

**CONSTITUTION**

**OF**

**GRAIN PRODUCERS SA LIMITED**

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1. **COMPANY NAME**

The name of the Company is **GRAIN PRODUCERS SA LIMITED**

2. **COMPANY TYPE**

2.1 The Company is a public Company limited by guarantee.

2.2 The liability of the Members is limited.

3. **INTERPRETATION**

In this Constitution, unless there is something in the subject or context which is inconsistent:

“Act” means the Corporations Act 2001 (Cwth) as amended from time to time.

“Board” means the Board of Directors.

“Business Day” means a day where trading banks are open for business in Adelaide excluding, Saturdays, Sundays and Public Holidays.

“Calendar Year” means a period commencing on 1<sup>st</sup> January and ending on the following 31<sup>st</sup> December.

“Committee” means a committee or sub-committee of Directors or others appointed by Directors established in accordance with Clause 15.14.

“Constitution” means this Constitution as amended or supplemented from time to time.

“Company” means Grain Producers SA Limited.

“Correspondence” means carriage by post or transmission by facsimile or email, of material pertaining to the business of the Company.

“Fees” means Membership Application and Subscription Fees.

“General Meeting” means any annual, general, special or extraordinary meeting of Members called for resolving matters that relate to the business of the Company and this constitution.

“Grain” means wheat, barley, triticale, maize, sorghus, soybeans, safflower seed, sunflower seed, linseed, oats, rye, canola, rapeseed, field peas, lupins, millet, canary seed, grain legumes/pulses, pasture seeds (including grasses), clovers and medics) and any product of the soil declared by the Company to be a grain grower for the purposes of this Constitution.

“Grain Producer” means an active producer of Grain.

“Financial Year” means a period commencing from 1<sup>st</sup> April and ending on the following 30<sup>th</sup> March.

“Fund” means a fund established under any of the Levy Acts.

“Levies” means levies or contributions paid or payable by or on behalf of Grain Producers under the Levy Acts.

“Levy Acts” means Primary Industry Funding Schemes Act 1998 as amended or any replacement Act including but not limited to any funding scheme established under such Act and/or the Wheat Marketing Act 1989 and any replacement Act.

“Member” means a Member of the Company, pursuant to Clause 9.

“Member Present” means, in connection with a meeting of delegates, a Member being represented by the Members’ delegates present or by proxy or attorney.

“Northern Region” means the grain growing regions in South Australia to the west of the River Murray and to the east of Port Augusta excluding Kangaroo Island.

“Office” means the registered office for the time being of the Company.

“Officer” has the same meaning as given to that term in Section 9 of the Act.

“Regions” means the Northern Region, the Southern Region and the Western Region.

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

“Representative” means a person nominated and authorised in accordance with section 250D of the Act to act as a representative of a body Member of the Company.

“Resolution” means a formal expression of opinion, will, or intention developed through correct meeting procedure and by the exercise of applicable voting entitlements of the Members through their representatives.

“Secretary” means the person appointed as the Secretary of the Company and includes any assistant or acting Secretary.

“Southern Region” means the grain growing regions in South Australia to the east and south of the of the River Murray and including Kangaroo Island.

“Special Motion” is a motion proposed for the purpose of altering the Constitution of the Company, where the Special Motion is discussed at a General Meeting convened for that purpose.

“Special Notice” means notice of not less than 21 days of the time and place of the relevant meeting and notice of not less than 21 days of the resolutions in respect of which notice is given, except in circumstances where Members has agreed by resolution to waive the period of Special Notice.

“Special Resolution” has the same meaning as in the Act.

“State” means a State or Territory of the Commonwealth of Australia.

“Term” means:

- (a) subject to Clause 15.1(d)(ii) for those Directors appointed under Clause 15.1(b)(ii) a period of two (2) years from the appointment of a Director;
- (b) for the Chairperson a period of two (2) years from the appointment of the Chairperson;
- (c) for the Directors appointed under Clause 15.1(b)(iii) the period as the Director shall determine;
- (d) for the initial Directors the period set out in Clause 15.1(d)(i);

- (e) for those appointed at the first Annual General Meeting for the period set out in Clause 15.1(d)(ii).

“Western Region” means the grain growing regions in South Australia to the west of Port Augusta and excluding Kangaroo Island.

3.1 In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes the other two genders;
- (c) the word “person” means a natural person and any partnership, association, body or entity whether incorporated or not;
- (d) the words “writing” and “written” include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (f) a reference to any clause or schedule is to a clause or schedule of this Constitution;
- (g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (h) the word “includes” in any form is not a word of limitation.

3.2 An expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division, the same meaning as in that Part or Division.

3.3 The provisions of the Act which operate as replaceable rules (but not replaceable rules which mandatorily apply to a public company) do not apply to the Company.

3.4 Headings do not form part of or affect the construction or interpretation of this Constitution.

#### 4. **ALTERATION OF CONSTITUTION**

4.1 This Constitution may subject to Clause 4.2 be amended by the Members pursuant to a Special Motion of which Special Notice has been given by the Secretary and provided that the Special Motion is carried at the meeting by a majority of not less than three quarters (75%) of the votes cast by the Members at that meeting.

4.2 This clause was removed at the Annual General Meeting held 11 September 2014.

#### 5. **POLITICAL NEUTRALITY**

5.1 The Company shall remain strictly non-party political.

5.2 No Member of Parliament shall act as a Director of the Company. Any Officer or Director, on being elected to Parliament, shall ipso facto vacate his/her office.

