

A COMPANY LIMITED BY GUARANTEE

CONSTITUTION

-of -

INNISFAIL BABINDA CANE PRODUCTIVITY
SERVICES LIMITED

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A COMPANY LIMITED BY GUARANTEE

CONSTITUTION

of

INNISFAIL BABINDA CANE PRODUCTIVITY SERVICES LIMITED

1. GENERAL

1.1 Name of Company

The name of the Company is Innisfail Babinda Cane Productivity Services Limited.

1.2 Replaceable Rules

The Replaceable Rules do not apply to the Company.

2. DEFINITIONS & INTERPRETATION

2.1 Definitions

“ABN” means an Australian Business Number issued in accordance with A New Tax System (Australian Business Number) Act 1999 (Cth);

ABN Holder is the entity to which an ABN has been issued by the Registrar of the Australian Business Register;

‘Act’ means the Sugar Industry Act 1999 (Qld) as modified or substituted from time to time;

‘Authority to Deduct and Receive Farm Plan’ means an authority (in a form acceptable to the Board) by a Grower in favour of the Miller to deduct from monies periodically due from the Miller to the Grower for the Grower Levy, determined annually by the Board, and authorising the Miller to remit the amount deducted to the Company and to obtain an updated copy of the relevant Farm Plan/s directly from the Miller and such Authority shall apply in respect of all Farm Plans recorded against the ABN of that Grower in the records of the Mill;

‘Board’ means the members of the Board who are the Directors of the Company for the time being;

‘Business Day’ means a day on which banks (as that term is defined in the Banking Act 1959) are open for business in Innisfail;

‘Category’ means all of the divisions by which Grower Members are grouped under Rule 5.3 into SJM Grower Members, and Non-SJM Grower Members;

‘Chairman’ includes an acting Chairman under Rule 9.5;

‘Committee’ means a committee to which powers have been delegated by the Board pursuant to Rule 16.6;

‘Company’ means Innisfail Babinda Cane Productivity Services Limited;

‘Constitution’ means the constitution of the Company, as amended from time to time;

‘Director’ means a person elected or appointed as a director of the company or to perform the duties of a Director;

‘Farm’ means a Cane Production Area from which a Grower grows and delivers sugar cane to a Mill;

‘Farm Plan’ means the plan showing for a date or period the boundaries of the Cane Production Area included in the Farm;

‘Farm Plan Area’ means the area, expressed in hectares, of the Cane Production Area in a Grower Member’s Farm Plan;

“FNQSS” means FNQ Sugar Services Pty Ltd ABN 81 145 208 813 and its successors and assigns;

‘Grower’ means an ABN Holder that owns or leases a Farm/s from which sugar cane is grown and delivered to a Mill and to avoid any doubt each separate ABN Holder shall be a separate Grower even if the principal or a member of the entity holds multiple ABNs;

‘Grower Director’ means a person elected or appointed as a Grower Director;

‘Grower Levy’ means the levy set by the Board from time to time and payable by each category of Grower Member to the Company each year at the time specified by the Board;

‘Grower Member’ means a Grower who becomes a Member;

‘Independent Director’ means a Director appointed by members of the Board;

‘Law’ means the Corporations Act 2001 and the Corporations Regulations (as defined in the Corporations Act 2001);

‘Member’ means any person who becomes a member of the company in accordance with the Law and this Constitution;

‘Member of the Board’ means a person appointed or elected from time to time to the office of Director of the Company in accordance with these Rules and includes any alternate Director duly acting as a member of the Board;

‘Members present’ means Members present in person at a general meeting of the Company in person or, if applicable, by duly appointed corporate representative, proxy or attorney;

‘Mill’ means the South Johnstone Mill and such other Mill as the Board may from time to time determine;

‘Mill Member’ means a Mill Operator admitted as a member under Rule 5.4;

“Miller” means FNQSS and its successors and assigns as the operator of South Johnstone Mill or another Mill Member where the context requires;

‘Mill Director’ means a Director appointed by a Mill Member;

‘Office’ means the registered office from time to time of the Company;

‘Person’ and words importing persons include partnerships, associations and corporations unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals;

‘Register’ means the register of Members of the Company established pursuant to the Law;

‘Registered address’ means the address of a Member specified in the Register or any other address of which the Member notifies the Company as a place at which the Member will accept service of notices;

‘Replaceable Rules’ means all or any of the Replaceable Rules contained in the Law from time to time and includes any Replaceable Rule that was or may become, a provision of the Law;

‘Rules’ means the rules of this Constitution as altered or added to from time to time;

‘Seal’ means the common seal, if any, from time to time of the Company;

‘Secretary’ means a person appointed as secretary of the Company and includes any person appointed to perform the duties of secretary;

‘Securities’ includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity;

‘South Johnstone Mill’ means the mill owned by MSF Sugar Limited ABN 11 009 658 708 and operated by FNQSS situated at Innisfail/Japoon Road, South Johnstone, Queensland;

“SRA” means Sugar Research Australia Ltd ABN 16 163 670 068.

‘Writing’ and ‘Written’ includes printing, typing, lithography and other modes of reproducing words in a visible form;

2.2 Interpretation

- (a) An expression used in a particular Part, Division, Schedule or regulation of the Law that is given by that Part, Division, Schedule or regulation a special meaning for the purpose of that Part, Division, Schedule or regulation has, in any of these Rules that deals with a matter dealt with by that Part, Division, Schedule or regulation, unless the contrary intention appears, the same meaning as in that Part, Division, Schedule or regulation.
- (b) Words in the singular include the plural and vice versa.
- (c) Words importing a gender include each other gender.
- (d) A reference to the Law or any other statute or regulations is to be read as though the words ‘as modified or substituted from time to time’ were added to the reference.
- (e) The headings and sidenotes do not affect the construction of these Rules.

2.3 Actions authorised under the Law and Compliance

Where the Law authorises or permits a company to do any matter or thing if so authorised by its constitution, the Company is and shall be taken by this Rule to be authorised or permitted to do that matter or thing, unless expressly inconsistent with any other provisions in this Constitution.

3. OBJECTS AND POWERS

3.1 Object of the Company

The primary object for which the Company is established is to enhance the productivity of the sugar industry by increasing the quantity and improving the quality of the cane produced by crops grown in the Mill area and any other areas determined by the Board from time to time.

3.2 Secondary Objects of the Company

The secondary objects for which the Company is established are:

- (a) to acquire and take over the assets and liabilities of the former statutory bodies known as the Babinda Cane Protection and Productivity Board, Mourilyan Cane Protection and Productivity Board and to carry on the work of those bodies;
- (b) to cooperate, partner with or help, in any way, any other compatible body involved in the enhancement of productivity within the sugar industry;
- (c) provide advice and information to members about any matter relevant to the enhancement of productivity in the sugar industry;
- (d) to cooperate in the development of and take an active interest in the securing of rational legislation and rules to regulate the sugar industry;
- (e) to act commercially in the discharge of its functions; and
- (f) to provide agricultural product sales and services to Members and such other persons or categories of persons as determined by the Board from time to time.

