, if the appointer does not attend a meeting of Directors, to attend and vote in place of and on behalf of the appointer.
- (e) An alternate Director is entitled to a separate vote for each Director the alternate Director represents in addition to any vote the alternate Director may have as a Director in his or her own right.
- (f) In the absence of the appointer, an alternate Director may exercise any powers that the appointer may exercise and the exercise of any such power by the alternate Director is to be taken to be the exercise of the power by the appointer.
- (g) The office of an alternate Director is vacated if and when the appointer vacates office as a Director.
- (h) The appointment of an alternate Director may be terminated at any time by the appointer even though the period of the appointment of the alternate Director has not expired.
- (i) An appointment, or the termination of an appointment, of an alternate Director must be in writing signed by the Director who makes or made the appointment and does not take effect

unless and until the Company has received notice in writing of the appointment or termination.

- (j) An alternate Director is not to be taken into account in determining the minimum or maximum number of Directors allowed under this Constitution.
- (k) In determining whether a quorum is present at a meeting of Directors, an alternate Director who attends the meeting is to be counted as a Director for each Director on whose behalf the alternate Director is attending the meeting.
- (l) An alternate Director is entitled to be paid such remuneration as the Directors think fit, either in addition to or in reduction of the remuneration payable to the Director for whom the alternate Director acts as alternate.
- (m) An alternate Director is not entitled to be remunerated by the Company for his or her services as alternate Director except as provided in Rule 11.14(l).
- (n) An alternate Director, while acting as a Director, is responsible to the Company for his or her own acts and defaults and is not to be taken to be the agent of the Director by whom he or she was appointed.

11.15 Committees of Directors

- (a) The Directors may delegate any of their powers to a committee or committees consisting of such number of Directors as they think fit. Notwithstanding any delegation under this Rule 11.15, the Directors may continue to exercise all or any of the powers delegated.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (c) The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can, and with such changes as are necessary, to meetings and resolutions of a committee of Directors.
- (d) Membership of a committee of Directors may, if the Directors so resolve, be treated as an extra service or special exertion performed by the Members for the purposes of Rule 11.4(e).

11.16 Delegation to individual Directors

- (a) The Directors may delegate any of their powers to one Director. Notwithstanding any delegation under this Rule 11.16, the Directors may continue to exercise all or any of the powers delegated.
- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (c) Acceptance of such a delegation may, if the Directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of Rule 11.4(e).

11.17 Validity of acts

An act done by a person acting as a Director or by a meeting of Directors or a committee of Directors attended by a person acting as a Director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or

- (c) the person not being entitled to vote,
if that circumstance was not known by the person or the Directors or committee (as the case may be) when the act was done.

12. SECRETARIES

12.1 Secretaries

The Directors must appoint at least one secretary who ordinarily resides in Australia and may appoint additional secretaries.

12.2 Terms

The appointment of a secretary will be on such terms as the Directors determine.

13. EXECUTION OF DOCUMENTS

13.1 Methods of Execution

The Company may execute a document in any manner permitted by the Act.

14. DISTRIBUTION OF PROFITS

14.1 Dividends

- (a) The Directors may determine that a dividend is payable and fix:
 - (i) the amount of the dividend;
 - (ii) the time for payment; and
 - (iii) the method of payment.

The methods of payment may include the payment of cash, the issue of shares, the grant of options and the transfer of assets.
- (b) The Company does not incur a debt merely by the Directors fixing the amount or time for payment of a dividend. The debt only arises when the time fixed for payment arrives and the decision to pay the dividend may be revoked at any time before then.
- (c) The Directors may pay any dividend required to be paid under the terms of issue of a Share.
- (d) The payment of a dividend does not require any confirmation by the Members.
- (e) Subject to any rights or restrictions attached to any Shares or class of Shares:
 - (i) all dividends in respect of Shares must be declared and paid in proportion to the amounts paid (not credited) of the total amounts paid and payable (excluding amounts credited) on the Shares;
 - (ii) all dividends must be apportioned and paid proportionately to the amounts so paid during any portion or portions of the period in respect of which the dividend is paid;
 - (iii) for the purposes of Rules 14.1(d)(i) and 14.1(d)(ii), an amount paid on a Share in advance of a call is to be taken as not having been paid on the Share; and
 - (iv) interest is not payable by the Company in respect of any dividend.

