

CONSTITUTION

OF

SOUTH AUSTRALIAN PRODUCE MARKET LIMITED

ACN 008 129 566

Adopted 19 January 2021

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CONSTITUTION
of
SOUTH AUSTRALIAN PRODUCE MARKET LIMITED
ACN 008 129 566

PRELIMINARY

1. **Status and Constitution**

- 1.1 The Company is a public company limited by shares.
- 1.2 The replaceable rules in the Act do not apply to the Company.
- 1.3 This Constitution supersedes the Constitution of the Company in force immediately before the adoption of this Constitution.

DEFINITIONS AND INTERPRETATION

2. **Definitions**

Unless inconsistent with the context:

"**Act**" means the *Corporations Act 2001* (Cth).

"**Board**" means the Directors for the time being of the Company or those of them who are present at a meeting at which there is a quorum.

"**business day**" means Monday to Friday except public holidays in South Australia.

"**call**" includes an instalment of a call and any amount due on allotment of any Share.

"**Chairman**" means the chairman of the Board or any other person occupying the position of chairman or acting chairman of the Board.

"**Company**" means SOUTH AUSTRALIAN PRODUCE MARKET LIMITED ACN 008 129 566.

"**Constitution**" means this Constitution as amended.

"**control**" for the purpose of determining whether a legal person is under the control of a natural person means the natural person:

- (a) has the capacity to determine the outcome of the decisions about the legal person's financial and operating policies; or
- (b) has at least fifty per cent of the votes that may be cast by members of the legal person; or
- (c) has the right to receive at least fifty per cent of any dividends that may be paid by the legal person; or

(d) has the right to receive on the winding up of the legal person at least fifty per cent of any distributions out of the winding up of the legal person.

"Deputy Chairman of the Board" means the Director elected to the office of deputy chairman of the Board or any other person occupying the position of deputy chairman or acting deputy chairman of the Board.

"Designated Person" means a natural person who is:

- (a) a Grower, Retailer or Wholesaler;
- (b) the Director of a company that is a Grower, Retailer or Wholesaler; or
- (c) a Foundation Member.

"Director" means a person appointed or elected as a Director of the Company and where applicable, includes a duly appointed alternate director.

"Eligible Discretionary Trust" means a person ("**discretionary trustee**") who holds Shares in the capacity as the trustee of a trust which:

- (a) is an arrangement, however made, under which a person holds property, and the beneficial interest in all or any part of that property may be vested in a person (in this Constitution referred to as an "**object**" of the discretionary trust) on the exercise of a discretion, whether subject to any other contingency or not and whether the exercise of the discretion is obligatory or optional; and
- (b) at least one of the objects of the arrangement (as described in paragraph (a) of this definition) is a Designated Person; and
- (c) the discretionary trustee is an Eligible Trustee.

"Eligible Person" means a Grower, Wholesaler or Retailer.

"Eligible Shareholder" means:

- (a) an Eligible Discretionary Trust;
- (b) an Eligible Superannuation Fund; or
- (c) an Eligible Unit Trust.

"Eligible Superannuation Fund" means:

- (a) an Eligible Superannuation Direct Holding; or
- (b) an Eligible Superannuation Indirect Holding.

"Eligible Superannuation Direct Holding" means a person who holds Shares in the capacity as the trustee of a superannuation fund which:

- (a) is a complying superannuation fund within the meaning of section 45 of the SIS Act; and
- (b) is a self managed superannuation fund within the meaning of section 17A of the SIS Act; and
- (c) at least one member of that superannuation fund is a Designated Person; and

- (d) the Designated Person who is a member has a balance or entitlement under that superannuation fund that constitutes, by value, at least forty per cent of the value of the superannuation fund and the only other members of the superannuation fund are the spouse, children or siblings of the Designated Member or their spouses.

"Eligible Superannuation Indirect Holding" means a person who holds Shares in the capacity as the trustee;

- (a) under a trust arrangement that satisfies section 67A of the SIS Act; and
- (b) the RSF trustee (as defined in section 67A of the SIS Act) under that arrangement is a trustee of a superannuation fund that satisfies the requirements of paragraphs (a) to (d) of the definition of an Eligible Superannuation Direct Holding.

"Eligible Trustee" means a trustee where that trustee:

- (a) consists of only one natural person, that natural person is a Designated Person;
- (b) consists of only two natural persons, one of the natural persons is a Designated Person;
- (c) consists of more than two natural persons, the majority of the natural persons are Designated Persons;
- (d) consists of only a legal person, the legal person is under the sole control of a Designated Person or a Designated Person and the spouse of that Designated Person; or
- (e) consists of a legal person and a natural person or any combination of legal persons and natural persons, each legal person is under the sole control of a Designated Person or a Designated Person and the spouse of that Designated Person and the majority of the natural persons are Designated Persons.

"Eligible Unit Trust" means a person ("**unit trustee**") who holds Shares in the capacity as the trustee of a trust which:

- (a) is a unit trust scheme; and
- (b) at least:
- (i) all of the holders of the Units are Designated Persons of the same class (i.e. they must all be Eligible Persons that are solely from one of the following groups namely Growers, Retailers or Wholesalers); or
- (i) all of the holders of the Units consist of one or more of persons who are only Designated Persons, Eligible Discretionary Trusts and Eligible Superannuation Funds of the same class (i.e. they must all be Eligible Shareholders that are solely from one of the following groups namely Growers, Retailers or Wholesalers); and
- (c) the unit trustee is an Eligible Trustee.

"Foundation Member" means a person who was a Member in the period prior to 11 July 1989 and but for this clause is not otherwise a Grower, Retailer or Wholesaler.

"Grower" means either:

- (a) a person who carries on a bona fide business of a farmer or the grower of fruit, vegetables, flowers or other horticultural products:
 - (i) on a land area of not less than five hectares in South Australia; and
 - (ii) which has been carried on for a minimum period of three years; and
 - (iii) which constitutes 50% of that person's revenue; and
 - (iv) which constitutes a "primary production business" as defined in the *Income Tax Assessment Act 1997 (Cth)*, unless otherwise determined by the Board in its absolute discretion;
- (b) a co-operative, a majority of the members of which are Growers as defined in paragraph (a) above; or
- (c) a membership-based not-for-profit industry body where 75% of the members are Growers as defined in paragraph (a) above and which is approved by the Board in its absolute discretion;
- (d) an Eligible Shareholder where the relevant Designated Person is either a Grower under clause (a), the director of a corporation that is a Grower under clause (a), or a Foundation Member who has been a Grower under clause (a); or
- (d) a Foundation Member who has been a Grower under clause (a).

"Grower Director" means a Director who is either;

- (a) a Grower; or
- (b) a director of a Grower that is a corporation.

"Grower Shares" means Shares so designated, comprising Shares which are registered to Members who are Growers.

"Independent Director" means a Director who is not a Designated Person.

"legal person" is a person recognised by the law other than a natural person and a legal person includes a natural person when acting in the capacity of a trustee.

"Managing Director" means the person appointed to be the Managing Director of the Company from time to time.

"Member" means a person whose name is entered in the Register as a holder of a Share.

"Members present" means Members present at a general meeting of the Company in person or by properly appointed proxy, attorney or representative.

"**notice**" means written notice and "**notify**" means notification in writing.

"**Office**" means the registered office of the Company.

"**Personal Representative**" means the legal personal representative, executor or administrator of a deceased person or a person who has the lawful control of the assets or estate of a person who is bankrupt or whose person or property is liable to be dealt with under a law about mental health.

"**Preference Shares**" means Shares issued as such in accordance with this Constitution.

"**Register**" means the register of Members of the Company.

"**registered address**" means the address of a Member recorded in the Register from time to time.

"**Retailer**" means:

(a) a person who holds an ID card with the classification of Buyer as defined in the South Australian Produce Market Rules, and carries on a bona fide business selling inter alia, fruit, vegetables, flowers or other horticultural products:

- (i) from a Retail Outlet in South Australia; and
- (ii) which has been carried on for a minimum period of three years; and
- (iii) which constitutes 50% of that person's revenue,

unless otherwise determined by the Board in its absolute discretion;

(b) a membership-based not-for-profit industry body where 75% of the members are Retailers as defined in paragraph (a) above and which is approved by the Board in its absolute discretion;

(c) an Eligible Shareholder where the relevant Designated Person is a Retailer under clause (a), the director of a corporation that is a Retailer under clause (a), or a Foundation Member who was a Retailer under clause (a); or

(d) a Foundation Member who has been a Retailer under clause (a).

"**Retailer Director**" means a Director who is either:

- (a) a Retailer; or
- (b) a director of a Retailer that is a corporation.

"**Retailer Shares**" means Shares so designated, comprising Shares which are registered to Members who are Retailers.

"**Retail Outlet**" means:

- (a) business premises –
 - (i) at which goods are sold to the public by retail; or

(ii) at which services are provided to the public, or to which the public is invited to negotiate for the supply of services; or

(d) business premises classified by regulation as premises to which the *Retail and Commercial Leases Act 1995* (SA) applies.

"**Secretary**" means a person appointed as or performing the duties of secretary of the Company and if the Company has more than one Secretary, means any one of them.

"**Securities**" includes Shares, rights to Shares, options to acquire Shares and other securities having rights of conversion into Shares and debentures issued by the Company.

"**Share**" means a share in the capital of the Company.

"**SIS Act**" means the *Superannuation Industry (Supervision) Act 1993* (Cth).

"**spouse**" has the same meaning as that word has in the Act.

"**Unclassified Shares**" means Shares which are registered to Members who are not Growers, Retailer or Wholesalers.