3.3 Powers of the Company

In carrying out its objects the Company may, without limiting its powers under the Law:

- (a) enter into contracts;

- (b) acquire, hold, dispose of and deal with property;
- (c) appoint and act through agents or attorneys; and
- (d) do anything else necessary or convenient to be done for the performance of its objects or functions.

3.4 No power to issue shares

The company has no power to issue or allot fully or partly paid shares to any person.

4. NON-PROFIT NATURE OF THE COMPANY

4.1 Non-profit

- (a) The income, property, profits and financial surplus of the Company, whenever derived, must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.
- (b) The Company is a non-profit organisation and shall not carry on business for the purpose of profit or gain to its individual Members and no portion of its income, property, profits and financial surplus may be paid, distributed to or transferred, directly, indirectly, by way of dividend, property, bonus or otherwise by way of profit, to the Members, or the Board, or his/her relatives, except as provided by this Constitution.
- (c) Nothing in this Constitution prevents:
 - (i) the payment, in good faith, of reasonable and proper remuneration to any officer or servant of the Company, or to any Member or member of the Board of the Company, in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
 - (ii) the payment of interest at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for overdrawn accounts on money borrowed from a Member; or
 - (iii) reasonable and proper rent for premises demised or let by any Member to the Company.

4.2 No distribution of profits to Members on winding up

Where property remains after the winding-up or dissolution of the Company and satisfaction of all its debts and liabilities, it may not be paid to nor distributed among the Members of the Company but must be given to or transferred to another company, body, fund, authority or institution having objects similar to the objects of the Company, and whose Constitution prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the Company under or by virtue of this Constitution, which company, body, fund, authority or institution is to be determined by the Members of the Company at or before the time of the dissolution.

4.3 Limited liability on winding up

Each Member of the Company undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member for the payment of the debts and liabilities of the Company contracted before he/she ceases to be a Member and of the costs, charges and expenses of winding up and for adjustment of the rights of the contributors among themselves such amount as may be required, not exceeding \$2.00.

5. MEMBERSHIP

5.1 Classes of membership

Until otherwise determined by the Members in general meeting there shall be two classes of Members; namely, Grower Members and Mill Members.

5.2 Grower Members

- (a) The Board may from time to time in its absolute discretion admit to Grower Membership of the Company any person who is more than 18 years of age.
- (b) Every application for Grower Membership must be in writing signed by the applicant and in such form as the Board determines.

- (c) Each applicant must fully describe each Farm in respect of which the applicant is a Grower when submitting his/her application and provide a copy of each Farm Plan, current at the time of the application.
- (d) Every applicant must complete an 'Authority to Deduct and Receive Farm Plan' and deliver it to the Board. Such 'Authority to Deduct and Receive Farm Plan' shall be in respect of each Farm owned or leased by that Grower in the Mill area. The Authority to Deduct and Receive Farm Plan shall only be capable of revocation if the member has given the Company 12 months' notice in writing expressing an intention to revoke the 'Authority to Deduct and Receive Farm Plan', unless the Board agrees to a shorter period of notice.
- (e) The Board shall fix the entrance fee payable by an applicant for Grower Membership in the relevant category. The Board may not deal with any application for Grower Membership unless the entrance fee payable in respect of the application has been received by the Company.
- (f) Notwithstanding paragraph ((d)) of this Rule, the Board may in its absolute discretion admit or reject any applicant for Grower Membership without the necessity of assigning any reason therefore. If the applicant is not admitted to Grower Membership in due course, all monies paid by the applicant to the Company must be returned forthwith in full.
- (g) A Grower Member has the right to receive notice of and attend general meetings of the Company and to vote at a general meeting of the Company in accordance with Rule 10.

5.3 Categories of Grower Members

- (a) Grower Members shall be divided into the following exclusive Categories:
 - (i) SJM Grower Members; and
 - (ii) Non-SJM Grower Members.
- (b) The categorisation of the Grower Member into one of the Categories specified under Rule 5.3(a) is determined by reference to whether the Farm of the Grower Member has South Johnstone Mill as the Home Mill for the purposes of the Cane Payment Formula by which the Grower is paid for sugar cane delivered from that Farm, or a Mill other than South Johnstone Mill as the Home Mill.
- (c) Subject to approval of the Board, a Grower that holds multiple Farms, including Farms which are located in different Mill areas may be separately admitted as a Grower Member in each category referred to Rule 5.3(a).
[For example, a Grower that owns a Farm located in the South Johnstone Mill area and a Farm located in the Mulgrave Mill area may be admitted as a SJM Grower Member and may also separately be admitted as a Non-SJM Member.]

5.4 Mill Member

- (a) Upon receipt of a written application for membership from FNQSS and payment of the entrance fee prescribed by the Board, FNQSS shall become the Mill Member.
- (b) The Board may accept a written application for Mill membership from the operator of a Mill other than South Johnstone Mill, on such terms as the Board may by special resolution determine.
- (c) A Mill Member has the right to receive notice of and attend general meetings of the Company and to vote at any general meeting of the Company.

5.5 Eligibility

- (a) Only a Grower is eligible for Grower Membership.
- (b) Membership is available to an individual, partnership, a corporation or its nominee.
- (c) A Grower Member is only eligible to remain a Member while they remain a Grower and every Grower Member shall notify the Company within 28 days of ceasing to be a Grower.

5.6 Forfeiture and cancellations

- (a) The Board must declare the membership of an Grower Member cancelled if:
 - (i) the whereabouts of a Grower Member is not presently known to the Company despite its reasonable endeavours to ascertain his/her whereabouts, and have not been known to the Company for the continuous 12 months period before that date;

- (ii) the Grower Member no longer has a Farm and has not had a Farm for a continuous 12 month period before that date;
 - (iii) the Grower Member revokes his/her 'Authority to Deduct and Receive Farm Plan', or alters it so that it is no longer in a form acceptable to the Board; or
 - (iv) the Grower Member fails to provide the Company with a copy of his/her current Farm Plan by 30 June each year of a copy of his/her current Farm Plan has not otherwise been provided by the Miller.
- (b) The Board must declare the membership of the Mill Member cancelled if it:
- (i) no longer manufactures sugar or products from cane; or
 - (ii) is no longer recognised as a Mill owner under the Act; or
 - (iii) fails to contribute a levy to the Company each year equal to the total of the amounts received from Grower Members in the same year pursuant to the 'Authority to Deduct and Receive Farm Plan'

5.7 Register of cancelled memberships

The Company must, in the approved form, keep a register of memberships cancelled under Rule 5.6, which must specify the reason for the cancellation.

5.8 Resignation

Subject to Rule 5.2(d), a Member may cease his or her membership by service of written notice to the Secretary of the Member's resignation from membership. There shall be no refund of entrance fees and/or annual levies if any Member ceases his/her membership.

