

Constitution of Wheat Quality Australia Limited

October 2015

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CONSTITUTION OF WHEAT QUALITY AUSTRALIALIMITED

1. PRELIMINARY

1.1 Company limited by guarantee

The Company is limited by guarantee and the liability of members is limited as provided in this document.

1.2 Objects of the Company

The Company is formed with the objects of:

- 1.1 providing a strategic and operational framework to enable a wheat variety classification for the common classes of Australian wheat and their quality attributes;
- 1.2 ensuring that market place requirements are recognised as the key drivers for ongoing quality improvements in the Australian wheat industry;
- 1.3 ensuring that the quality attributes of Australian wheat are quantified and recognised by growers, handlers, marketers and end users;
- 1.4 formulate and develop strategies to manage emerging quality issues that impact on wheat quality; and
- 1.5 doing all other lawful things incidental to or conducive to attainment of the objects set out in rules 1.1 to 1.4 above.

1.3 Application of income and property

Subject to rules 1.4 and 13.2, the Company must apply its income solely towards promoting the objects of the Company as stated in rule 1.2. No part of the Company's income may be paid or transferred directly or indirectly by way of dividend bonus or otherwise to members.

1.4 Certain payments allowed

Rule 1.3 does not prevent the payment of reasonable remuneration to any officer, employee, or consultant of the Company or to any member of the Company or other person in return for service rendered to the Company. In addition rule 1.3 does not prevent the Company paying to any officer, employee, consultant or member of the Company:

- (a) interest on money lent by the member to the Company at a rate not exceeding the rate charged by Australian banks for overdrawn accounts;
- (b) reasonable remuneration for goods supplied by the member to the Company in the ordinary course of business; and
- (c) reasonable rent for premises let by the member to the Company.

1.5 Replaceable rules

The replaceable rules referred to in section 141 of the Act do not apply to the Company and are replaced by the rules set out in this document.

1.6 Definitions

The following definitions apply in this document.

"**Act**" means the Corporations Act 2001 (as amended from time to time).

"**Alternate**" means an alternate Director appointed under rule 4.1.

"**Appointor**" in relation to an Alternate, means the Director who appoints that Alternate.

"**Board**" means the Directors acting collectively under this document.

"**Company**" means the company named at the beginning of this document whatever its name is for the time being.

"**Constitution**" means the constitution of the Company.

"**Director**" means a person who is, for the time being, a director of the Company including, where appropriate, an Alternate.

"**Executive Officer**" means the Executive Officer appointed under rule 7.1.

"**Insolvent under Administration**" has the meaning set out in the Act.

"**Intellectual Property**" means all rights relating to any trade marks, signs, names, copyright works, designs, patentable inventions or manners of manufacture, confidential information or trade secrets (whether or not registered or registrable) owned or leased to the Company and used by the Company, including without limitation, any like rights relating to the:

- (a) export of wheat by grade, destination, domestic usage by grade and value, receivals by variety and grades, variety information, grade quality and grade quality requirements; and
- (b) all data assessment and processes relating to the intellectual property set out in paragraph (a) of this definition.

"**member**" means a person whose name is entered in the Register as a member of the Company.

"**Officer**" has the meaning set out in the Act.

"**ordinary resolution**" means a resolution of members other than a special resolution.

"**Register**" means the register of members kept as required by sections 168 and 169 of the Act.

"**Secretary**" means, during the term of that appointment, a person appointed as secretary of the Company in accordance with this document.

"**special resolution**" has the meaning given by section 9 of the Act.

"**Variety Classification Panel**" or "**Panel**" means an expert panel as described in rule 10 of this Constitution.

"**Wheat Classification Council**" or "**Council**" means a committee of the Board and as described in rule 9.1 of this Constitution.

"**Wheat Classification Guidelines**" means a document setting out the general requirements, processes and information required for the classification of wheat varieties as established by the Council and amended from time to time.

1.7 Interpretation of this document

Headings and marginal notes are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (iv) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests 1 gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word "**agreement**" includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (g) A power to do something includes a power, exercisable in the like circumstances to revoke or undo it.
- (h) A reference to a power is also a reference to authority or discretion.
- (i) A reference to something being "**written**" or "**in writing**" includes that thing being represented or reproduced in any mode in a visible form.

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- (j) Words (other than those defined in rule 1.6) which are defined by the Act have the same meaning in this document.
 - (k) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

2. MEMBERSHIP

2.1 The Members

- (a) The Company must have at least one member.
- (b) Subject to rules 2.3 and 1.1, the initial members of the Company are:
 - (i) Grains Research and Development Corporation ABN 55 611 223 291; and
 - (ii) Grain Trade Australia Ltd ACN 097 228 656.
- (c) The members may by unanimous resolution admit new members to the Company from time to time.

2.2 Limited liability of members

If the Company is wound up each member of the Company undertakes to contribute to the assets of the Company up to an amount not exceeding \$10.00 for payment of the debts and liabilities of the Company including the costs of the winding up. This undertaking continues for 1 year after a member ceases to be a member of the Company.