"**Unclassified Securities**" means any Securities of a class which are registered to Members who are not Growers, Retailer or Wholesalers.

"**Unit**" in relation to a Unit Trust Scheme means a right or interest (however described) of a beneficiary under a unit trust scheme.

"**Unit Trust Scheme**" means an arrangement made for the purpose, or having the effect, of providing for persons having funds available for investment facilities for the participation by them, as beneficiaries under a trust, in any profits or income arising from the acquisition, holding, management or disposal of any property subject to the trust.

"**Wholesaler**" means:

(a) a person who carries on a bona fide business of the wholesale sale of fruit, vegetables, flowers or other horticultural products:

- (i) from a lock-up premises at the South Australian Produce Market; and
- (ii) which has been carried on for a minimum period of three years; and
- (iii) which constitutes 50% of that person's revenue,

unless otherwise determined by the Board in its absolute discretion;

(b) the South Australian Chamber of Fruit and Vegetable Industries Incorporated ABN 76 617 262 097, provided that 75% of its members are Wholesalers as defined in paragraph (a) above;

(c) an Eligible Shareholder where the relevant Designated Person is either a Wholesaler under clause (a), the director of a corporation that is a Wholesaler under clause (a), or a Foundation Member who was a Wholesaler under clause (a); or

(d) a Foundation Member who was a Wholesaler under clause (a).

"Wholesaler Director" means a Director who is either:

(a) a Wholesaler; or

(b) a director of a Wholesaler that is a corporation.

"Wholesaler Shares" means Shares so designated, comprising Shares which are registered to Members who are Wholesalers.

"writing" or **"written"** includes any visible means of reproducing words, numbers or other symbols.

3. Interpretation

Unless inconsistent with the context:

3.1 Any expression not defined in this Constitution but defined in the Act has the same meaning as in the Act. Where the word or expression has more than one meaning in the Act and a provision of the Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

3.2 A reference to this Constitution includes any modification or replacement of it and any regulations or rules (however described) issued under it.

3.3 A reference to the Act and all other legislation (including subordinate legislation) is a reference to that legislation as:

3.3.1 amended, modified or waived in relation to the Company; or

3.3.2 re-enacted, amended or replaced; and

3.3.3 includes any subordinate legislation or rules issued under that legislation or those rules.

3.4 A reference to one gender includes the other genders; the singular includes the plural and vice versa; where a word or phrase is given a particular meaning other parts of speech or grammatical forms of that word or phrase have corresponding meanings.

3.5 Each clause of this Constitution will be read as subject to the Act.

3.6 A document or agreement, or a provision of a document or agreement, is a reference to that document, agreement or provision as amended, supplemented, replaced or novated.

3.7 The word 'agreement' includes an undertaking or other binding arrangement or understanding.

3.8 Any thing (including a right, obligation or concept) includes each part of it.

3.9 A power is also a reference to an authority or discretion.

3.10 A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.

- 3.11 The meaning of a thing (including a right, obligation or concept) is not limited by the use of specific examples introduced by including, for example or similar expressions.
- 3.12 A reference to a person includes a natural person, a legal person, an incorporated body or other association of persons, whether or not it is incorporated or has a separate legal identity or a governmental agency or body and vice versa.
- 3.13 Headings are for convenience of reference and do not affect the interpretation of this Constitution.
- 3.14 A reference to "clause" means a clause of this Constitution.

BUSINESS OF THE COMPANY

4. Primary business of Company

The primary business of the Company is and will be the operation of a market in the Adelaide metropolitan area in which Growers, Wholesalers and Retailers may conduct their respective businesses.

SECURITIES

5. Rights

Subject to this Constitution and to the terms of issue of Shares, all Shares have the same rights, including the following rights:

- 5.1 the right to receive notice of and to attend and vote at all general meetings of the Company;
- 5.2 the right to receive dividends; and
- 5.3 in a winding up or a reduction of capital, the right to participate equally in the distribution of the assets of the Company (both capital and surplus), subject to any amounts unpaid on the Share and, in the case of a reduction, to the terms of the reduction.

6. Issue of Securities

- 6.1 Without affecting the special rights of any holders of Securities, the Board may, subject to this Constitution, decide to issue any Securities with or without preferred, deferred or other special rights, obligations or restrictions, whether with respect to consideration, dividends, voting, return of share capital, payment of calls or otherwise, as the Board determines.
- 6.2 By resolution of the Board, the Company may vary the rights attached to Shares in a class of Shares by the issue of new Shares not having the same rights as any Shares already issued.

6A. Unclassified Securities

At no time shall the Company permit the Unclassified Securities in the Company, not being Shares in the Company, to constitute more than forty nine per cent (49%) of the Securities of the Company on issue whether by number or value.

7. Variation of class rights

- 7.1 If the terms of issue of a class of Shares sets out a procedure for varying or cancelling rights attached to that class, that procedure must be followed to vary or cancel any such rights.
- 7.2 If the terms of issue of a class of Shares do not set out a procedure for varying or cancelling rights attached to that class, any rights attached to the class of Shares can only be varied or cancelled:
- 7.2.1 by ordinary resolution of the Company; and
 - 7.2.2 by special resolution passed at a meeting of the Members holding the class of Shares or by written consent of not less than seventy five per cent of those Members.
- 7.3 The provisions in this Constitution regarding general meetings will generally apply to a meeting of Members in a class except that two Members in a class will constitute a quorum and one Member present may demand a poll.

8. Joint holders

- 8.1 Where two or more persons are registered as the holders of any Shares, they are taken to hold the Shares as joint tenants with benefits of survivorship subject to this Constitution.
- 8.2 The joint holders of Shares and their respective Personal Representatives are jointly and severally liable for all payments due in respect of the Shares and for all other obligations attached to the holding of the Shares.
- 8.3 On the death of a joint holder, the remaining joint holders are the only persons recognized by the Company as having any title to the Shares. The Board may require evidence of death. The estate of a deceased joint holder is not released from any liability in respect of the Shares.
- 8.4 Any one of the joint holders may give a receipt for any dividend, bonus or return of capital payable to the joint holders.
- 8.5 The Company is not bound to register more than three persons as the joint holders of the Shares.
- 8.6 If the Company issues certificates for Shares, the Company need only deliver a certificate for jointly held Shares to the joint holder named first in the Register.
- 8.7 Any notice to be given by the Company need only be given to the joint holder named first in the Register. Notice so given will be taken to have been properly given to all the joint holders.
- 8.8 Any one of the joint holders may vote at any meeting of the Company either personally or by properly appointed proxy, attorney or representative, in respect of the Shares as if that joint holder was solely entitled to the Shares.
- 8.9 If more than one of the joint holders are present personally or by properly appointed proxy, attorney or representative, only the vote of the joint

holder whose name appears first in the Register in respect of those jointly held Shares will count.

9. No Recognition of Trusts

The Company is entitled to treat the registered holder of a Share as the absolute owner of that Share and is not bound to recognise any trust or any equitable, contingent or other claim to or interest in the Share on the part of any other person, even if the Company has notice of it.

10. Surrender of Shares

- 10.1 The Board may agree to a surrender of Shares in settling any question relating to the validity of the issue of those Shares or in any other case where it would be lawful for the Company to agree to a surrender of Shares.
- 10.2 The Board may sell or re-issue surrendered Shares in the same manner as forfeited Shares.

SHARES

11. Grower, Wholesaler and Retailer Shares

- 11.1 Unless otherwise determined by the Board, all Shares, other than Preference Shares, will be divided into classes known as Grower Shares, Wholesaler Shares, Retailer Shares and Unclassified Shares.
- 11.2 A Share:
- 11.2.1 must only be issued to an Eligible Person; and
 - 11.2.2 subject to clause 11.2.3 must only be transferred to a person who is an Eligible Person; and
 - 11.2.3 may be transferred or transmitted to a person who is not an Eligible Person provided that at the time the transfer or transmission is presented to the Company for registration the number of Unclassified Shares on issue does not exceed forty nine per cent (49%) of the Shares on issue,

provided that the restriction in clause 19 is not breached.
- 11.3 If a person to whom a Share, other than a Preference Share, is to be issued, transferred or transmitted is eligible, at that time, in more than one of the categories of Grower, Wholesaler or Retailer, the person must elect in the manner decided by the Board in which of the categories the person will hold the Share.
- 11.4 A person eligible in more than one category, at the time of the issue, transfer or transmission of the Shares, may elect by notice to the Secretary to hold some of the Shares in one category and some in another category for which the person is eligible.

12. Subsequent Changing of Designation

- 12.1 An Eligible Person eligible in more than one category may elect by notice to the Company to change the class of some or all of the Eligible Person's Shares subject to being eligible for the new class. However, an Eligible Person cannot make a change within 12 months of any prior change to the class of any of the Shares held by the Eligible Person.
- 12.2 If the Board suspects on reasonable grounds that a Member holding Shares as an Eligible Person in a class (i.e. Grower, Retailer or Wholesaler) has ceased to be eligible in that class but is eligible in another class (other than as Unclassified Shares), after giving the Member 14 days' notice of its intention to do so, the Board may change the Member's Shares to that other class (other than as Unclassified Shares).
- 12.3 A Member holding Unclassified Shares and not being an Eligible Person may, on becoming an Eligible Person, elect by notice to the Company to change some or all of those Shares to the class of Shares for which the Member has become eligible. If the Member has become eligible in more than one category then that Member may elect in accordance with clause 12.1.
- 12.4 However, a Member cannot make a change under clauses 12.3 within 12 months of any prior change to the class of any of the Member's Shares.
- 12.5 The change of class of Shares pursuant to clauses 12.1 or 12.3 will take effect 30 days from the date on which the Member's notice is received by the Company.