6. RIGHTS AND OBLIGATIONS

6.1 Amount of fees and subscriptions payable

The donation amounts, entrance fees and the annual levies or subscription fees for the Members are such amounts and are due at such times as the Board from time to time determines. The Board may determine different amounts and different times or methods for payment for the entrance fees and the annual levies or subscription fees for each category of Grower Members. Unless otherwise determined by the Board, annual levies or subscription fees that are payable on a per tonne basis according to the tonnes of sugar cane delivered by the Grower to the Mill shall be payable in respect of all Farm Plans assigned to that Grower's ABN in the records of the Mill.

6.2 Variation of rights of Members

Whilst the membership is divided into difference classes, the rights attached to any class (unless otherwise provided by the terms of application for member of that class) may, whether or not the Company is being wound up be varied with the consent in writing of Members with at least 75% of the votes in the class, or with the sanction of a special resolution passed at a separate meeting of Members of that class.

6.3 Provision of Farm Plan

Every Grower Member authorises the Company to obtain an updated copy of his/her relevant Farm Plan directly from the Miller pursuant to that Member signing an 'Authority to Deduct and Receive Farm Plan'.

6.4 Register of Farm Plan Areas

The Company will (with appropriate consents) compile a register of Farm Plan Areas. Each Grower Member is responsible for ensuring the details of the register of his/her Farm Plan Area are correct, so far as it is relevant.

7. FINANCIAL RECORDS

7.1 Keeping of Financial Records

- (a) The financial year of the Company commences on 1 July and ends on 30 June.
- (b) Proper books and financial records must be kept and maintained showing correctly the financial affairs of the Company. The Company must ensure there is due compliance with the relevant accounting and auditing requirements of the Law.
- (c) The Board must distribute to all Members at the end of each financial year, copies of the financial report including a copy of the auditor's report and any other documentation require under the Law.

- (d) The Board must cause to be made out and laid before each annual general meeting a statement of financial position, a statement of financial performance and a cash flow statement made up to a date not more than 6 months before the date of the meeting.

7.2 Banking of monies

All the monies of the Company shall be banked in the name of the Company in a bank account at such bank as the Board may from time to time direct.

7.3 Appointment of Auditor

The Company must appoint and retain a properly qualified auditor whose duties are determined in accordance with the Law. No Member may act as an auditor of the Company.

7.4 Inspection of records of the Company

- (a) The Board may as its sole discretion determine whether and to what extent, and at what time and place and under what conditions the financial records and other documents of the Company or any of them will be open to the inspection of Members other than the Board.
- (b) No Member, other than the members of the Board, has the right to inspect any document of the Company except as provided by Law or as authorised by the Board.

8. GENERAL MEETINGS

8.1 General Meetings

- (a) General meetings of the Company may be called and held at the times and places and in the manner determined by the Board. Except as permitted by the Law, the Members may not convene a meeting of the Company. By resolution of the Board, any general meeting (other than a general meeting which has been requisitioned or called by Members in accordance with the Law) may be cancelled or postponed prior to the date on which it is to be held.
- (b) The Chairman of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
- (i) in possession of a pictorial-recording or sound-recording device;
 - (ii) in possession of a placard or banner;
 - (iii) in possession of an object considered by the Chairman to be dangerous, offensive or liable to cause disruption;
 - (iv) who refuses to produce or permit examination of any object, or the contents of any object of container, in the person's possession;
 - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vi) who is not:
 - A. a Member or a proxy, attorney or, if applicable, a corporate representative of a Member;
 - B. a member of the Board; or
 - C. the auditor of the Company.

8.2 Notice of General Meeting

- (a) Not less than 21 days' notice of a general meeting must be given by the Board in the form and in the manner the Board thinks fit. Notice of meetings shall be given to the Members and to such persons as are entitled under these Rules or the Law to receive notice. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.
- (b) If the meeting is to be held at 2 or more places the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Law in relation to the use of such technology.

9. PROCEEDINGS OF MEETINGS

9.1 Business of General Meetings

- (a) The Business of an annual general meeting is to receive and consider the financial and other reports required by the Law to be laid before each annual general meeting, when relevant to appoint an auditor, and to transact any other business which, under these Rules, is required

to be transacted at any annual general meeting. All other business transacted at an annual general meeting and all businesses transacted at other general meetings is deemed to be special. Except with the approval of the Board, with the permission of the Chairman or pursuant to the Law, no person may move at any meeting either:

- (i) in regard to any special business or which notice has been given under Rule 8.2, any resolution of any amendment of the resolution; or
 - (ii) any other resolution which does not constitute part of special business of which notice has been given under Rule 8.2.
- (b) The auditors and his/her representative are entitled to attend and be heard on any part of the business of a meeting which concerns the auditors. The auditors or his/her representative, if present at the meeting, may be questioned by the Members, as a whole, about the audit.

9.2 Quorum

Ten Grower Members and the Mill Member present in person or by proxy, attorney or duly appointed corporate representative shall constitute a quorum for a meeting except if the Company at any time has only one Grower Member of where a class of Members is constituted by one Member. No business may be transacted at any meeting except the election of a Chairman and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business.

9.3 Adjournment in absence of Quorum

If within 15 minutes after the time specified for a general meeting a quorum is not present, the meeting, if convened upon a requisition or called by Members, is to be dissolved, and in any other case it is to be adjourned to the same day in the next week (or, where that day is not a business day, the business day next following that day) at the same time and place and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time specified for holding the meeting, the meeting is to be dissolved.

9.4 Chairman

- (a) The Chairman of the Board is entitled to take the chair at every general meeting.
- (b) If at any general meeting:
 - (i) the Chairman of the Board is not present at the specified time for holding the meeting; or
 - (ii) the Chairman of the Board is present but is unwilling to act as Chairman of the meeting,

the deputy Chairman of the Board is entitled to take the chair at the meeting.
- (c) If at any general meeting:
 - (i) there is no Chairman of the Board or deputy Chairman of the Board; or
 - (ii) the Chairman of the Board and deputy Chairman of the Board are not present at the specified time for holding the meeting; or
 - (iii) the Chairman of the Board and the deputy Chairman of the Board are present but each is unwilling to act as Chairman of the meeting,

the members of the Board present may choose another member of the Board as Chairman of the meeting and if no member of the Board is present or if each of the members of the Board present are unwilling to act as Chairman of the meeting, a Member chosen by the members present is entitled to take the chair at the meeting.

9.5 Acting Chairman

If during any general meeting the Chairman acting pursuant to Rule 9.4 is unwilling to act as chairman for any part of the proceedings, the Chairman may withdraw as chairman during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a member of the Board or who has been nominated for election as a member of the Board at the meeting to be acting chairman of the meeting during the relevant part of the proceedings. Upon the conclusion of the relevant part of the proceedings, the acting Chairman is to withdraw and the chairman is to resume acting as chairman of the meeting.

