

A COMPANY LIMITED BY GUARANTEE

CONSTITUTION

OF

**AUSTRALIAN MANGO INDUSTRY ASSOCIATION  
LTD**

Amended: 29 May 2025

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# A COMPANY LIMITED BY GUARANTEE

## CONSTITUTION

of

### AUSTRALIAN MANGO INDUSTRY ASSOCIATION LTD

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#### 1. GENERAL

##### 1.1 Name of Company

The name of the Company is Australian Mango Industry Association Ltd.

##### 1.2 Replaceable Rules

The Replaceable Rules do not apply to the Company.

#### 2. DEFINITIONS AND INTERPRETATION

##### 2.1 Definitions

In these Rules unless it is inconsistent with the subject or context in which it is used:

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

**'AGM'** means the annual general meeting of the Company.

**'Allied Industry Members'** means those Ordinary Members who are not Producer Members.

**'Alternate Director'** means a person appointed as an alternate to a Director in accordance with Rule 14.

**'ASIC'** means the Australian Securities and Investments Commission.

**'Associate Members'** means those members who are involved in industries or organisations which may be associated with the Australian mango industry but not directly involved in the Australian mango industry and who do not have voting rights

**'Board'** means the board of directors of the Company.

**'Business day'** means a day that is not a Saturday, Sunday or public holiday in Brisbane.

**'Chairman'** means the chairman of the Board and includes an acting chairman under Rule 8.5.

**'Commercial Mango Producer'** means any mango grower that is growing mangoes as a business or for commercial benefit.

**'Company'** means Australian Mango Industry Association Ltd.

**'Committee'** means a committee to which powers have been delegated by the Board pursuant to Rule 15.7.

**'Constitution'** means the constitution of the Company, as amended from time to time.

**'Director'** means a person appointed or elected from time to time to the office of director of the Company in accordance with these Rules, including the Chairman, a Producer Director and an Alternate Director.

**'Exporter'** means any Person involved in the packing, transporting, selling or distribution of the Product to markets outside Australia.

**'Government'** means local, state, territory and/or federal government.

**'Industry'** means any business or enterprise involved in commercial mango production, including, transport, export, wholesale, retail of the Product and/or any other activity related to the production of the Product.

**'Member'** means a member of the Company in accordance with the law and this Constitution.

**'Members present'** means Members present at a general meeting of the Company in person or, if applicable, by duly appointed corporate representative, proxy or attorney.

**'Office'** means the registered office from time to time of the Company.

**'Person'** includes partnerships, associations and corporations unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals.

**'Producer Director'** means a Producer Representative that has been appointed to the Board as a Director (and not as Chairman).

**'Producer Members'** means those Ordinary Members who are Commercial Mango Producers.

**'Producer Representative'** means:

- (a) a Commercial Mango Producer growing mangoes on land owned or leased by the person and who is an Ordinary Member or Life Member; or
- (b) a partner or director of a business (company, partnership or other entity accepted by the Board) that is a Commercial Mango Producer growing mangoes on land owned or leased by that business and which is an Ordinary Member or Life Member; or
- (c) a suitable representative or employee (e.g. CEO, Managing Director) approved by the Board in its absolute discretion of a business (company, partnership or other entity accepted by the Board) that is a Commercial Mango Producer growing mangoes on land owned or leased by that business and which is an Ordinary Member or Life Member.

**'Product'** means mangoes and any related produce, including mango fibres, trees, seedlings, or anything associated with mango production.

**'Processing and Pack House'** means any Person involved in the processing and packing of mangoes in Australia.

**'Region'** means one of the 4 Regions.

**'Register'** means the register of Members of the Company established pursuant to the Act.

**'Registered address'** means the address of a Member specified in the Register or any other address of which the Member notifies the Company as a place at which the Member will accept service of notices.

**'Replaceable Rules'** means all or any of the replaceable rules contained in the Act from time to time and includes any replaceable rule that was or may become, a provision of the Act.

**'Research and Development'** means any project, initiative, research, strategy or promotion designed to further the Product or the Mango Industry.

**'Retailers'** means any Person that sells the Product to domestic or commercial consumers.

**'Rules'** means the rules of this Constitution as altered or added to from time to time.

**'Seal'** means the common seal, if any, from time to time of the Company.

**'Secretary'** means a person appointed as secretary of the Company.

**'Securities'** includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity.

**'Specific Criteria'** means any criteria formally established by the Board or any Committee established by the Board.

**'Support'** means financial, business, development assistance or any other assistance deemed necessary by the Board.

**'Transporters'** means any Person involved in the carting, carrying or distribution of the Product.

**'Wholesalers'** means any Person involved in the sale of the Product to Retailers (including agents and wholesalers) or any other entity that is not a domestic or commercial consumer, or a Retailer of the Product.

**'Writing'** and **'written'** includes printing, typing, lithography and other modes of reproducing words in a visible form.