## 6. OBJECTS OF THE COMPANY

6.1 The objects of the Company are to :

- (i) Foster and initiate the development and implementation of policies that promote the economic and environmental sustainability of the South Australian grains industry;
- (ii) Take all steps necessary to maintain and enhance the status of South Australia as Australia's best grain producing area;
- (iii) Consult, lobby and make submissions to Government;
- (iv) Liaise and consult with similar interstate bodies and the grains industry on production and marketing issues;
- (v) Encourage production of a quality Grain by
  - A recommendation of suitable varieties;
  - B promoting high delivery and receival standards pertaining to quality and hygiene;
  - C facilitating the sourcing and supply of pure seed to Members of the Company;
- (vi) Promote and encourage research into:
  - A development of new and improved varieties of Grain;
  - B farm management practices which enhance Grain quality;
  - C farm management practices which enhance farm profitability and stability;
  - D agronomic techniques which assist production;
- (vii) Collection and administration of any grower levies which may be paid by or levied on Grain Producers and/or the purchasers of Grain;
- (viii) Dissemination of information to Members on matters relating to marketing arrangements, market supply and demand situation, wheat quality standards, production methods, research findings and any other issues relevant to the aims and objectives of the Company;
- (ix) Promote and further the development of agricultural resources and in particular without limitation the growing of Grain for consumption within Australia and for export.
- (x) Develop strategies that address key commercial issues and impediments to the profitable commercial operation of the South Australian grains industry, in a manner that will enhance the efficiency, effectiveness, viability and comparative advantage of South Australia's grains industry, and growers in particular;

- (xi) Represent and promote South Australia's grain growers, the policies of the Company and the interests of South Australia's grain industry nationally and internationally;
- (xii) Make representations to, and work with, governments in accordance with the roles and responsibilities of the Company;
- (xiii) Fulfil such duties and responsibilities that are, from time to time reserved for the Company by, or under, the Government of Australia, or any other Commonwealth or State agency or authority;
- (xiv) Co-operate and act in association with other organisations across the grains value chain, where matters of common interest are involved;
- (xv) Facilitate a strategic approach to research, development and extension that will deliver sound commercial outcomes from grain industry research;
- (xvi) Facilitate the dissemination, adoption and commercialisation of the results of research and development and innovation in relation to the South Australian grains industry;
- (xvii) Provide services to South Australian grain growers in the interest of the Australia grain industry; and
- (xviii) Engage in any other activities in the interest of the South Australian grains industry, in each case for the benefit of South Australian grain growers;
- (xix) Collect, generate and receive income from commercial, government, bequests, sponsorship and other sources as the Company sees fit.

6.2 Each object for which the Company is established as specified in Clause 6.1 is independent of each other object for which the Company is established. The objects are not limited or restricted (except where otherwise expressed) by reference to or inference from any other provision of this Constitution but may be carried out in as full a manner and construed in as wide a sense as if each object were a separate and distinct object of the Company.

6.3 Nothing in this Clause 6 limits the powers of the Company.

## 7. EXERCISE OF POWERS

7.1 Subject to Clause 6 in furtherance of the objects and functions of the Company, the Company may do all things that a natural person may do under Clause 6 including the power to do such things as are incidental or conducive to the attainment of the Company objectives, including, without limitation, the power to:

- (a) Enter into any arrangements with any Government or other authority, including municipal, local or otherwise, that may be conducive to the Company's objects and to obtain from any such Government or other authority, any rights, privileges and concessions which the Company may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- (b) Invest and deal with the money of the Company not immediately required in such manner as the Board may determine from time to time.



- (c) In furtherance of the objects of the Company, to amalgamate or affiliate with any companies, institutions, societies or associations having objects altogether or in part similar to those of the Company.

7.2 The Company can only exercise the powers in section 124(1) of the Act to:

- (a) Carry out the objects and functions of the Company set out in Clause 6; and
- (b) Do all things incidental or convenient in relation to the exercise of power under Clause 7.

7.3 The income and property of the Company will only be applied towards the promotion of the objects and functions of the Company set out in Clauses 6 and 7.1.

7.4 No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company.

7.5 Clause 7.4 does not prevent the payment in good faith of remuneration to any officer or servant of the Company or to any Member in consideration for any services actually rendered to the Company or reasonable and proper rent for premises let by any Member to the Company.

7.6 The Board has the power to determine from time to time the following:

- (a) the annual Membership subscription fees determined under Clause 9.4;
- (b) the period of time over which a Grain Producer must have paid Levies to be eligible to firstly become a Member under Clause 9.2 and secondly to vote at a General Meeting of the Company under Clauses 9.5(c) and 14.8;
- (c) which sources of information and/or the basis on which the Company may use to establish the voting entitlement of Members.

## 8. **POLICY DECISIONS**

- (a) The Company will develop policies in relation to the objects set out in Clause 6 of this Constitution.
- (b) The policies in relation to the objects of the Company will be formulated initially by the Board and any committees formed by the Board.

## 9. **MEMBERS – QUALIFICATIONS, ADMISSION, SUBSCRIPTIONS AND VOTING PROCEDURE**

9.1 The Members of the Company must be Grain Producers.

9.2 A person is eligible to be entered on the register of Members as a Grain Producer if the person has paid Levies and/or contributions have been made to a Fund in respect of Grain produced and sold by the Grain Producer, during the period determined by the Board under Clause 7.6 but if no determination has been made by the Board, then during the Calendar Year prior to the year in which the person applies for Membership.