2.3 Resigning as a member

A member ceases to be a member:

- (a) if the member becomes insolvent, has a receiver, receiver and manager, administrator or liquidator appointed, or is wound up (except for the purposes of reconstruction or amalgamation); or
- (b) if the member resigns as a member of the Company by giving 90-days written notice to the other member/s and by informing the Board prior to its resignation. .

3. DIRECTORS

3.1 Number of Directors

- (a) The Company must have at least 3 Directors (subject to rule 3.4(d)) except if the members decide otherwise under rule 3.1(b).
- (b) During a vacancy resulting in fewer Directors than the minimum number required by rule 3.1(a), the members may decide by unanimous resolution that fewer minimum Directors are required by the Company (including to exercise the powers of the Board under rule 5.1) until such time as a new Director is appointed to fill the vacancy or other period as determined by the members.
- (c) The members may determine the maximum number of Directors to appoint to the Board.

3.2 No Membership qualification

A Director need not be a member of the Company. Neither the auditor of the Company nor any partner or employee of the auditor is eligible to act as a Director.

3.3 Composition of the Board

- (a) The Board shall consist of:
 - (i) at least one Director appointed by each member of the Company in accordance with the requirements set out in rule 3.4 (and subject to rule 3.4(d)); and
 - (ii) one independent Director appointed by the members jointly in accordance with the requirements set out in rule 3.6, and whom must satisfy the criteria set out in rule 3.5,

except if the members decide otherwise under rule 3.3(b).
- (b) During a vacancy resulting in insufficient Directors to meet the Board composition required by rule 3.3(a), the members may decide by unanimous resolution that fewer Directors may comprise the Board until such time as a new Director is appointed to fill the vacancy or other period as determined by the members.

3.4 Nominations of Director

- (a) Each member will nominate a minimum of one person and no more than four persons as its nominees for the purposes of appointing Directors under rule 3.3(a)(i). Each member may, at any time by notice to the other members, revoke its nomination of a person and nominate another person for the purposes of this rule.
- (b) From the pool of nominees established under rule 3.4(a), at least two Directors (in total) shall be appointed by the members in accordance with rule 3.3(a)(i).
- (c) Nominees shall only become Directors with the consent of all other members, which must not be unreasonably withheld.
- (d) In the event that all nominees of a member from the pool established under rule 3.4(a) are rejected for appointment as Directors, then that member shall be entitled to appoint its chairman (or in the case of a member who is an individual him or herself) as a Director of the Company without obtaining the consent of the other members. The chairman of the relevant member (or in the case of a member who is an individual him or herself) shall be appointed as a Director until such time as that member can appoint nominee Directors who are acceptable to all other members.
- (e) Each member may at any time remove their nominated Director and appoint a new nominee Director in accordance with the requirements set out in this rule 3.4.

3.5 Independent Director - Skills Required

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- (a) The independent person nominated and appointed as a Director jointly by members in accordance with the requirements set out in rule 3.3(a)(ii) must have the following skills and qualifications:
- (i) experience or demonstrated ability to manage a multi skilled team to achieve specific outcomes;
 - (ii) ability to manage diverse groups to reach consensus;
 - (iii) ability to develop and articulate strategy;
 - (iv) clear, concise written and oral communication skills;
 - (v) one or more of the following:
 - A current and detailed knowledge of wheat export markets gained through time spent working with customers in those markets; and/or
 - B current and detailed knowledge of the domestic wheat market gained through time spent working with customers in that market; and/or
 - C current and detailed knowledge of wheat breeding processes, objectives and limitations in Australia gained through time spent working as a wheat breeder or as a senior decision maker in a wheat breeding organisation; and/or
 - D current and detailed knowledge of wheat production and market requirements.
- (b) the skill and qualification requirements for the other Directors will be set out in a Board charter approved by unanimous resolution of the members and adopted by the Board.

3.6 Independent Director - Appointment Process

- (a) At least 4 months prior to the date the independent director is due to rotate in accordance with rule 3.8, the Board shall consider candidates to be appointed as the independent Director with effect from on or around 31 December of the relevant year.
- (b) Following consideration of the suitable candidates for appointment as the independent Director, the Board shall notify the members of the suitable candidates and shall make recommendations to the members as to who should be appointed as the independent Director.
- (c) Following recommendations from the Board as required by rule 3.6(b), the members shall jointly consider the appointment of the independent Director required in accordance with rule 3.3(a)(ii),
- (d) The members must appoint an independent director by unanimous consent of members. The members may reappoint a person who has served as an independent Director for a further term.

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- (e) If the members are not able to appoint an independent Director as they cannot agree on who to appoint, they may appoint an independent Director who does not satisfy the criteria set out in rule 3.5 for a period until the position can be filled with a person who does meet the criteria set out in rule 3.5.
 - (f) The members must work together to fill the position of independent Director as quickly as possible, and must not unreasonably withhold consent in relation to a suitable candidate to fill the position.

