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CONSTITUTION of The Biodynamic Agriculture Australia Ltd  
A Company Limited by Guarantee

**CONSTITUTION**  
of  
**Biodynamic Agriculture Australia Ltd**  
A Company Limited by Guarantee  
February, 2007

1. The name of the Company is *The Biodynamic Agriculture Australia Ltd*

**Definitions and Interpretations**

2. In this Constitution the following words have these meanings unless the contrary intention appears:

"Article" shall mean an Article of this Constitution.

"Board" shall mean all or some of the Directors acting as a board of directors of the Company.

"Chair" shall mean the Chair of the Board of the Company unless directly applies to the chair of a subcommittee.

"Company" shall mean the Company limited by guarantee called Biodynamic Agriculture Australia Ltd.

"Constitution" shall mean this Constitution as amended from time to time and a reference to a particular Article has a corresponding meaning.

"Deputy Chair" is a Director appointed as such from time to time by the Board.

"Director" shall mean a person holding office as a board member on the Board of the Company.

"Member" shall mean those individuals entered in the Register as a Member of the Company.

"BAA" shall mean "Biodynamic Agriculture Australia Ltd".

"Biodynamic" shall mean agriculture, horticulture, forestry and gardening that includes the use of the preparations described by Dr Rudolf Steiner in eight lectures given in Koberwitz, Silesia (now Poland) 6 - 15 June, 1924, and excludes the use of synthetic poisons, fertilisers, growth promotants and genetically manipulated organisms as articulated in the biodynamic certification standards adopted by Biodynamic Agriculture Australia Ltd.

"Register" shall mean the register of Members of the Company under the Corporations Act 2001.

"Secretary" shall mean the secretary to the Board for the time being of the Company.

Words importing the singular number shall include the plural number and words importing the masculine gender shall include the feminine gender.

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Headings are inserted for convenience and are not to affect the interpretation of the Constitution.

This Constitution is to be interpreted subject to the Corporations Act 2001. Unless the contrary intention appears, an expression in the Constitution has the same meaning as in the Corporations Act 2001.

**3 Objects**

- a) To foster, guide and safeguard in Australia the Biodynamic method of Agriculture, horticulture, forestry and animal husbandry as indicated and elucidated by the late Dr Rudolf Steiner.
- b) To provide access to the resources necessary to foster the practice and development of the Biodynamic approach to farming, gardening and participation in the Biodynamic process by all sectors of the community.
- c) To bring together for mutual support, people aware of the spiritual impulse striving to regenerate the earth, who have a strong interest/experience in Biodynamic farming and gardening and a strong motivation to share their experiences, not just among themselves, but with the whole community.
- d) To promote and encourage research and instruction in connection with the Biodynamic methods of farming.
- e) To spread the knowledge of and ensure the correct application of these methods by means of literature and instructional courses by the issue and distribution of literature, by the establishment of information and research bureaux, by consultation with agricultural and scientific workers and by any other similar activities.
- f) To manage, improve, farm, cultivate, maintain, conduct experiments and carry out research work on all or any part of the lands, buildings, tenements and hereditaments of the Association and hold instructional courses thereon.
- g) To subscribe to become a member of or affiliate with pertinent sections of the General Anthroposophical Society having its headquarters at The Goetheanum, Dornach, Switzerland.
- h) To make connections with other like-minded organisations.
- i) To purchase, take on lease, or in exchange, or on hire or otherwise acquire, hold mortgage and dispose of any real or personal property and any rights or privileges which the Association shall think necessary or expedient for the purposes of attaining the objects of the Association or any of them or promoting the interests of the Association or its members.

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- j) To advance, deposit or lend money to or with such persons or firms or corporations and on such terms as may seem expedient.
- k) To borrow, or raise, or to secure the payment of money in such manner as the Association shall think fit and in particular by the issue of or upon bonds, debentures, bills of exchange, promissory note or other obligations or securities of the Association or by mortgage or charge upon all or any part of the property of the Association.
- l) To raise money by way of subscriptions and to grant any rights and privileges to subscribers.
- m) To make donations to such person, companies or corporations as the Association may think directly or indirectly conducive to any of its other objects or otherwise expedient.
- n) To do all such other things as are expedient or conducive to the attainment of all or any of the above objects.

**Non-distribution of surplus to Members**

**4.** Subject to the further provisions of Articles 5, 6 and 7, the income and property of the Company will be applied solely towards the promotion of the objects of the Company as set forth in this Constitution and no portion thereof will be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit to any Member, Director or office bearer or the Company.

**5.** Nothing in this Constitution will prevent the payment by the Company:

- a) of interest at a rate not exceeding interest at a rate for the time being charged by bankers for overdraft accounts on money lent or the payment of reasonable and proper rent for premises demised or let to the Company;
- b) of expenses of members of the Board under Article 103; and
- c) in good faith of reasonable and proper remuneration to any Member, Director, Secretary or employee in return for any services actually rendered to the Company.

**6.** No Director will be appointed to:

- a) any salaried office of the Company; or
- b) any other office of the Company paid by fees.