- 9.3 (a) A person may apply to be a Member of the Company by completing an application form to be provided by the Company, and giving it to the Company. Where persons applying to be a Member comprise a partnership an application form may be signed by one or more of those partners on behalf of the other

partners. Where an Application Form is signed by a body corporate, it may be signed by an officer of the body corporate.

- (b) On application for Membership as a Grain Producer, a person must:
    - (i) state that the person is a Grain Producer or that the person is eligible to be a Grain Producer;
    - (ii) state that to the best of its knowledge and belief all statements in the application for Membership are correct;
    - (iii) agree to be bound by the Constitution of the Company;
    - (iv) include and contain such other information as the Board shall from time to time determine; and
    - (v) pay an application fee (if any) as prescribed by the Board.
  - (c) On application for Membership as a Grain Producer, a person must provide the information requested in the application form relating to the transactions and activities in which it engaged during the Calendar Year preceding its application for Membership.
  - (d) The Board may after considering the application:
    - (i) if they are satisfied that the person is eligible to be a Member of the Company – admit the person as a Member of the Company; or
    - (ii) otherwise – decline to admit the person as a Member of the Company.
  - (e) The Company must give the person written notice of the Board's decision on the application for Membership.
  - (f) The Company must enter in the register of Members, in addition to the information requested by Chapter 2C of the Corporations Law the total number of votes that the Member is entitled to cast on a poll at a General Meeting.
- 9.4
- (a) All Members must pay to the Company an annual subscription fee if set by the Board. The amount of such annual subscription fee shall be determined by the Board each Calendar Year.
  - (b) All subscriptions will be due and payable on the date determined by the Board.
  - (c) Membership shall be on an annual basis.
- 9.5 A Member of the Company has the following rights:
- (a) The right to receive notices of General Meetings and all other documents sent to Members in respect of General Meetings;
  - (b) The right to attend and to speak at General Meetings;
  - (c) The right to vote on all other matters arising under the Act or under this Constitution at a General Meeting provided that to be eligible to vote at any meeting the Member must if requested by the Board satisfy the Board that the Member has paid Levies during the calendar year immediately preceding the date of the relevant General Meeting.

- 9.6 At a General Meeting a resolution put to the vote of the meeting is to be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson or (other than on the election of the chairperson of a meeting or the adjournment of a meeting) by not less than three Members having the right to vote at the meeting. On a poll each Member of the Company is entitled to ten (10) votes and can split their votes.
- 9.7 (a) A Member must give the Company notice of any change in the Member's name or address within 60 days of the change occurring.
- (b) A Member must give the Company notice if it has ceased to be eligible to be a Member within 60 days of it ceasing to be eligible.
- 9.8 (a) The Company may, by notice given to a Member, require the Member to provide to the Company within 14 days of the date on which the notice is given, evidence in writing of the information relevant to establishing:
- (i) that the Member continues to be eligible to be a Grain Producer and has continued to pay Levies or has had Levies paid or contributed on their behalf; and
- (ii) where the Member has provided information to the Company under Clause 9.3(c), the information requested by the Company under that clause for the Calendar Year preceding the date on which the notice is given.
- (b) The Company may require that information referred to in Clause 9.8(a) be verified within 7 calendar days by statutory declaration made by the Member or an officer of the Member or by a certificate given by an independent person approved by the Company. The form of the Statutory Declaration shall be as required by the Board from time to time.
- (c) If:
- (i) a Member fails to provide the Company with the information required under Clause 9.8(a) within the period specified in the notice; or
- (ii) the Board, after considering the information provided by a Member under Clause 9.8(a) and/or Clause 9.8(b), is satisfied that the Member has ceased to be eligible to be a Grain Producer;
- (iii) the Member will cease to be a Member of the Company and the Company must give the person notice that it has ceased to be a Member with effect from the date of the notice.

## 10. **EXPULSION OF A MEMBER**

- 10.1 The Board may expel, and remove from the register of Members, any person:
- (i) whom the Board is satisfied has ceased to be eligible to be a Member or
- (ii) who is uncontactable as specified in Clause 10.2; or
- (iii) who fails to pay any subscription fee required to be paid pursuant to Clause 9.4.

- 10.2 A person is uncontactable if, the Board is satisfied that, for the last 2 consecutive Financial Years prior to the decision to expel and remove the person, all notices from the Company to the person given in accordance with Clause 21 have not been received by the person.

## 11. **CESSATION OF MEMBERSHIP**

A person ceases to be a Member:

- (a) If the Member ceases to be eligible as a Member under Clause 9.2 or is expelled under Clause 10;
- (b) If the Member resigns from Membership by notice in writing to the Company;
- (c) If (being a natural person) the Member dies or the Member 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;
- (d) If the Member becomes bankrupt or insolvent or is wound up or makes any arrangement or compromise with its creditors or is placed into voluntary administration or has a receiver or controller appointed to its assets; or
- (e) In any other circumstances prescribed in the terms of Membership applicable to the Member or in any undertaking given by the Member upon its admission to Membership.

## 12. **MEMBERSHIP NOT TRANSFERABLE**

Unless otherwise provided by the terms of Membership, Membership of the Company is personal to a Member and is not transferable.

## 13. **EQUITABLE AND OTHER CLAIMS**

Except as otherwise required by law or provided by this Constitution, the Company is not:

- (a) compelled in any way to recognise a person has holding a Membership upon any trust, even if the Company has notice of that trust; or ;
- (b) compelled in any way to recognise, or be bound by, an equitable contingent, future or partial claim to or interest in a Member on the part of any other person, except an absolute right of ownership in the registered Member, even if the Company has notice of that claim or interest.

