

AUSTRALIAN CERTIFIED ORGANIC PTY LIMITED

A.C.N. 099 884 983

**Company
Constitution**

Corporations Act

*A Proprietary
Company Limited
by Shares*

THE CONSTITUTION OF AUSTRALIAN CERTIFIED ORGANIC PTY LIMITED

A COMPANY LIMITED BY SHARES

ACN 099 884 983

Adopted by a Special Resolution of the Members on 22 June 2017

CONSTITUTION AGREEMENT

EFFECT OF THE CONSTITUTION

This Constitution shall have effect as a contract:

- (a) between the Company and each Member; and
- (b) between the Company and each Director and Company secretary respectively;
- (c) between a Member and each other Member,

pursuant to which the Company, each Director and Company secretary and each Member agrees to observe and perform the Rules within the Constitution so far as they apply to that Member.

MODIFICATION AND AMENDMENT

Unless a Member of the Company shall agree in writing, they shall not be bound by any modification of the Constitution after the date upon which they became a Member insofar as and to the extent that such modification:

- (a) requires the Members to take up additional shares;
- (b) increases the Members' liability to contribute to the share capital of, or otherwise to pay money to the Company;
- (c) imposes or increases restrictions on the right to transfer the shares held by the Member, unless the modification is made to change from a public company to a proprietary company; or
- (d) inserts take over approval provisions of the kind referred to in Section 648D of the *Corporations Act 2001* (Cth).

OPERATION FOR SINGLE DIRECTOR AND SHAREHOLDER

Where the sole Director and sole shareholder or Member of this Company is the same person:

- (a) any reference in this Constitution to more than one (1) Director or shareholder or Member shall be deemed to be a reference to one (1) Director or shareholder or Member;
- (b) this Constitution shall in all respects be interpreted so as to give legal effect and validity to its terms with application to a single Director, single shareholder and/or single Member.

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless the context or subject matter otherwise requires:

Associate when used in Rule 38, has the meaning given for the purposes of Division 7A of the *Income Tax Assessment Act 1936* (Cth);

Auditor means a person appointed as auditor of the Company;

Board means the board of Directors of the Company;

CEO means a chief executive officer as may be appointed by from time to time in accordance with Rule 34;

Company means Australian Certified Organic Pty. Ltd. ACN 099 884 983;

Constitution means this constitution together with its annexes;

Corporate Member means a Member which is a corporation;

Director means a person who is elected to the Board;

Instantaneous Communication Device means any device by which the processes of a meeting may be conducted between persons in different places and includes telephone, television or any other audio and/or visual device or technology which permits real-time (or near as practical thereto) communication;

Interest Rate means the Benchmark Interest Rate defined in the *Income Tax Assessment Act 1936* (Cth) expressed as a per cent per annum;

Law means the *Corporations Act 2001* (Cth) as may be amended from time to time;

Member means a shareholder of the Company (in whichever class as may be applicable in accordance with this Constitution);

Prescribed Rate means the rate specified by the Directors from time to time expressed as a per cent per annum or if no rate is specified, the Interest Rate plus two (2) per cent;

Related Body Corporate has the meaning given to that term in the Law;

Rules means the provisions of this Constitution and **Rule** means any one of them.

Secretary means a person appointed to perform the duties of a secretary for the Company and registered as such in accordance with the Law.

1.2 Interpretation

Unless the context or subject matter otherwise requires, references to:

- (a) **singular** words include the **plural** and vice versa;
- (b) any **gender** includes every gender;

- (c) **person** is a reference to a natural person, corporations, trusts, associations, partnerships, government authorities, and other legal entities, and where necessary, includes successors and assigns;
- (d) **writing** includes printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible or electronic form, in English;
- (e) **signature** and **signing** means due execution of a document by a person, corporation or other relevant entity and include signing by an agent or attorney or representative (if a body corporate);
- (f) **months** mean calendar months;
- (g) **statutes** include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;
- (h) **sections** of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;
- (i) an **agreement** or **document** means that agreement or document as amended, novated or supplemented;
- (j) **a party** includes that party's executors, administrators, substitutes, successors and assigns;
- (k) **sell** or **sold** include transfer, lease, assign, grant options and/or any other form of disposing of or creating an interest in the thing being considered and **buy** or **purchase** will be interpreted correspondingly;
- (l) where a person is entitled to **vote** or holds the **right to vote** on any matter by virtue of this Constitution, the person may vote by proxy or attorney or representative (if a body corporate);
- (m) a reference to monetary amounts shall be deemed to be denominated in Australian dollars
- (n) **headings** and the **table of contents** are for convenience only and will be disregarded in the interpretation of this Constitution;
- (o) if a word or phrase is given a **defined meaning**, another grammatical form of that word or phrase has a corresponding meaning; and
- (p) **each paragraph** or sub-paragraph in a list is to be **read independently** from the others in the list.

1.3 Replaceable Rules not to apply

The replaceable rules contained in the Law do not apply to the Company.

1.4 Actions authorised under the Law

Where the Law authorises or permits a company to do anything if authorised by its constitution, the Company is authorised or permitted to do that thing despite any other provision of this Constitution.

1.5 Corporations Act 2001 (Cth) prevails

Where any provision in this Constitution is invalid or unenforceable or conflicts with any provision of the Law, it will be read and interpreted as being subject to the provisions of the Law and will be ineffective, but only to the extent of any invalidity, unenforceability or conflict.

1.6 No limit on exercise of powers

Where the Company or the Directors or any other person is given a power, right or discretion under this Constitution and subject to Rule 1.5:

- (a) the power, right or discretion may be exercised absolutely without restriction unless the power, right or discretion is expressly limited or qualified; and
- (b) any exercise of that power, right or discretion on any occasion will not restrict the further exercise of the power, right or discretion on any other occasion or at any time.

2. OBJECTS

The objects of the Company are:

- (a) to provide certification programs, inclusive of certification services, relating to organic production and organic and bio-dynamic products;
- (b) to develop and enhance the agricultural and ecological resources of Australia and the Asia-Pacific region through providing certification, market access and training;
- (c) to develop and manage certification services, standards and related programs that service the organic food and farming industry in Australia and abroad where this enhances the development of the organic food and farming movement; and
- (d) to develop and manage certification services, standards and related programs and services that complement and meet the demand in the food and agriculture sectors for food safety, environmental and other attribution claims for food and fibre products that align with developing the agricultural and ecological resources of Australia.

3. RIGHTS, POWERS AND PRIVILEGES

3.1 The Company

The Company has:

- (a) the rights, powers and privileges of a natural person;
- (b) the rights, powers and privileges specified in the Law.

3.2 Specific power

Without limiting Rule 3.1, the Company has the power to:

- (a) issue and allot fully or partly paid shares;
- (b) issue debentures;
- (c) grant options over unissued shares;
- (d) give security by charging uncalled capital;
- (e) grant a fixed and/or floating charge over Company property;
- (f) register the Company as a body corporate in any place outside Australia; and
- (g) do anything that it is authorised to do by any other law.

3.3 Legal capacity not affected

The Company's legal capacity to do something is not affected by the fact the Company's interests are not, or would not be, served by doing it.

4. PROPRIETARY LIMITED COMPANY RESTRICTIONS

4.1 Limitations

The Company is registered as a proprietary company and accordingly:

- (a) the liability of the Members is limited by shares; and
- (b) the right to transfer shares in the Company is restricted by this Constitution.

4.2 Prohibitions

The Company is prohibited from issuing:

- (a) any invitation to the public to subscribe; or
- (b) any offer to the public to accept subscriptions,

for any shares in, or debentures of, the Company except in compliance with the Law.

4.3 No prospectus

The Company is prohibited from any other activity that would require the lodgement with the Australian Securities and Investments Commission of a prospectus under the Law.

4.4 Maximum number of Members

The number of Members of the Company must not exceed fifty (50) and when counting the Members of the Company under this Rule:

- (a) Joint holders of shares will be counted as one (1) person; and

5. CLASSES OF SHARES

The shares of the Company are divided into the following classes:

- (a) Ordinary; and
- (b) any other classes of Members as may be determined by the Board from time to time and approved in accordance with the Law.

6. SHARE RIGHTS

6.1 Ordinary shares

Members who are holders of Ordinary shares have:

- (a) the right to receive notices of meetings and to attend and vote at all meetings of the Company;

6.2 Corporate Members

- (a) A Corporate Member as defined under Rule 1.1 may only exercise the rights given to it under this Constitution, by appointing a representative who is a natural person or by reliance upon the rights set out in this Constitution to appoint a proxy.
- (b) A Corporate Member may appoint its representative by using the form set out in Schedule 3, or by such other form as may be approved by the Board from time to time. The appointment may set out restrictions on the representative's powers. The appointment may be a standing one.
- (c) The Corporate Member's representative may exercise all of the powers the Corporate Member may exercise:
 - (i) at meetings of the Company's Members;
 - (ii) at meetings of creditors;
 - (iii) relating to resolutions to be passed without meetings; or
 - (iv) in the capacity of a Member's proxy appointed in accordance with this Constitution and the Law.