- (f) The Directors may fix a record date in respect of a dividend, with or without suspending the registration of transfers from that date under Rule 9.7.
- (g) A dividend in respect of a Share must be paid to the person who is registered, or entitled under Rule 9.5 to be registered, as the holder of the Share:
 - (i) where the Directors have fixed a record date in respect of the dividend, on that date; or
 - (ii) where the Directors have not fixed a record date in respect of that dividend, on the date the dividend is declared,

and a transfer of a Share that is not registered, or left with the Company for registration in accordance with Rule 9.5, on or before that date is not effective, as against the Company, to pass any right to the dividend.

- (h) The Directors may:
 - (i) direct payment of the dividend wholly or partly by the issue of shares, the grant of options or the transfer of assets, either generally or to specific shareholders; and
 - (ii) direct that the dividend be paid to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source or generally.
- (i) The Directors may deduct from any dividend payable to a Member all sums of money presently payable by the Member to the Company and apply the amount deducted in or towards satisfaction of the money owing.
- (j) Where a person is entitled to a Share as a result of a Transmission Event, the Directors may, but are not obliged to, retain any dividends payable in respect of that Share until that person becomes registered as the holder of the Share or transfers it.
- (k) Without prejudice to any other method of payment the Directors may adopt, any dividend, interest or other money payable in cash in respect of Share may be paid by cheque and sent by post:
 - (i) to the address of the holder as shown in the Register, or in the case of joint holders, to the address shown in the Register as the address of the joint holder first named in that Register; or
 - (ii) to such other address as the holder or joint holders in writing directs or direct.
- (l) A cheque sent under Rule 14.1(k) may be made payable to bearer or to the order of the Member to whom it is sent or such other person as the Member may direct and is sent at the Member's risk.

14.2 Capitalisation of profits

- (a) Subject to any rights or restrictions attached to any Shares or class of Shares, the Directors may capitalise and distribute among such of the Members as would be entitled to receive dividends and in the same proportions, any amount:
 - (i) forming part of the undivided profits of the Company;
 - (ii) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the Company;

- (iii) arising from the realisation of any assets of the Company; or
 - (iv) otherwise available for distribution as a dividend.
- (b) The Directors may resolve that all or any part of the capitalised amount is to be applied:
- (i) in paying up in full at a price determined by the resolution any unissued Shares in or other securities of the Company;
 - (ii) in paying up any amounts unpaid on Shares or other securities held by the Members;
or
 - (iii) partly as specified in Rule 14.2(b)(i) and partly as specified in Rule 14.2(b)(ii),
- and such an application must be accepted by the Members entitled to Share in the distribution in full satisfaction of their interests in the capitalised amount.
- (c) Rules 14.1(e) and 14.1(f) apply, so far as they can and with such changes as are necessary, to a capitalisation of an amount under this Rule 14.2 as if references in those rules to a dividend and to the date a dividend is declared were references to a capitalisation of an amount and to the date the Directors resolve to capitalise the amount under this Rule 14.2 respectively.

14.3 Ancillary powers

For the purpose of giving effect to any resolution for the satisfaction of a dividend in the manner set out in Rule 14.1(h)(i) or by the capitalisation of any amount under Rule 14.2, the Directors may:

- (a) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation and, in particular, where Shares or other securities in the Company are or would otherwise be issuable in fractions:
 - (i) issue fractional certificates for those Shares or other securities;
 - (ii) determine that such fractions are to be disregarded or are to be rounded down to the nearest whole number; or
 - (iii) determine that such fractions are to be rounded up to the nearest whole number;
- (b) fix the value for distribution of any specific assets;
- (c) pay cash or issue Shares or other securities to any Members in order to adjust the rights of all parties;
- (d) vest any such specific assets, cash, Shares or other securities in any trustee upon such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the Directors; and
- (e) authorise any person to make, on behalf of all the Members entitled to any further Shares or other securities as a result of the distribution or capitalisation, an agreement with the Company or another body corporate providing, as appropriate:
 - (i) for the issue to them of such further Shares or other securities credited as fully paid up; or
 - (ii) for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares or other securities by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in this rule 9.3(e) is effective and binding on all Members concerned.