**'4 Regions'** means:

- Northern Territory and Northern Western Australia (North of the Tropic of Capricorn);

- Far North Queensland and North Queensland (North of the Tropic of Capricorn);
- Southern Queensland (South of the Tropic of Capricorn) and New South Wales; and
- Southern Western Australia (South of the Tropic of Capricorn), South Australia and Victoria.

## 2.2 Interpretation

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

## 3. OBJECTS AND POWERS

### 3.1 Objects of Company

The objects for which the Company is established are:

- (a) To promote and foster pro-active management and promotion of the interests of Members generally and in particular, without limiting the generality thereof, to promote the interests of mango producers and allied industries, including:
  - (i) to facilitate and co-ordinate through leadership and planning the development of the Australian mango industry;
  - (ii) to improve and facilitate communications within and between all sections of the Australian mango industry, its clients and associated industries;
  - (iii) to assist and create new markets for Australian mangoes, and expand market share in existing domestic and international markets;
  - (iv) to provide industry information to all levels of the Australian mango industry, and to assist in market development and promotion, including the building of product recognition and image;
  - (v) to support the implementation of high quality standards, common benchmarks and best practice for the Australian mango industry;

- (vi) to provide and co-ordinate support, and to assist in product development, implementation of new initiatives and developments designed to increase yield, and regenerate land for future use;
  - (vii) to assist the Australian mango industry to improve storage, handling and transport methods of stock and related commodities;
  - (viii) to ensure continuing investment and viability of the industry, along with research within the Australian mango industry, and to co-ordinate and ensure the efficient use of such funds provided for investment and research;
  - (ix) to act as a facilitation and coordinator of activities, including domestic and international marketing and promotion, within and outside the Australian and international mango industry;
  - (x) to provide support and general assistance to all individuals and organisations connected with the Australian mango industry;
  - (xi) to develop proposals and applications for government in relation to the industry, and to liaise with other industry organisations; and
  - (xii) to make and control all arrangements necessary for the carrying out of the above objects and to do all things as may be necessary to ensure the implementing of the objects;
- (b) To develop an industry with strong professional growers operating with a sense of common purpose and co-operation, with a focus on improving economic viability and sustainability;
- (c) To develop a list of Wholesalers against Specific Criteria and work in partnership to increase throughput, improve professionalism and quality while developing additional markets;
- (d) To develop a list of Transporters against Specific Criteria and work in partnership to improve transport systems both domestically and for export;
- (e) To increase confidence and demand by focussing on customer needs at the retail and wholesale level;
- (f) To develop a list of Exporters against Specific Criteria and work in partnership to improve the performance of the industry;
- (g) To develop the processing market as a core business and pursue expansion of opportunities, both domestically and internationally;
- (h) To develop a close partnership with major Retailers to ensure the best quality Product and results for retailers and final consumers;
- (i) To develop and implement planned grower directed research and development projects which will be published, made available to and implemented by growers;
- (j) To develop a partnering relationship with a group of preferred suppliers and work with them to ensure quality product;

- (k) To develop a close working relationship with industry support bodies and to further develop industry support, to ensure maximum and appropriate support;
- (l) To develop a strong network of government and other statutory body liaison points and actively pursue planned consultation and feedback;
- (m) To enter into any form of amalgamation, affiliation, alliance or union with or co-operate, combine or join with, either in whole or in part, any club, association, company, organisation or body having objects altogether or in part similar to any of those of the Company, or make any arrangements therefore and either generally or for any particular occasion, purpose or event;
- (n) To promote and foster the interests of mango producers and their affiliates and the consideration and full discussion of all matters, questions and things relating to or affecting the interests of them;
- (o) To co-operate and take an active interest in the securing of national consolidated legislation and the formation of proper rules and regulations governing mango production, distribution and export;
- (p) promote the objects of the Company as the board considers appropriate; and
- (q) To do all such other things as may be deemed incidental or conducive to the attainment of the objects of the Company.

### **3.2 Separate objects**

Each of the above objects constitutes a separate object of the Company, and no such object may be construed by reference to any other such object.

### **3.3 Exercise of powers to achieve objects**

Nothing restricts the Company from exercising a power which in itself is not charitable, for any purpose which is incidental to the charitable objects of the Company or which is intended to generate revenue for, or otherwise further, those objects.

### **3.4 Powers of the Company**

Subject to rule 3.5, the Company has all the powers of a natural person and any other powers conferred by the Constitution or the Act.

### **3.5 No power to issue shares**

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

## **4. NON-PROFIT NATURE OF THE COMPANY**

### **4.1 Non-profit**

- (a) Subject to Rule 4.1(c), the income, property, profits and financial surplus of the Company, whenever derived, must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.
- (b) The Company is a non-profit organisation and shall not carry on business for the purpose of profit or gain to its individual Members and no portion of its income,

property, profits and financial surplus may be paid, distributed to or transferred, directly, indirectly, by way of dividend, property, bonus or otherwise by way of profit, to the Members, or the Board, or their relatives, except as provided by this Constitution.