## 14. **GENERAL MEETINGS**

### 14.1 Convening of General Meetings

- (a) Any 2 Directors, may whenever they think fit, convene a General Meeting.
- (b) A General Meeting may be convened only as provided by this Clause 14.1 or as provided by Division 2, Part 2G.2 of the Corporations Law.
- (c) The Directors may postpone, cancel or change the venue for a General Meeting, but a General Meeting convened under Division 2, Part 2G.2 of the Corporations Law may not be postponed beyond the date by which Division 2, Part 2G.2 of the Corporations Law requires it to be held and may not be cancelled without the consent of the requisitioning Member or Members.

- (d) A General Meeting may be held at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

#### 14.2 Notice of General Meetings

- (a) Advance notice of a General Meeting must be given by causing a notice of the meeting to be sent to all Members not less than 15 Business Days before the day on which the meeting is to be held. The Company may also:
  - (i) cause the advance notice to be published in any newspaper the Company thinks appropriate; and
  - (ii) cause particulars of the meeting to be made public in any other way and at any time the Company thinks appropriate.
- (b) Advance notice of a General Meeting must:
  - (i) specify the day, time and place of the meeting;
  - (ii) state the general nature of the business to be transacted at the meeting;
  - (iii) state the Company's register of Members will close for the purpose of the meeting and specify the date of closure; and
  - (iv) state that any person who is a Grain Producer, who is eligible to be but who is not a Member of the Company, may apply to be a Member of the Company before the register is closed for the purpose of the meeting.
- (c) Subject to this Constitution, 21 calendar days' notice of a General Meeting must be given in the manner authorised by Clause 20 to each person who is at the date of the notice:
  - (i) a Member;
  - (ii) a Director; or
  - (iii) an auditor of the Company.
- (d) A notice of a General Meeting must:
  - (i) specify the place, date and time for the meeting;
  - (ii) except as provided in Clause 14.2(f), state the general nature of the meeting's business;
  - (iii) set out the terms of any Special Resolution to be passed at the meeting;
  - (iv) set out the information required by the Corporations Law regarding the appointment of proxies; and
  - (v) whether or not a Member can attend and vote "on-line" and if so the relevant details allowing the Member to access the Meeting.
- (e) A notice of General Meeting:
  - (i) called to remove a Director of the Company; or

- (ii) called on the requisition of Members under Division 4, Part 2G.2 of the Corporations Law;

must set out the terms of any resolutions proposed to be put to the vote of the meeting and the terms of the resolution may not be altered or modified at the meeting.

- (f) It is not necessary for a notice of an annual General Meeting to state that the business to be transacted at the meeting includes the consideration of accounts and the reports of the Directors and auditor, the appointment and fixing of the remuneration of the auditor of the Company, or any other business which under the Corporation Law provides is to be transacted at the annual General Meeting.
- (g) A person may waive notice of any General meeting by notice in writing to the Company.
- (h) The non-receipt of notice of a General Meeting or proxy form by, or 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 Clause 14.2, does not invalidate any act, matter or thing done or resolution passed at the General Meeting if:
  - (i) the non-receipt or failure occurred by accident or error, or
  - (ii) before or after the meeting, the person:
    - A has waived or waives notice of the meeting under Clause 14.2(g); or
    - B has notified or notifies the Company of the person's agreement to that act, matter, thing or resolution by notice in writing to the Company.
- (i) A person's attendance at a General Meeting:
  - (i) waives any objection the 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 the 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 or in Clause 14.2(f), unless the person objects to considering the matter when it is presented.
- (j) The Company must give all Members notice of each person who is a candidate for election as a Director at least five (5) business days before the meeting at which the election is to take place.

#### 14.3 Admission to General Meetings

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

- (a) is in possession of a pictorial-recording or sound-recording device;
- (b) is in possession of a placard or banner; or

- (c) is in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption; or
- (d) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession; or
- (e) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) is not:
  - (i) a Member or a proxy, attorney or representative of a Member; or
  - (ii) a Director; or
  - (iii) an auditor of the Company; or
  - (iv) an invited guest.

#### 14.4 Quorum at General Meeting

- (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) Where the Company has forty (40) or less Members, one half of the number of Members shall be a quorum. Where the Company has more than forty (40) members, twenty (20) Members shall be a quorum.
- (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 such day, and at such 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 meeting must be dissolved.

#### 14.5 Chairperson of General Meetings

- (a) The chairperson of Directors 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 Directors;

- (ii) the chairperson of Directors is not present within 15 minutes after the time appointed for the Meeting; or
- (iii) the chairperson of Directors is present within that time but is not willing to act as chairperson of the meeting,

the Members present must elect as chairperson of the meeting another Director who is present and willing to act. If no other Director willing to act is present at the meeting the meeting must be dissolved, unless the meeting was convened under Division 2, Part 2G.2 of the Corporations Law in which case the Members present may elect as chairperson of the meeting one of the Members present who is willing to act.

#### 14.6 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 any business, question, motion or resolution being considered by 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, including limiting the time that a person present may speak on any business, question, motion or resolution being considered by the meeting; and
  - (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 may:
  - (i) 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 Clause 14.2(f); and
  - (ii) refuse to allow any amendment to be moved to a resolution of which notice has been given under Clause 14.2(e).
- (d) A decision by the chairperson under Clause 14.6(a), (b) or (c) is final.
- (e) The chairperson of a General Meeting may at any time during the course of 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) If the chairperson exercises his or her right under Clause 14.6(e), it is in the chairperson's sole discretion whether to seek the approval of the Members present to the adjournment.