14.4 **Reserves**

- (a) Subject to this Constitution, the Directors may set aside out of the profits of the Company such reserves or provisions for such purposes as they think fit.
- (b) The Directors may appropriate to the profits of the Company any amount previously set aside as a reserve or provision.
- (c) The setting aside of any amount as a reserve or provision does not require the Directors to keep the amount separate from the other assets of the Company or prevent the amount being used in the business of the Company or being invested in such investments as the Directors think fit.

14.5 **Carry forward of profits**

The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends or capitalised without transferring those profits to a reserve or provision.

15. **BORROWING POWERS**

15.1 **Power to Borrow**

The Directors may from time to time at their discretion raise or borrow or secure the payment any sum or sums of money for the purposes of the Company.

15.2 **Power to secure repayment of moneys**

The Directors may raise or secure the payment or repayment of moneys in such manner and upon such terms and conditions as they think fit. In particular, the Directors may raise moneys by the issue of bonds, debentures, notes, or other obligations of the Company, with or without security. The Directors may charge in any manner the Company's property and assets both present and future including its uncalled capital (if any) for the time being to secure the moneys raised or owing.

15.3 **Loan securities assignable**

Any loan securities issued by the Company may be assignable free from any equities between the Company and the person to whom the same may be issued.

15.4 **Loan securities assignable**

Any loan securities may be issued at par or at a discount, premium or otherwise and with any special privileges as to redemption or surrender.

15.5 **Certificates for loan securities**

A loan security certificate issued by the Company shall show:

- (a) the name of the Company and the authority under which it was incorporated;
- (b) the address of the registered office of the Company, and the register on which the loan securities are situated;
- (c) the security, rate of interest and dates of payment, any participating rights and the date and method of redemption;

- (d) a statement of the limitation of liabilities imposed by any trust deed;
- (e) a statement of the circumstances in which the issuing company or guarantor company may give or allow to subsist, securities ranking in priority to the loan securities;
- (f) the number (if any) of loan securities represented by the loan security certificate (in words and figures) on the face of the certificate; and
- (g) the type of loan security that is appropriate and no other type.

15.6 Keeping of register of charges

- (a) The Directors shall cause a register to be kept in accordance with the Act of the mortgages and charges specifically affecting the property of the Company and all floating charges.
- (b) The books closing date to determine those entitled to receive interest on loan securities of the Company shall be ten business days prior to the date of payment.

16. ACCOUNTS

16.1 Financial records to be kept

The Directors Company shall keep financial records that:

- (a) correctly record and explain the transactions and financial position of the Company;
- (b) enable true and fair financial statements of the Company to be prepared from time to time; and
- (c) enable the financial statements of the Company to be audited in accordance with the Act.

16.2 Inspection by Directors

The financial records of the Company shall be retained for seven (7) years after the transactions covered by the records are completed. The Directors have a right of access to the financial records at all reasonable times.

16.3 Physical format

If financial records are kept in electronic form, they must be convertible into hard copy. A hard copy shall be made available within a reasonable time to a person who entitled to inspect the records.

16.4 Financial Report

The Company shall prepare a financial report for each financial year in accordance with the Act.

16.5 Reporting to members

The Company shall report to Members on its financial affairs in accordance with the Act.

17. AUDIT

17.1 Audit of financial report

The Company shall have its financial report audited in accordance with the Act.