12A. Unclassified Shares

- 12A.1 At no time shall there be Unclassified Shares in the Company constituting more than forty nine per cent (49%) of the Shares of the Company on issue and the Company shall not permit such limit to be exceeded whether by issue, transmission or transfer.
- 12A.2 Subject to clause 12A.1 Unclassified Shares may be transferred to a person who is not an Eligible Person.
- 12A.3 If a person acquires or otherwise becomes entitled to any Unclassified Shares and that acquisition or entitlement constitutes a breach of clause 12A.1 then the person acquiring or becoming entitled to such Unclassified Shares must immediately dispose of such of those Unclassified Shares as cause the person to be in breach of clause 12A.1.

13. Rights

- 13.1 Subject to clause 13.2 all Shares including those designated as Grower Shares, Wholesaler Shares, Retailer Shares and Unclassified Shares have the same rights, except the right to elect and remove Directors as set out in clause 81 and clause 85.8.2, and are not otherwise differentiated in respect of any rights in the Company whatsoever.
- 13.2 Preference Shares or shares issued with special rights have such rights as are expressly set out in this Constitution or subject to the terms on which they are issued.

PREFERENCE SHARES

14. Issue Preference Shares

14.1 At any time, the Company may issue any Preference Shares.

15. Preference Share Rights

15.1 The Preference Shares may be issued on terms that they are, or at the option of either or both the Company and the holder are, liable to be redeemed, whether out of profits or the proceeds of a new issue of Shares made for the purpose of the redemption.

15.2 The Preference Shares may confer on the holders the right to convert the Preference Shares into non Preference Shares on terms decided by the Board at the time of issue of the Preference Shares.

15.3 The Preference Shares may confer on the holders the right to receive dividends which are preferential, cumulative or otherwise on terms decided by the Board at the time of issue of the Preference Shares.

15.4 The Preference Shares will confer on the holders the right to a preferential dividend, in priority to any payment of dividend on any other class of Shares;

15.5 The Preference Shares will confer on the holders the right on redemption and in a winding up to payment in cash in priority to any other class of Shares of:

15.5.1 the amount paid or credited as paid on each of the Preference Shares; and

15.5.2 the amount (if any) equal to the aggregate of any dividends accrued (whether determined or not) but unpaid and of any arrears of dividends.

15.6 The Preference Shares may restrict the right of holders to participate in assets or profits of the Company.

15.7 The Preference Shares will confer on the holders the same rights as the holders of the Shares to receive notices, reports and accounts and to attend and speak at general meetings.

15.8 The Preference Shares will not confer on the holders a right to vote at general meetings except:

15.8.1 if at the date of the general meeting, the dividend on the preference Shares is in arrears;

15.8.2 on a proposal at a general meeting:

(a) to reduce the Share capital of the Company;

(b) that affects rights attached to the Preference Shares;

(c) to wind up the Company;

(d) for the disposal of the whole of the property, business and undertaking of the Company;

15.8.3 at a general meeting on a resolution to approve the terms of a buy-back agreement;

15.8.4 on any question considered at a general meeting held during the winding up of the Company.

16. Preference Share Rankings

16.1 The Company may issue further Preference Shares ranking equally with (but not in priority to) other Preference Shares already issued.

16.2 The rights of the Preference Shares already issued will not be taken to have been varied by the further issue.

CEASING TO BE ELIGIBLE PERSON

17. Notice to Secretary on Ceasing to be Eligible Person

If a Member ceases to be an Eligible Person, the Member must notify the Secretary of that fact within two calendar months of the cessation.

18. Change in Share class

18.1 Subject to clause 18.2 if a Member ceases to be an Eligible Person or the Board suspects on reasonable grounds that a Member has ceased to be an Eligible Person, after giving the Member fourteen days' notice of its intention to do so, the Board may change that Member's Shares to Unclassified Shares.

18.2 Subject to clause 18.3, if a Member ceases to be an Eligible Person solely as a result of a change in a definition in this Constitution then:

18.2.1 the Member will be deemed to remain an Eligible Person in the same class as that for which they were eligible immediately prior to the change in definition for a period of five years following date on which that change in definition took effect; and

18.2.2 the Board may not change that Member's Shares to Unclassified Shares in accordance with clause 18.1, until the expiry of a period of five years following date on which that change in definition took effect.

18.3 Any Member who was an Eligible Person prior to **[insert date of amendment]** but no longer classifies as an Eligible Person solely as a result of the amendments made to this Constitution on **[insert date of amendment]** will remain as a Grower, Retailer or Wholesaler (as applicable).

18A. Board may transfer Shares

18A.1 If the Board suspects on reasonable grounds that by reason of a Member ceasing to be an Eligible Person that shares of a Member will be converted into Unclassified Shares (subject however to clause 18.2) or in any other circumstances will result in the limit on Unclassified Shares in clause 12A

being exceeded, the Board may after giving any Member or person interested in such shares (that are known to the Board) 10 business days' notice of the Board's intention to do so, sell and transfer any Share that exceeds the limit in clause 12A to such person and on such terms as the Board reasonably determines so as to ensure such limit is not otherwise exceeded.

- 18A.2 Subject to any other provisions of this Constitution or the law, the Board will hold any sale proceeds for and will promptly pay such sale proceeds net of all costs associated with the sale and transfer to the person whose Shares were sold and transferred subject to the person producing the certificate for the Shares (if certificated) or any other evidence as to title required by the Board.

LIMIT ON SHAREHOLDING

19. Shareholding Limit

- 19.1 A person must not acquire a relevant interest in any Shares if any person who together with the person's associates is entitled to a relevant interest in less than fifteen per cent of the Shares would, immediately after the acquisition, be entitled to a relevant interest in more than fifteen per cent of the Shares.
- 19.2 If a person acquires or otherwise becomes entitled to any Shares and that acquisition or entitlement constitutes a breach of clause 19.1 then the person acquiring or becoming entitled to such Shares must immediately dispose of such of such of those Shares as cause the person to be in breach of clause 19.1.
- 19.3 For the purposes of this clause a "relevant interest" has the meaning set out in Chapter 6 Part 6.1 of the Act.
- 19.4 For the purposes of this clause an "associate" has the meaning set out in sections 10 to 17 of the Act consistent with the use of the word so defined for the purposes of Chapter 6 Part 6.1 of the Act.

20. Board may transfer Shares

- 20.1 If the Board suspects on reasonable grounds that a person has breached clause 19.1, after giving the person 10 business days' notice of the Board's intention to do so, the Board may sell and transfer any Share the subject of such breach to such person and on such terms as the Board reasonably determines.
- 20.2 Subject to any other provisions of this Constitution or the law, the Board will hold any sale proceeds for and will promptly pay such sale proceeds net of all costs associated with the sale and transfer to the person whose Shares were sold and transferred subject to the person producing the certificate for the Shares (if certificated) or any other evidence as to title required by the Board.

PROCEDURES REGARDING SHARES AND MEMBER STATUS

21. Information as to Holding

- 21.1 The Board may, in addition to any other provision or requirement, for the purpose of determining whether a Member is an Eligible Person to be a Member or a holding has exceeded or will exceed the limit in either of clauses 12A or 19.1, in its absolute and uncontrolled discretion at any time require a Member to provide the Company with such information (whether orally or in writing) as it may require to satisfy the Board that such Member remains an Eligible Person and/or that such holding limit has not been exceeded or will not be exceeded.
- 21.2 The Board may require the information to be provided under clause 21.1 in the form of a statutory declaration.

22. Board may determine procedures

- 22.1 The Board may ask questions of a Member or prospective Member or specify and require compliance with any procedure or requirement it decides to verify that a Member or prospective Member is complying or will be in compliance with any applicable obligations or restrictions under this Constitution regarding the holding of a Share or the exercise of rights attached to a Share.
- 22.2 However, the Board may not specify or require compliance with a procedure or requirement that is contrary to an express provision in this Constitution.

23. Member failure to Comply

- 23.1 If Member does not within a reasonable time answer questions asked by the Board or if a person does not reasonably comply with any procedure or requirement decided by the Board pursuant to clauses 21 or 22, without limiting any other rights or remedies the Board or the Company may have, the failure or refusal by the Member or person will be taken to be "reasonable grounds" for the purposes of clauses and 18.1.
- 23.2 If a prospective Member does not within a reasonable time answer questions asked by the Board or if a person does not reasonably comply with any procedure or requirement decided by the Board pursuant to clause 22, without limiting any other rights or remedies the Board or the Company may have, the Company may refuse to issue Shares to or register a transfer or transmission of Shares to the prospective Member.

CHANGES TO SHARE CAPITAL

24. Alterations

The Directors may do anything required to give effect to any resolution altering the Company's share capital, including, where a Member becomes entitled to a fraction of a Share on a conversion of some or all of the Share into a larger or smaller number:

- 24.1 by making cash payments;

- 24.2 determining that fractions may be disregarded to adjust the rights of all parties;
- 24.3 appointing a trustee to deal with any fractions on behalf of Members; and
- 24.4 rounding up each fractional entitlement to the nearest whole Share by capitalising any amount even though only some of the Members participate in the capitalisation.