- (g) The chairperson's rights under Clause 14.6(e) are exclusive and, unless otherwise required by the chairperson, no vote may be taken or demanded by the Members present in respect of any adjournment.
- (h) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (i) It is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (j) Where a meeting is adjourned, the Directors may postpone, cancel or change the venue of the adjourned meeting.

#### 14.7 Decisions at General Meetings

- (a) Subject to Clause 14.7(b), except in the case of any resolution which as a matter of law requires a Special Resolution, questions arising at a General Meeting are to be decided by a majority of votes cast by the Members present at the meeting and any such decision is for all purposes a decision of the Members.
- (b) In the case of an equality of votes upon any proposed resolution, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or the poll is demanded, in addition to his or her deliberative vote (if any), has a casting 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 3 Members having the right to vote at the meeting; or
  - (iii) by a Member or Members who together are entitled to at least 5% of the total voting rights of all the Members having the right to vote at the meeting.
- (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 is to 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 is to 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 must be taken immediately.
- (h) The demand for a poll may be withdrawn.

#### 14.8 Voting rights

- (a) Subject to this Constitution (including Clauses 9.5(c) and 14.7(c)), at a General Meeting if a vote is to be decided on a show of hands, every Member present has one vote.
- (b) Subject to this Constitution, at a General Meeting if a vote is to be decided on a poll, every Member present has ten (10) votes.
- (c) A proxy, attorney or representative is entitled to a separate vote for each Member the person represents, in addition to any vote the person may have as a Member in his or her own right.
- (d) 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.
- (e) A vote not disallowed by the chairperson of a meeting under Clause 14.8(d) is valid for all purposes.

#### 14.9 Representation at General Meetings

- (a) Subject to this Constitution, each Member entitled to vote at a meeting of Members may vote:
  - (i) in person or:
    - A where a Member is a body corporate, by its representative;
    - B where a Member is a partnership, by one only of the partners;
    - C where a Member is the trustee of a trust estate, by the trustee, or, if there is more than one trustee, by one only of the trustees;
  - (ii) by proxy; or
  - (iii) by 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 a maximum of two General Meetings, or for a particular General Meeting. A proxy, attorney or representative will not be accepted if they are standing proxies, attorneys or representatives or they are appointed for more than two General Meetings.
- (d) Unless otherwise provided in the instrument or terms of appointment, an instrument appointing a proxy or attorney, and the terms of appointment of a representative, will be taken to confer authority:
  - (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Law or by this Constitution;

- (ii) to agree to a resolution being proposed and passed as a Special Resolution 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 or terms 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 or terms 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 rescheduled or adjourned meeting or at the new venue.
- (e) 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.
- (f) Subject to Clause 14.9(h), and unless otherwise determined by the Board 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 appointor;
  - (ii) in the case of a body corporate, signed in accordance with section 127 of the Act or by a duly authorised officer of the appointor; or
  - (iii) in either case, signed by the appointor's attorney; or
  - (iv) in the case of an appointment notified electronically, authenticated in a manner approved by the Directors.
- (g) Subject to Clause 14.9(h), a proxy or attorney may not vote at a General Meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are deposited at the registered office of the Company or at such other place specified for that purpose in the notice convening the meeting 48 hours before the time for holding the meeting or adjourned meeting (as the case may be);

- (h) The Directors may waive all or any of the requirements of Clauses 14.9(f) and (g) and in particular may, upon the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy or attorney, accept:
- (i) an appointment of a proxy or attorney which is not signed or executed in the manner required by Clause 14.9(f); and
  - (ii) the deposit, tabling or production of a copy (including a copy sent by facsimile transmission) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of the 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, tabled or produced under Clause 14.9(g).
- (j) The appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the General Meeting but, if the appointor votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointor's proxy or attorney on the resolution.

## 15. DIRECTORS

### 15.1

- (a) The number of Directors must be the number, being not less than three ("minimum number") and not more than nine ("maximum number"), which the Board may determine.
- (b) Other than the appointment of the initial Directors the Directors shall consist of:
- (i) the Chairperson who shall be elected by the Members;
  - (ii) up to six other Directors elected by the Members; and
  - (iii) up to two other Directors appointed by the Board.
- (c) The initial Directors shall be:
- Jamie Lachlan Smith
  - John Wilton Lush
  - Jeffrey Thomas Arney
- ("the initial Directors")
- (d) (i) At the first Annual General Meeting of the Company the initial Directors shall retire but shall be eligible for re-election for a Term as is set out in Clause 15.1(d)(ii) and shall be sufficiently nominated if at least 10 Business Days prior to the date of the first Annual General Meeting the Director has given notice to the Company that he offers himself for re-election.