18. WINDING UP

18.1 Distribution of surplus

Subject to this Constitution and to the rights or restrictions attached to any Shares or class of Shares:

- (a) if the Company is wound up and the property of the Company available for distribution among the Members is more than sufficient:
 - (i) to pay all of the debts and liabilities of the Company; and
 - (ii) the costs, charges and expenses of the winding up,the excess must be divided among the Members in proportion to the Shares held by them, irrespective of the amounts paid or credited as paid on the Shares;
- (b) for the purpose of calculating the excess referred to in Rule 18.1(a), any amount unpaid on a Share is to be treated as property of the Company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid Share under Rule 18.1(a) must be reduced by the amount unpaid on that Share at the date of the distribution; and
- (d) if the effect of the reduction under Rule 18.1(c) would be to reduce the distribution to the holder of a partly paid Share to a negative amount, the holder must contribute that amount to the Company.

18.2 Division of property

- (a) If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company in general meeting:
 - (i) divide among the Members the whole or any part of the property of the Company; and
 - (ii) determine how the division is to be carried out as between the Members or different classes of Members.
- (b) Any division under Rule 18.2(a) may be otherwise than in accordance with the legal rights of the Members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under Rule 18.2(a) is otherwise than in accordance with the legal rights of the Members, a Member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Act.
- (d) If any of the property to be divided under Rule 18.2(a) includes securities with a liability to calls, any person entitled under the division to any of the securities may within ten days after the passing of the special resolution referred to in that rule, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this Rule 18.2 derogates from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 14.3 applies, so far as it can and with such changes as are necessary, to a division by a liquidator under Rule 18.2(a) as if references in Rule 14.3 to the Directors and to a

distribution or capitalisation were references to the liquidator and to the division under Rule 18.2(a) respectively.

19. MINUTES AND RECORDS

19.1 Minutes to be made

The Directors must cause minutes to be made of:

- (a) the names of the Directors present at each Directors meeting;
- (b) the names of the committee Members present at each meeting of a committee appointed under Rule 11.15;
- (c) the proceedings and resolutions of each general meeting;
- (d) the proceedings and resolutions of each Directors meeting;
- (e) the proceedings and resolutions of each meeting of a committee appointed under Rule 11.15; and
- (f) written resolutions of Directors passed without a meeting.

19.2 Minutes to be entered

The Directors must cause all minutes made under Rule 19.1 to be entered in the relevant minute book of the Company within one month after the relevant meeting is held.

19.3 Signature of Minutes

The minutes of a meeting made under Rule 19.1, if appearing on their face to be signed by the chairperson of the meeting or the chairperson of the next succeeding meeting of the relevant body, are sufficient but (except where this Constitution otherwise provides) not conclusive evidence without proof of any further facts of the matters stated in them.

19.4 Minutes as evidence

Any minutes of a meeting purporting to be signed by the chairperson of the meeting or of the next succeeding meeting are (in the absence of proof to the contrary) sufficient evidence of:

- (a) the matters stated in the minutes of the meeting;
- (b) the meeting having been duly convened and held; and
- (c) the validity of all proceedings at the meeting.

19.5 Inspection of records

- (a) The Directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the Directors.

20. INDEMNITY AND INSURANCE

20.1 Persons to whom Rules 20.2 and 20.3 apply

Rules 20.2 and 20.3 apply:

- (a) to each person who is or has been a Director or alternate Director of the Company;
- (b) to such other officers or former officers of the Company or of its Related Bodies Corporate as the Directors in each case determine; and
- (c) if the Directors so determine, to any Auditor or former Auditor of the Company or of its Related Bodies Corporate.

20.2 Indemnity

The Company must indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this Rule 20.2 applies for all losses or liabilities incurred by the person as an officer or, if the Directors so determine, an Auditor of the Company or of a Related Body Corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Act.

20.3 Extent of Indemnity

The indemnity in Rule 20.2:

- (a) is a continuing obligation and enforceable by a person to whom Rule 20.2 applies even though that person may have ceased to be an officer or Auditor of the Company or of a Related Body Corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule; and
- (c) operates only to the extent that the loss or liability is not covered by insurance.