6.3 Membership of the Company not transferable

Membership of the Company is personal to a Member and is not transferable.

6.4 Directors determine rights on shares

- (a) The Directors may issue shares in the Company by resolution.
- (b) Shares may be issued with any preferred or other special rights or restrictions relating to voting, return of capital or otherwise as the Directors determine.

(c) Any issue of shares by the Directors will not affect any special rights previously given to any existing shares or class of shares unless done in compliance with Rule 7.

(d) Any issue of shares will be subject to the Law.

6.5 Voting rights on shares

Unless otherwise stated in this Constitution or on the issue of any shares, where a share has voting rights attached to it, the holder of those shares has the right to cast one (1) vote upon a show of hands and upon a poll to cast one (1) vote for each share held.

7. VARYING SHARE CLASS RIGHTS

7.1 Special resolution

(a) The rights attached to any class of share may be varied:

- (i) with the consent in writing of the holders of at least seventy-five per cent (75%) of the issued shares of that class; or
- (ii) with the sanction of a special resolution passed at a separate meeting of the holders of the shares of the class.

a. The rights attaching to any class of shares may be varied whether or not the Company is being wound up.

7.2 Deemed variation of rights

The rights conferred upon the holders of the shares of any class issued with preferred or other rights will, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking equally with the first-mentioned shares.

8. COMMISSION

8.1 Payment

The Company may make payments by way of brokerage or commission in accordance with the Law.

8.2 Allotment to satisfy

Payments by way of brokerage or commission may be satisfied by any combination of:

- (a) the payment of cash; and/or
- (b) the allotment of fully or partly paid shares.

9. RECOGNITION OF THIRD PARTY INTERESTS

9.1 Company not required

The Company may, but is not required to, recognise a person as holding a share upon any trust or will if required by the Law.

9.2 Not bound to recognise interests

Whether or not the Company has notice of the rights or interests concerned, the Company is not bound to recognise:

- (a) any equitable, contingent, future, or partial interest in any share or unit of a share; or
- (b) any other right in respect of a share,

except an absolute right of ownership of a Member unless otherwise provided by this Constitution or the Law.

10. LIEN ON SHARES

10.1 Company lien

The Company has a first and paramount lien on all shares for all money called or payable in respect of those shares whether presently payable or not.

10.2 Lien for moneys payable

The Company has a first and paramount lien on all shares registered in the name of a Member for all money presently payable by that Member or their estate to the Company.

10.3 Exempt share from lien

The Directors may exempt a share wholly or partially from the provisions of this Rule.

10.5 Sale of share

- (a) The Company may sell any shares on which the Company has a lien by whatever means and with any terms as the Directors decide.
- (b) A share on which the Company has a lien must not be sold unless:
 - (i) a sum in respect of which the lien exists is presently payable; and
 - (ii) the Company has given the registered holder of the share at least fourteen (14) days' notice within which to pay the amount claimed.

10.6 Company as attorney

The Company will be constituted as the attorney of the holder of the shares and may execute a transfer of the shares sold under a lien to any purchaser of the shares or may authorise any person to execute a transfer of the shares sold under a lien to the purchaser of the shares.

10.7 Register of transfer

The Company will register the purchaser as the holder of the shares comprised in the transfer and the purchaser is not bound to see to the application of any purchase money.

10.8 Title to shares

- (a) The title of the purchaser to the shares is not affected by any irregularity or invalidity in connection with the sale. The purchaser is not liable for any calls which were due before the purchase of the shares unless otherwise agreed.
- (b) The remedy of any person aggrieved by any sale will be in damages only and against the Company exclusively.

11. CALLS ON SHARES

11.1 Directors to make calls

- (a) The Directors may make calls upon a Member for any money unpaid on shares held by them.
- (b) A call for payment must be made by notice to the Member:
 - (i) given not less than fourteen (14) days before the due date for payment;
 - (ii) specifying the amount claimed and the place and manner of payment;
 - (iii) specifying that the call is to be paid in instalments if required by the Directors.
- (c) If a Member does not receive a call notice or the Directors accidentally omit to give the Member a call notice, that omission will not invalidate the call and the liability of the Member for that call.

11.2 Member to pay call

A Member must pay the amount claimed in a call notice to the Company in accordance with that notice.

11.3 Directors may postpone

The Directors may revoke or postpone a call.

11.4 Liability of joint holders

The joint holders of any shares are jointly and severally liable to pay all calls on those shares.

11.5 Interest on unpaid calls

If a call is not paid within the required time, the Member will pay interest at the Prescribed Rate on the outstanding amount from the due date to the date payment is made. The Directors may waive the payment of interest wholly or partly.

11.6 Consequences of failure to pay call

If a Member does not pay any call or any other amount due in relation to a share, then all Rules relating to payment of interest and expenses, forfeiture or otherwise apply.

11.7 Directors may differentiate on calls

The Directors may differentiate between Members as to the amount of calls to be paid and the times of payment.

11.8 Acceptance of money

- (a) The Directors may accept from a Member any part of the amount unpaid on a share whether or not an amount has been called.
- (b) The Directors may authorise the payment of interest on any amount accepted in advance of a call until the amount becomes due at a rate agreed by the Directors and the Member not exceeding the Interest Rate.

12. TRANSFER OF SHARES

12.1 Form of transfer

- (a) A Member may transfer all or any of the Member's shares only as provided in these Rules. Any transfer will be subject to this Constitution and the Law.
- (b) A transfer of shares must be:
 - (i) in the form in Schedule 1 or in any other form that the Directors approve;
 - (ii) signed by the transferor and the transferee; and
 - (iii) approved by the Directors.

12.2 Effect of registration

- (a) A transferor of shares is the holder of those shares until a transfer is registered.
- (b) A transferee of shares does not become the holder of the shares until the name of the transferee is entered in the register of Members.

12.3 Transferee bound

Any person who acquires shares from another person is deemed to be bound by the terms of this Constitution as if it were an original party to it immediately upon registration of the person as a Member.

12.4 Conditions of registration

A transfer of shares must be delivered at the registered office of the Company, with:

- (a) any registration fee not exceeding ten dollars (\$10.00) as the Directors require;
- (b) the relevant share certificate; and
- (c) any other information the Directors require to show the transferor's right to transfer the shares.

12.5 Registration of transfer

The Company will:

- (a) register a transfer of shares in accordance with this Rule;
- (b) register a transferee as the holder of the shares in the books of the Company

subject to any other Rule.

12.6 Directors may refuse to register transfer

The Directors may refuse to register a transfer of shares without giving reasons unless the transfer is permitted under an agreement between all of the Members of the Company.

12.7 Suspension of registration of transfers

- (a) The registration of transfers may be suspended by the Directors.
- (b) Any suspension will continue for the period the Directors specify.
- (c) A suspension of transfers must not exceed an aggregate of thirty (30) days in any calendar year.

13. TRANSMISSION OF SHARES ON DEATH

13.1 Personal representative or joint holder

When a Member dies, the Company will recognise:

- (a) where the share is not held jointly, the personal representative of that Member; or
- (b) where the share is held jointly, a surviving joint holder of that share,

as being entitled to the deceased Member's interest in the share.

13.2 Representative as holder of shares

If Rule 13.1(a) applies, after the Member's personal representative establishes their entitlement to the satisfaction of the Directors, the personal representative:

- (a) may elect to be and will be registered as a holder of the Member's shares;
- (b) may transfer the Member's shares to another person in accordance with Rule 12;
and
- (c) is entitled to the Members' rights under this Constitution.

13.3 Estate remains liable

When a Member dies, the estate of that Member is not released from any liability in respect of the Member's shares.

13.4 Rule 12 subject to Rule 16

Any transfer under this Rule 13 is subject to Rule 16.

14. TRANSMISSION OF SHARES ON BANKRUPTCY

14.1 Trustee in bankruptcy

If a Member becomes bankrupt, the Company will recognise the trustee in bankruptcy of that Member as being entitled to the Member's interest in the shares.

14.2 Trustee as holder of shares

If Rule 14.1 applies, after the Member's trustee in bankruptcy establishes their entitlement to the satisfaction of the Directors, the trustee:

- (a) may elect to be and will be registered as the holder of the Member's shares;
- (b) may transfer the Member's shares to another person in accordance with Rule 12 if the share is held solely by that Member; and
- (c) is entitled to the Member's rights under this Constitution.

14.3 *Bankruptcy Act 1966 (Cth)*

Rule 13 has effect subject to the *Bankruptcy Act 1966 (Cth)*.

14.4 Rule 14 subject to Rule 16

Any transfer under this Rule 14 is subject to Rule 16.