9.6 General conduct of Meeting

- (a) Except as provided by Law, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the Chairman.

- (b) The Chairman may at any time the chairman considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of 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 Members present.
- (c) The Chairman may require the adoption of any procedure which is in the Chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.

9.7 Adjournment

The Chairman may at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question or resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting. If the Chairman exercises a right of adjournment of a meeting pursuant to this Rule, the Chairman has the sole discretion to decide whether to seek the approval of the Members present to the adjournment and, unless the Chairman exercises that discretion, no vote may be taken by the Members present in respect of the adjournment. No business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.8 Voting

- (a) Each question submitted to a general meeting is to be decided in the first instance by a show of hands of the members present and entitled to vote. Subject to paragraph (b) of this Rule, in the case of an equality of votes, the Chairman has, both on a show of hands and at a poll, no casting vote in addition to the vote or votes to which the Chairman may be entitled as a Member or as a proxy, attorney or, if applicable, a duly appointed corporate representative of a Member.
- (b) On a show of hands, where the Chairman has 2 or more appointments that specify different ways to vote on a resolution, the Chairman can vote but does not have a casting vote in the case of an equality of votes cast by Members entitled to vote at the meeting.

9.9 Declaration of vote on a show of hands – when Poll demanded

- (a) At any meeting, unless the poll is demanded, a declaration by the Chairman that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the Chairman of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution. A poll may be demanded:
 - (i) before a vote is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (b) A poll may be demanded by:
 - (i) the Chairman;
 - (ii) at least 2 Grower Members present entitled to vote on the resolution; or
 - (iii) the Mill Member.
- (c) No poll may be demanded on the election of a Chairman of a meeting.

9.10 Taking a Poll

If a poll is demanded as provided in Rule 9.9, it is to be taken in the manner and at the time and place as the Chairman directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. In the case of any dispute as to the admission or rejection of a vote, the Chairman's determination in respect of the dispute made in good faith is final.

9.11 Continuation of Business

A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting immediately and without adjournment.

9.12 Special Meetings

All the provisions of these Rules as to general meetings apply to any special meeting of any class of Members which may be held pursuant to the operation of these Rules or the Law.

10. VOTES OF MEMBERS

10.1 Voting rights

- (a) On a vote by a show of hands, each Grower Member present and voting will receive one vote.
- (b) On a vote on a poll or in a postal ballot each Grower Member will receive one vote.
- (c) A Grower that is a Grower Member under each category referred to in Rule 5.3, shall be entitled to one vote in each category of membership..
- (d) If a Grower Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his committee or trustee or such other person as properly has the management of his estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.
- (e) Subject to paragraph (f) of this Rule, where a person is entitled to vote in more than one capacity, the person is entitled only to one vote on a show of hands.
- (f) If the person appointed as proxy has 2 or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands.
- (g) If a Grower Member holds his/her membership jointly with or in partnership with another person or persons, the person first recorded in the register shall be entitled to exercise the right to vote on behalf of all joint Grower Members in the absence of any authorisation in writing signed by the Grower Members to the contrary. In any instance where a membership is held jointly with or in partnership with another person or persons and the first person recorded in the register is absent or unable to vote and in the absence of any authorisation in writing signed by the Grower Members to the contrary, the person next named in the register (or, as applicable, consequentially named thereafter) and who is present and able to vote shall be entitled to exercise the right to vote on behalf of all such Grower Members.
- (h) On a vote by a show of hands, the Mill Member shall have 1 vote. On a poll and in a postal ballot, the Mill Member shall be entitled to exercise an equivalent number of votes to that exercised by Grower Members. A Mill Member shall not be entitled to vote as a Grower Member on a poll of postal ballot. Notwithstanding any other provision of this Constitution, on the election of a Grower Director, a Mill Member shall not have a vote.

10.2 Appointment of Proxies

- (a) Any Member entitled to vote at a general meeting may appoint one proxy.
- (b) A proxy need not be a Member of the Company.
- (c) The instrument appointing a proxy (and the power of attorney, if any, under which it is signed or proof of the power or attorney to the satisfaction of the Board) must be deposited duly stamped (if necessary) at the Office, faxed to the Office or deposited, faxed or sent by electronic mail to any other place specified in the notice of meeting, at least 48 hours (or a lesser period as the Board may determine and stipulate in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument proposes to vote.
- (d) No instrument appointing a proxy is, except as provided in this Rule, valid after the expiration of 12 months after the date of its execution. Any Member may deposit at the Office an instrument duly stamped (if necessary) appointing a proxy and the appointment is valid for all or any stipulated meetings of the Company until revocation.

10.3 Voting by Corporation

Any corporation, being a Member and entitled to vote, may by resolution of its Directors or other governing body or by an instrument of proxy authorise any person, though not a Member of the Company, or any person occupying a particular office from time to time, to act as its representative, and such representative is, in accordance with his authority and until his authority is revoked by the corporation which he represents, entitled to exercise the same powers at meetings on behalf of the corporation which he represents as that corporation could exercise if it were a

natural person who was a Member and exercise any other powers permitted to be exercised by a body corporate representative under the Law.

10.4 Validity of vote

A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument of proxy or power of attorney in respect of which the vote is given, provided no notice in writing of the death, unsoundness of mind or revocation has been received at the Office before the meeting or any adjourned meeting. A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

10.5 Form and execution of Instrument of Proxy

- (a) An instrument appointing a proxy is required to be in writing signed by the appointor or the attorney of the appointor or, if the appointor is a corporation, under its common seal or signed by a duly authorised officer and in the form which the Board may from time to time prescribe to accept.
- (b) The instrument of proxy is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the person giving the proxy.
- (c) An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting, as well as for the meeting to which it relates. Any duly signed proxy which is incomplete may be completed by the Secretary on authority from the Board and as permitted by the Law and the Board may authorise completion of the proxy by the insertion of the name of any member of the Board as the person in whose favour the proxy is given provided that that member of the Board is also entitled to vote at the general meeting as required by Rule 10.2(b).

10.6 Board to issue forms of proxy

The Board may issue with any notice of general meeting of Members or any class of Members forms of proxy for use by the Members. Each form is to make provision for the Member to write in the name of the person to be appointed as proxy and may provide that, if the Member does not so write in the name, the proxy is to be a person named on the form. The form may include the names of any of the members of the Board or of any other person as a suggested proxy. The forms are to be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

10.7 Attorneys of Members

Any Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine from time to time together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

11. THE BOARD

11.1 The initial Board of Directors

The names of the first members of the Board are those persons named as Directors in the application for registration of the Company. Subject to the Law, the first members of the Board shall hold office until the third annual general meeting of the Company. Thereafter the composition of the Board must satisfy Rules 11.2, 11.3, 11.4 and 11.5.