20.4 Insurance

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this Rule 20 applies against any liability incurred by the person as an officer or Auditor of the Company or of a Related Body Corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

20.5 Savings

Nothing in Rules 20.2 or 20.4:

- (a) affects any other right or remedy that a person to whom this Constitution apply may have in respect of any loss or liability referred to in those Rules; or

- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those rules do not apply.

21. NOTICES

21.1 Notices by the Company to Members

- (a) A notice may be given by the Company to a Member:
 - (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the Register or such other address, or by facsimile transmission or electronically to such facsimile number or electronic address, as the Member has supplied to the Company for the giving of notices; or
 - (ii) if the Member does not have a registered address and has not supplied another address to the Company for the giving of notices, by exhibiting it at the registered office of the Company.
- (b) A notice may be given by the Company to the joint holders of a Share by giving the notice in the manner authorised by Rule 21.1(a) to the joint holder first named in the Register in respect of the Share.
- (c) A notice may be given by the Company to a person entitled to a Share as a result of a Transmission Event by serving it or sending it in the manner authorised by Rule 21.1(a)(i) addressed to the name or title of the person, at or to such address or facsimile number or electronic address supplied to the Company for the giving of notices to that person, or if no address or facsimile number or electronic address has been supplied, at or to the address or facsimile number or electronic address to which the notice might have been sent if the relevant Transmission Event had not occurred.
- (d) A notice may be given by the Company to a person appointed as a proxy by giving the notice in the manner authorised by Rule 21.1(a)(i) addressed to the name or title of the person, at such address or facsimile number or electronic address supplied to the Company for the giving of notices to that person.
- (e) The fact that a person has supplied a facsimile number or electronic address for the giving of notices does not require the Company to give any notice to that person by facsimile or electronically.
- (f) A notice given to a Member in accordance with Rule 21.1(a) or Rule 21.1(b) is, despite the occurrence of a Transmission Event and whether or not the Company has notice of that occurrence:
 - (i) duly given in respect of any Shares registered in that person's name, whether solely or jointly with another person; and
 - (ii) sufficient service on any person entitled to the Shares as a result of the Transmission Event.
- (g) A notice given to a person who is entitled to a Share as a result of a Transmission Event is sufficient service on the Member in whose name the Share is registered.
- (h) Any person who, because of a transfer of Shares, becomes entitled to any Shares registered in the name of a Member is bound by every notice which, before that person's name and address is entered in the Register in respect of those Shares, is given to the Member in accordance with this Rule 21.1.

- (i) A signature to any notice given by the Company to a Member under this Rule 21.1 may be in writing or a facsimile printed or affixed by some mechanical or other means.
- (j) A certificate signed by a Director or secretary of the Company to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.

21.2 Notices by the Company to Directors

Subject to this Constitution, a notice may be given by the Company to any Director or alternate Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the Director's or alternate Director's usual residential or business address, or such other address, or by facsimile transmission or electronically to such facsimile number or electronic address, as the Director or alternate Director has supplied to the Company for the giving of notices.

21.3 Notices by Members or Directors to the Company

Subject to this Constitution, a notice may be given by a Member, Director or alternate Director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by facsimile transmission to the principal facsimile number at the registered office of the Company.

21.4 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth of Australia and its external territories must be sent by airmail.

21.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting;
or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by facsimile transmission or other electronic means, that notice is treated as duly given where the notice is addressed in accordance with Rule 21.1 and transmitted by facsimile transmission to the facsimile number supplied or electronically to the electronic address supplied, as the case may be, if the correct facsimile number appears on a complete facsimile transmission report generated by the sender's facsimile machine or, if sent by electronic means if the sender's computer shows the notice as having been sent to the correct electronic address, and to have been effected on the day the report is received or the date the computer indicates the notice was sent, and is treated as duly given and received (whether it is in fact received or not) on the day of transmission of the notice if a Business Day, otherwise on the next Business Day.
- (c) Where the Company gives a notice under Rule 21.1(a)(ii) by exhibiting it at the registered office of the Company, service of the notice is to be taken to be effected when the notice was first so exhibited.