- (c) Nothing in this Constitution prevents:
  - (i) the payment, in good faith, of reasonable and proper remuneration to any officer or employee of the Company, or to any Member or Director, in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
  - (ii) the payment of interest at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for overdrawn accounts on money borrowed from a Member;
  - (iii) reasonable and proper rent for premises demised or let by any Member to the Company.

#### **4.2 No distribution of profits to Members on winding up**

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

#### **4.3 Limited liability on winding up**

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

### **5. MEMBERSHIP**

#### **5.1 Types of membership**

Until otherwise determined by the Members in general meeting there shall be the following classes of Members:

- (a) Ordinary Members;
- (b) Associate Members;
- (c) Honorary Members; and
- (d) Life Members.

## **5.2 Eligibility for membership**

- (a) It will be the discretion of the Board as to whether or not a Person is eligible for membership, the class of membership, and whether to admit a Person to membership of the Company. Any such decision of the Board is final and not subject to internal or external review.
- (b) The names, addresses and category of membership will be entered in the Register and the category to which each Member belongs will be stated in the Register.

## **5.3 Ordinary Members**

- (a) Ordinary membership will be open to the following Persons:
  - (i) all Commercial Mango Producers (irrespective of size);
  - (ii) Processing and Packing Houses;
  - (iii) Wholesalers;
  - (iv) Retailers;
  - (v) Exporters;
  - (vi) Transporters;
  - (vii) consumer groups; and
  - (viii) allied service and producer industries.
- (b) Individuals admitted to ordinary membership of the Company must be aged 18 years or above.
- (c) Subject to the Act every applicant for ordinary membership must complete, sign and date an application form as supplied by the Company. The contents and format of the form will be determined by by-laws from time to time.
- (d) The Board shall fix the entrance fee (if any) and the subscription payable by an applicant for ordinary membership. The Board may not deal with any application for ordinary membership unless the entrance fee and subscription payable in respect of the application has been received by the Company.
- (e) Notwithstanding Rule 5.3(c), the Board may in its absolute discretion admit or reject any applicant for ordinary membership without the necessity of assigning any reason therefore. If the applicant is not admitted to ordinary membership in due course, all monies paid by the Applicant to the Company must be returned forthwith in full.
- (f) Ordinary members will be divided into the following categories:
  - (i) Producer Members; and
  - (ii) Allied Industry Members,

and the category to which each belong will be stated on their membership certificate.

- (g) An Ordinary Member is entitled to:
- (i) receive notices of, and to attend, speak and vote at a general meeting of the Company;
  - (ii) become (if a Producer Representative and a natural person) a Director;
  - (iii) such other rights and privileges conferred under this Constitution.

#### **5.4 Associate Members**

- (a) The Board may in its absolute discretion admit as an Associate Member any person who satisfies the criteria for Associate membership.
- (b) Subject to the Act, every applicant for Associate membership must complete, sign and date an application form as supplied by the Company. The contents and format of the form will be determined by the Board from time to time.
- (c) The entrance fee and subscription payable by Associate Members will be determined by the Board from time to time. The Board may not deal with any application for Associate membership unless the entrance fee and subscription payable in respect of the application have been received by the Company.
- (d) Despite paragraph (c) of this rule, the Board may in its absolute discretion admit or reject any applicant for Associate membership without the necessity of assigning any reason. If an applicant is not admitted to Associate membership, all monies paid by the person to the Company must be returned forthwith in full.
- (e) Associate Members are entitled to receive notice of, attend and speak at general meetings, but are not entitled to:
  - (i) vote at a general meeting of the Company;
  - (ii) nominate persons for the office of, or vote for on the election of, Directors;
  - (iii) become a Member of the Board, unless the Member or its Representative is invited by the Board to be appointed, and is so appointed by the Directors, as a Member of the Board.

#### **5.5 Honorary Members**

- (a) The Board may appoint as Honorary Members of the Company, upon such terms and subject to such conditions as the Board may from time to time determine, such persons who by reason of their special qualifications are entitled, in the opinion of the Board, to such privilege.

- (b) The currency of an honorary membership may not exceed 1 year, unless renewed by the Board. The Board may in its absolute discretion revoke any honorary membership at any time.
- (c) There may be no more than 10 Honorary Members of the Company at any one time.
- (d) An Honorary Member:
  - (i) is entitled to receive notice of, and to attend and speak at, general meetings;
  - (ii) is not entitled to vote at any general meeting of the Company; and
  - (iii) is not eligible to hold office in the Company.

#### **5.6 Life Members**

- (a) The Board may nominate for life membership any Member, being a natural person, who, in the opinion of the Board, is regarded worthy of life membership by reason of their outstanding and meritorious service to the Company or the Australian mango industry.
- (b) A Life Member shall be admitted, on recommendation of the Board, if that recommendation is approved by three quarters majority of Members present and entitled to vote at an AGM.
- (c) A Life Member is entitled for life, unless he or she ceases to be a Member, to all the rights and privileges of ordinary membership without the payment of any further fees.