25. **Reductions of Capital**

- 25.1 Subject to the Act the Company may reduce its Share capital in any manner.
- 25.2 Without limiting the generality of clause 25.1, the Company when reducing its Share capital may resolve that such reduction be effected wholly or in part by the distribution of specific assets (whether held in the name of the Company or its wholly owned subsidiary) and in particular fully paid shares, debentures, debenture stock or other securities of any other entity or in any one or more of such ways.
- 25.3 Where the Company pursuant to a reduction of its share capital distributes to its Members securities in another entity:
 - 25.3.1 the Members will be deemed to have agreed to have become Members of that entity; and
 - 25.3.2 each of the Members appoints the Company or any of the Directors as its agent to execute any transfer of shares or other document required to effect the distribution of shares to that Member.

26. **Buy Backs**

Subject to the Act the Company may buy Shares on terms and at times determined by the Directors.

CALLS

27. **Board May make Calls**

- 27.1 Subject to the terms on which any Shares may be issued, the Board may make calls on Members for payment of any money unpaid on their Shares.
- 27.2 Each Member must pay the amount of a call in the manner, at the time and at the place specified by the Board.

28. **Instalments and Amounts being Payable**

- 28.1 Calls may be made payable by instalments.
- 28.2 If:
 - 28.2.1 the Board require a call to be paid by installments; or

28.2.2 an amount becomes payable by the terms of issue of Shares on allotment, or at a time or in circumstances specified in the terms of issue,

then:

28.3 on each such installment date, the amount payable under the terms of issue is payable as if it were a call made by the Board and as if the Board had given notice of it; and

28.4 the consequences of late payment or non-payment of an instalment or the amount payable under the terms of issue are the same as the consequences of late payment or non-payment of a call.

29. Notice of calls

29.1 The Board must give Members at least 10 business days' notice of a call.

29.2 The non-receipt of a notice of any call by, or the accidental omission to give notice of any call to any Member does not invalidate the call.

30. When calls made

30.1 A call is made at the time when the Board resolves to make the call.

30.2 The call may be revoked or postponed by resolution of the Board at any time prior to the date on which payment in respect of the call is due.

31. Differences in calls

The Board may, on the issue of Shares, differentiate between holders as to the amount and the times of payment of calls.

32. Terms of issue

Any money payable pursuant to the terms of issue of a Share will be taken to be a call properly made and notified and payable on the date set by the terms of issue and in case of non-payment, all relevant provisions of this Constitution will apply.

33. Interest on late payment of calls

33.1 If a call is not paid by the due date, the offending Member will pay interest on the money for the period it remains unpaid at the rate decided by the Board pursuant to clause 52.

33.2 The offending Member will also pay any costs incurred by the Company because of the non-payment or late payment.

33.3 The Board may waive payment of any amount payable under this clause 33.

34. Payment in advance of call

34.1 The Board may accept all or part of any money uncalled and unpaid upon any Share and pay interest on that money (until it would have otherwise become payable) at a rate agreed by the Board and the Member but not

exceeding (unless otherwise decided in general meeting) twenty per cent per annum.

- 34.2 The Board may decide that an amount paid in advance by a Member be repaid to that Member.
- 34.3 A payment made in advance of a call does not confer any right to participate in the profits of the Company.

35. **Proof on Recovering Call**

On the hearing of any action for the recovery of money due for any call, proof that:

- 35.1 the name of the person sued was, when the call was made, entered in the Register as a holder or the holder of Shares in respect of which the call was made;
- 35.2 the resolution making the call was duly recorded in the Board minute book; and
- 35.3 notice of the call was given to the person sued;

will be conclusive evidence of the debt.

FORFEITURE AND LIEN

36. **Payment and Forfeiture**

- 36.1 If a Member fails to pay any money payable in respect of any Shares by the due date for payment, the Board may serve a notice on the Member requiring that Member to pay the sum together with interest accrued and all expenses incurred by the Company by reason of the non-payment.
- 36.2 The notice may be served at any time while any part of the money remains unpaid.
- 36.3 The clause 36.1 notice must state a date not earlier than 10 business days from the date of the notice, by which the money, interest and expenses are to be paid and the place where payment is to be made.
- 36.4 The notice must also state that if payment is not made by the time and at the place specified, the Shares in respect of which the money is payable are liable to be forfeited.

37. **Forfeiture on non-compliance**

- 37.1 If a Member does not comply with the clause 36.1 notice, any Shares in respect of which that notice was given may be forfeited by resolution of the Board passed after the date for payment specified in the notice.
- 37.2 The forfeiture will include all dividends, interest and any other money payable by the Company in respect of the forfeited Shares and not paid before the forfeiture.

38. Notice of forfeiture

- 38.1 When any Share is forfeited, the Board must give notice of the forfeiture to the Member in whose name the Share was registered immediately before the forfeiture.
- 38.2 The forfeiture and date of forfeiture must be recorded in the Register.
- 38.3 Failure to give the notice or record the forfeiture in the Register required by this clause 38 does not invalidate the forfeiture.

39. Member remains liable

- 39.1 Despite forfeiture, a Member remains liable immediately to pay to the Company all money owing in respect of the forfeited Share and all expenses incurred by the Company and interest from the date of forfeiture until payment.
- 39.2 Whether or not a Share is forfeited, the Company may take any action the Board decides to recover any money, expenses and interest due to the Company.

40. Effect of forfeiture

- 40.1 A person whose Share has been forfeited ceases to be a Member in respect of that Share and has no interest in or claim against the Company in respect of that Share.
- 40.2 The forfeited Share becomes the property of the Company.

41. Disposal of forfeited Share

The Board may sell or otherwise dispose of or re-issue a forfeited Share with or without any money paid on the Share by any former holder being credited as paid and otherwise on any terms decided by the Board.

42. Waiver or cancellation of forfeiture

The Board may waive any rights of the Company under the above clauses relating to forfeiture or may at any time before a sale, disposal, re-issue or cancellation of a forfeited Share, cancel the forfeiture on any terms decided by the Board.

43. Company's lien

- 43.1 The Company has a first ranking lien on:
- 43.1.1 each Share registered in the name of a Member;
 - 43.1.2 the proceeds of sale of that Share; and
 - 43.1.3 all dividends, bonuses, returns of capital or other distributions declared or payable in respect of that Share;
- for:
- 43.1.4 each unpaid call or instalment which is due but unpaid on that Share;

- 43.1.5 all amounts which the Company properly pays in respect of that Share or the forfeiture or sale of that Share;
 - 43.1.6 all interest and expenses payable to the Company in respect of any Share held by the holder or former holder of that Share; and
 - 43.1.7 each and any of the amounts referred to in clause 50.
- 43.2 If the Company registers a transfer of any Share on which it has a lien without giving the transferee notice of any claim it may have at that time, the Share is discharged from the Company's lien in respect of that claim.
- 43.3 The Company may do everything necessary or appropriate to protect or enforce its lien.
- 44. Waived lien rights**
- The Board may exempt a Share from the Company's right to a lien over it or may waive or compromise any of the Company's lien rights.
- 45. Sale of Share**
- In order to enforce a lien, the Board may sell any Share which is subject to the lien in any manner the Board decides, after giving at least 3 business days' notice to the Member in whose name the Share is registered.
- 46. Minute is evidence of forfeiture**
- An entry in the Board's minute book that a Share has been forfeited, sold, re-issued or cancelled in accordance with this Constitution or the Act is sufficient evidence of that fact as against all persons interested.
- 47. Procedure on sale of Share**
- 47.1 On the sale or re-issue of a forfeited Share, or on the sale of a Share sold to enforce a lien, the Company may receive the purchase money or consideration (if any) given for that Share on sale or re-issue.
 - 47.2 The Board may authorise a person to execute or may otherwise effect a transfer in favour of the person to whom Shares are sold.
 - 47.3 The Company may do everything necessary or desirable to effect the transfer or re-issue of the Share and will enter the name of the transferee or issuee in the Register. Upon entry, the transferee or issuee will have good title to the Share regardless of any defect in proceedings relating to the sale or re-issue of the Share. The transferee or issuee will not be liable regarding the application of the purchase money or consideration.
- 48. Application of proceeds**
- The Company will pay or apply the proceeds of any sale or re-issue of a Share subject to forfeiture or enforcement of lien in the following order:
- 48.1 the expenses associated with the forfeiture, enforcement of lien and the sale or re-issue of the Share;
 - 48.2 all money due and unpaid in respect of the Share; and

48.3 the balance (if any) to the person registered as holder of the Share immediately prior to the sale or re-issue or to the person's Personal Representative on the production of the certificate for the Share (if the Share was certificated) and any other evidence as to title required by the Board.

49. Claim against Company

Any person claiming to be aggrieved by a sale or other disposal of a Share pursuant to the forfeiture and lien provisions in this Constitution has a remedy in damages only and against the Company exclusively.

COMPANY PAYMENTS ON BEHALF OF A PERSON

50. Company liable to make payment

Clause 51 applies if the Company becomes liable in any circumstance to make any payment in respect of:

- 50.1 any Securities held solely or jointly by a person;
- 50.2 a transfer or transmission of Securities by a person;
- 50.3 any dividends, bonuses or other money due or payable or which may become due or payable to a person;
- 50.4 an immediate or contingent liability that any law for the time being of any country, state or place imposes or purports to impose on the Company to make any payment or authorises a taxing authority or Government official to require the Company to make payment in respect of Shares or dividends or other moneys accruing due to the Member who holds the Share or if the Member is deceased, the Member's Personal Representative; or
- 50.5 otherwise for or on account of or in respect of a person.