21.6 Other communications and documents

Rules 21.1 to 21.5 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

21.7 Notices in writing

A reference in this Constitution to a notice in writing includes a notice given by facsimile transmission or any other form of written communication or electronically.

22. GENERAL

22.1 Submission to jurisdiction

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the registered office of the Company is located, the Federal Court of Australia and the courts which may hear appeals from those courts.

22.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

SCHEDULE ONE

Suppliers Share Plan

1. DEFINITIONS

In this Suppliers Share Plan, unless the context otherwise requires:

“**Annual Allocation**” means a number of B Class Shares calculated in respect of each Supplier Member for a Delivery Period according to the formula, $\text{Delivery Amount} \times \text{Retention} \div \text{Issue Price}$;

“**Delivery Amount**” means the total tonnes of rice (rounded down to the nearest whole number of tonnes) delivered by the Supplier Member in the relevant Delivery Period;

“**Plan**” means the Suppliers Share Plan;

“**Retention**” means an amount not exceeding \$10.00 determined by the Directors in respect of the relevant Delivery Period;

“**Issue Price**” means an amount payable for the issue of B Class Shares under the Plan determined by the Directors in respect of the relevant Delivery Period.

2. SUBSCRIPTION FOR ADDITIONAL SHARES

- 2.1 The Directors may, at their discretion, require Supplier Members who have supplied rice to the Company in a Delivery Period to subscribe for and take up their Annual Allocation of B Class Shares in relation to that Delivery Period in accordance with the Plan.
- 2.2 Supplier Members agree to subscribe for and have issued to them B Class Shares in accordance with the Plan.
- 2.3 If the Directors propose to issue B Class Shares to a Supplier Member under the Plan, the Directors must notify the Supplier Members in writing of their Annual Allocation and the Issue Price of the Shares to be issued under the Plan at least 14 days before the Shares are issued.
- 2.4 B Class Shares issued under the Plan will be issued at the Issue Price and rank pari passu with all other B Class Shares.
- 2.5 The Directors must not issue B Class Shares under the Plan to a Supplier Member if, as a result of such issue, the Supplier Member would exceed the maximum number of Shares that may be held under the Constitution.

3. PAYMENT FOR SHARES

- 3.1 The Issue Price of B Class Shares issued under the Plan is payable in full at the time the Shares are issued.
- 3.2 The Directors are authorised to deduct the amount required to pay the Issue Price of B Class Shares issued to a Supplier Member under the Plan from any amounts owing by the Company to that Supplier Member.

4. POWER OF ATTORNEY

- 4.1 Each Supplier Member appoints the Directors, for the time being, severally as their attorney with power to sign all documents required to subscribe for B Class Shares under the Plan and to otherwise give full effect to the Plan.

SCHEDULE TWO

Share Issue Formula

1. INITIAL SHARES

On registration of the Co-operative as a company under the Act, Initial Members will receive one B Class Share for each Co-operative Share they held at the time of Conversion or, in the case of Initial Members who receive B Class Shares pursuant to an entitlement under section 139(2)(b) of the Co-operatives Act, one B Class Share for each Co-operative Share they are regarded as the holder of for the purposes of that section. These B Class Shares are referred to as the Initial Shares.

2. FORMULA SHARES

Following the issue of the Initial Shares, the Directors are authorised to issue further B Class Shares to the Initial Members on the basis of the Share Issue Formula as set out in this Schedule Two for a nil issue price per Share. These further B Class Shares are referred to as Formula Shares. The purpose of the issue of Formula Shares is to:

- (a) recognise the contributions made by Initial Members to the Co-operative's business (which is now owned and operated by the Company); and
- (b) establish a shareholding alignment in the Company which more fairly reflects those contributions.

3. SHARE ISSUE FORMULA

Each Initial Member's Formula Shares will comprise the aggregate number of B Class Shares calculated according to the Share Holding Component, the Years of Service Component and the Tonnage Component which, together, are referred to as the Share Issue Formula.