3.7 Period of Appointment

Subject to rule 3.8, each Director shall be appointed to the Board for a three year period, unless reappointed for a further term in accordance with this Constitution.

3.8 Rotation of Directors

- (a) Subject to rules 3.8(b) and 3.8(c):
 - (i) Each year on or around 31 December, one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors must retire from office.
 - (ii) Directors to retire by rotation each year on or around 31 December are those Directors who have been longest in office since their last appointment or re-appointment.
 - (iii) Directors appointed or re-appointed on the same day may agree among themselves or determine by lot which of them must retire.
 - (iv) A Director must retire from office on or around 31 December which falls three years after the Director was last appointed or re-appointed even if his or her retirement results in more than one third of all Directors retiring from office.
 - (v) A retiring Director remains in office until a replacement Director is appointed or the Director is re-appointed.
 - (vi) Each Director who is due to retire will be eligible for re-appointment as a Director.
- (b) Unless otherwise determined by unanimous consent of the Members, in respect to the initial Board of Directors:
 - (i) the independent Director appointed pursuant to rule 3.3(a)(ii) will retire on or around 31 December 2011, and shall be reappointed or replaced by a Director appointed in accordance with the requirements set out in rule 3.6;
 - (ii) the Director nominated by Grain Trade Australia Ltd and appointed pursuant to rule 3.3(a)(i), will retire on or around 31 December 2012, and shall be reappointed or replaced by a Director appointed in accordance with the requirements set out in rule 3.4; and

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- (iii) the Director nominated by Grains Research and Development Corporation and appointed pursuant to rule 3.3(a)(i), will retire on or around 31 December 2013, and shall be reappointed or replaced by a Director appointed in accordance with the requirements set out in rule 3.4.
 - (c) The rotation provisions set out in rule 3.8(a) shall apply from 2014.

3.9 Appointment of Chairman

- (a) The Chair of the Board shall be the independent director appointed in accordance with rule 3.6 unless there is a vacancy in the role of the independent director, in which case another Director may perform the role of the Chair of the Board and if unable to decide amongst themselves the Chair will be determined by lot.
- (b) The chairman of the Board does not have a casting vote.

3.10 Time of retirement

A Director's retirement under rule 3.8 takes effect upon the appointment of a new Director in accordance with the requirements of rule 3.8.

3.11 Cessation of Director's appointment

The office of a Director automatically becomes vacant if the person who holds the office:

- (a) becomes bankrupt;
- (b) dies;
- (c) is not permitted by the Act (or an order made under the Act) to be a Director or vacates office by force of section 203B of the Act;
- (d) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (e) fails to attend Board meetings without an apology (either personally or by an Alternate) and fails to perform his or her duties as a director for a continuous period of 3 months without leave of absence from the Board;
- (f) resigns by notice in writing to the Company;
- (g) is removed from office under rule 3.12; or
- (h) if the member who nominated the Director ceases to be a member of the Company.

3.12 Removal from office

Whether or not a Director's appointment was expressed to be for a specified period, subject to section 203D of the Act the Company by ordinary resolution may remove a Director from office.

3.13 Filling of casual vacancies in Board

Subject to rule 3.1:

- (a) Each member shall have the power to appoint a person as a Director to fill a casual vacancy in respect to the Director nominated by that member in accordance with rule 3.4(a).
- (b) The members shall jointly have the power to appoint a person as a Director to fill a casual vacancy in respect to the independent Director required in accordance with rule 3.3(c), provided the requirements set out in rules 3.6(d), 3.6(e) and 3.6(f) are complied with.
- (c) A person appointed as a Director pursuant to this rule 3.13 must provide the Company with a consent to act as a Director signed by the person who is to be appointed.

3.14 Appointment of Additional Directors

- (a) Subject to the requirements of rule 3.1, the members shall have power to appoint any person as a Director as an addition to the number of Directors.
- (b) Appointment of any additional Directors must be approved by unanimous resolution of the members.
- (c) If a Director is appointed as an additional Director in accordance with this rule 3.14, the Director shall hold office for an amount of time up to three years as determined by unanimous resolution of the members.
- (d) A person appointed as a Director pursuant to this rule 3.14 must provide the Company with a consent to act as a Director signed by the person who is to be appointed.

3.15 Too few Directors

If the number of Directors is reduced below the minimum required by rule 3.1:

- (a) the continuing Directors may act as the Board only:
 - (i) to convene a meeting of members; and
 - (ii) in emergencies; and
- (b) the members must as soon as possible appoint a new Director.

4. ALTERNATE DIRECTORS

4.1 Appointment of Alternates

Subject to rule 3.2, a Director (other than an Alternate) may appoint a person who is approved by the members (without the vote of the Appointor) to act as Alternate for a

specified period or each time the Appointor is unable to attend a Board meeting or act as a Director.

4.2 Notice of Board meetings

If the Appointor requests the Company to give the Alternate notice of Board meetings, the Company must do so. Unless the Appointor has requested it, the Company need not give notice of Board meetings to an Alternate.