- (ii) At the first Annual General Meeting up to seven (7) directors shall be elected by the Members as follows:
  - the Chairperson shall be elected for a term of two (2) years; and
  - a further three Directors shall be elected for a term of two (2) years; and
  - a further three Directors shall be elected for a term of one (1) year.
- (e) The Board may at any time appoint any person as a Director to fill a vacancy (including a vacancy in the Chair and a vacancy of a Director from a region as contemplated in Clause 15.1(f)) but so that the number of Directors does not exceed the maximum number determined under Clause 15.1(a). Any Director appointed under this clause may hold office only until the next Annual General Meeting of the Company. Subject to Clause 15.1(i) that Director is then eligible to be appointed to the Board at the Annual General Meeting.
- (f) The Board may encourage a minimum number of nominations of Directors as follows:
  - (i) one Grain Producer whom grows and produces grain in the Northern Region;
  - (ii) one Grain Producer whom grows and produces grain in the Western Region; and
  - (iii) one Grain Producer whom grows and produces grain in the Eastern Region.

The Chair shall not be counted as a Grain Producer from the relevant region,

- (g) Subject to this Constitution the Directors shall be elected for a Term.
- (h) At every annual General Meeting of the Company any Director who, at the date of that meeting, shall have served a full Term shall retire (“the Retiring Director”) but shall be subject to Clause 15.1(i) and the requirement that such Retiring Director shall be eligible to hold office until the dissolution or adjournment of the meeting at which their successor(s) (if any) are elected.
- (i) A Retiring Director shall be eligible for re-election for a further Term and is sufficiently nominated for re-election if at least ten (10) Business Days prior to the date of the relevant General Meeting the Director has given notice to the Company that he/she offers himself/herself for re-election.
- (j) In the case of a Director who has been removed from office before the expiration of his or her period of office and another has been appointed in his or her stead, the person so appointed shall be subject to retirement at the same time as if he or she had become a Director on the day on which the Director in whose place he or she is appointed was last elected a Director.
- (k) No person (other than a retiring Director, a person appointed by the Directors or the initial Directors) is eligible for election as a Director at any General Meeting unless the person or a Member intending to nominate the person give notice to the Company signifying either candidature for the office of that person or the intention of the Member to nominate that person as the nominee. The notice must include or be accompanied by a written consent by the nominee to the

nomination, signed by the nominee and seconded by at least five (5) other Members. The notice and consent must be left at the registered office of the Company not less than fifteen (15) Business Days and not more than twenty (20) Business Days before the meeting.

- (l) (i) Any Director may, from time to time, appoint any person who is approved by the majority of the Directors to be an alternate or substitute Director to act in his or her place at any meeting of the Directors at which he or she is unable to be present.
- (ii) The appointee while he holds office as an alternate Director, shall be entitled to notice of meetings of the Directors and to attend and vote thereafter as a Director, and to exercise all the powers of the appointor in his or her place.
- (iii) An alternate or substitute Director shall not be entitled to be remunerated otherwise than out of the remuneration of the Director appointing him or her and shall ipso facto vacate office if and when the appointor vacates office as a Director or removes the appointee from office.
- (iv) Any appointments so made may be revoked at any time by the appointor or by a majority of the other Directors, and any appointment or revocation under this clause shall be effected by notice in writing to be delivered to the secretary of the company.

## 15.2 Vacation of Office

The office of a Director becomes vacant:

- (a) in the circumstances prescribed by the Act;
- (b) if the Director 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; or
- (c) if the Director resigns by notice in writing to the company.
- (d) on the Board resolving, provided that the Board may only so resolve where the Director is absent from meetings of the Board during a period of three consecutive calendar months without leave of absence from the Board and the Board has not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;
- (e) on the Director resigning office by notice in writing to the Company;
- (f) on the Director dying;
- (g) on the Director being removed from office under the Law; or
- (h) on the Director being prohibited from being a Director by reason of the operation of the Law.

## 15.3 Remuneration of Directors

- (a) Each Director is entitled to such remuneration out of the funds of the Company as the Directors determine, but if (subject to Clause 15.11(b)) the Company in

General Meeting has fixed a limit on the amount of remuneration payable to the Directors, the aggregate remuneration of the Directors under this Clause 15.3(a) must not exceed that limit.

- (b) The remuneration of a Director:
  - (i) may be a stated salary 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 salary under Clause 15.3(b)(i) or a share of a fixed sum under Clause 15.3(b)(ii), will be taken to accrue from day to day.
- (c) In addition to his or her remuneration under Clause 15.3(b), a Director is entitled to be paid all travelling and other reasonable expenses properly incurred by the Director 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.
- (d) If a Director renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of the company, the Directors may arrange for a special remuneration to be paid to that Director, either in addition to or in substitution for that Director's remuneration under Clause 15.3(b).
- (e) Nothing in Clause 15.3(b) 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 the Director's remuneration under Clause 15.3(b).

#### 15.4 Membership qualification

- (a) A Director is not required to be a Member of the Company to qualify for appointment.
- (b) A Director who is not a Member of the Company is nevertheless entitled to attend and speak at General Meetings.

#### 15.5 Interested Directors

- (a) A Director must not hold any other office in the Company in conjunction with his or her Directorship.
- (b) Subject to the approval the Board, a Director of the Company may be or become a Director, or other officer of, or otherwise have an interest in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a shareholder, or otherwise, and is not accountable to the Company for any remuneration or other 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 shares 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, either personally or through a related body corporate, in any respect including, without limitation:
  - (i) selling any property to, or purchasing any property from, the Company;
  - (ii) lending any money to, or borrowing any money from, the Company with or without interest and with or without security;
  - (iii) guaranteeing the repayment of any money borrowed by the Company for a commission or profit;
  - (iv) 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 shareholder or otherwise, for a commission or profit; or
- (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 voided 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 Clause 15.5(h), a Director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest, be present at the invitation of the chairperson at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement, but must not vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- (h) Clause 15.5(g) does not apply if, and to the extent that, it 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 Clause will bind all Directors.