#### **5.7 Fees**

The entrance fees, subscription and annual membership fees for the various classes of membership are such amounts, and are due at such times, as the Board from time to time determines.

#### **5.8 Resignation of membership**

A Member may at any time, by giving notice in writing to the Secretary, resign their membership of the Company. The Member will remain liable for all moneys due by the Member to the Company.

#### **5.9 Suspension and expulsion of Members**

- (a) Without limiting Rule 5.9(b), if any fee payable by a Member remains unpaid for one month after it becomes payable, the Board may, after notice of the default has been sent to the Member, suspend the Member's membership. The Board may, at its sole discretion, reinstate the Member on payment of all arrears.
- (b) If a Member wilfully refuses or neglects to comply with the provisions of this Constitution, fails to pay any fees that are due, or is guilty of any conduct which in the opinion of the Board is unbecoming of a Member or is prejudicial to the interests of the Company, the Board may censure, suspend or expel the Member from the Company. Before determining to censure, suspend or expel a Member,

the Board must allow the Member an opportunity to respond to any allegations of impropriety or misconduct.

#### **5.10 Forfeiture of fees**

A Member who ceases to be a Member for any reason forfeits all fees paid by that Member.

#### **5.11 Variation of rights of Members**

The rights attached to any class of membership may, whether or not the Company is being wound up, be varied with the consent in writing of Members with at least 75% of the votes in the class, or with the sanction of a special resolution passed at a separate meeting of the Members of that class.

### **6. FINANCIAL RECORDS**

#### **6.1 Keeping of financial records**

- (a) Proper books and financial records must be kept and maintained showing correctly the financial affairs of the Company. The Company must comply with the relevant accounting and auditing requirements of the Law.
- (b) The Board must distribute to all Members at the end of each financial year, copies of the financial report including a copy of the auditor's report and any other documentation required under the Law.
- (c) The Board must cause to be made out and laid before each AGM a balance sheet, profit loss statement and cash flow statement made up to a date not more than 5 months before the date of the meeting.

#### **6.2 Banking of monies**

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

#### **6.3 Appointment of auditor**

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

#### **6.4 Inspection of records of the Company**

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

## 7. GENERAL MEETINGS

### 7.1 General meetings

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

### 7.2 Notice of general meeting

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

## **8. PROCEEDINGS OF MEETINGS**

### **8.1 Business of general meetings**

- (a) The business of an AGM is:
  - (i) to receive and consider the financial and other reports required by the Act to be laid before each AGM;
  - (ii) to elect members of the Board in the place of those retiring under these Rules;
  - (iii) when relevant to appoint an auditor; and
  - (iv) to transact any other business which, under these Rules, is required to be transacted at any AGM.
- (b) All other business transacted at an AGM and all business transacted at other general meetings is deemed to be special. Except with the approval of the Board, with the permission of the Chairman or pursuant to the Act, no person may move at any meeting either:
  - (i) in regard to any special business of which notice has been given under Rule 7.2, any resolution or any amendment of a resolution; or
  - (ii) any other resolution which does not constitute part of special business of which notice has been given under Rule 7.2.
- (c) The auditors and their representative are entitled to attend and be heard on any part of the business of a meeting which concerns the auditors. The auditors or their representative, if present at the meeting, may be questioned by the Members, as a whole, about the audit.

### **8.2 Quorum**

- (a) At least two Members present and entitled to vote at the relevant general meeting, shall constitute a quorum for a meeting except if the Company at any time has only one Member or where a class of Members is constituted by one Member.
- (b) No business may be transacted at any meeting except the election of a chairman of the meeting and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business.

### **8.3 Adjournment in absence of quorum**

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

#### **8.4 Chairman**

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

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

#### **8.5 Acting chairman**

If during any general meeting the Chairman acting pursuant to Rule 8.4 is unwilling to act as chairman for any part of the proceedings, the Chairman may withdraw as chairman during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be acting chairman of the meeting during the relevant part of the proceedings. Upon the conclusion of the relevant part of the proceedings the acting chairman is to withdraw and the Chairman is to resume acting as chairman of the meeting.

#### **8.6 General conduct of meeting**

- (a) Except as provided by the Act, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the Chairman.
- (b) The Chairman may at any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present.
- (c) The Chairman may require the adoption of any procedure which is in the Chairman's opinion necessary or desirable for the proper and orderly casting or

recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.

#### **8.7 Adjournment**

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

#### **8.8 Voting**

- (a) Each motion submitted to a general meeting is to be decided in the first instance by a show of hands of the Members present and entitled to vote. Subject to Rule 8.8(b), in the case of an equality of votes, the Chairman has, both on a show of hands and at a poll, 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, if applicable, a duly appointed corporate representative of a Member.
- (b) On a show of hands, where the Chairman has 2 or more appointments that specify different ways to vote on a resolution, the Chairman cannot vote but has a casting vote in the case of an equality of votes cast by Members entitled to vote at the meeting.
- (c) Votes cast in relation to the appointment of a Producer Director may only be cast by Producer Members.