4. SHARE HOLDING COMPONENT

Each Initial Member will be allocated one Formula Share for:

- (a) every six Co-operative Shares held by the Initial Member as at the time of Conversion; or
- (b) in the case of Initial Members who received Initial Shares pursuant to an entitlement under section 139(2)(b) of the Co-operatives Act, every six Co-operative Shares that they were regarded as the holder of for the purposes of that section.

5. YEARS OF SERVICE COMPONENT

5.1 Allocation of Shares

Each Initial Member will be allocated 150 Formula Shares for each of the Member's Years of Service up to a maximum of 15 Years of Service.

5.2 Calculation of Years of Service

A Member's Years of Service will be calculated by aggregating:

- (a) the number of Crop Years in which the Member delivered at least one tonne of rice to the Co-operative during the period from and including the 1988 Crop Year up to and including the 2002 Crop Year ("the Crop Years Reference Period"); and
- (b) the number of Crop Years attributed to the Member in accordance with the Tracing Provisions.

5.3 **Maximum Ceiling**

If the calculation under paragraph 5.2 results in a number exceeding 15, the Member's Years of Service will be set at the maximum of 15.

6. **CROP YEARS TRACING PROVISIONS**

6.1 **Calculation for Traced Co-operative Member**

A Member will, for the purposes of determining the Member's Years of Service, be attributed a further number of Crop Years calculated in respect of their Traced Co-operative Member according to the formula $A \times B$ where:

A = The number of Crop Years within the Crop Years Reference Period in which the Traced Co-operative Member delivered at least one tonne of rice to the Co-operative excluding Crop Years that have been attributed to the Member under paragraph 5.2(a); and

B = The percentage of the total number of Co-operative Shares transferred by the Traced Co-operative Member in the Board Approved Membership Rearrangement that were acquired by the Member or an Associated Former Co-operative Member, as the case may be.

6.2 **More than one Traced Co-operative Member**

If a Member has more than one Traced Co-operative Member this calculation will be made for each Traced Co-operative Member and the Member will be attributed the aggregate number of Crop Years so calculated subject to any necessary adjustment under paragraph 6.3.

6.3 **Multiple Deliveries in Same Crop Year**

If a Member has more than one Traced Co-operative Member and any two or more of those Traced Co-operative Members delivered at least one tonne of rice to the Co-operative in the same Crop Year, the Member can not be attributed with more than 100% of that Crop Year.

7. **TONNAGE COMPONENT**

7.1 **Allocation of Shares**

Each Initial Member will allocate two Formula Shares for each tonne of rice comprising the Member's Average Annual Tonnage.

7.2 **Calculation of Average Annual Tonnage**

A Member's Average Annual Tonnage will be calculated by reference to the period from and including the 1998 Crop Year up to and including the 2002 Crop Year ("the Tonnage Reference Period") according to the following principles:

- (a) if the Member or their Traced Co-operative Member was a member of the Co-operative as at the first Crop Year of the Tonnage Reference Period (the 1998 Crop Year), the Member's Total Tonnage divided by the total number of Crop Years in the Tonnage Reference Period, namely, five (5); or
- (b) if the Member or their Traced Co-operative Member was not a member of the Co-operative as at the first Crop Year of the Tonnage Reference Period (the 1998 Crop Year), the Member's Total Tonnage divided by the number of Crop Years from and including the Crop Year in which the Member or their Traced Co-operative Member became a member of the Co-operative to the end of the Tonnage Reference Period.

7.3 Calculation of Total Tonnage

A Member's Total Tonnage will be calculated by aggregating:

- (i) the number of tonnes of rice delivered by the Member to the Co-operative; and
- (ii) the number of tonnes of rice attributed to the Member in accordance with the Tracing Provisions.

7.4 Calculation for Former Co-operative Members

For the avoidance of doubt, the number of Crop Years by which a Member's Total Tonnage is divided under paragraphs 7.2(a) and 7.2(b) will be calculated up to the end of the Tonnage Reference Period regardless of whether the Member ceased to be a member of the Co-operative before the end of Tonnage Reference Period.