4.3 Obligations and entitlements of Alternates

An Alternate:

- (a) may attend and vote in place of the Appointor at a Board meeting at which the Appointor is not present;
- (b) if also a Director, has a separate right to vote as Alternate;
- (c) if Alternate for more than 1 Appointor, has a separate right to vote in place of each Appointor;
- (d) when acting as Alternate, is an officer of the Company and subject to all the duties, and entitled to exercise all the powers and rights, of the Appointor as a Director; and
- (e) may not be remunerated except to the extent that the Appointor would be entitled to remuneration. In respect of that remuneration the Alternate Director's only rights (if any) are against the Appointor and not the Company.

4.4 Termination of appointment

The Appointor may revoke the appointment of a person as Alternate whether or not that appointment is for a specified period. If the Appointor ceases to be a Director, any appointment of an Alternate made by the Appointor immediately ceases.

4.5 Appointments and revocations in writing

The Appointor must appoint, and revoke the appointment of, any Alternate in writing. The appointment or revocation is not effective until a copy is provided to the Company.

5. POWERS OF THE BOARD

5.1 Powers generally

Except as otherwise required by the Act, any other applicable law or this document, the Board:

- (a) has power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the members.

5.2 Exercise of powers

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule 15; or
- (b) in accordance with a delegation of the power under rules 7,8, 9 or 10.

6. EXECUTING NEGOTIABLE INSTRUMENTS AND ELECTRONIC BANKING

6.1 Negotiable Instruments and Electronic Banking

The Board must decide:

- (a) the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company; and
- (b) the manner in which electronic and on-line banking for the Company can be conducted and approved for and on behalf of the Company.

6.2 Approval by the Board

The Company may:

- (a) execute, accept, or endorse negotiable instruments; and
- (b) conduct and approve electronic and on-line banking,

only in the manner decided by the Board.

7. EXECUTIVE OFFICER

7.1 Appointment and power of Executive Officer

- (a) The Board may appoint an Executive Officer either for a specified term (but not for life) or without specifying a term. The Executive Officer need not be a Director or member of the Company.
- (b) Notwithstanding rule 8.1, The Board may delegate any of the powers of the Board to the Executive Officer:
 - (i) on the terms and subject to any restrictions the Board decides; and
 - (ii) so as to be concurrent with, or to the exclusion of, the powers of the Board, and may revoke the delegation at any time.

7.2 Termination of appointment of Executive Officer

The appointment of an Executive Officer terminates if the Board removes the Executive Officer from the office of Executive Officer (which, subject to any contract between the

Company and the Executive Officer, the Board has power to do), whether or not the appointment was expressed to be for a specified term.

8. DELEGATION OF BOARD POWERS

8.1 Delegation to committee or attorney

The Board may delegate any of its powers:

- (a) to a committee (which may include a Board committee, a technical committee or any other type of committee determined by the Board from time to time) which may also include people who are not Directors; or
- (b) to an attorney;

and may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period. This rule is supplemental to section 126(1) of the Act.

8.2 Terms of delegation

A delegation of powers under rule 8.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including power to further delegate) and subject to any restrictions the Board decides.

Power exercised in accordance with a delegation of the Board is treated as exercised by the Board.

8.3 Powers of attorney

A power of attorney under rule 8.1 may contain the provisions for the protection and convenience of those who deal with the attorney that the Board thinks appropriate.

8.4 Proceedings of committees

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.

9. WHEAT CLASSIFICATION COUNCIL

9.1 Establishment of the Council

The Council will be established as a committee of the Board and will be responsible for establishing and maintaining the wheat variety classification system in Australia including the strategic and operational framework for classification as well as defining the common classes of Australian wheat and their quality attributes.

9.2 The objectives of the Council

The objective of the Council is to preserve and enhance the value inherent in the quality reputation of Australian wheat through active management of the wheat variety classification system.

9.3 The Chair of the Council

The Chair of the Council will be the Chair of the Board appointed in accordance with rule 3.9.

9.4 Membership of the Council

The Council must have at least six councillors one of whom must be a Director of the Company. Councillors of the Council shall be appointed by the Board.

9.5 Charter

The operations of the Council will be governed by a charter. The charter and any amendments to the charter must be approved by the members.

9.6 Quorum

The quorum for a meeting of the Council shall be at least 75% of the councillors forming the Council.

10. VARIETY CLASSIFICATION PANEL

10.1 Establishment of the Panel

The Panel will be responsible for assessing quality data of new varieties against the technical requirements of the classes of Australian wheat according to the policies and procedures set out by the Council in the Wheat Classification Guidelines.

10.2 The objectives of the Panel

The objective of the Panel is to faithfully apply the requirements and processes set out by the Council in the classification of new wheat varieties; provide explanation of the decisions they reach relative to those requirements and processes and to identify potential changes to the requirements and processes and report these to the Council.

10.3 Panel Terms of Reference

The operations of the Panel will be governed by terms of reference. The terms of reference and any amendments must be approved by the Board.