#### **8.9 Declaration of vote on a show of hands – when poll demanded**

- (a) At any meeting, unless a poll is demanded, a declaration by the Chairman that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the Chairman of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution. A poll may be demanded:
  - (i) before a vote is taken;
  - (ii) before the voting results on a show of hands are declared; or
  - (iii) immediately after the voting results on a show of hands are declared.
- (b) A poll may be demanded by:
  - (i) the Chairman;

- (ii) at least 2 Members present entitled to vote on the resolution.
- (c) No poll may be demanded on the election of a chairman of a meeting.

#### **8.10 Taking a poll**

- (a) If a poll is demanded as provided in Rule 8.9, it is to be taken in the manner and at the time and place as the Chairman directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.
- (b) The demand for a poll may be withdrawn. In the case of any dispute as to the admission or rejection of a vote, the Chairman's determination in respect of the dispute made in good faith is final.

#### **8.11 Continuation of business**

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

#### **8.12 Special meetings**

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

### **9. VOTES OF MEMBERS**

#### **9.1 Voting rights**

- (a) Subject to Rule 8.8 (c), the entitlement of Members to vote on a show of hands and on a poll is as follows:
  - (i) subject to Rule 9.1 (b) every Ordinary Member has the right to two votes;
  - (ii) every Honorary Member has no right to vote;
  - (iii) every Associate Member has no right to vote; and
  - (iv) every Life Member has the right to two votes.
- (b) Where an ordinary producer member manages less than 5000 trees (mango trees under commercial production) and chooses to pay only 50% of the membership fee current at the time of the vote, the ordinary member has the right to one vote
- (c) If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his committee or trustee or such other person as properly has the management of his estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

- (d) A Member whose annual fee is more than one month in arrears at the date of the general meeting is not entitled to vote at that meeting.
- (e) If the person appointed as proxy has 2 or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands.

#### **9.2 Manner of voting**

At meetings of Members or classes of Members each Member entitled to attend and vote may:

- (a) attend and vote in person or by proxy, representative or attorney; or
- (b) where the Directors so determine, vote by electronic or other means at that meeting. Any vote so admitted is referred to as a "direct vote". The Directors may, in their absolute discretion, determine the means by which a direct vote may be held and, without limiting the means for voting that may be determined by the Directors, a direct vote may include a vote delivered to the Company by:
  - (i) post;
  - (ii) fax; or
  - (iii) other electronic means, and

if the Directors determine that a member may give a direct vote, the notice convening the meeting must specify the form, method and timing of giving such a direct vote.

#### **9.3 Appointment of proxies**

- (a) Any Member entitled to vote at a general meeting may appoint one proxy.
- (b) A proxy, attorney or representative may, but need not, be a Member.
- (c) The instrument appointing a proxy (and the power of attorney, if any, under which it is signed or proof of the power of attorney to the satisfaction of the Board) must be deposited duly stamped (if necessary) at the Office, faxed to the Office or deposited, faxed or sent by electronic mail to any other place specified in the notice of meeting, at least 48 hours (or a lesser period as the Board may determine and stipulate in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument proposes to vote.
- (d) Subject to Rule 9.8, no instrument appointing a proxy is valid after the expiration of 12 months after the date of its execution.
- (e) Subject to Rule 9.1(e), where a person is entitled to vote in more than one capacity, that person is entitled only to one vote on a show of hands.

#### **9.4 Voting by corporation**

Any corporation, being a Member and entitled to vote, may, by resolution of its directors or other governing body, authorise any person, though not a Member of the Company, or

any person occupying a particular office from time to time, to act as its representative, and such representative is, in accordance with his authority and until his authority is revoked by the corporation which he represents, entitled to exercise the same powers at meetings on behalf of the corporation which he represents as that corporation could exercise if it were a natural person who was a Member and exercise any other powers permitted to be exercised by a body corporate representative under the Act.

#### **9.5      Validity of vote**

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

#### **9.6      Form and execution of instrument of proxy**

- (a) An instrument appointing a proxy is required to be in writing signed by the appointer or the attorney of the appointer or, if the appointer is a corporation, under its Seal or signed by a duly authorised officer and in the form which the Board may from time to time prescribe to accept.
- (b) The instrument of proxy is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the person giving the proxy.
- (c) An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting, as well as for the meeting to which it relates. Any duly signed proxy which is incomplete may be completed by the Secretary on authority from the Board and as permitted by the Act and the Board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given provided that that Director is also entitled to vote at the general meeting as required by Rule 9.3(b).