51. Consequence of Company payment

In each case referred to in clause 50, in addition to any other rights or remedies the Company may have:

- 51.1 the person, the person's Personal Representative and any person who becomes registered as holder of the Securities on distribution of a deceased person's estate ("**Beneficiary**") must fully indemnify the Company against the Company's liability to make the payment;
- 51.2 immediately upon demand by the Company, the person or the person's Personal Representative or Beneficiary must reimburse the Company for any payment made by it, together with interest charged at the rate determined pursuant to clause 52 from the date of payment by the Company until the date of reimbursement;
- 51.3 the Company has a lien on the Securities and on all dividends, bonuses and other money payable in respect of the Securities held solely or jointly by the person or the person's Personal Representative or Beneficiary for all money payable to the Company under clause 51.1;

- 51.4 the Company may refuse to register a transfer of any Securities by or to the person or the person's Personal Representative or Beneficiary until all money payable to the Company under clause 51.1 has been paid or satisfied by set-off against any dividend, bonus or other money then due and payable by the Company to the person or the person's Personal Representative or Beneficiary;
- 51.5 the Company may take legal action against the person or the person's Personal Representative or Beneficiary or enforce the Company's lien to recover the amount due under clause 51.1; and
- 51.6 the Board may decide to exempt a security from the application of all or part of clauses 50 and 51 and/or waive all or any part of a payment due to the Company under clause 51.1.

INTEREST

52. Rate of Interest

Interest to be paid under this Constitution on amounts payable by a person on or in respect of Shares or otherwise under this Constitution will be charged at a rate decided by the Directors from time to time.

53. Interest Accruing

Interest payable to the Company accrues daily and will be capitalised calendar monthly or at any other intervals as the Board may decide.

CERTIFICATES AND ELECTRONIC TRANSFER SYSTEMS

54. Certificates

The Board may decide to issue certificates for Shares or other Securities, to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form the Board decides from time to time.

55. Electronic transfer systems

The Company may participate in any electronic system permitted under the Act for the transfer of Securities. The Board may:

- 55.1 provide that Securities may be held in certificated or uncertificated form and make any provision it thinks fit, including for the issue or cancellation of certificates, to enable Members to hold Securities in uncertificated form and to convert between certificated and uncertificated holdings;
- 55.2 provide that some or all Members are not to be entitled to receive a certificate in respect of some or all of the Securities which the Members hold;
- 55.3 accept any instrument of transfer, transfer document or other method of transfer in accordance with the requirements of the electronic transfer system; and

- 55.4 despite any other provision in this Constitution, do everything necessary or appropriate under the Act in connection with the electronic transfer system.

56. Registers

Shares may be held on any subregister maintained by or on behalf of the Company or on any branch register kept by the Company.

TRANSFER AND TRANSMISSION OF SECURITIES

57. Form of transfer

57.1 Subject to this Constitution, a transfer of Securities may only be effected by a written transfer in the form approved by the Board from time to time and which may include a requirement for the provision of information which the Board considers is relevant to the holding of Shares in the Company.

57.2 The transfer form must be duly executed by each party, duly stamped (if necessary) and delivered to the Office or elsewhere as the Board decides.

57.3 Subject to this Constitution the transfer form must be provided to a Member upon request and may be accessible on the website of the Company.

58. Transfer entered on Register

The transferor is taken to remain the holder of the Securities until the name of the transferee is entered on the Register.

59. Refusal to register transfers

59.1 The Board must refuse to register a transfer of Securities if required by another clause in this Constitution or by the Act.

59.2 The Board may refuse to register a transfer of Securities:

59.2.1 on which the Company has a lien or which are subject to forfeiture; or

59.2.2 if registration of the transfer would be or result in a breach of the Act or any other law; or

59.2.3 if permitted to do so under the Act; or

59.2.4 if the Board considers the transferee will be in breach of the Constitution if the transfer is effected; or

59.2.5 if the Board is not satisfied that the proposed transferee is an Eligible Person.

59.2A The Board must refuse to register a transfer of Securities if the transfer would result in:

59.2A.1 the 15% shareholding limit under clause 19.1 being exceeded; or

59.2A.2 more than 49% of the Shares on issue constituting Unclassified Shares.

- 59.3 The decision of the Board relating to the registration of a transfer is absolute.
- 59.4 Failure to give notice of refusal to register any transfer as may be required under the Act does not invalidate the decision of the Board.
- 59.5 The Board may in its absolute and uncontrolled discretion in exercise of any of its powers in clauses 21 or 22 require either or both the proposed transferor and transferee to provide the Company with such information (whether orally or in writing (including by statutory declaration as provided for in clause 21)) as it may require or to comply with any procedure adopted by it to satisfy the Board that the proposed transferee is an Eligible Person and none of the limits on shareholdings specified in this Constitution will be breached.

60. Written transfers and certificates

- 60.1 A written transfer is to comply with the requirements of clause 57.
- 60.2 If the transfer relates to certificated Securities, the relevant certificate must accompany the transfer.
- 60.3 The Board may decide generally or in a particular case that it does not require delivery of a certificate or that it requires other or additional proof of title of the transferor.
- 60.4 Following registration, each such transfer may be retained by the Company for the period the Board decides, after which the Company may destroy it.
- 60.5 Following the registration of a transfer of certificated Securities or the registration of a person as holder of Securities by transmission, the relevant certificate will be taken to have been cancelled.
- 60.6 The Board may register a transfer of Securities signed by the holder prior to the holder's Personal Representative commencing to act, even if the Company has notice of the Personal Representative commencing to act.

61. Registration of transfer

Subject to the other provisions of this Constitution, the Board will not unreasonably refuse to register or delay the registration of a transfer.

62. Transmission

- 62.1 A Personal Representative lawfully acting on behalf of a person who is the sole holder of Securities (and who establishes such to the Board's satisfaction), is the only person recognized by the Company as having any title to Securities registered in that holder's name.
- 62.2 Subject to the Personal Representative complying with the provisions in this Constitution relating to transfers in all respects, the Personal Representative may by application to the Company become registered as the holder of the Securities or may transfer the Securities.

- 62.3 Without limiting the width of any other provision of this Constitution the Board:
- 62.3.1 has the same right to refuse registration of a Personal Representative as the holder of Securities by transmission as if the Personal Representative was a transferee; and
 - 62.3.2 may exercise any of its powers in clauses 21 or 22 to require the proposed transmittee to provide the Company with such information (whether orally or in writing (including by statutory declaration as provided for in clause 21)) as it may require or to comply with any procedure adopted by it to satisfy the Board that the proposed transmittee is an Eligible Person and none of the limits on shareholdings specified in this Constitution will be breached.
- 62.4 The estate of the deceased Member will not be released from any liability to the Company in respect of the Shares.
- 62.5 Where two or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they will be considered to be joint holders of the Share.
- 62.6 Any person electing to be registered as a holder of a Share under this clause 62 indemnifies the Company against any liability or cost incurred as a result of registration.
- 62.7 The Company may register or give effect to a transfer made to a transferee who dies before the transfer is registered.

GENERAL MEETINGS

63. Calling of general meetings

- 63.1 The Board may call a general meeting of the Company to be convened at the time and place or places (including at two or more places using technology that gives Members a reasonable opportunity to participate) and in the manner decided by the Board.
- 63.2 The Board may cancel or postpone any general meeting prior to the date on which it is to be held, except where the cancellation or postponement would be contrary to the Act.
- 63.3 The Board may give notice of cancellation or postponement as it decides, but any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.
- 63.4 No Member may convene a general meeting of the Company except as permitted under the Act.

64. Notice of general meeting

- 64.1 Notice of a general meeting will be given to persons entitled to notice in the form and manner decided by the Board.

- 64.2 The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice, does not invalidate any resolution passed at that meeting.

PROCEEDINGS OF MEETINGS

65. Business of general meetings

- 65.1 The business of an annual general meeting of the Company is to receive and consider the accounts and reports required by the Act to be laid before each annual general meeting, subject to other provisions of this Constitution to elect Directors, when relevant to appoint an auditor and fix the auditor's remuneration, and to transact any other business which is required to be transacted at any annual general meeting.
- 65.2 All other business transacted at an annual general meeting and all business transacted at any other general meeting is special.
- 65.3 Except with the approval of the Board, with the permission of the Chairman or pursuant to the Act, no person may move at any meeting either any resolution (except in the form set out in the notice of meeting given under clause 64) or any amendment of any resolution.
- 65.4 The Directors may postpone or cancel any general meeting (other than a meeting requested or called by Members as permitted by the Act) at any time before the day of the meeting. The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices of a general meeting.
- 65.5 A person's attendance at the general meeting waives any objection that the person may have to:
- 65.5.1 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
 - 65.5.2 the consideration of a particular matter at the meeting which is not within the business referred to in the notice of meeting, unless the person objects to the consideration of the matter when it is first presented.

66. Quorum

- 66.1 Three Members present, or all Members if there are less than three, constitute a quorum for a general meeting.
- 66.2 No business may be transacted at any general meeting except for the election of a Chairman (when required) and the adjournment of the meeting unless a quorum is present at the commencement of the business of the meeting.
- 66.3 If there is no quorum at a general meeting within thirty minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the Board adjourns the meeting to a date, time and place determined by it.

- 66.4 If no quorum is present at any adjourned meeting within thirty minutes after the time for the meeting, the meeting is dissolved.