8. TONNAGE TRACING PROVISIONS

8.1 Calculation for Traced Co-operative Member

A Member will, for the purposes of determining the Member's Total Tonnage, be regarded as having delivered a further number of tonnes of rice calculated in respect of their Traced Co-operative Member according to the formula $C \times D$ where:

- C = The number of tonnes of rice delivered to the Co-operative in the Tonnage Reference Period by the Traced Co-operative Member; and
- D = The percentage of the total number of Co-operative Shares transferred by the Traced Co-operative Member in the Board Approved Membership Rearrangement that were acquired by the Member or an Associated Former Co-operative Member, as the case may be.

8.2 More than one Traced Co-operative Member

If the Member has more than one Traced Co-operative Member this calculation will be made for each Traced Co-operative Member and the Member will be attributed with the aggregate number of tonnes so calculated.

9. GENERAL

9.1 Board Approved Membership Rearrangement

The Tracing Provisions only apply to Members who were admitted to membership of the Co-operative pursuant to a Board Approved Membership Rearrangement.

9.2 Rounding-up in calculations

In calculating the number of Formula Shares to which an Initial Member is entitled:

- (a) the Member's Years of Service and the Member's Average Annual Tonnage will be calculated, and where necessary rounded up, to two decimal places;
- (b) any resulting fractions in the number of Formula Shares calculated according to the Share Holding Component, the Years of Service Component or the Tonnage Component will be rounded up to the next whole number of Shares.

9.3 **Company's calculation final**

The Company will calculate the number of Formula Shares to which each Initial Member is entitled and that calculation will be final and binding.

10. **DEFINITIONS**

The following definitions and the definitions in Rule 1.1 of the Constitution apply in this Schedule:

- (a) **“Associated Former Co-operative Member”** means, in relation to a Member, a Former Co-operative Member who previously transferred any of the Co-operative Shares held by the Member as at the time of Conversion in a Board Approved Membership Rearrangement.
- (b) **“Board Approved Membership Rearrangement”** means an arrangement approved by the board of directors of the Co-operative in which a Former Co-operative Member ceased to be a member of the Co-operative and transferred all or any of the Co-operative Shares held by them to one or more persons who were admitted as members of the Co-operative.
- (c) **“Conversion”** means the registration of the Co-operative as a company under Part 5B.1 of the Act.
- (d) **“Co-operative Rules”** means the rules of the Co-operative immediately before its conversion to the Company.
- (e) **“Co-operative Share”** means a share in the Co-operative.
- (f) **“Crop Year”** means the period from 1 September to 31 August in the following year, being the period during which a rice crop may be grown and delivered. A particular Crop Year is identified by the calendar year in which it ends, for example, the 1998 Crop Year is the period from 1 September 1997 to 31 August 1998.
- (g) **“Years of Service Component”** means the entitlement to Formula Shares under paragraph 5 of this Schedule.
- (h) **“Former Co-operative Member”** means a former member of the Co-operative whose membership of the Co-operative ceased prior to Conversion.
- (i) **“Formula Shares”** means B Class Shares issued to Initial Members in accordance with the Share Issue Formula.
- (j) **“Member's Average Annual Tonnage”** means the Member's Average Annual Tonnage calculated in accordance with paragraph 7.
- (k) **“Member's Crop Years”** means a Member's Crop Years calculated in accordance with paragraph 5.
- (l) **“Member's Total Tonnage”** means a Member's Total Tonnage calculated in accordance with paragraph 7.
- (m) **“Share Holding Component”** means the entitlement to Formula Shares under paragraph 4 of this Schedule.
- (n) **“Tonnage Component”** means the entitlement to Formula Shares under paragraph 7 of this Schedule.
- (o) **“Traced Co-operative Member”** means, in relation to a Member, a person who previously held any of the Co-operative Shares held by the Member as at the time of Conversion and transferred all or any of those Co-operative Shares in a Board Approved Rearrangement to

the Member or their Associated Former Co-operative Member. A Member may have more than one Traced Co-operative Member.

- (p) **“Tracing Provisions”** means the provisions of paragraphs 6 and 8 of this Schedule.