#### **9.7      Board to issue forms of proxy**

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

#### **9.8      Attorneys of Members**

Any Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office

or any other place the Board may determine from time to time together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

## **10. THE BOARD**

### **10.1 Members of the Board**

- (a) The Board consists of:
- (i) The Chairman; and
  - (ii) Subject to rule 10.1(b), up to 8 Producer Directors representing each Region as follows:

Northern Territory and Northern Western Australia (North of the Tropic of Capricorn)	Three Producer Directors (with a minimum of one from Darwin and one from Katherine)
Far North Queensland and North Queensland (North of the Tropic of Capricorn)	Three Producer Directors (with a minimum of one from Mareeba or Dimbulah and one from Burdekin or Bowen)
Southern Queensland (South of the Tropic of Capricorn) and New South Wales	One Producer Director
Southern Western Australia (South of the Tropic of Capricorn), South Australia and Victoria	One Producer Director

- (b) If the number of Producer Directors referred to in clause 10.1(a)(ii) is not achieved, due to lack of nominations or otherwise, the Board is still considered to be properly constituted and able to perform its duties with the number of Producer Directors that have been appointed

### **10.2 Process of elections**

- (a) The process for elections of Directors shall take place in the following manner:
- (i) Subject to Rule 10.2(b), any 2 Producer Members in any Region may nominate any Producer Representative to serve as a Producer Director.
  - (ii) Except for a Producer Director standing for re-election, no person is eligible for election to the Board at any AGM (or any general meeting of the Company) unless the Members intending to nominate the person have given notice in writing signed by the nominating Members and countersigned by the nominee. To be valid, the notice is required to be left at the Company's Office during the period determined by the Board and notified to Members or, in the absence of such determination, not less than 30 days, and not more than 40 days, before the meeting.
  - (iii) A list of the candidates' names in alphabetical order with the proposers' and seconds' names shall be forwarded to all Members with the notice of AGM at which the election is to take place.

- (b) No person may nominate themselves as a Director.
- (c) Each Producer Director shall be elected by a majority of the Producer Members attending and voting at a general meeting.
- (d) In the event of a tied vote, the Board will use its discretion to select the successful candidate.
- (e) In case there is not a sufficient number of candidates nominated, the Board may choose to fill the remaining vacancy or vacancies in accordance with rule 10.4, or may choose to leave the position vacant.

#### **10.3 Qualification for directorship of the Board**

- (a) Only Producer Representatives are eligible to serve on the Board.
- (b) All Directors are required to be natural persons.

#### **10.4 Casual vacancies**

- (a) The Board has the power at any time and from time to time to appoint a qualified person as a Director either to fill a casual vacancy among the Board or as an addition to the existing Directors but so that the total number of Directors may not at any time exceed the number fixed in accordance with this Constitution.
- (b) Any person appointed under this Rule holds office until the next AGM when an election will be held to fill the vacancy but such person is not to be taken into account in determining the number of Directors who are to retire by rotation at the meeting. Any person appointed under this Rule is eligible for election at that general meeting.
- (c) The Members in general meeting may by ordinary resolution elect a qualified person as a Director but so that the total number of Directors do not at any time exceed the number fixed in accordance with this Constitution.

#### **10.5 Transitional arrangements**

The Board may make appointments of qualified persons in addition to the provisions of Rule 10.4, as a transitional arrangement following a Rule change that varies the number of Board positions or their constituencies. The term of appointment of these positions will be until the next AGM.

### **11. ROTATION OF DIRECTORS**

#### **11.1 Election and term**

- (a) An election of Directors shall take place each year.
- (b) Subject to Rule 11.5, a Director shall not retain office for more than three calendar years or beyond the third AGM following his or her election, whichever is the longer period, without submitting himself or herself for re-election.

## **11.2 Retirement at AGM**

At the AGM each year, one third of the Directors in office shall retire from office. The Directors to retire shall be those who have been the longest in office. If 2 or more Directors have been in office for the same time, those Directors to retire in accordance with this Rule shall be determined by the agreement between them or by the drawing of lots.

## **11.3 Acting until conclusion of AGM**

A retiring Director may act until the conclusion of the meeting at which that Director retires and is eligible for re-election.

## **11.4 Order of rotation**

In the event that there are an uneven number of Directors, then the nearest number to one third who have been in office longer, shall stand for election.

## **11.5 Vacancy**

The Company may at a meeting at which the Directors retire by rotation fill all or any of the vacant places by electing persons to those places and may fill up any other available vacancy.

# **12. RESIGNATION AND REMOVAL**

## **12.1 Resignation**

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

## **12.2 Removal**

- (a) A Director may be removed from office by Ordinary Resolution of the Members present and entitled to vote at a general meeting of the Company convened for that purpose. At any such general meeting the Director must be given the opportunity to fully present their case either orally or in writing or partly by either or both of these means.
- (b) A Director who ceases to be a Director under Rule 12.2(a) retains office until the dissolution or adjournment of the general meeting at which the Director is removed.