15. TRANSMISSION OF SHARES ON MENTAL INCAPACITY

15.1 Trustee or guardian etc

If a person becomes entitled to shares because of the mental incapacity of a Member, the Company will recognise that person as being entitled to the Member's interest in the shares.

15.2 Trustee or guardian as holder of shares

If Rule 15.1 applies, after that person establishes their entitlement to the satisfaction of the Directors, the person:

- (a) may elect to be and will be registered as the holder of the Member's shares;
- (b) may transfer the Member's shares to another person in accordance with Rule 12 if the share is held solely by that Member; and
- (c) is entitled to the Member's rights under this Constitution.

15.3 Rule 15 subject to Rule 15

Any transfer under this Rule 15 is subject to Rule 16.

16. VOLUNTARY TRANSFER OF SHARES

16.1 Shares not to be sold

A Member must not sell any interest in its shares to any person except under this Rule 16. Any sale of shares under this Rule 16 must be of whole numbers of shares only.

16.2 Sale Notice

When a Member (the "Selling Member") proposes to sell any interest in its shares, that Member must give notice in accordance with Rule 16.3 (a "Sale Notice") to the Company and to the other Members (each a "Non-Selling Member").

16.3 Content and effect of Sale Notice

(a) A Sale Notice:

- (i) must state which of the Selling Members shares are to be sold;
- (ii) must state the price per share at which the Selling Member proposes to sell the shares;
- (iii) must contain detailed information on the proposed buyer to enable the Non-Selling Members to establish if the buyer is acceptable to them;
- (iv) must contain detailed information of the proposed sale to enable the Non-Selling Members to establish if the sale (including the price and its terms and conditions) is genuine;
- (v) constitutes the Company as the agent of the Selling Member or the sale of the shares;
- (vi) will be construed as an offer to transfer the Selling Member's interest to any one or more of the Non-Selling Members in equal shares;
- (vii) becomes irrevocable ten (10) days after it is given and then the Selling Member is bound to transfer the shares at the relevant time.

(b) A Selling Member must provide further information to supplement the Sale Notice when requested by the Company or any Non-Selling Member.

16.4 Response to Sale Notice

During the period of fourteen (14) days immediately after the receipt of a Sale Notice ("the Offer Period") any Non-Selling Member may by written notice:

- (a) elect to purchase the shares on the terms in the Sale Notice; or
- (b) notify the Selling Member that the proposed buyer is not acceptable to them.

16.5 Transfer to third party

(a) If no Member gives a notice under Rule 16.4 before the end of the Offer Period:

- (i) the Selling Member may sell the shares to the buyer named in the Sale Notice; and
 - (ii) any sale of the shares must be made on the terms in the Sale Notice.
- (b) A transfer under this Rule will be registered within fourteen (14) days after the last day of the Offer Period.

16.6 Sale to other Members equally

A sale of shares to Members who give notice under Rule 16.4 will be effected in equal shares unless those Members agree otherwise.

16.7 Default by Selling Member

If a Selling Member defaults in transferring the shares, the Company:

- (a) may execute a transfer of the shares;
- (b) may receive the purchase moneys for the Selling Member;
- (c) will, on receipt of the purchase price, register the buyer's name in the share register once approved by the Directors; and
- (d) will hold the purchase moneys on trust for the Selling Member.

16.8 If transferee unacceptable

If any Non-Selling Members give notice under Rule 16.4 that a proposed buyer is not acceptable, the Selling Member:

- (a) must not sell the shares to the proposed buyer; and
- (b) the Selling Member may require the Non-Selling Members to purchase the shares on the terms in the Sale Notice.

This Rule 16.8 will not apply if any Non-Selling Member elects to buy the shares in the Sale Notice.

16.9 Conditional purchase

A purchase of shares by any person is conditional on the receipt of all approvals and consents required by law or by any government policy in Australia as far as they are applicable. If any approvals or consents are required, the purchase will be completed within fourteen (14) days after all required approvals or consents are received.

16.10 No encumbrances without consent

A Member must not pledge, mortgage, charge or otherwise encumber its shares without the prior written consent of the other Members. Any consent may be given or withheld by the other Members in their absolute discretion.

16.11 Transfer to Related Body Corporate

- (a) Rules 16.4 to 16.7 inclusive do not apply to any transfer by a Selling Member to any Related Body Corporate of the Selling Member.
- (b) If a Selling Member proposes to transfer shares to a Related Body Corporate, that Member must and is deemed to give an undertaking satisfactory to the Non-Selling Members that it will not sell the shares in the Related Body Corporate without first offering them to the Non-Selling Members under this Rule 16 as if the shares in the Related Body Corporate were shares in the Company.
- (c) After a transfer to a Related Body Corporate under this Rule, the Selling Member remains liable to perform its obligations under this Constitution to the same extent as if the transfer had not taken place.

16.12 Non-complying transfer invalid

A transfer or purported transfer of shares otherwise than in accordance with this Rule is void unless the Members unanimously determine otherwise.

16.13 Rule to apply

Rule 16 will apply to transfers of shares effected under Rules 13, 14 and/or 15.

17. FORFEITURE OF SHARES

17.1 Failure to pay a call

If a Member does not pay a call or instalment of a call by the due date, the Directors may serve a notice on that Member while an amount remains unpaid which requires payment of that amount, with any interest that has accrued.

17.2 Forfeiture on notice

The notice must:

- (a) nominate another day not less than fourteen (14) days after the service of the notice by which the payment must be made; and
- (b) state that the relevant shares may be forfeited by the Company if the amount is not paid by the due date.

17.3 Forfeiture by resolution

If the Member does not pay the amount claimed in accordance with the notice, the relevant shares may be forfeited by a Directors' resolution unless the amount has then been paid.

17.5 Sale of forfeited shares

A forfeited share may be sold on any terms the Directors decide. A forfeiture may be cancelled before a sale or disposition on any terms the Directors decide.

17.6 Liability to the Company

A person whose shares have been forfeited:

- (a) ceases to be a Member in relation to those shares; and
- (b) has no claims or demands against the Company relating to those shares; and
- (c) has no other rights relating to the shares except any residual rights provided by this Constitution or the Law; and
- (d) remains liable to pay to the Company all money that was payable by him; and
- (e) is liable to pay interest at the Prescribed Rate on unpaid amounts from the due date until paid in full.

17.7 Statement by a Director or secretary is evidence

A written statement declaring that the person making the statement is a Director or a secretary, and that a share in the Company has been forfeited on a date specified in the statement or that an amount is payable by a Member or former Member to the Company in relation to a call including interest, is *prima facie* evidence of those facts against any person claiming to be entitled to the share.

17.8 Consideration for sale of forfeited share

The Company may receive any consideration paid on any sale of the forfeited share and may execute a transfer to the buyer of that share.

17.9 Registration of transferee

The transferee will be registered as the holder of the share on the execution of the transfer and is not bound to see to the application of any money paid as consideration.

17.10 Title of transferee not affected

The title of the transferee is not affected by any irregularity or invalidity in connection with the forfeiture or sale of the share.

17.11 Non-payment of amount

The Rules as to forfeiture apply in the case of non-payment of any sum payable in respect of a share that becomes payable at a fixed time, as if that sum had been payable in relation to a call for payment.

18. CHANGES TO SHARE CAPITAL

The Company may by resolution:

- (a) increase its share capital by a specified amount by the creation of new shares;
- (b) consolidate or divide any of its share capital into shares of a larger face value than its existing shares;
- (c) subdivide any of its shares into shares of a smaller face value provided that the proportion between the amount paid and the amount unpaid on each share is the same as it was per share prior to the subdivision; and

- (d) cancel shares that have not been taken or agreed to be taken by any person or have been forfeited and reduce its issued share capital by the amount of the shares cancelled.

19. PRE-EMPTION ON ISSUE OF SHARES

19.1 Offer to existing Members

If the Directors propose to issue shares of a particular class:

- (a) those shares must first be offered to the existing Members of that class; and
- (b) the number of shares offered to each Member must be the nearest whole number resulting from:

$$\frac{\text{Total number new Shares in the class to be issued}}{\text{Shares in the class to be issued}} \times \frac{\text{shares currently held by the Member in the class}}{\text{total shares currently issued in the class}}$$

19.2 Directors' statement

The offer in Rule 19.1 must be made by giving the Members a Directors' statement setting out the terms of the offer, including:

- (a) the number of shares offered; and
- (b) the date the offer will expire.

19.3 Directors' discretion to issue

Shares not taken up under an offer made under this Rule 19 may be issued at the Directors' discretion.

19.4 Company may authorise non-compliance

- (a) The Company may authorise the Directors to issue shares without complying with this Rule 19.
- (b) The power to waive compliance with this Rule 19 may only be exercised by the Company in general meeting.
- (c) The exercise by the Company of that power on any occasion will not restrict the Company from doing so on any further occasion.