10.4 Membership of the Panel

The Panel must have at least three technical specialists. Members of the Panel shall be appointed by the Board following recommendation and consultation with the Executive Officer and the chairman of the Council. The Chair of the Panel is an ex-officio member of the Council.

11. GROWER CONSULTATION PROCESS

11.1 Establishment of the Grower Consultation Process

The Board in consultation with the Council will develop a formal process designed to communicate the strategy, activities and processes of the Company to growers and grower groups and capture grower input into the classification process and activities of the Company and Council.

11.2 Organisation of the Grower Consultation Process

The process referred to in rule 11.1 will be organised and conducted by the chairman of the Council and the Executive Officer, and will include a requirement for the Council to report annually to at least three regionally based grower forums against a pre-determined list of headings (including the current and planned activities and the performance of the Council, and the rationale underpinning major Council decisions) as set out in the charter of the Council.

12. DIRECTOR'S DUTIES AND INTERESTS

12.1 Compliance with Law

Each Director must comply with sections 180-184 (inclusive), 191 and 195 of the Act.

12.2 Scope of Directors' duties

A Director is not disqualified by reason only of being a Director from:

- (a) holding any office or place of profit or employment other than that of the Company's auditor, or being a member or creditor, of any corporation (including the Company) or partnership other than the auditor; or
- (b) entering into any agreement with the Company.

12.3 Declaration of interests

A Director who:

- (a) is in any way, interested in a contract or proposed contract with the Company; or
- (b) holds any office or possesses any property as a result of which duties or interests might be created which are directly or indirectly in conflict with that Director's duties or interests as a Director, must declare the fact and the nature of the interest, or nature, character and extent of the conflict at the first Board meeting held after the relevant facts come to the Director's knowledge or after appointment as a Director (whichever is later).

12.4 Director interested in a matter

Each Director must comply with section 195 of the Act in relation to being present, and voting, at a Board meeting that considers a matter in which the Director has a material personal interest. Subject to section 195 of the Act:

- (a) a Director may be counted in a quorum at a Board meeting that considers, and may vote on, whether the Company enters into an agreement or proposed agreement in which that Director has an interest;
- (b) the Company may enter into the agreement and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may be counted in a quorum at a Board meeting that considers, and may vote on, matters involving the agreement; and

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- (d) if disclosure under rule 12.3 is made before the agreement is entered into:
 - (i) the Director may retain benefits under the agreement even though the Director has an interest in the agreement; and
 - (ii) the Company cannot avoid the agreement merely because of the existence of the interest.

12.5 Agreements with third parties

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure required by rule 12.3; or
- (b) is present at, or counted in the quorum for, a meeting that considers, votes on, or participates in the execution of, that agreement in breach of section 195 of the Act.

12.6 Obligation of secrecy

Every Director and Secretary must keep the transactions and affairs of the Company and the state of its accounts confidential unless required to disclose them:

- (a) in the course of duties as an officer of the Company;
- (b) by the Board or the Company in general meeting; or
- (c) by law.

The Company may require a Director, Secretary, auditor, trustee, committee member or other person engaged by it to sign a confidentiality undertaking consistent with this rule. A Director or Secretary must do so if required by the Company.

13. DIRECTORS' REMUNERATION

13.1 Restriction on payments to Directors

Subject to rule 13.2 and rule 14 the Company must not pay fees or other remuneration to a Director.

13.2 Payments to Directors with Board approval

- (a) With the approval of the Board the Company may pay to a Director:
 - (i) reasonable expenses (including travelling and accommodation) incurred in carrying out duties as a Director;
 - (ii) reasonable remuneration for any service rendered by the Director to the Company;
 - (iii) reasonable remuneration where the Director is an employee of the Company and the terms of employment have been approved by the Board; and
 - (iv) reasonable remuneration for goods supplied by the Director to the Company in the ordinary course of business.

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- (b) With the approval of the Board and subject to any requirements of the Act, the Company may pay the independent Director appointed in accordance with the requirements set out in rule 3.3(a)(ii):
 - (i) reasonable director sitting fees and reasonable expenses (including travelling and accommodation) incurred in carrying out duties as a Director and chair of the Council; and
 - (ii) remuneration for his or her duties as chair of the Council.

14. OFFICERS' INDEMNITY AND INSURANCE

14.1 Indemnity

Subject to section 199A of the Act, the Company must, to the extent the person is not otherwise indemnified, indemnify every Officer of the Company and its wholly owned subsidiaries and may indemnify its auditor and other employees against a liability:

- (a) incurred as Officer, auditor or employee to a person other than the Company or a related body corporate (including a liability incurred as a result of appointment or nomination by the Company or subsidiary as a trustee or as an Officer of another corporation) unless the liability arises out of conduct involving a lack of good faith; and
- (b) for costs and expenses incurred in defending civil or criminal proceedings in which judgement is given in favour of that person or in which that person is acquitted, or in connection with an application in relation to those proceedings in which the court grants relief to that person under the Act.