11.2 Number of Board Directors

- (a) The Board shall have the power to maintain, decrease or increase the number of Directors provided that at all times the minimum number of Directors shall be 5 and the maximum number of Directors shall be 12.
- (b) So far as is reasonably practical, the parity in number of Grower Directors to Mill Directors shall be sought to be maintained in the ratio of 2 Grower Directors and 1 Mill Director.

11.3 Grower Directors

- (a) Subject to Rule 11.2 the Board shall include a total of 6 Grower Directors.
- (b) A person is not qualified to be a Grower Director unless they are an individual, whether a Member of the Company or a representative of a corporate member, and at least 18 years old.
- (c) The members of the Board that hold Office as Zone Directors at the date of the adoption of this Constitution, shall be the initial Grower Directors until the end of the next annual general meeting of the Company held after the adoption of this Constitution.
- (d) Subject to the Law and this Constitution, the Grower Directors elected after the adoption of this Constitution shall hold office for a term of three years.
- (e) A retiring Director is eligible for re-election.
- (f) A retiring Director's retirement takes effect upon the conclusion of the annual general meeting in the year of the Director's retirement.
- (g) An incoming Director commences office upon the conclusion of the annual general meeting at which the outgoing Director retires.
- (h) No person is eligible for election as a Grower Director unless the person or some member intending to nominate the person has given notice in writing signed by the nominee giving consent to the nomination. To be valid the notice must be left at the Company's registered office at least 28 days before the closing of the ballot. The Board may otherwise determine from time to time and/or make regulations or by-laws regarding the timing and procedure for calling of nominations for election of Grower Directors;
- (i) Subject to the size and composition of the Board determined under Rules 11.2 and 11.3(a), in the event that the number of nominations received for the positions of Grower Director is equal to or less than the number of Grower Directors to be elected, then those nominations will be accepted and the respective Grower Directors will be appointed automatically to the Board on behalf of the Grower Members, without the need for a formal election.
- (j) Subject to the size and composition of the Board determined under Rule 11.3(a), in the event that the number of nominations received for the positions of Grower Director is greater than the number of Grower Directors to be elected, a postal ballot of Grower Members must be held in accordance with Rule 13 to elect the required number of Grower Directors.
- (k) The Board has the power at any time and from time to time to appoint a person as a Grower Director to fill a casual vacancy arising upon the resignation or retirement for whatever reason of a Grower Director. Any person appointed under this Rules holds office until the third annual general meeting after the election of the vacating Director prior to which an election by postal ballot must be held to fill the vacancy (subject always to Rule 11.3(i)).

11.4 Mill Directors

- (a) Subject to Rule 11.2, the Mill Member/s is/are entitled by instrument in writing to the Company to:
 - (i) appoint up to 3 Mill Directors to the Board;
 - (ii) remove any Mill Director appointed to the Board in accordance with Rule 11.4(a)(i); and
 - (iii) appoint a Mill Director to fill any vacancy created for whatever reason (including the death, retirement, resignation or removal of a Mill Director).
- (b) A person is not eligible for appointment as a Mill Director by a Mill Member unless he/she is an individual, at least 18 years old and currently employed by a Mill Member.
- (c) The appointment of a Mill Director does not require ratification by the Members of the Company.
- (d) Other than as provided in this Rule and Rule 13, a Mill Director is subject to all other Rules relating to Directors.
- (e) If at any point the Board does not include 3 Mill Directors, any acts performed by the Board during that time are taken to have been validly performed.

11.5 Independent Directors

- (a) The initial Board and all subsequent Boards must include at least one person who is an Independent Director.

- (b) If at any time, there is only one Independent Director, such Independent Director shall have a casting vote in the event of a deadlock of votes at any Board meeting.
- (c) The Directors may appoint any person or persons (including a person nominated by SRA) with special skills to be an Independent Director of the Company on the terms and conditions and for the period the Directors may decide, and set the remuneration, benefits and allowances to be paid to an Independent Director for service as a Director subject to the Law.
- (d) A person is not eligible for appointment as an Independent Director unless he/she is an individual, at least 18 years old and independent of any Grower Member and any Mill Member. The Director is deemed to be independent if he/she does not stand to derive any financial benefit, either directly or indirectly by reason of his/her election to the Board apart from remuneration, benefits and allowances (if any) to be paid or provided in respect of service as a Director of the Company.
- (e) Subject to these Rules, such persons are Directors of the Company for the period of his/her appointment, if any term is specified. An Independent Director's term must not exceed 3 years, but an Independent Director may be re-appointed for one or more consecutive terms.
- (f) The appointment of an Independent Director does not require ratification by the Members of the Company.
- (g) Other than as provided in this Rule and Rule 13, an Independent Director is subject to all other Rules relating to Directors.
- (h) If at any point the Board does not include at least one person who is an Independent Director, any acts performed by the Board during that time are taken to have been validly performed.

11.6 Chairman

The Board shall elect a Chairman of its meetings and determine the period for which he/she is to hold office. If at any meeting the Chairman is not present at the time specified for holding the meeting (or if, being present, the Director refuses to act as Chairman), the Directors present may choose one of their remaining number to be Chairman of the meeting.

12. RESIGNATION AND REMOVAL

12.1 Resignation

Any member of the Board may resign at any time from membership of the Board by notice in writing delivered to the Secretary but such resignation only takes effect at the time when such notice is received by the Secretary unless some later date is specified in the notice when it shall take effect on the later date.

12.2 Removal

- (a) A member of the Board may be removed from office by ordinary resolution of the Members at a general meeting of the Company convened for that purpose. At any such general meeting the member of the Board must be given the opportunity to full present his/her case either orally or in writing or partly by either or both of these means.
- (b) A member of the Board who ceases to be a member of the Board under paragraph (a) of this Rule retains office until the dissolution or adjournment of the general meeting at which the member is removed.

12.3 Vacation of office by Director

In addition to the circumstances in which the office of a member of the Board becomes vacant by virtue of the Law and Rule 11.2(b), the office becomes vacant if that member of the Board:

- (a) becomes of unsound mind or a person who is a patient under laws relating to mental health or whose estate is liable to be dealt with or administered in any way under the law relating to mental health; or
- (b) becomes an insolvent under administration, suspends payment generally or creditors or compounds with or assigns his/her estate for the benefit of creditors; or
- (c) is absent from 3 consecutive meetings of the Board without the consent of the Board and without having arranged an alternate Director; or
- (d) resigns office by notice in writing to the Company.

13. POSTAL BALLOT

Subject to this Rule, a postal ballot must be held for the election of Grower Directors and may be held otherwise when the Board determines so. Postal ballots must be conducted in the manner set out below.