20. GENERAL MEETINGS

20.1 Annual General Meeting

- (a) An annual general meeting of the Company must be held once in every calendar year within five (5) months after the end of the financial year.

- (b) The notice convening an Annual General Meeting must be given to all Members of the Company, entitled to receive notices of general meetings and attend and vote at them, in accordance with Rule 40.

20.2 Business of Annual General Meeting

The business to be transacted at every annual general meeting may include any of the following, even if not referred to in the notice of meeting:

- (a) the consideration of the annual financial report, Directors' reports and Auditor's report;
- (b) the election of Directors;
- (c) the appointment of the Auditor, including the Auditor of any Public Funds or Trusts as established by the Company if different to the Company's Auditor;
- (d) approval of Directors remuneration as proposed by the Directors;
- (e) the fixing of the Auditor's remuneration; and
- (f) any other business of which proper notice has been given.

20.3 Director may convene

- (a) Any Director may convene a general meeting of Members whenever that Director decides.
- (b) A Director may cancel any meeting convened by that Director.
- (c) The notice convening a general meeting shall state the particular matter or matters to be discussed at the meeting and no business other than that specified in the notice shall be transacted.

20.4 Directors' convening a general meeting at the request of Members

The Directors must call and arrange to hold a general meeting on the request of any Member or Members holding at least 5% of the votes that may be cast at a general meeting, in accordance with section 249D of the Law.

20.5 Notice of general meeting

- (a) A general meeting can only be convened by giving the Members notice of the meeting.
- (b) A notice of general meeting does not need to be given to Members who are not entitled to notice of meeting.
- (c) A notice of a general meeting must:
 - (i) be given at least twenty-one (21) days before the date of the meeting; and
 - (ii) specify the place, the day and the time of the meeting; and

- (iii) describe the nature of the business to be transacted at the meeting; and
 - (iv) contain any other information required by the Law.
- (d) If a Member does not receive a meeting notice or the Directors accidentally omit to give the Member a meeting notice, that omission will not invalidate the proceedings or any resolution passed at the meeting.
- (e) No business is to be transacted at any general meeting except that contained in the meeting notice unless all the Members agree otherwise.

20.6 Quorum

- (a) Business must not be transacted at a general meeting if a quorum of Members is not present when the meeting proceeds to business.
- (b) A quorum will be:
- (i) if the Company has only one Member entitled to receive notice of and vote at the meeting, that Member; or
 - (ii) in any other case, where the number of Members present and entitled to vote is not less than half of the number of Members plus one.
- (c) A quorum of Members must be present throughout each general meeting. If a quorum is not present at any time, the meeting is not validly convened but without affecting the validity of any business conducted before the absence of a quorum occurs.

20.7 Determine a quorum

In determining whether a quorum is present, a person attending as a proxy, or representing a body corporate that is a Member, is deemed to be a Member.

20.8 Procedure where no quorum

- (a) If a quorum is not present within thirty (30) minutes after the time appointed for the meeting, the meeting will be adjourned.
- (b) The adjourned meeting will be rescheduled to take place on a day and time and at the place that the Directors decide.
- (c) If no Directors are present at the meeting or if no decision is made by the Directors, the meeting will take place on the same day and at the same time and place as originally notified, but in the next succeeding week.
- (d) If at the rescheduled meeting a quorum is not present within thirty (30) minutes after the appointed time, then:
- (i) when the meeting is convened on the requisition of Members the meeting will be dissolved unless it is adjourned under Rule 20.11; or
 - (ii) in any other case, the Members present will be deemed to constitute a quorum or, if no Members are present, the meeting will be dissolved.

20.9 Chairperson for general meetings

- (a) The chairperson of the Board, if one has been appointed pursuant to Rule 24.6, shall preside as chairperson at every general meeting.
- (b) Where a general meeting is held and:
 - (i) a chairperson of the Board has not been elected;
 - (ii) the chairperson of the Board is not present within fifteen (15) minutes after the appointed time; or
 - (iii) the chairperson of the Board is unwilling to act,

the Directors present at the meeting will appoint a Director or Member to be the chairperson of the meeting and where the Member is a corporate Member, then an authorised representative of that Member. If no Directors are present at the meeting then the Members will elect one Member to be chairperson of the meeting.

20.10 No casting vote

The chairperson does not have a casting vote in addition to any vote the chairperson has as a Member.

20.11 Adjournment of meeting

- (a) The chairperson may adjourn any meeting of Members.
- (b) An adjournment of a meeting of Members must only be made:
 - (i) with the consent of the meeting provided a quorum is present; or
 - (ii) in the case of an adjournment under Rule 20.8(d), with the consent of Members present and entitled to vote; or
 - (iii) if directed by the meeting to do so.
- (c) Any adjournment may change the time or the venue for the meeting.
- (d) Only business left unfinished from the meeting adjourned must be transacted at any rescheduled meeting.
- (e) No meeting may be adjourned for longer than thirty (30) days.
- (f) No notice of meeting is required for any adjourned meeting.

20.12 Show of hands or poll

At any general meeting, a resolution put to the vote of the meeting shall be decided by a show of hands, unless a poll is demanded in accordance with sections 250L(1), (3) and (4) of the Law. A poll may be demanded on any resolution except a resolution concerning the election of the chairperson of the meeting.

20.13 Declaration on show of hands

If a poll is not demanded, the chairperson's declaration that a resolution has been carried or lost with an entry to that effect in the minute book is conclusive evidence of that fact. It is not necessary to record the number or proportion of votes recorded for or against the resolution.

20.14 Withdraw poll

The demand for a poll may be withdrawn at any time.

20.15 Demand for poll

A poll will be taken immediately if one is demanded or at any other time after an interval or adjournment or otherwise as the chairperson decides. The result of the poll will be recorded as the resolution of the meeting at which the poll was demanded.

20.16 Poll for chairperson

Any poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

20.17 Voting

Subject to any rights or restrictions attached to any class of shares:

- (a) at meetings of Members or classes of Members, each Member entitled to vote may vote in person or by proxy or attorney or by representative (if a body corporate); and
- (b) on a show of hands every person present who is a Member or a representative of a Member has one (1) vote, and on a poll every person present in person or by proxy or attorney has one (1) vote for each share the person holds.

20.18 Joint holders of shares

When shares are held jointly, the senior Member's vote will be accepted to the exclusion of the votes of other joint Member. Seniority is determined by the order in which the Member's names stand in the register of Members.

20.19 Members not to vote unless fully paid

A Member is only entitled to vote at a general meeting if all calls and other amounts presently payable by the Member in respect of those shares have been paid.

20.20 Objection to qualification of Member

Any objection to the qualification of a person to vote must be made at the same meeting at which that person's vote is tendered. Any objection must be referred to the chairperson of the meeting whose decision is final and:

- (a) any vote approved will be valid for all purposes; or
- (b) any vote disallowed will be invalid and must be disregarded.

20.21 Circular resolution

The Company may pass a resolution without a general meeting if all of the Members entitled to vote on the resolution sign a document stating that they are in favour of the resolution. Duplicate copies of the document may be used for signing. The resolution is deemed to be passed when the last Member signs.

20.22 Only Members Entitled to Vote shall Vote

Only those Members who belong to a class of Members who are entitled to vote at a general meeting whether in person or by proxy will be entitled to vote or participate in a circular resolution.

20.23 Rights of third parties to attend general meetings

Even if they are not Members of the Company, the following persons have the right to attend any general meeting and, if requested by the Directors, to speak at the general meeting:

- (a) any Director; and
- (b) a Secretary (if one has been appointed); and
- (c) any other person invited by the Directors.

21. RULES FOR VOTING BY PROXY

21.1 Proxy in writing

An instrument appointing a proxy must be in writing and signed by:

- (a) the appointor; or
- (b) the appointor's attorney; or
- (c) the person authorised under the Law or by an authorised officer or attorney of the appointor, where the appointor is a body corporate.

21.2 How the proxy is to vote

If the document appointing a proxy specifies how the proxy is to vote in relation to a resolution, the proxy must vote as specified in the document. Any vote tendered otherwise is invalid and must be disregarded.

21.3 Authority for a poll

A document appointing a proxy confers the authority to demand a poll.

21.4 Form of proxy

The appointment of a proxy must be substantially in the form in Schedule 2.

21.5 Delivery of proxy before meeting

The appointment of a proxy is not valid unless the documents specified in sections 250B(1), (2) and (3) of the Law are received by the Company at least forty-eight (48) hours before the meeting.

21.6 Validity of proxy vote

A vote tendered in accordance with a proxy or a power of attorney is valid even if:

- (a) the appointor or principal dies or becomes mentally incapacitated;
- (b) the proxy or power of attorney is revoked in any way; or
- (c) any share in relation to which the authority is given is sold or transferred,

but only if the Company had no written notice of any defect before any authority is exercised.