## 15.6 General Powers of Directors

- (a) Subject to the Act and this Constitution, the management and control of the business and affairs of the Company shall be vested in the Directors who may exercise all powers of the Company which are not by the Act or this Constitution, required to be exercised by the Company in a General Meeting.



- (b) Subject to the Act and this Constitution, the Directors may delegate any of the powers of the Company as they think fit.
- (c) No resolution passed by the Company in General Meeting will have the effect of invalidating any prior act of the Directors which would have been valid if the resolution had not been passed.

#### 15.7 Proceedings of Directors

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other method of audio visual communication 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 telephone or audio visual communication.
- (c) A Director participating in a meeting by telephone or audio or audio visual communication is to be taken to be present in person at the meeting.
- (d) A meeting by telephone or audio or audio visual communication 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.

#### 15.8 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.

#### 15.9 Notice of meetings of Directors

- (a) Subject to this Constitution, notice of a meeting of Directors must be given to each person who is at the time of giving the notice a Director, other than 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; and
  - (iv) may be given in person or by post, facsimile transmission, telephone or other method of written, audio or audio visual communication.
- (c) A 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 method of written, audio or audio visual communication.

- (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:
  - (v) the non-receipt or failure occurred by accident or error; or
  - (vi) before or after the meeting, the Director:
    - A has waived or waives notice of that meeting under Clause 15.9(c); or
    - B has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, facsimile transmission, telephone or other method of written, audio or audio visual communication.
- (e) Attendance by a person at a meeting of Directors waives any objection that the person may have to a failure to give notice of the meeting.

#### 15.10 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) A quorum consists of the number of Directors present at the meeting of Directors which equals 50% of the number of Directors in office plus one if the number of Directors in office is an even number and 50% of the number of Directors in office rounded up to the next whole number if the number of Directors in office is an uneven number.
- (c) If there is a vacancy in the office of a Director then, subject to Clause 15.10(d), the remaining Director or Directors may act.
- (d) If the number of Directors in office at any time is less than the minimum number of Directors fixed under this Constitution, the remaining Director or Directors must act as soon as possible:
  - (i) to increase the number of Directors to satisfy the minimum number of Directors required under this Constitution; or
  - (ii) to convene a General Meeting of the Company for that purpose, and, until that has happened, must act only if and to the extent that there is an emergency requiring them to act.

#### 15.11 Chairperson of Directors

The Chairperson shall be elected by the Members:

- (a) The Directors may elect one of the Directors to the office of chairperson of Directors and may determine the period for which that Director is to be chairperson of Directors.
- (b) The office of Chairperson of Directors 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 Clause 15.3(d).

- (c) The Chairperson of Directors must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at each meeting of Directors.
- (d) If at a meeting of Directors:
  - (i) there is no Chairperson of Directors;
  - (ii) the Chairperson of Directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
  - (iii) the Chairperson of Directors 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.

#### 15.12 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) In the case of an equality of votes upon any proposed resolution the chairperson of the meeting will have a second or casting vote.

#### 15.13 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 who the Directors reasonably believe is not entitled at law to do the act, matter or thing or to vote on the resolution in question;

assent to 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 Directors who assent to the document 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 purpose of Clause 15.13(a):

- (iii) 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;
- (iv) 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
- (v) 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 or other method of written, audio or audio visual communication.
- (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 Clause 15.13(a), the document is to be taken as a minute of a meeting of Directors.

#### 15.14 Committees of the Board

- (a) The Directors may form and delegate any of their powers to a committee consisting of such Directors, delegates or other appointed persons as they think fit and may from time to time revoke such delegation.
- (b) A committee must, in exercise of the powers delegated to it, conform to any directions and restrictions that may be imposed on it by the Board. A power so exercised will be taken to be exercised by the Directors.
- (c) The meetings and proceedings of any committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Directors contained in this Constitution.
- (d) A committee appointed by the Directors should make recommendations to the Board for ratification and will not have independent policy determination powers, unless such powers are specifically conferred upon a committee at the direction of the Board.
- (e) A minute of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Directors are required by the Act and this Constitution to be made entered and signed.
- (f) Membership of a committee may, if the Directors so resolve, be treated as an extra service of special exertion performed by the Members for the purposes of Clause 15.3(d).

#### 15.15 Delegation to individual Directors

- (a) The Directors may delegate any of their powers to one Director.
- (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 of special exertion performed by the delegate for the purposes of Clause 15.3(d).

#### 15.16 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 of the Directors or committee (as the case may be) when the act was done.

### 16. **MISCELLANEOUS**

#### 16.1 Chief Executive Officer

- (a) The Directors may appoint a person as Chief Executive Officer of the Company.
- (b) The Chief Executive Officer must not be appointed to the office of Director. Should a Chief Executive Officer be appointed as a Director of the Company they must automatically cease to be the Chief Executive Officer.

#### 16.2 Secretaries

- (a) The Board must appoint at least one secretary and may appoint additional secretaries.
- (b) The Board may appoint one or more assistant secretaries.

#### 16.3 Auditor

The Board must appoint the company's auditor.

#### 16.4 Provisions applicable to all executive officers

- (a) A reference in this Clause 16.4 to an executive officer is a reference to a Chief Executive Officer, secretary or assistant secretary appointed under this Clause 16.
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.
- (c) Subject to any contract between the Company and the relevant executive officer, any executive officer of the Company may be removed or dismissed by the Directors at any time, with or without cause.