- (a) The Board must cause the details of the proposal on which the ballot is to be held to be set in a statement and fix the dates for the forwarding of ballots to relevant Grower Members and closing the ballot.
- (b) Every ballot must be conducted by the returning officer who must be appointed by the Board. In default of an appointment being made in enough time to allow the procedure in this section to be followed, the Secretary, or in absence of the Secretary the person acting in the capacity of Secretary, is the returning officer.
- (c) Any person, with the exception of a Director may be appointed by the Board to act as returning officer.
- (d) The returning officer may be helped in performance of a duty or power under this section by the person (who would be eligible to be a returning officer) the returning officer appoints.
- (e) The returning officer must prepare a roll of the full names and addresses of the relevant Grower Members of the Company as disclosed by the register of Members.
- (f) A person whose name is on the roll is entitled to vote in a postal ballot, and no person is otherwise eligible or entitled.
- (g) In the case of an election of Grower Directors, the Returning Officer must cause ballot papers to be prepared which set out the name of the company and the list of the names of candidates for election with a box adjacent to each candidate’s name. The order of the list of names will be determined by the Returning Officer using a process of random selection. The Ballot paper will instruct members in the correct method of voting and the number of candidates to be elected.
- (h) In any case other than an election, the returning officer must cause ballot papers to be prepared in or to the following effect:

Name of Company.....
Ballot of Members to decide the following proposal:

The ballot will close at noon on

How to Vote

1. *Read the directions and the ballot paper carefully.*
2. *Complete and sign the details on the reverse side of the middle envelope.*
3. *If you are in favour of the proposal insert ‘YES’ in the square in the ballot paper. If you are not in favour of the proposal insert ‘NO’*
4. *After marking the ballot paper fold it and place it in the small envelope provided and seal the envelope. Then place this envelope in the middle envelope and place the middle envelope on the envelope addressed to the returning officer. Forward this envelope either by post or personal delivery to reach the returning office by noon on.....*
5. *Unless the ballot paper is marked as indicated in 3 above and the details mentioned in 2 above are completed in full and signed, your vote may be rejected as informal.*

.....
Initials of Returning Officer

BALLOT PAPER

Are you in favour of the proposal as mentioned above?’

- (i) Each ballot paper must be initialled by the returning officer. The returning officer must, at least 21 days before the day fixed for closing the ballot, transmit by post or otherwise deliver to every relevant Grower Member entitled to vote in a ballot, 1 set of the following material.
 - (i) 1 ballot paper;

- (ii) an unsealed envelope (the ‘outer envelope’) addressed to the returning officer;
- (iii) a smaller envelope (the ‘middle envelope’) into which the voter must enclose the envelope containing the ballot paper, the reverse side of which must be printed in or to the following effect:

.....
 (full name)

.....
 (address)

.....
 (signature)

a. Please use capital letters.

b. If the vote is being cast on behalf of a corporate body also indicate the name of such corporate body.

- (iv) A small envelope (the ‘inner envelope’) into which the ballot paper is enclosed; and
- (v) A copy of the statement (prepared by the Board) setting out the details of the proposal on which the decision of the Members is to be sought.
- (j) Every relevant Grower Member desiring to vote in the ballot should complete the details on the reverse side of the middle envelope and after marking his/her vote on the ballot paper according to the instructions on the ballot paper, seal the ballot paper in the inner envelope. The inner envelope containing the ballot paper should then be placed in the middle envelope and the middle envelope placed in the outer envelope addressed to the returning officer. The outer envelope should then be posted or personally delivered to the returning officer by noon on the day fixed for closing the ballot.
- (k) The returning officer must provide a ballot box.
- (l) The ballot box must be locked immediately before the ballot papers are delivered under Rule 13(i) and remain locked until the close of the ballot.
- (m) The returning officer must place the outer envelopes containing the ballot papers in the ballot box by noon on the day fixed for closing the ballot.
- (n) Upon a Grower Member making and transmitting to the returning officer a declaration that the Grower Member has not received the ballot paper, or that the ballot papers received by the Grower Member have been lost, spoilt or destroyed, and that the Grower Member has not already voted, the returning officer may issue a duplicate set of the material required under Rule 13(i), having endorsed any duplicate outer envelope with the word ‘duplicate’.
- (o) Any Grower Member who makes a declaration under the subsection, which is false, in any particular material, contravenes these Rules.
- (p) Ballot papers received after noon on the day fixed for closing the ballot must not be taken into account at the ballot.
- (q) As soon as practicable after noon on that day, the returning officer in the presence of such scrutineers as may be appointed by the Board may open the ballot box and deal with the contents under Rule 13(r) and 13(s).
- (r) The returning officer must:
 - (i) remove the middle envelope from the outer envelope; and
 - (ii) if a duplicate outer envelope has been issued and the original outer envelope is received, reject the original envelope and mark it ‘rejected’; and
 - (iii) according to the information on the middle envelope, mark for each set of voting papers returned, the voter’s name on the roll by drawing a line through the name; and
 - (iv) if a Grower Member’s name has already been crossed out on the roll, reject the postal vote and mark it ‘rejected’; and
 - (v) if the middle envelope has not been signed, or if the details shown on the envelope are not enough to disclose by whom the vote is being exercised, reject the envelope and mark it ‘rejected’; and
 - (vi) extract or cause to be extracted the inner envelopes containing the ballot papers from all un-rejected middle envelopes, separating the contents from the middle

- envelopes in such a way that no inner envelope could subsequently be identified with a particular voter; and
- (vii) when all the middle envelopes have been dealt with, in the above way, cause all the inner envelopes not rejected to be opened and the ballot papers to be taken from them.
- (s) The ballot papers must be scrutinised by the returning officer who should supervise and reject as informal a ballot paper that:
 - (i) Is not duly initialled by the returning officer; or
 - (ii) Is so imperfectly marked that the intention of the voter cannot be ascertained by the returning officer; or
 - (iii) Has any mark or writing not authorised by this section which, in the opinion of the returning officer will enable any persons to identify the voter; or
 - (iv) has not been marked as prescribed on the ballot paper itself.
 - (t) The decision of the returning officer as to the formality of any ballot paper is final and is not open to appeal.
 - (u) The returning officer must count votes and make out and sign a statement of”
 - (i) the number of formal votes cast in favour of each candidate or each proposal (as the case may be); and
 - (ii) the number of formal votes cast against each proposal; and
 - (iii) the number of informal votes cast; and
 - (iv) the number of inner envelopes marked ‘rejected’; and
 - (v) the proportion of the formal votes polled which were in the affirmative.
 - (v) On the declaration of the returning officer of the result of the postal ballot the Secretary of the Company is to make an entry in the minute book showing the particulars mentioned in Rule 13(u)(i)- 13(u)(v).
 - (w) The returning officer must forward the statement to the Chairman who must announce the result of the ballot at such time and in such manner as the Chairman may consider appropriate, but in any case not later than at the next general meeting.
 - (x) The proposal which received the required majority of votes must be declared won. In an election of Grower Directors, the candidates with the highest number of formal votes will be elected, according to the number of Grower Directors required to be elected. (For example, if there are 6 Grower Directors to be elected then the 6 candidates with the highest number of formal votes are deemed to have been elected)..
 - (y) The returning officer must keep all ballot papers (whether formal or otherwise) and rejected outer envelopes and rolls used for the conduct of the ballot, locked in the ballot box until the returning officer has been directed by the Board, in writing, that they may be destroyed.
 - (z) For a postal ballot altering the Rules, the Company must cause the alteration to be notified in writing to its Members as soon as practicable after the alteration takes effect and, in any event, not later than the day notice is given to the Members of the next annual general meeting of the Company, following the taking effect of the alteration.