22. ELECTION, REMOVAL AND REMUNERATION OF DIRECTORS

22.1 Number of Directors

- (a) A Board of a minimum of one (1) Director, and a maximum of five (5) Directors, shall govern the Company.
- (b) Subject to the requirements of the Law, the Company may from time to time by ordinary resolution passed at an annual general meeting increase or decrease the number of Directors.

22.2 Election of Directors

The election of Directors shall take place in the following manner:

- (a) Any two Members (or the one Member where there is only one Member of the Company) or Directors (or a combination of both) shall be at liberty to nominate another person to serve as a Director.

The nomination must be in writing and signed by the nominee, the proposer and seconder, and shall be in the form provided in Schedule 4 and shall be provided to the Secretary not less than six (6) weeks before the proposed date of the Annual General Meeting or Special General Meeting at which the election is to be announced (to be notified to Members in accordance with Rule 40).

- (b) There will be an election for the positions of Director as identified available and those positions on the Board will be filled by nominees on the basis that the person with the most ballot votes is appointed first, the person with the second most ballot votes second, and so on until all the total number of Directors determined by the Company is achieved.
- (c) Voting for the appointment of Directors shall be by ballot, following the procedure set out in Rule 40.

22.3 Office of Directors

- (a) Each elected Director shall take office at the first meeting of the Board after their election pursuant to Rule 22.2 or 22.11 .
- (b) Directors shall hold office for a term not exceeding the period between the annual general meeting or other time of their appointment in accordance with Rule 22.11 at

which they were appointed and the third annual general meeting after their appointment. At the third annual general meeting after their appointment, a Director shall retire.

22.4 Eligibility for re-election

A retiring Director shall be eligible for re-election.

22.5 Re-election of retiring Directors

The Company will, unless otherwise decided under this Constitution, at the annual general meeting at which a Director so retires, as per Rule 22.3(b), by resolution, fill the vacated office by electing a person by resolution to that office. If that office is not so filled, the retiring Director shall, if then offering himself or herself for re-election and not being disqualified under the Law from holding office as a Director and subject to compliance with Rules 22.2(a) and (b), be deemed to have been re-elected unless at that meeting it is expressly resolved not to fill the vacated office.

22.6 Removal of Director

- (a) The Company may by ordinary resolution remove any Director and appoint another Director as a replacement.
- (b) Any Director so appointed shall hold office in the manner as specified in Rule 22.3.

22.7 Remuneration of Directors

The Directors will be entitled to be paid the remuneration determined by the Company in a general meeting.

22.8 Director's expenses

The Directors will be entitled to be paid all travelling and other expenses properly incurred by them:

- (a) in attending meetings of the Directors or any committee of the Directors;
- (b) in attending general meetings of the Company; or
- (c) in connection with the Company's business as approved by the chairperson or the majority of the Board, provided that such claim is accompanied by evidence of the expense, such as a receipt or tax invoice, or other evidence deemed acceptable as evidence of an expense by the *Income Tax Assessment Act 1997* (Cth).

22.9 No shareholding requirement

Directors are not required to hold shares in the Company.

22.10 Vacation of Director's office

The office of a Director becomes vacant if:

- (a) required by the Law;
- (b) the Director is removed under these Rules;

- (c) the Director dies or becomes mentally incapacitated or the Director's estate is liable to be dealt with under a law relating to mental health;
- (d) the Director becomes bankrupt or makes any arrangement or composition with creditors;
- (e) the Director resigns; or
- (f) the Director is absent from three (3) consecutive meetings of the Board without the leave of the Board.

22.11 Filling of vacancy

If there is a vacancy on the Board, the Board may appoint such a person as it thinks fit to fill the vacancy and the person so appointed shall hold office, subject to the Rules in this Constitution, until the next annual general meeting following the date of his or her appointment at which time they must retire in accordance with Rule 22.3(b).

23. POWERS AND DUTIES OF DIRECTORS

23.1 Directors manage the business

- (a) Subject to the Law and to these Rules, including Rule 34 (relating to a Managing Director or CEO), the Company's business will be managed by the Directors.
- (b) The Directors are entitled to pay or reimburse all expenses incurred in promoting and forming the Company.
- (c) The Directors may exercise all powers of the Company except where those powers must be exercised by the Company in general meeting under the Law or these Rules.

23.2 All powers of Company

Without limiting Rule 23.1, the Directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any property or business of the Company or all or any of its uncalled capital;
- (c) issue debentures; or
- (d) give any other security for a debt, liability or obligation of the Company or of any other person.

23.3 Corporate groups

- (a) If the Company is a wholly owned subsidiary of another company (the "**Holding Company**"), the Directors may act:
 - (i) in the best interests of the Holding Company; and
 - (ii) contrary to the best interests of the Company.

- (b) The Directors must not act in the way referred to in Rule 23.3(a) if the Company is insolvent at the time or would by virtue of the Directors' actions become insolvent.

23.4 Appointment of attorney

- (a) The Directors may appoint any person or persons under a power of attorney to be the attorney or attorneys of the Company.
- (b) The appointment may be:
 - (i) for any purpose; or
 - (ii) in relation to any of the Directors' powers, authorities and discretions; or
 - (iii) for any period; and/or
 - (iv) subject to any conditions as the Directors decide.

23.5 Provisions of power of attorney

Any power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney as the Directors decide and may authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

23.6 Cheques and promissory notes

All cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed:

- (a) in the case of a single Director company, by one (1) Director; or
- (b) if more than one (1) Director is appointed, then by any two (2) Directors; or
- (c) in any other manner as the Directors decide.

23.7 Subcommittees and Advisory Directors

- (a) The Board may delegate any of its powers and functions (not being duties imposed on the Board as the Directors of the Company by the Law or the general law) to one or more subcommittees which may or may not feature Members of the Board, as the Board sees fit.
- (b) The Board may appoint advisory directors to carry out particular functions in order to support the Board in its decision-making process. Neither the Directors individually nor the Board are not obliged to follow or otherwise implement any recommendations of any advisory directors so appointed.

24. PROCEEDINGS OF DIRECTORS

24.1 Use of technology

Any Directors' meeting may be conducted at more than one (1) venue by using any technology that gives each Director a reasonable opportunity to participate in the meeting and permits each Director present to hear and be heard by each other Director present.

24.2 Board meetings

- (a) The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Two (2) or more Directors, or the chairperson alone, may, at any time call a meeting, and the Secretary shall, on their or his or her requisition, summon a meeting of the Board.
- (c) The notice must state in general terms all business to be considered at such meeting, shall be sent to each Director at least five (5) working days before such meeting is due to be held unless: (i) urgent circumstances require shorter notice as agreed by the chairperson unless the meeting is to appoint a new chairperson, or (ii) all the directors agree to waive the said five (5) working days, in which case, the shorter applicable notice period shall be the notice period to which all the directors shall agree..

24.3 Director's personal interest

- (a) A Director is not disqualified from contracting with the Company or any Related Body Corporate in any capacity by reason of holding the office of Director.
- (b) If a Director has a material personal interest in any matter that relates to the affairs of the Company, the Director must disclose that interest to the other Directors unless the Director is not required to disclose the interest in the circumstances listed in Section 191(2) of the Law.
- (c) The notice disclosing the Director's material personal interest must:
 - (i) give details of the nature and extent of the interest and how it relates to the affairs of the Company;
 - (ii) be given at a Directors' meeting as soon as practicable after the Director becomes aware of the interest; and
 - (iii) be recorded in the minutes of the Directors' meeting at which the notice is given.
- (d) If the Director properly discloses the interest:
 - (i) the Director may attend at Directors meetings and vote on whether the Company enters into any arrangement;
 - (ii) the arrangement may be entered into;
 - (iii) the Director may vote on matters involving the arrangement;
 - (iv) the Director will not be liable to account for any profit or benefit received by the Director under the arrangement;

- (v) the Director may sign any document relating to the arrangement which will not affect its validity in any way; and
 - (vi) the arrangement may not be avoided because of the Director's interest.
- (e) This Rule 24.3 does not apply if the Company has only one (1) Director.

24.4 Quorum

- (a) The quorum necessary for the transaction of the business of the Board must be a majority of the total number of Directors.
- (b) A quorum of Directors must be present throughout each Directors' meeting. If a quorum is not present at any time the meeting is not validly convened but without affecting the validity of any business conducted before the absence of a quorum occurs.

24.5 Board to continue to act

- (a) Where a vacancy in the office of a Director occurs, the remaining Directors may continue to act.
- (b) If the number of remaining Directors is insufficient to constitute a quorum, the Directors may act only for the purpose of increasing the number of Directors to that required to constitute a quorum or to convene a general meeting.