- (d) The Directors may:
  - (i) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) as they think fit;
  - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
  - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to be a Member of the Company to qualify for appointment.
- (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
  - (i) a defect in the person's appointment as an executive officer; or
  - (ii) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.

## 17. SEALS

### 17.1 Safe custody of seal

The Directors must provide for the safe custody of the seal, if any.

### 17.2 Use of seal

- (a) The seal must be used only by the authority of the Board or of a committee of the Board authorised by the Board to authorise the use of the seal.
- (b) The authority to use the seal may be given before or after the seal is used.
- (c) Until the Board otherwise determine, every document to which the seal is affixed must be signed by a Director and countersigned by another Director, a secretary, or another person appointed by the Board to countersign that document or a class of documents in which that document is included.

### 17.3 Seal Register

- (a) The Company must keep a seal register and, upon the affixing of the seal to any document (other than a certificate for securities of the company), must enter in the register particulars of the document, giving in each case the date of the document, the names of the parties to the document, a short description of the document and the names of the persons signing and countersigning the document under Clause 17.2(c).
- (b) The register must be produced at meetings of Directors for confirmation of the use of the seal since confirmation was last given under this Clause 17.3.
- (c) Failure to comply with Clause 17.3(a) or (b) does not invalidate any document to which the seal is properly affixed.

**18. WINDING UP AND GUARANTEE BY MEMBERS**

18.1 Every Member of the Company undertakes to contribute an amount not exceeding ten dollars (\$10) to the property of the Company if the Company is wound up:

- (a) at a time when that person is a Member; or
- (b) within one (1) year if the time that person ceased to be a Member,

for:

- (c) payment of the debts and liabilities of the company contracted before that person ceased to be a Member;
- (d) payment of the costs, charges and expenses of winding up the Company; and
- (e) adjustment of the rights of the contributories among themselves.

18.2 The Company shall not be wound up or dissolved except at a General Meeting of the Company specially convened for that purpose and by resolution carried by a majority of three quarters of the votes recorded in respect to the same and if upon the winding up or dissolution of the company there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the Members of the Company but shall be given or transferred to a fund or funds, authorities or institutions which or each of which has objects similar of the Company and whose constitution shall prohibit the distribution of its income and property among its Members.

**19. MINUTES AND RECORDS**

19.1 Minutes

The Directors must cause minutes of all proceedings of General Meetings and of meetings of the Directors and of committees of the Directors to be entered, within one month after the relevant meeting is held, in books kept for that purpose.

19.2 Signing of minutes

Except in the case of documents which are taken to be minutes under Clause 15.13(d), those minutes must be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

19.3 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.

19.4 Inspection of records

- (a) The Board 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. **NOTICES**

### 20.1 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 of Members or such other address, or by facsimile transmission to such facsimile number, as the Member has supplied to the Company for the giving of notices or by email to such email 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) The fact that a person has supplied a facsimile number or an email address for the giving of notices does not require the Company to give any notice to that person by facsimile or email.
- (c) A signature to any notice given by the Company to a Member under this Clause 20.1 may be in writing, by email or a facsimile printed or affixed by some mechanical or other means.
- (d) A certificate signed by a Director or a secretary of the Company to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.
- (e) Where a Grain Producer comprises joint Members, a notice may be given by the Company to the Member who is named first in the register of Members and notice to that person is deemed notice to all the joint Members.

### 20.2 Notices by the Company to Directors

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

### 20.3 Notices by Members of the Company

- (a) Subject to this Constitution, a notice may be given by a Member 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.
- (b) Where a Grain Producer comprises joint Members;



- (i) any one of those Members may sign a notice that may be given under Clause 20.3(a); and
  - (ii) to the extent of inconsistency between more than one such notice, a later notice prevails over an earlier one.
- (c) Where a notice is signed by a body corporate, the notice may, notwithstanding any other provision of this Constitution, be signed by an executive officer of the body corporate.

#### 20.4 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth must be sent by airmail.

#### 20.5 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, service of the notice is to be taken to be effected if the correct facsimile number appears on the facsimile transmission report generated by the sender's facsimile machine and to have been effected at the time the facsimile transmission is sent.
- (c) Where the Company gives a notice under Clause 20.1(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.
- (d) Where a notice is sent by mail, service of the notice is to be taken to be effected if the correct email address appears on the report generated by the sender and is deemed to have been received when the sending machine confirms notice has been sent.

#### 20.6 Other communications and documents

Clauses 20.1 to 20.5 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

#### 20.7 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.

### 21. **INDEMNITY AND INSURANCE**

#### 21.1 Person to whom Clauses 21.2 and 21.4 apply

Clauses 21.2 and 21.4 apply:

- (a) to each person who is or has been a Director or executive officer (within the meaning of Clause 16.4(a)) of the Company;
- (b) to such other officers or former officers of the Company or if its related bodies corporate as the Directors in each case determine.

## 21.2 Indemnity

The Company may indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this Clause 21.2 applies for all losses or liabilities incurred by the person as an officer 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 Corporations Law.

## 21.3 Extent of indemnity

The indemnity in Clause 21.2:

- (a) is a continuing obligation and is enforceable by a person to whom Clause 21.2 applies even though that person may have ceased to be an officer of the Company or of a related body corporate;
- (b) operates only to the extent that the loss or liability is not covered by insurance.

## 21.4 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 Clause 21.4 applies against any liability incurred by the person as an officer 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.

## 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 if, or the application or 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.