67. Chairman

- 67.1 The Chairman of the Board is entitled to chair every general meeting.
- 67.2 If at any general meeting the Chairman of the Board:
- 67.2.1 is not present within fifteen minutes after the time specified for holding the meeting; or
 - 67.2.2 is present but is unwilling to act as chairman of the meeting,
- the Deputy Chairman of the Board is entitled to chair the meeting.
- 67.3 If at any general meeting:
- 67.3.1 the Chairman of the Board and Deputy Chairman of the Board are not present within fifteen minutes after the time specified for holding the meeting; or
 - 67.3.2 the Chairman of the Board and the Deputy Chairman of the Board are present but each is unwilling to chair the meeting,
- the Directors present may choose another Director to chair the meeting and if no Director is present or if each of the Directors present is unwilling to chair the meeting, a Member chosen by the Members present may chair the meeting.
- 67.4 If during any general meeting the Chairman is unwilling to chair any part of the proceedings, the Chairman may withdraw during that part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to act as Chairman of the meeting during that part of the proceedings. At the conclusion of the relevant part of the proceedings, the acting Chairman is to withdraw and the Chairman is to resume chairing the meeting.

68. General conduct of meeting

- 68.1 The Chairman will determine the general conduct of each general meeting and the procedures to be adopted at the meeting.
- 68.2 At any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting, the Chairman may terminate discussion of any matter being considered by the meeting and if applicable, require the matter to be put to a vote of the Members present.
- 68.3 Without limiting clause 68.1, the Chairman may determine any procedure which in the Chairman's opinion is necessary or desirable for the proper and orderly casting or recording of votes at any general meeting, whether on a show of hands or on a poll.
- 68.4 The Chairman's decision on any procedural matter or any other matter arising directly or indirectly from the business of the meeting is final. Any challenge to a right to vote (whether on a show of hands or on a poll) may

only be made at the meeting and will be decided by the Chairman whose decision is final.

69. Admission to meeting

- 69.1 The Chairman (which in this clause 69 includes a person authorised by the Chairman) may require any person wishing to attend a meeting of the Company to comply with any identification or security measures including personal searches the Chairman considers appropriate.
- 69.2 The Chairman may refuse entry to any person who does not comply with the identification or security measures.
- 69.3 The Chairman may refuse entry to any person or may require any person to leave a meeting if the person possesses a recording or broadcasting device without the consent of the Chairman or who possesses an article or who acts or threatens to act in a way which the Chairman considers may be dangerous, offensive or liable to cause disruption.
- 69.4 A person, whether a Member or not, requested by the Board or the Chairman to attend a general meeting is entitled to be present and, at the request of the Chairman, to speak at the meeting.

70. Adjournment

- 70.1 Subject to clause 70.2 the Chairman may:
- 70.1.1 with the consent of any Meeting at which a quorum is present adjourn the Meeting from time to time and from place to place;
- 70.1.2 without the consent of any Meeting, adjourn the Meeting from time to time and from place to place:
- (a) where it is impossible for him to maintain order or to enable the conduct of a poll; or
- (b) for any other reasonable cause;
- 70.1.3 Without the consent of any Meeting, adjourn any business being considered or to be considered by the meeting or any question or matter arising at the meeting from time to time and from place to place.
- 70.2 Any poll duly demanded on any question of adjournment, if the Chairman agrees to such poll being taken, shall be taken immediately at the Meeting without adjournment. The Chairman may in their absolute discretion reject a request that such poll be taken without assigning any reason for the rejection.
- 70.3 Any poll duly demanded on the election of a Chairman of a Meeting shall be taken at the Meeting without adjournment.
- 70.4 No business shall be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment took place.

70.5 When a Meeting is adjourned for fourteen (14) days or more, seven (7) days' notice shall be given of the place, date and time of the adjourned Meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at such adjourned Meeting.

70.6 Save as provided in clause 70.5 it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned Meeting.

71. Other meetings

The provisions of this Constitution relating to general meetings apply to any meetings of any class of Members held under this Constitution or the Act except that a quorum for any such class meeting will be two class Members present, or if a class has only one Member then that Member.

VOTING

72. Voting procedure

72.1 Subject to the Act or this Constitution requiring a special majority in relation to a resolution, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

72.2 Each question submitted to a general meeting is to be decided in the first instance by a show of hands, except where the Chairman decides that any question is to be determined by a poll without first submitting the question for decision by a show of hands.

72.3 In the case of an equality of votes, both on a show of hands and on a poll, the Chairman does not have a casting vote in addition to the vote or votes to which the Chairman may be entitled as a Member or as a proxy, attorney or representative of a Member.

72.4 Unless a poll is demanded, a declaration by the Chairman following a vote on a show of hands that a resolution has been passed or lost is conclusive, without proof of the number or proportion of votes recorded in favour of or against the resolution.

72.5 A poll may be demanded by Members in accordance with the Act (and not otherwise) or by the Chairman.

72.6 A demand for a poll may be withdrawn prior to declaration of the poll, with the Chairman's consent.

72.7 Any dispute regarding the admission or rejection of a vote either on a show of hands or on the taking of a poll, must be raised at the meeting (and not after). The Chairman's decision on the dispute will be final.

73. Taking a poll

73.1 Any poll will be taken in the manner and at the time and place decided by the Chairman. The result of the poll will be the meeting's resolution of the motion on which the poll was taken.

73.2 The taking of a poll does not prevent the transaction of other business at the meeting.

73.3 The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the Chairman decides.

74. Number of votes

74.1 Only Members present may vote unless the Board has approved other means (including electronic means) for the casting and recording of votes by Members.

74.2 Subject to this Constitution and to any rights or restrictions affecting any class of Shares:

74.2.1 on a show of hands:

- (a) each Member present has one vote, but
- (b) where a proxy, attorney or representative represents more than one Member, that person is entitled to only one vote and that vote will be taken as having been cast for all the Members the person represents;

74.2.2 on a poll, each Member present has:

- (a) for each fully paid Share held by the Member, one vote;
- (b) for each partly paid Share, a fraction of one vote.

74.3 For the purposes of clause 74.2.2(b) the fraction is equal to the proportion which the amount paid (but not credited as paid) on that Share (excluding any amounts paid on that Share in advance) bears to the total issue price of that Share.

75. Objections

75.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.

75.2 An objection must be referred to the Chairman of the general meeting, whose decision is final.

75.3 A vote, which the Chairman does not disallow under an objection, is valid for all purposes.

PROXIES, ATTORNEYS AND REPRESENTATIVES

76. Proxies

76.1 A proxy form sent by the Company to Members may include the names of any of the Directors or other persons willing to act as proxies or may name a person to be a proxy if the Member does not specify in the form, the name of the person(s) to be appointed as the proxy or proxies.

76.2 If the name of the person to be appointed as proxy in a proxy form given by a Member has not been completed, the Secretary may complete the proxy form by inserting the Chairman or the name of any Director decided by the Board as the person in whose favour the proxy is given.

- 76.3 Voting instructions given by a Member to the Member's proxy, being a Director or other person represented by the Company in material sent to Members as willing to act as proxy, are only valid if those instructions are given in the form of appointment.
- 76.4 If a Member wishes to vary the Member's voting instructions given to that proxy, the new instructions will only be valid if given in writing signed by the Member and received at the Office at least 48 hours before the meeting.
- 76.5 The Board may waive any procedural defects in the appointment of a proxy by a Member.

77. Attorney

- 77.1 A Member may appoint an attorney to act for the Member generally or for specific purposes. Before accepting any act by an attorney on behalf of a Member, the Board may require production of the power of attorney and proof of its proper execution for inspection at the Office or any other place the Board decides.
- 77.2 A Member may authorise an attorney to appoint a proxy for the Member.

78. Voting by Personal Representative etc

If a person has satisfied the Board (in such manner as the Board decides) at least forty eight hours before a general meeting that the person is the properly authorised or appointed Personal Representative, attorney or representative of a Member, that person may vote at the general meeting as if the person were registered as the holder of the Member's Securities.

79. Infant Member

- 79.1 On satisfying the Board (in the manner the Board decides) that a person is the parent or guardian of an infant Member, the parent or guardian may vote at any general meeting on behalf of that infant.
- 79.2 An infant Member is not entitled to vote.

DIRECTORS

80. Number of Directors

- 80.1 The Company must have not less than eight and not more than eleven Directors, not counting alternate Directors.
- 80.2 Subject to clause 80.1 the Board may determine the actual number of Directors to hold office from time to time but the Directors cannot reduce the number below the number of Directors in office at the time of the reduction.
- 80.3 If the Board decides in accordance with clause 80.2 that the number of Directors is to be less than eleven then the Board may decide as to how the number of Directors elected by each class described in clause 80.5 shall abate subject to such abatement being pro rata or as near thereto as possible between such class of Members.

- 80.4 The Company may by special resolution alter the maximum or minimum number of Directors but the minimum cannot be less than 3.
- 80.5 Subject to the provisions of clause 80.2 and clause 81:
- 80.5.1 up to 3 Directors will be Grower Directors;
 - 80.5.2 up to 3 Directors will be Wholesaler Directors;
 - 80.5.3 up to 2 Directors will be Retailer Directors;
 - 80.5.4 up to 3 Directors will be Independent Directors.
- 80.6 If the number of Directors falls below the permitted minimum, the Directors may only act to appoint one or more Directors in order to make up the minimum number of Directors or to call and conduct a general meeting.
- 80.7 A Director need not be a Member.
- 80.8 Without limiting clause 85, a Director who is a Grower Director, a Wholesaler Director or a Retailer Director and who ceases to be eligible in the class in which he or she holds office must within 5 business days of ceasing to be eligible in that class, notify the Secretary of that cessation.
- 80.9 The Directors may act even if there are vacancies on the Board.
- 81. Electing Particular Directors**
- For the purpose of clause 80.5:
- 81.1 Grower Directors are to be elected by Eligible Persons holding Grower Shares;
 - 81.2 Wholesaler Directors are to be elected by Eligible Persons holding Wholesaler Shares;
 - 81.3 Retailer Directors are to be elected by Eligible Persons holding Retailer Shares; and
 - 81.4 Independent Directors are to be elected by all Members holding voting Shares.
- 82. Board may appoint a Director**
- 82.1 The Board may at any time appoint any person as a Director, either to fill a casual vacancy or as an addition to the Board but so that the number of Directors does not exceed the maximum number permitted by this Constitution.
 - 82.2 Any Director appointed under this clause 82 is eligible for election at the next annual general meeting but if he/she is not so elected he/she will cease to hold office at the end of that annual general meeting.
- 83. Retirement and election**
- 83.1 This clause 83 does not apply to the Managing Director or to a Director appointed by the Board under clause 82.