24.6 Election of chairperson

- (a) The chairperson of the Board shall be elected by a majority decision of the Board.
- (b) A chairperson shall continue in this office until:
 - (i) he/she is removed by the Board;
 - (ii) he/she no longer holds a position as Director; or
 - (iii) he/she resigns,

and provided further that a person can only serve as chairperson over a maximum period of three (3) terms as an appointed Director.

24.7 Chairperson not present

Where a Directors' meeting is held and the chairperson:

- (a) has not been elected; or
- (b) is not present within fifteen (15) minutes after the appointed time; or
- (c) is unwilling to act,

then the Directors present will elect one (1) other Director to be chairperson of the meeting.

24.8 No casting votes

The chairperson does not have a casting vote in addition to any vote the chairperson has as a Director.

24.9 Circular resolution

- (a) The Directors may pass a resolution without a Directors' meeting if the majority of the Directors entitled to vote on the resolution sign a document stating that they are in favour of the resolution.
- (b) Duplicate copies of the document may be used for signing if the wording of the resolution and the statement is identical in each copy.
- (c) The resolution is deemed to be passed when the last Director signs it.

24.10 Validity of the Board's acts

All acts done by any meeting of the Board or by any person acting as a Director will be valid even though it subsequently becomes known:

- (a) that there was some defect in the appointment of a person to be a Director; or
- (b) that a person appointed was disqualified.

24.11 Decisions of the Directors

- (a) Subject to this Constitution, any question arising at a Directors' meeting or any committee of Directors is determined by a simple majority of votes of the Directors. A determination of the majority of the Directors present shall, for all purposes, be deemed to be a determination of the Board.
- (b) In the case of an equality of votes, the chairperson shall have not only a deliberative vote but a casting vote.

24.12 Electronic communication

- (a) For the purposes of this Constitution, the contemporaneous linking together by Instantaneous Communication Device of a number of consenting Directors being not less than the quorum (whether or not any one or more of the Directors is out of Australia), shall be deemed to constitute a meeting of the Board duly convened and held with persons actually present so long as:
 - (i) all the Directors being entitled to receive notice of a meeting shall receive notice of such meeting given by any means authorised by this Constitution;
 - (ii) each of the Directors taking part in the meeting by Instantaneous Communication Device is able to hear or see the chairperson's and each of the other Directors' (taking part during the meeting) voices or written communication; and
 - (iii) at the commencement of the meeting, each Director acknowledges their presence to all the other Directors taking part.

- (b) A Director may not leave the meeting by disconnecting their Instantaneous Communication Device unless the person has previously obtained the consent of the chairperson of the meeting.
- (c) A meeting of the Board by Instantaneous Communication Device shall not be invalidated by any voluntary or involuntary disconnection of a participant, provided sufficient Directors are still able to hear each other to constitute a quorum.
- (d) A minute of the proceedings at a meeting by Instantaneous Communication Device shall be prepared by the Secretary or such duly appointed person and shall be prima facie evidence of the proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting.

25. BOARD TO INCLUDE CERTAIN SKILLS

25.1 Skills and experiences

- (a) The Board must ensure that the Board as a whole has a balance of appropriate and identified skills and experiences, having regard to the nature of the business and affairs of the Company from time to time (a “**Skills-Based Board**”).
- (b) A Skills-Based Board will, at a minimum, demonstrate collective expertise in the following disciplines:
 - (i) finance and business management; and
 - (ii) corporate governance.
- (c) The Board will annually review the skills required to effectively lead and manage the Company, contribute to Board processes and constitute a Skills-Based Board.

26. ALTERNATE DIRECTORS

26.1 Appointment of an alternate

A Director may appoint any person to be an Alternate Director in his or her place during any period as the appointing Director requires, but only:

- (a) with the approval of the other Directors;
- (b) while the appointing Director is not available to act; and
- (c) in accordance with the Law.

26.2 Notice of meetings

An Alternate Director is entitled to notice of and to vote at Directors’ meetings unless the appointing Director is present at the meeting.

26.3 Power of Alternate Director

An Alternate Director may exercise any of the appointing Director's powers during any period that the appointing Director is unavailable to do so. The exercise of any power by the Alternate Director is deemed to be the exercise of that power by the appointing Director.

26.4 Termination of appointment

The appointment of an Alternate Director will terminate:

- (a) on notice by the appointing Director even though the appointment period has not expired;
- (b) automatically if the appointing Director ceases to be a Director.

26.5 Responsibility

An Alternate Director will, whilst acting as a Director, be responsible to the Company for his or her own acts and defaults and will not be deemed to be the agent of the Director by whom he or she was appointed.

27. INTERESTED DIRECTORS

27.1 Notice Requirements

- (a) Subject to the Law, all Directors must disclose, at all times all benefits received as a result of their position as a Director, and/or interests, financial or otherwise, directly or indirectly, no matter how material, in all entities, contracts, natural persons, structures, ventures or otherwise that have any actual dealings or proposed dealings with the Company or any related entity of the Company at any time, to the Board, in writing, within seven (7) days of becoming aware of such relationship or change of relationship.
- (b) Subject to the Law, provided a Director of the Company has made a disclosure as noted in Rule 27.1(a) and has declared the nature of his or her interest at a meeting of the Board, and the Board, excluding the affected Director, has passed the resolution that:
 - (i) specifies the Director and identifies the nature and extent of their interest in the matter and its relation to the affairs of the Company; and
 - (ii) states that the Directors voting for the resolution are satisfied that the interest should not disqualify the Director from being present while the matter is being considered or voting on the matter, then the following shall apply by default unless the Directors voting for the resolution otherwise vary these Rules (being Rules 27.1(b)(ii)(I) to (IV)):
 - I. that Director shall not be disqualified by his or her office from contracting with the Company either as vendor, purchaser or otherwise;
 - II. no contract made by that Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which that Director is in any way interested shall be avoided by reason only of such Director holding his or her office or of the fiduciary relationship thereby established;
 - III. that Director so contracting or being so interested shall not be liable to account to the Company for any profit realised by such contract or

- arrangement or by reason only of such Director holding his or her office or of the fiduciary relationship thereby established; and
- IV. that Director may in respect of any contract or arrangement in which he or she is so interested may vote, execute any deed or document on behalf of the Company, and count in a quorum.

27.2 Non-disclosure

A Director that is found in breach of Rule 27.1(a) is required to retire from the Board immediately and their position considered vacant, subject to the chairperson's decision, which will be final.

27.3 Other office may be held

A Director may hold any other office or place of profit, except that of Auditor or an employee of the Company (or any of its Related Bodies Corporate) as defined in the Law, in conjunction with his or her Directorship and may be appointed upon such terms as to remuneration, tenure of office and otherwise as the Board decides.

28. SECRETARY

- (a) A Secretary may be appointed by the Board on terms and conditions determined by the Board.
- (b) The Board may appoint a person as an additional Secretary or as acting Secretary or as a temporary substitute for the Secretary who will, for the purposes of these Rules, be deemed to be the Secretary.
- (c) The Board may at any time remove or replace the Secretary.
- (d) The Secretary does not have the right to vote unless the Secretary is also a Director.

29. COMMON SEAL

29.1 Election to adopt common seal

The Directors may resolve that the Company adopt a common seal. If the Company adopts a common seal, it will include:

- (a) only the Company's name where the Company has its ACN as its name; or
- (b) the Company's name, the expression "ACN" and its Australian Company Number in all other cases.

29.2 Duplicate common seal

The Directors may adopt a duplicate common seal. Any duplicate common seal must be a copy of the common seal with the words "Duplicate Seal", "Share Seal" or "Certificate Seal" added to it.

29.3 Prohibited use

A Director must not use, or authorise the use of, a seal which purports to be common seal of the Company (or a duplicate of the common seal) if the common seal does not comply with the requirements of this Rule.

30. EXECUTION OF DOCUMENTS

30.1 Execution with or without the common seal

The Company may execute a document with or without affixing a common seal. The Company executes a document if the document is signed by:

- (a) two (2) Directors where there is more than one Director; or
- (b) one (1) Director where authorised by a resolution of a Directors' meeting if there is more than one Director; or
- (c) a Director and the Secretary (if one has been appointed); or
- (d) if the Company has only one Director, then by that Director.

30.2 Execution of deeds

The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with this Rule 30.

30.3 No limitation

This Rule will not be interpreted as limiting the manner in which the Company may execute a document (including a deed).

31. ACCOUNTS

31.1 Proper records to be kept

The Board must ensure that proper accounting and other records are kept.

31.2 Annual financial reporting to Members

The Company must report to Members for a financial year by:

- (a) sending Members copies of the financial report for the year, the Directors' report for the year and the Auditor's report on the financial report using any of the methods referred to in Rule 40;
- (b) sending Members a concise report for the year that complies with the Law using any of the methods referred to in Rule 40; or
- (c) making the financial report for the year and the Directors' report for the year and the Auditor's report on the financial report available for download from the Company's website.