14. EXERCISE OF VOTING POWER IN OTHER CORPORATIONS

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the members of the Board or any of them Directors of that corporation and a member of the Board of the Company may vote in favour of the exercise of those voting rights) notwithstanding that the member of the Board is, or may be about to be appointed, a Director of that other corporation and may be interested in the exercise of those voting rights.

15. ALTERNATE MEMBERS OF THE BOARD

- (a) Subject to these Rules, each member of the Board has power from time to time to appoint any person to act as his/her alternate in the place of that member of the Board, whether for a stated period or periods or until the happening of a specified event or from time to time, whenever by absence or illness or otherwise the member of the Board is unable to attend to his/her duties.
- (b) The member of the Board must first seek and obtain the consent of the Board to the appointment, which consent is not to be unreasonably withheld or delayed. The appointment

is to be in writing and signed by the member of the Board and a copy of the appointment is to be given by the appointing member of the Board to the Company by forwarding or delivering it to the Office. In the case of a Grower Director wishing to appoint any person to act as his/her alternate in the place of that member of the Board, such person must be a Grower Member.

- (c) The appointment takes effect immediately upon receipt of the appointment at the Office.
- (d) The following provisions apply to an alternate member of the Board:
 - (i) An alternate may be removed or suspended from office upon receipt at the Office of written notice, letter, facsimile transmission or other form of visible communication from the member of the Board by whom the alternate was appointed to the Company;
 - (ii) the alternate is entitled to receive notice of meetings of the Board and to attend and vote at the meetings if the member of the Board by whom the alternate was appointed is not present;
 - (iii) the alternate is entitled to exercise all powers (except the power to appoint an alternate) and perform all duties of a member of the Board, in so far as the member of the Board by whom the alternate was appointed had not exercised or performed them;
 - (iv) the office of the alternate is vacated upon vacation of office by the member of the Board or written resignation being given to the Company by the member of the Board, by whom the alternate was appointed;
 - (v) the alternate is not to be taken into account in determining the number of members of the Board or rotation of members of the Board; and
 - (vi) the alternate is, while acting as a member of the Board, responsible to the Company for the alternate's own acts and defaults and is not to be deemed to be the agent of the member of the Board by whom the alternate was appointed.

16. PROCEEDINGS OF THE BOARD

16.1 Procedures relating to Board Meetings

- (a) The Board may meet together, upon each member of the Board being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Until otherwise determined by the Board, at least 50% of the total number of appointed Directors of the Board form a quorum but so that a quorum shall only be constituted if not less than 50% of the Grower Directors and not less than 50% of the Mill Directors are present or as represented by their respective duly appointed alternates.
- (c) Notice is deemed to have been given to a member of the Board, and all members of the Board are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by electronic mail or SMS to the usual place of residence, fax number, electronic address or mobile telephone number of the member (if any fax number, electronic address or mobile telephone number is notified to the Company) or at any other address given to the Secretary by the member from time to time subject to the right of the member to withdraw such consent within a reasonable period before a meeting.

16.2 Meetings by telephone or other means of communication

The Board may meet either in person or by telephone or by other means of communication consented to by all members of the Board subject to the right of a member of the Board to withdraw his/her consent within a reasonable period before a meeting. All persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the members of the Board attending the meeting, provided that at least one of the members present at the meeting is at that place for the duration of the meeting.

16.3 Votes at meetings

Questions arising at any meeting of the Board are to be decided by a majority of votes. Any Grower Director and any independent Director present in person or by an alternate shall have 1 vote each and Mill Directors present in person or by alternate shall each have a voting entitlement

arising from and calculated in accordance with the following formula (Which may result in a fractional entitlement):

$$\frac{\text{Total number of Grower Directors present in Person or by alternate and being entitled to vote}}{\text{Total number of Mill Directors present in person or by alternate and being entitled to vote}}$$

The Chairman of the Board shall not have a second or casting vote in the event of an equality of votes, unless there is a deadlock and the Chairman is an Independent Director appointed under Rule 11.5.

16.4 Convening of Meetings

The Chairman or the Board may at any time, and the Secretary, upon the request of any one member of the Board, must, convene a meeting of the Board.

16.5 Powers of meetings

A meeting of the Board or any adjournment of a meeting at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

16.6 Delegation of Powers to Committees

The Board may, subject to the constraints imposed by law, delegate any of its powers to committees consisting of one or more member of the Board or any other person or persons as the Board thinks fit. Any Committee formed or person or persons appointed to the committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

16.7 Proceedings of Committees

- (a) The meeting and proceedings of any Committee are to be governed by the provisions of these Rules for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under Rule 16.6.
- (b) A committee in the exercise of the duties delegated or assigned to it shall conform to any regulations, directions or instructions that may be imposed or given by the Board.
- (c) A committee appointed by the Board shall be under the control and direction of the Board and has no direct part or power in the management of the company.

16.8 Validity of acts

- (a) All acts done at any meeting of the Board or by a Committee or by any person acting as a member of the Board, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the members or the committee or the person acting as a member of the Board or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a member of the Board or a member of the Committee (as the case may be).
- (b) If the number of member of the Board is reduced below the minimum number fixed pursuant to these Rules, the continuing members of the Board may act for the purpose of increasing the number of members of the Board to that number or of calling a general meeting of the Company but for no other purpose.

16.9 Resolution in writing

A resolution in writing of which notice has been given to all member of the Board and which is signed by all such members entitled to vote on the resolution is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted and may consist of several documents in the same form each signed by one or more of the members of the Board. For the purposes of this Rule, the references to 'member of the Board' include any alternate for the time being present in Australia who is appointed by a member of the Board not for the time being present in Australia but do not include any other alternate member of the Board. A facsimile transmission or other document produced by mechanical or electronic means under the name of a member of the Board with a member's authority is deemed to be a document in writing signed by that member.

17. POWERS OF THE BOARD

17.1 General Powers of the Board

- (a) The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by these Rules) may exercise all powers and do all things as are within the power of the Company and are not by these Rules or by Law directed or required to be exercised or done by the company in general meeting.
- (b) The Board may make such regulations and by-laws not inconsistent with the Constitution, as in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property and amend or rescind from time to time any such regulations and by-laws.
- (c) A regulation or by-law of the Company made by the Board may be disallowed by the Company in a later general meeting.
- (d) A resolution or regulation made by the Company in general meeting cannot invalidate prior acts of the Board which would have been valid if that resolution or regulation had not been passed or made.