14.2 Insurance

Subject to section 199B of the Act, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

14.3 Former officers

The indemnity in favour of officers under rule 14.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or a wholly owned subsidiary of the Company even though the person is not an officer at the time the claim is made.

15. BOARD MEETINGS

15.1 Convening Board meetings

A Director may at any time, and the Secretary must on request from a Director, convene a Board meeting.

15.2 Notice of Board meeting

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to:

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- (i) each Director who is in Australia; and
 - (ii) each Alternate in respect of whom the Appointor has given notice under rule 4.2 requiring notice of Board meetings to be given to that Alternate or whose Appointor is not given notice due to being outside Australia; and
- (b) may give that notice orally (including by telephone) or in writing.

15.3 Use of technology

A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D of the Act. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of 2 or more places, at the place where the chairman of the meeting is located.

15.4 Chairing Board meetings

The chairman elected in accordance with rule 3.9 shall chair the Board meetings. If there is no chairman of Directors or the chairman is not present within 30 minutes after the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

15.5 Quorum

- (a) Unless the members decide otherwise, the quorum for a Board meeting is one Director appointed by each member in accordance with rule 3.3(a)(i) and the independent director. A quorum must be present for the whole meeting. An Alternate who is also a Director or a person who is an Alternate for more than 1 Appointor may only be counted once toward a quorum. A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending. If a meeting is held in another way permitted by section 248D of the Act, the Board must resolve the basis on which Directors are treated as present.
- (b) If within half an hour from the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day, time and place as the Directors may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting shall take place provided the greater of 2 Directors or two thirds of the Directors (or if their number is not a multiple of three, then the nearest number greater than two thirds) are present. If the greater of 2 Directors or two thirds of the Directors (or if their number is not a multiple of three, then the nearest number greater than two thirds) are not present the meeting will be dissolved.

15.6 Majority decisions

- (a) Subject to rules 15.6(b) and 15.6(c), a resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. If an equal number of votes is cast for and against a resolution, the matter is decided in the negative.

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- (b) In relation to any resolution of the Board that involves approving the annual operational plan and budget, long term strategic plan and business plan (or any material variation of those plans), then:
- (i) all Directors appointed by members in accordance with rule 3.3(a)(i) must vote in favour of that resolution in order for the resolution to be decided in the positive; and
 - (ii) if the Directors appointed by the members in accordance with rule 3.3(a)(i) are unable to agree on that resolution, then
 - A. the independent Director does not have a determinative vote; and
 - B. the Board must reconsider that resolution at a further Board meeting held within a period of 30 days.
- (c) If the Directors appointed by the members in accordance with rule 3.3(a)(i) are unable to agree on the resolution at the further Board meeting held under rule 15.6(b)(ii)B, then the Board must refer the matter to the members of the Company for a decision.

15.7 Procedural rules

The Board may adjourn and, subject to this document and the Board Charter, otherwise regulate its meetings as it decides.

15.8 Written resolution

If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

15.9 Additional provisions concerning written resolutions

For the purpose of rule 15.8:

- (a) 2 or more separate documents in identical terms, each of which is signed by 1 or more Directors, are treated as 1 document;
- (b) signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (c) signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity; and
- (d) a telex, telegram, facsimile or electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

15.10 Valid proceedings

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

16. MEETINGS OF MEMBERS

16.1 Annual general meeting

The Company must hold an annual general meeting at least once in each calendar year and within 5 months after the end of its financial year as required by section 250N of the Act.

16.2 Calling meetings of members

- (a) The Board or a Director may at any time; and
- (b) the Board must when requested by members under section 249D of the Act or when ordered by the Court under section 249G of the Act, convene a meeting of members.

16.3 Notice of meeting

Subject to rule 16.4, at least 21 days' written notice of a meeting of members must be given individually to:

- (a) each member (whether or not the member is entitled to vote at the meeting);
- (b) each Director; and
- (c) to the auditor.

The notice of meeting must comply with section 249L of the Act and may be given in any manner permitted by section 249J(3) of the Act.

16.4 Short notice

Subject to sections 249H(3) and (4) of the Act:

- (a) if the Company has elected to convene a meeting of members as the annual general meeting, if all the members entitled to attend and vote agree; or
- (b) otherwise, if members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,

a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

16.5 Postponement or cancellation

Subject to sections 249D(5) and 250N of the Act, the Board may:

- (a) postpone a meeting of members;
- (b) cancel a meeting of members; or
- (c) change the place for a general meeting

by written notice given individually to each person entitled to be given notice of the meeting.

16.6 Fresh notice

If a meeting of members is postponed or adjourned for 1 month or more, the Company must give new notice of the resumed meeting.

16.7 Technology

The Company may hold a meeting of members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

17. PROCEEDINGS AT MEETINGS OF MEMBERS

17.1 Member present at meeting

If a member has appointed a proxy or attorney or (in the case of a member which is a body corporate) a representative to act at a meeting of members, that member is taken to be present at a meeting at which the proxy, attorney or representative is present.