31.3 Bank accounts

- (a) The Board shall cause to be opened and thereafter maintained with such bank as the Board selects a bank account in the name of the Company into which all moneys received shall be paid as soon as possible after receipt thereof.
- (b) The Board shall be responsible for ensuring that all receipts and payments are processed as required by Law and good management practices but may, subject to the approval of the Auditor, adopt such methods of receipts, payments and practices as they see fit.

31.4 Subcommittee bank accounts

- (a) Any subcommittee bank accounts established by authority of the Board shall be opened at the bankers for the time being of the Company and all cheques on each such account shall be signed by such person or persons as the Board shall appoint for that purpose.
- (b) A subcommittee shall not open a bank account without the authority of the Board.

32. AUDIT

32.1 Audits generally

The Company must appoint a properly qualified Auditor who shall report and otherwise discharge his or her duties as Auditor of the Company under the Law.

32.2 Audits in relation to tax deductible funds

In addition to all and any duties of the Auditor set out in Rule 32.1 the Auditor shall also separately audit and report on any Trusts or Funds as established in accordance with this Constitution or otherwise.

32.3 Duration of an Auditor's appointment

An Auditor appointed in accordance with Rule 32.1 must be appointed for a maximum period not exceeding five (5) consecutive financial years, inclusive of the first financial year in which the appointment is made

33. COMMITTEE

33.1 Delegation to committee

The Directors may delegate any of their powers to any committee or committees of Directors as they decide.

33.2 Powers of committees

A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions of the Directors. A power exercised in accordance with those directions is deemed to have been exercised by the Directors.

33.3 Committee chairperson

The members of a committee may elect one (1) of their number as chairperson of their meetings.

33.4 Election of chairperson

Where a committee meeting is held and:

- (a) a chairperson has not been elected; or
- (b) the chairperson is not present within fifteen (15) minutes after the appointed time; or
- (c) the chairperson is unwilling to act,

the committee members present may elect one (1) of their number to be chairperson of the meeting.

33.5 Decision by majority

Questions arising at a committee meeting will be determined by a majority of votes of the committee members who are present and voting.

33.6 Casting vote

The chairperson of a committee has a casting vote, if necessary, in addition to any vote the chairperson has as a committee member.

34. MANAGING DIRECTOR

34.1 Appointment

The Directors may from time to time appoint one (1) or more persons to be, in the case of that person being a Director, the Managing Director of the Company and in the case of that person not being a Director, the chief executive officer (CEO) of the Company. The Managing Directors' appointment will be for a period and on terms as the Directors decide. The Directors may revoke the Managing Directors' appointment.

34.2 Termination

A Managing Director who ceases for any reason to be a Director, shall continue in his or her appointment as CEO without being a Director.

34.3 Remuneration

A CEO or Managing Director will be entitled to receive remuneration by way of any combination of:

- (a) a salary;
- (b) commission; or
- (c) participation in profits,

as the Directors decide.

34.4 Powers of the CEO or Managing Director

- (a) The Directors may confer upon a CEO or Managing Director any of the powers exercisable by them with any conditions or restrictions as the Directors decide.
- (b) Any of those powers may be made concurrent with or exclusive of the powers of the Directors.
- (c) The Directors may at any time withdraw or vary any of those powers.

35. INSPECTION OF RECORDS

35.1 Conditions

The Directors may determine whether and under what conditions the accounting records or other documents of the Company will be open to the inspection of Members.

35.2 No right unless authorised

Subject to the Rules of this Constitution, a Member does not have the right to inspect any document of the Company except as provided by the Law or authorised by the Directors or by the Company in general meeting.

35.3 Directors' right

The Directors have the right at any time to inspect the accounting records or other documents of the Company.

36. RESERVES

36.4 Reserve fund

The Directors may set aside out of profits any amounts which they think proper or appropriate as reserves. Any reserves may be applied at the discretion of the Directors for any purpose for which profits may be properly applied.

36.5 Application of reserves

The reserves may be used in the business of the Company or be invested in any investments as the Directors decide, but only until those reserves are required for their intended purpose.

36.6 Carry forward profits

The Directors may carry forward any part of the Company's profits as they consider should not be distributed as dividends and without transferring those profits to a reserve.

37. CAPITALISATION OF PROFITS

37.1 Resolution to capitalise profits

- (a) A general meeting of the Company may resolve that it is desirable to capitalise any sum held in a reserve account or the profit and loss account or otherwise available for distribution to Members.

- (b) A general meeting of the Company may resolve that any capitalised sum will be applied in any of the ways mentioned in this Constitution for the benefit of Members in the proportions to which those Members would have been entitled in a distribution by way of dividend.
- (c) The Company must not pass any resolution under this Rule unless the resolution has been recommended by the Directors and affirmed by a prior Directors' resolution.
- (d) The right of the Company to pass a resolution to capitalise any amount will be subject to this Constitution and the Law.

37.2 Application for benefit of Members

Any amount applied for the benefit of Members under Rule 37.1 may be applied in any manner permitted by the Law or by any combination of the following:

- (a) by paying up any amounts unpaid on shares held by Members; or
- (b) by paying up in full any unissued shares or debentures to be issued to Members as fully paid.

37.3 Directors to action resolution

The Directors must give effect to a resolution under Rule 37.1. In particular and to the extent necessary to adjust the rights of the Members among themselves, the Directors may:

- (a) issue fractional certificates or make cash payments in cases where shares or debentures become issuable in fractions; and
- (b) authorise any person to make an agreement with the Company on behalf of all the Members which provides for the issue to them of any fully paid shares or debentures or for the payment up by the Company on their behalf of any amounts remaining unpaid on their existing shares. Any issue or payment under this Rule will be made by the payment of the Members' respective proportions of the sum resolved to be capitalised. Any agreement made under an authority referred to in this Rule is effective and binding on all Members.

38. LOANS – COMPANY/MEMBER

38.1 Approval of loan to a Member by the Company

- (a) The Directors may resolve to lend any amounts out of the capital of the Company and/or any other money held by the Company to any Member or any Associate of a Member.
- (b) A loan to a Member or an Associate must be made on the terms in Rule 38.2.
- (c) A loan to a Member or an Associate must not be made without a Directors' resolution authorising the loan.

38.2 Terms of loan

Any loan by the Company to a Member or an Associate is subject to the following conditions:

- (a) this Constitution together with the Directors' resolution referred to in Rule 38.1(a) will form the written loan agreement establishing the loan;
- (b) the rate of interest payable on the loan will not be less than the Interest Rate; and
- (c) the maximum term of the loan will be:
 - (i) twenty-five (25) years if 100% of the amount of the loan is secured by a registered mortgage over real property and, at the time of the loan, the market value of the real property less any amount already secured against that property in priority to the loan is at least 110% of the amount of the loan; or
 - (ii) seven (7) years for any other loan;
- (d) loan repayments must be made each year which are not less than the minimum yearly repayment requirements of the *Income Tax Assessment Act 1936* (Cth).

39. ALTERATION OF CONSTITUTION

39.1 Method of altering Constitution

This Constitution or any other Constitution for the time being in force, may be altered, rescinded or repealed and a new constitution may be adopted by special resolution passed by at least seventy-five per cent (75%) of the votes cast by Members of the Company present in person or by proxy and entitled to vote and that do vote, on the resolution in a general meeting, for which notice of at least 21 days was given in the manner provided in this Constitution and otherwise in the manner prescribed by the Law, unless consent for shorter notice is given in accordance with the Law. Shorter notice may be given for an annual general meeting if all Members entitled to vote at the meeting agree beforehand.

40. NOTICES, REPORTS AND BALLOTS

40.1 Method of service by the Company

In addition to any other means expressly included in this Constitution, the Company may give a notice or document required under this Constitution or the Law, to any Member or Director:

- (a) personally; or
- (b) by prepaid post; or
 - a. by facsimile transmission; or
- (c) by email; or
- (d) by any other means the Law permits.

40.2 Method of service by Members and Directors

Subject to the Law, a Member or Director may give a notice or document to the Company by any of the means set out in Rule 40.1.

40.3 Service by post

- (a) Where a notice or document is sent by post, service of the notice or document shall be deemed to be effective by properly addressing, prepaying and posting a letter containing the notice or document, whether the notice or document forms part of or is accompanied by other material.
- (b) The letter containing the notice of document will be properly addressed:
 - (i) to the Company – if addressed to the Company’s registered office;
 - (ii) to a Member – if addressed to the Member’s address for the person in the register of Members for an alternative address (if any) nominated by the person;
 - (iii) to a Director – if addressed to the Director’s address for the person as notified by the Director to the Company from time to time.
- (c) A notice or document sent by post is taken to be given on the date which is three (3) days after the day on which it is posted.