- 83.2 Subject to clause 83.3 a Director must retire at the end of the third annual general meeting after which the Director was elected or re-elected.
- 83.3 A retiring Director is eligible for re-election.
- 83.4 A retiring Director will remain in office until the end of the meeting at which the Director is to retire, unless the Director is re-elected or taken to be re-elected.
- 83.5 If the Company, by ordinary resolution, does not fill the office vacated by a Director retiring under this clause 83, that Director is taken to not have been re-elected.

84. Nomination of Director

- 84.1 A Director retiring pursuant to clause 82 or by rotation pursuant to clause 83 or whose election as a Director is recommended by the Board is sufficiently nominated for election or re-election if at least thirty days prior to the date of the relevant annual general meeting the Director has given notice to the Company that he/she offers himself/herself for election or re-election.
- 84.2 No person (other than a retiring Director or person recommended by the Board for election) is eligible for election as a Director at any general meeting unless the person or a Member intending to nominate the person gives notice to the Company signifying either candidature for the office or the intention of the Member to nominate the nominee.
- 84.3 The notice must include or be accompanied by a written consent by the nominee to the nomination, signed by the nominee.
- 84.4 The notice and consent must be received at the Office not less than thirty five days before the meeting.
- 84.5 The Company must give all Members notice of each person who is a candidate for election as a Director at least five business days before the meeting at which the election is to take place.

85. Vacation of office

The office of a Director becomes vacant if the Director:

- 85.1 ceases to be a Director by virtue of the Act;
- 85.2 is prohibited by the Act or an order under the Act from holding office or continuing as a Director;
- 85.3 resigns by notice to the Company;
- 85.4 is removed from office pursuant to the Act (which includes by resolution of the Company);
- 85.5 is required by this Constitution to vacate their position;
- 85.6 is absent from Board meetings for 6 consecutive calendar months without the Board's consent;

85.7 becomes of unsound mind or a person whose property is liable to be dealt with under a law about mental health;

85.8 was elected by a class of Eligible Persons and:

85.8.1 ceases to be an Eligible Person or a director of an Eligible Person being a corporation in that class; or

85.8.2 is removed by a resolution at a meeting of the class of Eligible Persons or by notice of removal signed by at least that number of Eligible Persons in that class who hold a majority of the Shares in that class;

85.9 was elected as an Independent Director as defined in clause 80.5.4 and:

85.9.1 ceases to be an Independent Director; or

85.9.2 is removed by notice of removal signed by at least that number of Members who together hold a majority of the voting Shares.

86. Remuneration of Directors

86.1 Non-executive Directors are to be paid or provided remuneration for services on terms decided by the Board but subject to clause 86, the total amount or value of their remuneration in any year may not exceed an amount last fixed by the Company in general meeting.

86.2 If the Board appoints a Director pursuant to clause 82 who is an addition to the number of Directors who held office immediately following the conclusion of the preceding general meeting referred to in clause 86.1, that additional Director will be paid or provided remuneration for services on terms decided by the Board in addition to the amount last fixed by the Company in general meeting.

86.3 A reference to remuneration in this clause 86 does not include any amount which may be paid by the Company under clauses 87, 88, 93.13, 123 and 124.

87. Travelling and other expenses

In addition to any other remuneration provided for in this Constitution, each Director is entitled to have the Company pay all reasonable travel, accommodation and other expenses incurred by the Director in attending meetings of the Company or the Board or any committees of Directors or while engaged in any business of the Company.

88. Remuneration for extra services

Any Director who serves on any committee of the Board, who devotes special attention to the business of the Company, who otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director or who, at the request of the Board, travels on the business of the Company, may be paid extra remuneration as the Board decides.

89. Director may hold other office

- 89.1 A Director may hold any other office or position in the Company (other than auditor) in conjunction with the office of Director, on terms and at a remuneration in addition to remuneration (if any) as a Director, as the Board decides.
- 89.2 A Director may be or become a director of or hold any other office or position in any corporation related to or in which the Company may be interested, whether as a member, vendor or otherwise, or with any other corporation or organization.
- 89.3 The Director is not accountable for any benefits received as a director or member of, or holder of any other office or position in the corporation or organization.

90. Directors' interests

- 90.1 A Director is not disqualified by the office of Director from contracting or entering into any arrangement with the Company in any manner.
- 90.2 No contract or arrangement entered into by the Company with a Director or in which a Director has any interest may be avoided for that reason.
- 90.3 A Director is not liable to account to the Company for any profit realized from any contract or arrangement, by reason only of holding the office of Director or of the fiduciary relationship established by the office.
- 90.4 A Director or any person who is an associate of a Director may participate in any issue of Securities by the Company unless the Director is precluded from participating by the Act. In this clause a reference to "associate" has the same meaning as set out in clause 19.4.

91. Voting in other corporations

- 91.1 The Board may exercise the voting power conferred by shares the Company holds in any other corporation as the Board decides (including voting in favour of any resolution appointing any of the Directors as directors of that corporation or voting for the payment of remuneration to the directors of that corporation).
- 91.2 A Director may be concerned in the exercise of those voting rights, even if that Director is or may be appointed a director of that other corporation and may be interested in the exercise of those voting rights.

92. Directors may lend to the Company

A Director may lend money to the Company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the Company or underwrite or guarantee the subscription of Securities of the Company or of any corporation in which the Company may have an interest without being disqualified from the office of Director and without being liable to account to the Company for the commission or profit.

93. Alternate Directors

- 93.1 A Director may appoint any person approved by a majority of the other Directors to act as the Director's alternate Director for such period as the appointing Director nominates.
- 93.2 Any such appointment must be in writing, signed by the appointing Director and either delivered to the Office or tabled at a meeting of the Board.
- 93.3 An alternate Director need not be another Director or a Member.
- 93.4 One person may act as alternate Director for more than one Director.
- 93.5 An alternate Director is entitled to receive notice of and attend at Board meetings.
- 93.6 The alternate Director may only vote at a meeting and exercise all other powers of the appointing Director, subject to any limitation imposed in the instrument appointing the alternate Director, if the appointing Director is not present at the meeting.
- 93.7 If an alternate Director has been appointed to act for more than one Director, the alternate Director has a vote for each appointing Director (in addition to any vote the alternate Director may have in his or her own right).
- 93.8 The appointing Director may terminate the appointment of an alternate Director at any time even if the alternate Director was appointed for a set time and that time has not expired.
- 93.9 An appointing Director is to give a signed notice of termination of appointment of an alternate Director. That notice is to be delivered to the Office or tabled at a Board meeting.
- 93.10 The office of an alternate Director is vacated upon the office of the appointing Director being vacated.
- 93.11 An alternate Director is not taken into account in determining the number of Directors to retire by rotation.
- 93.12 While an alternate Director is acting as a Director, he or she is responsible to the Company for his or her own actions and is not the agent of the appointing Director.
- 93.13 An alternate Director may be paid such remuneration as the Board decides (in addition to reimbursement for expenses). That remuneration will be in addition to or in reduction of the remuneration payable to the appointing Director, as the Board decides.
- 93.14 An appointing Director need not re-appoint an alternate Director merely because the appointing Director retired pursuant to clause 82 or by rotation and was elected or re-elected.

PROCEEDINGS OF DIRECTORS

94. General powers of the Board

- 94.1 The management and control of the business and affairs of the Company are vested in the Board.
- 94.2 The Board may exercise all powers and do all things as are within the power of the Company and are not by this Constitution or by law required to be exercised or done by the Company in general meeting.

95. Board meetings generally

- 95.1 A Director may convene a meeting of the Board at any time.
- 95.2 Upon the request of a Director, the Secretary must convene a meeting of the Board.
- 95.3 The Board may meet by such means (including electronic or other means), adjourn and otherwise regulate its meetings as it decides.
- 95.4 The Directors need not all be physically present in the same place for a Directors meeting to be held.
- 95.5 A meeting held using technology will be taken to have been held at the time and place the Board decides.
- 95.6 If, before or during a Directors meeting, any technical difficulty occurs where one or more Directors cease to participate, the Chairman of the meeting may adjourn the meeting until the difficulty is remedied or may, where a quorum of Directors remains present, continue the meeting and no Director may object to that decision of the Chairman.

96. Quorum

Until otherwise resolved by the Board, a majority of Directors entitled to attend the meeting of the Board constitutes a quorum.

97. Notice of meetings

- 97.1 Notice of a meeting of the Board must be given to the Directors at least forty eight hours before the proposed meeting or such other period as all of the Directors may decide or may agree to in a particular case.
- 97.2 Notice of meeting may be in any form agreed to by the Directors and is given at the usual place of business or residence of a Director or at any other address (which includes a facsimile number or email address) a Director gives to the Secretary.
- 97.3 The accidental or inadvertent failure of a Director to receive notice of a Board meeting will not invalidate anything done at the meeting.
- 97.4 Attendance by a Director (or the Director's alternate Director) at a Board meeting waives any objection the Director may have had regarding failure to receive notice of the meeting.