17.2 Quorum

The quorum for a meeting of members is 100% of members. Each individual present may only be counted once toward a quorum.

17.3 Quorum not present

If a quorum is not present within 15 minutes after the time for which a meeting of members is called:

- (a) if called as a result of a request of members under section 249D of the Act, the meeting is dissolved; and
- (b) in any other case:
 - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to members, or if no decision is notified before then, to the same time on the same day in the next week at the same place; and
 - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

17.4 Chairing meetings of members

The members present must elect a member or Director present to chair the meetings of members.

17.5 Attendance at general meetings

- (a) Every member has the right to attend all meetings of members.
- (b) Every Director shall receive notice of a meeting of the Company's members in accordance with the requirements of the Corporations Act 2001.
- (c) Every Director has the right to attend and speak at all meetings of members of the Company but will have no voting rights.
- (d) The auditor has the right to attend any meeting of members of the Company and to speak on any part of the business of the meeting which concerns the auditor in the capacity of auditor.

17.6 Adjournment

Subject to rule 16.6, the chairman of a meeting of members at which a quorum is present:

- (a) may; and
- (b) must, if directed by ordinary resolution of the meeting, adjourn it to another time and place.

17.7 Business at adjourned meetings

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

18. PROXIES, ATTORNEYS AND REPRESENTATIVES

18.1 Appointment of proxies

A member may appoint a proxy to attend and act for the member at a meeting of members. An appointment of proxy must be made by written notice to the Company:

- (a) that complies with section 250A(1) of the Act; or
- (b) in any other form and mode that is, and is signed or acknowledged by the member in a manner, satisfactory to the Board.

18.2 Member's attorney

A member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of the Company. If the appointor is an individual, the power of attorney must be signed in the presence of at least 1 witness.

18.3 Deposit of proxy forms and powers of attorney

An appointment of a proxy or power of attorney is not effective for a particular meeting of members unless:

- (a) in the case of a proxy, the proxy form and, if it is executed by an attorney, the relevant power of attorney or a certified copy of it; and
- (b) in the case of an attorney, the power of attorney or a certified copy of it,

is received by the Company at its registered office or a fax number at that office (or another address specified for the purpose in the relevant notice of meeting) at least 48 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the meeting is resumed.

18.4 Corporate representatives

A member that is a body corporate may appoint an individual to act as its representative at meetings of members as permitted by section 250D of the Act.

18.5 Standing appointments

A member may appoint a proxy, attorney or representative to act at a particular meeting of members or make a standing appointment and may revoke any appointment. A proxy, attorney or representative may, but need not, be a member.

18.6 Suspension of proxy or attorney's powers if member present

A proxy or attorney has no power to act for a member at a meeting at which the member is present:

- (a) in the case of an individual, in person; or
- (b) in the case of a body corporate, by representative.

A proxy has no power to act for a member at a meeting at which the member is present by attorney.

18.7 Priority of conflicting appointments of attorney or representative

If more than 1 attorney or representative appointed by a member is present at a meeting of members and the Company has not received notice of revocation of any of the appointments:

- (a) an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
- (b) subject to rule 18.7(a), an attorney or representative appointed under a more recent appointment may act to the exclusion of an attorney or representative appointed earlier in time.

18.8 More than 2 current proxy appointments

An appointment of proxy by a member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that member which would result in there being more than 2 proxies of that member entitled to act at a meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this rule.

18.9 Continuing authority

An act done at a meeting of members by a proxy, attorney or representative is valid even if, before the act is done, the appointing member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an Insolvent Under Administration or is wound up; or
- (c) revokes the appointment or the authority under which the appointment was made by a third party,

unless the Company has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

19. ENTITLEMENT TO VOTE

19.1 Number of votes

Each member shall have one vote.

19.2 Casting vote of chairman

If an equal number of votes is cast for and against a resolution at a meeting of members, the chairman does not have a casting vote.

20. HOW VOTING IS CARRIED OUT

20.1 Method of voting

- (a) A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded under rule 20.2 either before or on declaration of the result of the vote on a show of hands. Unless a poll is demanded, the chairman's declaration of a decision on a show of hands is final.
- (b) Decisions in relation to the following matters must be made by unanimous resolution of members:
 - (i) amendments to the Constitution of the Company;
 - (ii) adoption of and amendment to the charter of the Council;
 - (ii) adoption of and amendment to the Board charter;
 - (iv) appointment of Directors and the duration for which Directors are appointed;

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- (v) admission of new members;
 - (vi) the maximum number of Directors to appoint to the Board;
 - (vii) the quorum for Board meetings and members meetings; and
 - (viii) winding up and deregistration of the Company.

20.2 Demands for a poll

- (a) A poll may be demanded on any resolution except a resolution concerning the election of the chairman of a meeting, in accordance with the requirements set out in section 250L of the Act.
- (b) The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

20.3 When and how polls must be taken

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule 20.3(c), in the manner that the chairman of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and, subject to rule 20.3(c), in the manner that the chairman of the meeting directs; and
- (c) votes which section 250A(4) of the Act requires to be cast in a given way must be treated as cast in that way.