40.4 Service by facsimile

- (a) A notice or document may be given by facsimile transmission to:
 - (i) the Company – by sending it to the Company’s facsimile number as published on its website from time to time;
 - (ii) a Member – by sending it to the Member’s nominated fax number (if any);
 - (iii) a Director – by sending it to the Director’s nominated fax number (if any).
- (b) Where a notice is sent by facsimile, service of the notice is taken to be given on the date and at the time shown on the transmission report as the time that the whole facsimile was sent.

40.5 Service by email

- (a) A notice or document may be given by email to:
 - (i) the Company – by sending it to the Company’s email address as published on its website from time to time;
 - (ii) a Member – by sending it to the Member’s nominated email address (if any);
 - (iii) a Director – by sending it to the Director’s nominated email address (if any).

- (b) A communication is given if sent by email and shall be deemed to be effected on the day and at the time at which the transmitting computer indicates that the email was sent to the email address of the recipient, unless a delivery failure report is received by the sender in relation to that email.

40.6 Manner of notice

Notice of every general meeting shall be given in any manner authorised in this Constitution to every Member eligible to attend and whether or not eligible to vote at general meetings and whose name and address are recorded in the Register.

40.7 Non-delivery of notice or report

The non-delivery of any notice or report shall not invalidate the proceedings at any meeting of the Company.

40.8 Ballots

Ballots for the election of Directors at an annual general meeting are to be conducted in accordance with the following rules and requirements:

- (a) The Board will inform Members of the proposed date of the annual general meeting, not less than twenty one (21) days before the proposed date.
- (b) The Board will immediately notify Members if the proposed date of the annual general meeting is changed, however the proposed date must not be moved forward.
- (c) Ballot voting papers, listing all persons who have lodged a nomination in accordance with Rule 22.2(a) and (b) will be sent to all Members at the same time as the notice of the annual general meeting and must contain sufficient information for a reasonable person to make a decision regarding the matter to be voted on.
- (d) Subject to Rule 40.8(e), each Member may exercise only one vote for a single nominee to be elected as a Director.
- (e) Members may only vote if they meet the criteria set out in this Constitution to attend and vote at a general meeting.
- (f) Completed ballot voting papers must be:
 - (i) fully completed with the Member's name and address; and
 - (ii) be signed by the Member, the Member's duly authorised attorney (in which case a certified copy of the power of attorney must also be lodged with the completed ballot voting paper) or, in the case of a Corporate Member, signed by the Corporate Member's representative appointed pursuant to Rule 6.2, or otherwise in accordance with section 127 of the Law; and
 - (iii) received by the Company not less than seven (7) days before the date of the annual general meeting at which the results of the election of Directors will be announced,

in order to be valid and counted. Completed ballot voting papers may be given to the Company by any of the means set out in this Rule 40.

- (g) The results of the election of Directors by ballot will be announced at the annual general meeting.

41. INDEMNITY AND INSURANCE

41.1 Indemnity against liability

To the extent permitted by the Law, the Company shall indemnify every person who is, or who has been, a Director or officer of the Company or any Related Body Corporate against:

- (a) any liability incurred by them in their capacity as a Director or officer, to a person other than the Company or Related Body Corporate, except where the liability relates to a wilful breach or a contravention of sections 181-184 of the Law;
- (b) any liability for legal costs or expenses incurred by them in defending any proceedings in which judgement is given in their favour; or
- (c) any liability for legal costs or expenses incurred by them in defending any proceedings in which they are acquitted or the Court grants relief in their favour.

41.2 Insurance

To the extent permitted by the Law, the Company may insure or pay any premiums on a policy of insurance for a Director or officer of the Company or of a Related Body Corporate against any liability for which the Company indemnifies the Director or officer under Rule 41.1.

41.3 Resolution to Grant Indemnity

A Director may vote in favour of a resolution that the Company grant an indemnity pursuant to Rule 41.1, take insurance or pay the premiums on an insurance policy pursuant to Rule 41.2 even though the Director has a direct and material interest in the outcome of the resolution.

SCHEDULE 1

FORM OF TRANSFER OF SHARES

FULL NAME OF COMPANY OR CORPORATION	
JURISDICTION AND INCORPORATION OF COMPANY	
DESCRIPTION OF SECURITIES	Class <input type="checkbox"/> Fully paid <input type="checkbox"/> Paid to \$
QUANTITY	Words: Figures:
FULL NAME(S) OF TRANSFEROR(S)/SELLER(S)	Surname(s): Given Name(s):
FULL POSTAL ADDRESS OF TRANSFEROR(S)/SELLER(S)	
CONSIDERATION	Date of purchase: / /
FULL NAME(S) OF TRANSFEREE(S)/BUYER(S)	
FULL POSTAL ADDRESS OF TRANSFEREE(S)/BUYER(S)	
REMOVAL REQUEST	Please enter these securities on the Register

I/we the registered holder(s) and undersigned seller(s) for the above consideration do hereby transfer to the above name(s) hereinafter called the Buyer(s) the securities as specified above standing in my/our name(s) in the books of the abovenamed Company, subject to the several conditions on which I/we held the same at the time of signing hereof and I/we the Buyer(s) do hereby agree to accept the said securities subject to the same conditions. I/we have not received any notice of the Revocation of the Power of Attorney by death of the grantor or otherwise under which this transfer is signed.

TRANSFEROR(S)/SELLER(S) SIGN HERE	Date signed:
TRANSFEREE(S)/BUYER(S) SIGN HERE	Date signed:

SCHEDULE 2

FORM OF PROXY

**AUSTRALIAN CERTIFIED ORGANIC PTY LTD
ACN 75 099 884 983 ("ACO")**

PROXY FORM

I/We _____
Of _____
being a Member of ACO entitled to vote, appoint _____
of _____

or, if no person is appointed above, then the Chairperson of the meeting as my proxy to vote for me on my behalf at the [general meeting/annual general meeting/special general meeting] of ACO to be held on [date] and any day to which that meeting is postponed or adjourned.

My proxy is authorised to exercise all of my voting rights.

My proxy is hereby authorised to vote in the following manner:

Resolution No. 1	FOR	AGAINST	ABSTAIN
[Insert text of the resolution]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Resolution No. 2 (if required)	FOR	AGAINST	ABSTAIN
[Insert text of the resolution]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Insert text of further resolutions as required]

SIGNATURES:

Date: _____ 20XX

Signing by Corporate Member

Director or Authorised Officer

Print Name

Signing by individual Member

INSTRUCTIONS ON HOW TO USE THIS FORM

1. Each Member entitled to attend and vote at this meeting is entitled to appoint a proxy to vote on his/her/its behalf.
2. Please refer to the summary attached to this form which sets out the relevant provisions of the *Corporations Act 2001* (Cth) governing the appointment and rights of proxies.
3. A proxy must be a Member of ACO or the Chairperson of the meeting.
4. If this proxy form is completed by a Corporate Member, then it must be signed by a Director or other authorised officer of the Corporate Member. If signed by an authorised officer, then an original or certified copy of the authority must be attached to this proxy form.
5. You may direct your proxy how to vote by placing a mark in one of the boxes opposite each item of business. If you do not mark any of the boxes on a given item, your proxy may vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid.
6. This original signed Proxy Form (and the original or a certified copy of any Power of Attorney under which it is signed) must be received at ACO's address below or delivered to ACO's secretary no later than 48 hours before the commencement of the meeting.

ACO's address for receipt of Proxy Forms is:

Address: **18 Eton Street, Nundah, Queensland 4012**

Facsimile: (07) 3266 5996

Email: contact@austorganic.com

SCHEDULE 3

CORPORATE MEMBER REPRESENTATIVE APPOINTMENT FORM

[NAME OF CORPORATE ENTITY], being an Ordinary Member of Australian Certified Organic Pty Ltd and entitled to vote hereby appoints

.....
of
as its representative to vote on its behalf at the / general* / annual general* / special general* meeting of Australian Certified Organic Pty Ltd to be held on [DATE] and at any adjournment thereof.

Signed for and on behalf of the above named Corporate Member by its duly authorised officer on the.....day of.....20.....

.....
[Signature of Director / Secretary]

SCHEDULE 4

Nomination of Director FORM

I,,
of.....
whose signature appears below hereby consent to my nomination for election as a
Director of Australian Certified Organic Pty Ltd subject to the terms of the Constitution of
Australian Certified Organic Pty Ltd.
Dated this.....day of.....20.....

.....
[Signature of nominee]

Nomination

I,
being a Member*/Director* of Australian Certified Organic Pty Ltd hereby certify that I
believe that the above named applicant is a person suitable to be a Director of
Australian Certified Organic Pty Ltd.
Dated this.....day of.....20.....

.....
[Signature of proposer]

Ibeing a Member*/Director* or Australian
Certified Organic Pty Ltd hereby certify that I believe that the above named applicant
is a person suitable to be a Director of Australian Certified Organic Pty Ltd.
Dated this.....day of.....20.....

.....
[Signature of seconder]