98. Decision of Directors

- 98.1 A properly convened meeting of the Board is competent to exercise all the authorities, powers and discretions vested in or exercisable by the Board.
- 98.2 Questions arising at a Board meeting are to be decided by a majority of votes cast by the Directors present. Such a decision is for all purposes a resolution of the Board.
- 98.3 In the case of an equality of votes, the Chairman does not have a second or casting vote.

99. Written resolution

- 99.1 The Board may pass a resolution without a Board meeting if all Directors entitled to vote on the resolution sign a document containing a statement that they are either in favour or not in favour of the resolution set out in the document and if a majority of the Directors indicate that they are in favour of the resolution.
- 99.2 Separate copies of a document in identical terms may be used for signing by Directors.
- 99.3 The resolution is passed when the last Director (whether in favour or not in favour of the resolution) signs the document.
- 99.4 A document produced by facsimile or other electronic means under the name of the Director and with the Director's authority is taken to be a document signed by the Director.

100. Chairman and Deputy Chairman

- 100.1 The Board may elect a Chairman and a Deputy Chairman of its meetings and determine the period for which each is to hold office.
- 100.2 If no Chairman or Deputy Chairman is elected or if at any meeting the Chairman and the Deputy Chairman are not present within 10 minutes after the time specified for holding the meeting or are present but are not willing or able to act, the Directors present may choose one of their number to be Chairman of the meeting.

OFFICERS**101. Managing Director**

- 101.1 The Board may appoint one or more of the Directors to be Managing Director (with that title or any other title decided by the Board) for the period and on other terms as the Board agrees with the Managing Director.
- 101.2 The Board may delegate any of its powers (including the power to delegate) to the Managing Director but any delegation of power by the Board will not preclude the Board from exercising that power.
- 101.3 The Managing Director may only exercise delegated powers in accordance with any directions given by the Board in connection with the delegation.

101.4 A person ceases to be Managing Director automatically if he or she ceases to be a Director.

102. Secretary

The Board may appoint one or more Secretaries for the period and on other terms as the Board may agree with the Secretary.

103. Delegates and committees

103.1 The Board may delegate any of its powers subject to any restrictions of the Act.

103.2 A power delegated by the Board may include the power to sub-delegate.

103.3 A power delegated will not preclude the Board from exercising that power.

103.4 The provisions of this Constitution applying to Board meetings will apply as far as applicable to meetings of a committee of Directors unless in a particular case, the Board directs otherwise.

104. Validity of acts

All actions by the Board or by a committee of Directors or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the committee or the person acting as a Director or that any of them was disqualified, are valid as if every person had been properly appointed and was qualified and continued to be a Director or a member of the committee.

105. Seal

105.1 The Board may decide that the Company is to have a common seal and a duplicate common seal.

105.2 The Board may decide as to the use of the common seal and any duplicate common seal.

105.3 Without limiting that, the authority to use the seal may be given before or after the seal is used.

DIVIDENDS

106. Determination of dividends

106.1 The Board may declare and pay dividends.

106.2 The Directors may pay to the Members such interim dividends as appear to the Directors to be appropriate.

106.3 Subject to any rights or restrictions attached to a class of Shares, the Board may decide:

106.3.1 the amount of dividends to be paid, matters relating to the franking of dividends, the time and method of payment of dividends and the time and manner for determining entitlements to dividends;

106.3.2 that dividends will be payable on one class of Shares but not on another class or at different rates for different classes provided that dividends will be payable on all Shares of the same class at the same rate unless otherwise resolved by special resolution passed at a general meeting of the Company.

106.4 If the Board determines that a Dividend is payable in accordance with the provision of this clause 106, the Board may, subject to the Act, amend or revoke the resolution to pay the Dividend at any time before its payment.

107. No interest on dividends

A dividend will not bear interest against the Company.

108. Dividends proportional to paid up capital

108.1 Dividends will be paid in proportion to the amounts paid on Shares during the period in respect of which the dividends are paid.

108.2 No amount paid on a Share in advance of a call will be treated as paid on that Share.

109. Effect of transfer

If a transfer of a Share is registered after the time determined for entitlements to a dividend on that Share but before the dividend is paid, the person transferring that Share is entitled to that dividend.

110. Amounts due to Company

The Board may deduct from any dividend payable to a Member any money due from the Member to the Company in relation to Shares whether on account of calls or otherwise.

111. Unclaimed dividends

Any unclaimed dividend may be used or invested by the Board for the benefit of the Company until claimed or otherwise disposed of according to law.

112. Registration of Personal Representative

If a Personal Representative is entitled under clause 62 to be registered as the holder of or to transfer Shares in the Company, the Board may retain any dividends payable in respect of those Shares until that Personal Representative becomes registered as the holder of those Shares or transfers them.

113. Distribution other than in cash

113.1 The Board may decide that any dividend or bonus may be paid by the distribution of specific assets including fully paid Shares, debentures or other Securities in the Company or in any other corporation or in any one or more of such ways.

113.2 The Board may do or appoint a person to do everything necessary to give effect to such a decision and to settle any difficulty arising from the distribution.

- 113.3 In the case of a distribution of shares in another corporation, the Board or a person authorised by the Board may do what is necessary to constitute the Member a member of that corporation and in so acting, the Board or the authorised person will be acting as agent and attorney for the Member.

RESERVES

114. Set Aside Reserves and Application of Reserves

114.1 The Directors may set aside out of profits such amounts by way of reserves as they think appropriate before declaring a dividend or determining to pay a dividend.

114.2 The Directors may apply the reserves for any purpose for which profits may be properly applied.

115. Invest Reserves and Carrying Forward Profit

115.1 Pending any application of the reserves, the Directors may invest or use the reserves in the business of the Company or in other investments as they think fit.

115.2 The Directors may carry forward any undistributed profits without transferring them to a reserve.

NOTICES

116. Service of notices

116.1 A notice may be given by the Company to any Member, or in the case of joint holders to the Member whose name appears first in the Register, personally, by leaving it at the Member's registered address or by sending it by prepaid post to the Member's registered address or by facsimile or other electronic transmission to the Member's facsimile number or email address (if any).

116.2 If the notice is signed, the signature may be original, printed or electronic.

117. When notice taken to be served

117.1 Any notice sent by post is considered to have been served one business day after posting and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.

117.2 Any notice served on a Member personally or left at the Member's registered address is taken to have been served when delivered.

117.3 Any notice served on a Member by facsimile or other electronic transmission is taken to have been served when the transmission is sent.

118. No registered address

If a Member does not have a registered address or if the Company believes in good faith that a Member is not known at the Member's registered address, then unless and until the Member informs the Company of a registered address, a notice is taken to be given properly to the Member if the notice is exhibited in the Office for a period of forty eight hours.

119. Notice to transferor binds transferee

A person who by operation of law, transfer or any other means, becomes entitled to be registered as the holder of a Share is taken to have been served a notice which, prior to the person's name and address being entered in the Register in respect of the Share, was properly served on the person from whom the person derived title to that Share.

120. Service and Personal Representatives

A notice served in accordance with this Constitution on a Member in respect of whom a Personal Representative acts, whether or not the Company has notice of the Personal Representative acting, is taken to have been properly served in respect of a Share held by that Member whether held solely or jointly, until the Personal Representative is registered in the Member's place as the holder or joint holder of that Share.

WINDING UP**121. Distribution of surplus**

Subject to the rights or restrictions attached to a class of Shares, if the Company is wound up, any surplus must be divided among the Members in proportion to the Shares held by them and if any Shares are not fully paid, in proportion to the amounts paid or credited as paid on their Shares.

122. Distribution of assets

122.1 If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Members, divide among some or all of the Members any of the Company's assets as the liquidator decides and may vest any of the assets in trustees on any trusts for the benefit of some or all of the Members as the liquidator decides.

122.2 Any division may be other than in accordance with the legal rights of the Members and in particular, any class may be given preferential or special rights or may be excluded altogether or in part. If any division is other than in accordance with the legal rights of Members, any Member who would be prejudiced by the division has a right to dissent and ancillary rights as if the special resolution sanctioning that division were a special resolution passed under the Act relating to the sale or transfer of the Company's assets by a liquidator in a voluntary winding up.

122.3 If any Shares to be divided in accordance with clause 122.2 carry a liability to calls or otherwise, any person entitled under the division to any of the Shares may by notice within ten business days after the passing of the special resolution, direct the liquidator to sell the person's proportion and pay the person the net proceeds and the liquidator is to act accordingly, if practicable.

122.4 The liquidator may settle any difficulty concerning a distribution under clause 121 or this clause 122 as the liquidator decides.

INDEMNITY INSURANCE AND ACCESS

123. Indemnity

123.1 Every Director, Secretary or other officer of the Company is indemnified out of the assets of the Company, to the extent permitted by law (and whether or not that person is still an officer) against any liability incurred by the officer in his or her capacity as an officer of the Company or of a related body corporate of the Company as defined in the Act.

123.2 A reference in clause 123.1 to "liability" includes legal costs incurred in defending any legal action or proceedings in any jurisdiction or appearing before any court, tribunal, government authority or other body ("**Legal Costs**").

123.3 To the extent permitted by law, the Company may make a payment in the nature of an advance, loan or otherwise to an officer of the Company in respect of Legal Costs.

124. Insurance

To the extent permitted by law, the Company may pay premiums in respect of a contract insuring an officer of the Company against any liability incurred by that officer in his or her capacity as an officer of the Company or of a related body corporate.

125. Access to papers

The Board may decide that the Company is to give to any former Director access to documents and materials provided or available to the Board and to papers referred to in those documents or materials.