## **12.3 Vacation of office**

- (a) The office of a Director automatically becomes vacant if the Director:
  - (i) becomes insolvent under administration;
  - (ii) is not permitted by the Act (or an order made under the Act) to be a Director;

- (iii) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
  - (iv) dies or suffers a permanent incapacity;
  - (v) is removed as a Director under the Act or this Constitution;
  - (vi) either by himself or herself or by an Alternate Director appointed by him or her fails to attend Board meetings for a continuous period of six months without leave of absence from the Board; or
  - (vii) resigns by notice in writing to the Company.
- (b) A Director who vacates office pursuant to Rule 12.3(a) is not to be taken into account in determining the number of Directors who are to retire by rotation at any AGM.

#### **12.4 Directors who are employees of the Company**

The office of a Director who is an employee of the Company and/or any of its subsidiaries becomes vacant upon the Director ceasing to be employed (so that he is no longer employed by the Company or any subsidiary of the Company) but the person concerned is eligible for reappointment or re-election as a Director of the Company.

### **13. EXERCISE OF VOTING POWER IN OTHER CORPORATIONS**

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

### **14. ALTERNATE DIRECTORS**

- (a) Subject to these Rules, each Director has power from time to time to appoint any person to be the Alternate Director of the Director whether for a stated period or periods or until the happening of a specified event or from time to time, whenever, by absence, illness or otherwise, the Director is unable to attend to their duties.
- (b) The appointer must first seek and obtain the consent of the Board to the appointment, which consent is not to be unreasonably withheld or delayed.
- (c) The appointment is to be in writing and signed by the Director and a copy of the appointment is to be given by the appointing Director to the Company by forwarding or delivering it to the Office.
- (d) The appointment takes effect immediately upon receipt of the appointment at the Office.
- (e) The following provisions apply to an Alternate Director:

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

## **15. PROCEEDINGS OF THE BOARD**

### **15.1 Procedures relating to board meetings**

- (a) The Board may meet together, upon each Director being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Until otherwise determined by the Board, 2 Directors form a quorum.
- (c) Notice is deemed to have been given to a Director, and all Directors are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by electronic mail to the usual place of residence, fax number or electronic address of the Director (if any fax number or electronic address is notified to the Company) or at any other address given to the Secretary by the Director from time to time subject to the right of the Director to withdraw such consent within a reasonable period before a meeting.

### **15.2 Meetings by telephone or other means of communication**

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

### **15.3 Votes at meetings**

- (a) All questions arising at any meeting of the Board are decided by a majority of votes.
- (b) The Chairman shall, in addition to his deliberative vote, have a second or casting vote in the event of an equality of votes.

### **15.4 Convening of meetings**

The Board may at any time, and the Secretary, upon the request of any Director, must convene a meeting of the Board.

### **15.5 Chairman**

- (a) The directors may elect:
  - (i) a Director to the office of Chairman; and
  - (ii) one or more Directors to the office of deputy chairman of the Board.
- (b) The Chairman shall, if present, able and willing, preside as chairman at all meetings of the Board.
- (c) If:
  - (i) there is no appointed Chairman;
  - (ii) the Chairman is not present within 15 minutes after the time appointed for the meeting; or
  - (iii) the Chairman is unable or unwilling to preside,

then the Directors shall appoint one of their number to act as chairman of the meeting of the Board.

### **15.6 Powers of meetings**

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

### **15.7 Delegation of powers to Committees**

- (a) The Board may, subject to the constraints imposed by law, delegate any of its powers to Committees consisting of one or more Directors or any other person or persons as the Board thinks fit. Any Committee formed or person or persons appointed to the Committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board. A delegate of the Board may be authorised to subdelegate any of the powers for the time being vested in the delegate.
- (b) Any decision made by a sub-committee must be referred back to the Board for ratification.

- (c) No sub-committee has the power to bind the Board or the association unless they are specifically provided with such power, in writing by the Board.
- (d) Each sub-committee will have a Director as one of its members. The Director will be responsible for taking the minutes of each sub-committee meeting. After such minutes have been ratified by the sub-committee to which they related, the Director will present them to the Board at the next board meeting or general meeting.

#### **15.8 Proceedings of Committees**

- (a) The meetings and proceedings of any Committee are to be governed by the provisions of these Rules for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under Rule 15.7.
- (b) A Committee in the exercise of the duties delegated or assigned to it shall conform to any regulations, directions or instructions that may be imposed or given by the Board.
- (c) A Committee appointed by the Board shall be under the control and direction of the Board and has no direct part or power in the management of the Company.