17.2 Member of the Board contracting with the Company.

- (a) Neither the holding of office as a member of the Board nor the fiduciary relationship resulting from holding that office shall:
 - (i) disqualify any member of the Board from holding any office or place of profit (other than that of auditor) in the Company;
 - (ii) disqualify any member of the Board from entering into any arrangement, contract or dealing with the Company in any capacity;
 - (iii) avoid or vitiate any arrangement, contract or dealing entered into by or on behalf of the company in which a member of the Board is any way interested or;
 - (iv) render any member of the Board or any corporation of which a member of the Board is an officer or member or in any way interested or any partnership of which a member of the Board is a member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement, contract or dealing.
- (b) The nature of the interest of a member of the Board must be disclosed by him/her at the meeting of the Board at which the arrangement, contract or dealing is determined by the Board, if his/her interest then exists, or, in any other case, at the meeting of the Board next following the acquisition of his/her interest.
- (c) Subject to the Law, a member of the Board who is any way interested in any arrangement, contract or dealing is referred to in paragraph (a) of this Rule (whether existing or proposed) may vote in respect of the arrangement, contract or dealing at a meeting of the Board and may be counted in a quorum present at such meeting.
- (d) A member of the Board may affix or attest the affixation of the Seal and any instrument or sign or execute any document notwithstanding any interest which such member of the Board has in the subject matter of that instrument or document or any other office or place of profit held by such member of the Board.
- (e) All acts done by any meeting of the members of the Board or of any Committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Board or subcommittee.

18. COMPANY SECRETARY

The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determines.

19. OTHER SALARIED OFFICERS

The Board may appoint such officers and employees at such salaries for such periods and on such terms as it thinks fit and may subject to conditions of the employment of such officers and

employees dispense with his/her services and re-appoint or appoint other officers and employees as it thinks fit.

20. THE SEAL

20.1 Company seal is optional

The Company may have a Seal.

20.2 Affixing the Seal

If the Company has a Seal, the Board is to provide for its safe custody and it should only be used by the authority of the Board. Every instrument to which the Seal is affixed is to be signed by a member of the Board and countersigned by the Secretary or by a second member of the Board or by another person appointed by the Board for the purpose. The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

20.3 Execution of documents without a Seal

The company may execute a document, including a deed, by having the document signed by:

- (a) 2 members of the Board; or
- (b) a member of the Board and the Secretary; and

if the company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in Rule 20.2 or this Rule.

20.4 Other ways of executing documents

Notwithstanding the provisions of Rules 20.2 and 20.3, any document including a deed, may also be executed by the Company in any other manner permitted by law.

21. MINUTES

The Board must ensure that minutes are duly recorded in any manner it thinks fit:

- (a) of the names of the members of the Board present at each meeting of the Company, the Board and or any Committees; and
- (b) of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any Committees,

and the minutes of any meeting of the Board or of any Committee or of the Company, if purporting to be signed by the Chairman of the meeting or by the Chairman of the next succeeding meeting, are prima facie evidence of the matters stated in the minutes.

22. NOTICES

22.1 Service of Notices

A notice may be given by the company to a Member, or in the case of joint holders to the Member whose name stands first in the Register, personally, by leaving it at the Member's Registered address or by sending it by prepaid post or facsimile transmission addressed to the Member's Registered address or by sending it to the electronic address (if any) nominated by the Member. All notices sent by prepaid post to persons whose Registered address is not in Australia may be sent by airmail or some other way that ensures that it will be received quickly.

22.2 When Notice deemed to be served

Any notice sent by post is deemed to have been served at the expiration of 48 hours after the envelope contain the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member personally or left at the Member's Registered address is deemed to have been served when delivered. Any notice served on a Member by facsimile transmission is deemed to have been served when the transmission is sent. A facsimile is deemed to be duly sent when the Company's facsimile system generates a message confirming successful transmission of the total number of pages of the notice to the addressee. Any notice served on a Member by electronic means is deemed to have been served when the electronic message is sent.

22.3 Member not known at Registered address

Where a Member does not have a Registered address or where the Company has bona fide reason to believe that a Member is not known at the Member's Registered address, all future notices are deemed to be given to the Member if the notice is exhibited in the Office for a period of 48 hours

(and is deemed to be duly served at the commencement of that period) unless and until the Member informs the Company of a registered place of address.

22.4 Signature to Notice

The signature to any notice to be given by the Company may be written or printed.

22.5 Reckoning of period of Notice

Where a given number of days notice or notice extending over any other period is required to be given, the day of service to not to be reckoned in the number of days or other period.

22.6 Service on deceased Members

A notice delivered or sent by post to the Registered address of a Member pursuant to these Rules is (notwithstanding that the Member is then dead and whether or not the Company has notice of the Member's death) deemed to have been duly served and the service is for all purposes deemed to be sufficient service of the notice or document on the Member's heirs, executors or administrators.

22.7 Persons entitled to Notice of General Meeting

- (a) Notice of every general meeting is to be given to:
 - (i) each Member individually who is entitled to vote at general meetings of the Company;
 - (ii) each member of the Board; and
 - (iii) the auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.

22.8 Notification of change of address

Every Member must notify the Company of any change of his or her Registered address and any such new Registered address must be entered in the register of Members as required to be kept by the Law and upon being so entered becomes the Member's Registered address.

23. INDEMNITY

23.1 Indemnity for/in favour of member of the Board, Secretaries and Board Officers

Subject to the Law, the Company must indemnify every person who is or has been a member of the Board, Secretary or executive officer of the Company against a liability:

- (a) Incurred by the person acting in his/her capacity as a member of the Board, secretary or executive officer to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith;
- (b) For the costs and expenses incurred by the person:
 - (i) 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
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Law.

23.2 Indemnity to Employees

Every Employee who is not a member of the Board, Secretary or executive officer of the Company may be indemnified out of the property of the Company against a liability:

- (a) incurred by the employee acting in that capacity;
- (b) for the costs and expenses incurred by an employee:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the Law.

23.3 Personal liability of Officer

If the Board or any member thereof or any officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, the Board may execute or cause to be executed any charge or security over or affecting the whole or any part of the assets of the company by way of indemnity to secure the persons or person so becoming liable as aforesaid from any loss in respect of such liability.

23.4 Insurance

- (a) Subject to the Law, the Company may pay insurance premiums in respect of insurance for the benefit of every person who is or has been a member of the Board, Secretary or executive officer acting in that capacity against:
 - (i) costs and expenses in defending any proceedings, whether civil or criminal, whatever the outcome; or
 - (ii) a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Law dealing with improper use of inside information or position.
- (b) The company may pay insurance premiums in respect of insurance for the benefit of the auditor or an employee of the Company who is not a member of the Board, Secretary or executive officer concerned in the management of the company.