21. SECRETARY

21.1 Appointment and removal of Secretary

The Board must appoint a Secretary of the Company and may appoint a Secretary either for a specified term or without specifying a term. The Executive Officer may be the Secretary of the Company.

21.2 Terms and conditions of office

A Secretary holds office on the terms (including as to remuneration) that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

21.3 Removal from office

Subject to any contract between the Company and the Secretary, the Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

22. MINUTES

22.1 Minutes must be kept

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's members;
- (b) the name of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rules 8, 9 and 10); and
- (d) resolutions passed by Directors without a meeting,

to be kept in accordance with section 251A of the Act.

22.2 Minutes as evidence

A minute recorded and signed in accordance with section 251A of the Act is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

22.3 Inspection of minute books

The Company must allow members to inspect, and provide copies of the minute books for the meetings of members in accordance with section 251B of the Act.

22.4 Policy book

The Company must record and maintain a record of all policies of the Company determined by the Board in a separate book. This record should also note the date of the determination of the policy and the history of the determination of the policy.

23. COMPANY SEALS

23.1 Common seal

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) who is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2) of the Act.

23.2 Use of seals

The common seal and duplicate seal (if any) may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 123 of the Act.

23.3 Fixing seals to documents

The fixing of the common seal, or any duplicate seal, to a document must be witnessed:

- (a) by 2 Directors;
- (b) by any other signatories or in any other way (including the use of facsimile signatures) authorised by the Board.

24. ACCOUNTS AND AUDIT

24.1 Company must keep accounts

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited, and must allow a Director and the auditor to inspect those records at all reasonable times.

24.2 Signatories on bank accounts

The Board shall appoint the signatories on the Company's bank accounts.

24.3 Financial reporting

The Board must cause the Company to prepare a financial report and a Directors' report that comply with Part 2M.3 and must report to members in accordance with section 314 of the Act no later than the deadline set by section 315 of the Act.

24.4 Audit

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report. The eligibility, appointment, removal, remuneration, rights and duties of the auditor are regulated by sections 324 to 334 inclusive and 1278, 1280 and 1289 of the Act.

24.5 Conclusive reports

Audited financial reports laid before the Company in general meetings are conclusive except as regards errors notified to the Company within 3 months after the relevant general meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

24.6 Inspection of financial records and books

Subject to rule 22.3 and section 247A of the Act, a member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by ordinary resolution.

25. REGISTER OF MEMBERS

The Company must maintain a register of members.

In accordance with section 169 of the Act, the register must contain the following information:

- (a) the name and address of each member;
- (b) the date on which the entry of the member's name in the register is made;
- (c) the name and details of each person who stopped being a member of the Company within the last 7 years;
- (d) the date on which the person stopped being a member; and
- (e) an index of member's names where the Company has more than 50 members (and the register itself is not kept in a form that operates effectively as an index).

26. NOTICES

26.1 Notices by Company

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either
 - (i) delivered personally;
 - (ii) sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (iii) sent by fax to the fax number (if any) nominated by that person; or
 - (iv) sent by electronic message to the electronic address (if any) nominated by that person.

26.2 When notice is given

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally or sent by fax or electronic message:
 - (i) by 5.00 pm (local time in the place of receipt) on a business day - on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day; and
- (b) if it is sent by mail:
 - (i) within Australia - 3 business days after posting; or
 - (ii) to a place outside Australia - 7 business days after posting.

26.3 Evidence of Service

- (a) Subject to rule 26.3(b), a certificate in writing signed by a Director or Secretary of the Company stating that a notice was sent is conclusive evidence of service.
- (b) In the case of service by email, a notice of confirmation of receipt or a reply to an email is conclusive evidence of service.

26.4 Business days

For the purposes of rule 26.2, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

26.5 Counting days

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

26.6 Notices to "lost" members

- (a) If:
 - (i) on 2 or more consecutive occasions a notice served on a member in accordance with this rule is returned unclaimed or with an indication that the member is not known at the address to which it was sent; or
 - (ii) the Board believes on other reasonable grounds that a member is not at the address shown in the Register or notified to the Company.

the Company may give effective notice to that member by exhibiting the notice at the Company's registered office for at least 48 hours.

- (b) This rule ceases to apply if the member gives the Company notice of a new address.

26.7 Winding Up

In the event of the dissolution or winding up of the Company:

- (a) all Intellectual Property owned by or licenced to the Company will be transferred or licenced to Grains Research and Development Corporation; and
- (b) any remaining assets of the Company at the conclusion of the winding up will be donated and transferred absolutely to not for profit corporate/s or organisation/s with similar objects to the Company.

26.8 Maintaining Registration of the Company

If a member wishes to wind up the Company and the other member/s wish to retain registration of the Company, then the member may resign its membership and the other member/s may continue operating the Company and admit new member/s in accordance with rule 2.1(c).