#### **15.9 Validity of acts**

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

#### **15.10 Resolution in writing**

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

## **16. POWERS OF THE BOARD**

### **16.1 General powers of the Board**

- (a) The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by these Rules) may exercise all powers and do all things as are within the power of the Company and are not by these Rules or by the Act directed or required to be exercised or done by the Company in general meeting.
- (b) The Board may make such regulations and by-laws not inconsistent with the Constitution, as in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property or are necessary for the convenience, comfort and well-being of the Members including:
  - (i) the terms of entry of Members to the Company's premises and any event or function sponsored, promoted, facilitated or conducted by the Company; and
  - (ii) amending or rescinding from time to time any such regulations and by-laws.
- (c) A regulation or by-law of the Company made by the Board may be disallowed by the Company in a later general meeting.
- (d) A resolution or regulation made by the Company in general meeting cannot invalidate prior acts of the Board which would have been valid if that resolution or regulation had not been passed or made.

## **17. DIRECTORS' DUTIES AND INTERESTS**

### **17.1 Disclosure of material personal interest**

A Director who has a material personal interest in a matter that relates to the affairs of the Company must give Directors notice of the interest unless the Act does not require the Director to give notice of an interest.

### **17.2 Details of notice**

A notice required by Rule 17.1 must:

- (a) give details of the interest, and the relation of the interest to the affairs of the Company; and
- (b) be given at a Directors' meeting as soon as practicable after the Director becomes aware of his interest in the matter.

### **17.3 Manner of details**

A Director may provide details of a material personal interest either orally or in writing.

#### **17.4 Recording of details**

Details provided by a Director under Rule 17.2 must be recorded in the minutes of the Directors' meeting.

#### **17.5 Restriction on voting**

A Director who has a material personal interest in a matter that is being considered at a meeting of the Board must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless:

- (c) Rules 17.6 or 17.7 apply; or
- (d) the interest does not need to be disclosed under section 191 of the Act.

#### **17.6 Participation with approval of other Directors**

A Director may be present and vote if the Directors who do not have a material personal interest in the matter pass a resolution that:

- (a) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and
- (b) states that those Directors are satisfied the interest should not disqualify the Director from voting or being present.

#### **17.7 Participation with approval of ASIC**

A Director may be present and vote if the Director is so entitled under a declaration or order made by ASIC under section 196 of the Act.

#### **17.8 Execution of interest**

Provided the provisions of this Rule 17 are otherwise complied with, a Director who has a material personal interest in a matter may participate in the signing of any instrument by or on behalf of the Company and whether by signing or by affixing or witnessing the affixing of the seal or otherwise.

### **18. COMPANY SECRETARY**

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

### **19. OTHER SALARIED OFFICERS**

Subject to these Rules, the Board may appoint such officers and employees at such salaries for such periods and on such terms as it thinks fit and may subject to conditions of the employment of such officers and employees dispense with their services and re-appoint or appoint other officers and employees as it thinks fit.

## **20. THE SEAL**

### **20.1 Company seal is optional**

The Company may have a Seal.

### **20.2 Affixing the seal**

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

### **20.3 Execution of documents without a seal**

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

- (a) 2 Directors; or
- (b) a Director and the Secretary; and

If the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in Rule 20.2 or this Rule 20.3.

### **20.4 Other ways of executing documents**

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

## **21. MINUTES**

- (a) The Board must ensure that minutes are duly recorded in any manner it thinks fit and which include:
  - (i) the names of the members present at each meeting of the Company, the Board and of any Committees; and
  - (ii) details of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any Committees.
- (b) The minutes of any meeting of the Board or of any Committee or of the Company, if purporting to be signed by the Chairman of the meeting or by the Chairman of the next succeeding meeting, are *prima facie* evidence of the matters stated in the minutes.

## **22. NOTICES**

### **22.1 Service of notices**

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

### **22.2 When notice deemed to be served**

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

### **22.3 Member not known at registered address**

Where a Member does not have a Registered address or where the Company has bona fide reason to believe that a Member is not known at the Member's Registered address, all future notices are deemed to be given to the Member if the notice is exhibited in the Office for a period of 48 hours (and is deemed to be duly served at the commencement of that period) unless and until the Member informs the Company of a registered place of address.

### **22.4 Signature to notice**

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

### **22.5 Reckoning of period of notice**

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

## **22.6 Service on deceased members**

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

## **22.7 Persons entitled to notice of general meeting**

- (a) Notice of every general meeting is to be given to:
  - (i) each Member entitled to receive notice of general meetings of the Company;
  - (ii) each Director;
  - (iii) the auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.

## **22.8 Notification of change of address**

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

## **23. INDEMNITY**

### **23.1 Indemnity for/in favour of Directors, Secretaries and executive officers**

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

- (a) incurred by the person acting in their capacity as a Director, Secretary or executive officer to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith;
- (b) for the costs and expenses incurred by the person:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the law.

### **23.2 Indemnity to employees**

Subject to the Act, the Company may indemnify an employee who is not a Director, Secretary or executive officer of the Company against a liability:

- (a) incurred by the employee acting in that capacity;
- (b) for the costs and expenses incurred by an employee:

- (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or
- (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the law.

### **23.3 Personal liability of officer**

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

### **23.4 Insurance**

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