**7.** If upon the winding-up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, that property will not be paid to or distributed among the Members of the Company but shall be given or transferred to some other institution or institutions:

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- a) having objects similar to the objects of the Company
- b) being exempt from income tax, and
- c) whose memorandum of association or constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as imposed on the Company under this Constitution; such institution or institutions to be determined by the Members at or before the time of the dissolution.

**8.** The Company may in any manner permitted by the Corporations Act 2001 exercise any power, take any action, or engage in any conduct or procedure, which under the Corporations Act 2001 a Company limited by guarantee may exercise or undertake.

**Liability of Members**

**9.** The liability of Members is limited.

**10.** Every Member undertakes to contribute to the property of the Company in the event of the Company being wound up while a person or body is still a Member or within one (1) year of that person or body ceasing to be a Member, for payment of the debts and liabilities of the Company (contracted before the person or body ceases to be a Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of contributors among themselves, such amount as may be required not exceeding \$10 per Member.

**Members**

**11.** The Association shall consist of group members, life members, active members, associate members, honorary membership and complimentary membership.

- a) A group member shall be a local group acting in concert with the objects of this Association, and be entitled to the same rights and privileges as an active member. Any of the members of this affiliated group may be admitted to whatever class of membership of the Association they wish to contribute individually.
- b) A life member or active member shall be entitled to take part in all the activities of the Association, to one vote, to receive its publications and to purchase its preparations.
- c) An associate member, honorary member, or complimentary member shall be a person in sympathy with and desirous of promoting the objects of the Association. This class of members shall be entitled to receive some literature of the Association, but not be entitled to purchase preparations or to vote.
- d) The number of members of the Association shall be not less than seven.

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**Fees and Dues Including GST**

**12.** Membership fees and dues will be determined by the board from time to time.

**13.** At the time of incorporation the admission fee for new or resigned members shall be \$11.00 to be paid on nomination together with the relevant annual membership dues.

**14.** The annual membership dues shall be

Life (Bulk Preparations) Member -	\$1,100
Active (Bulk Preparations ) Member -	\$110 per annum
Active (Standard Preparations) Member -	\$55 per annum
Group (Standard Preparations) Member -	\$110 per annum
Associate (News Leaf) Member -	\$33 per annum
Complimentary (News Leaf) Member -	free
Honorary Membership -	free

**15.** On becoming a Member, the Individual's name will be entered in the Register maintained by the Company.

- a) Duration of Membership Period: Membership shall continue during the existence of the company unless terminated as hereinafter provided.
- b) Termination - on Payment of Dues:
  - (i) Any member failing to pay his dues within three calendar months after the prescribed time shall be notified in writing by the Secretary at his last known address. If the dues are not paid within three calendar months from the date of notification, said membership shall terminate.
  - (ii) Such former member, at the discretion of the Board, may be reinstated to membership upon his petition, and on his repayment of all his indebtedness to the Association.
- c) Termination - Other Causes:
  - (i) The membership of any member may be terminated by the Board, for a reason which the Board may deem to be sufficient, by the votes of not less than two thirds of the members thereof, at a meeting called for that purpose.
  - (ii) Such member shall be given at least fourteen days notice in writing of such pending action and an opportunity to submit to the Board a written answer. He may also have the privilege of appearing before the Board to state his case. Service of such notice shall be made by personal delivery or by registered letter to his last known address.

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- (iii) In case of a decision to terminate membership the Secretary shall, within seven days after the date of the Board's decision, notify the member in writing of the decision of the Board. Such member may, within fourteen days after the date of such notice, give written notice to the Secretary of his intention to appeal to the Association. In the event that he appeals, the Board shall set a date for the hearing of the appeal at an extraordinary meeting of the Association, to be held within twenty one days after the receipt of such written notice of appeal. At least fourteen days notice of such a meeting and its special business shall be given in writing to every member of the Association, and only members of the Association shall be permitted to be present when such appeal is considered at such meeting.
  - (iv) The action of the Board shall be final if no appeal to the Association is taken. If an appeal is taken, the action of the Association is final.
- d) Resignation: The resignation of any member from the Association shall be in writing (addressed to the Secretary) and shall be accepted by Board, provided that all indebtedness of said member to the Association has been paid. Any member who shall voluntarily retire from the Association as herein provided and who shall subsequently be desirous of being re-admitted as a member of the Association shall be subject to the rules of the Association providing for application for membership and election of new members.
  - e) Property Interest -Forfeiture of: Any person whose membership in this Association has been terminated in any manner shall forfeit all interest in any funds or other property belonging to the Association.

**Voting**

**16.** on any question arising at a General Meeting of the company a member has one (1) vote only.

**17.** All votes must be given

- a) personally or
- b) by proxy but no member may hold more than two (2) proxies.

**18.** In the case of an equality of votes on a question at a General Meeting, the chairperson of the meeting - or the company? is entitled to exercise a second or casting vote

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**19.** A member or proxy is not entitled to vote at any general meeting of the company unless all money due and payable by the member or proxy to the company has been paid, other than the amount of the annual subscription payable in respect of the then current year.

**Proxy Voting**

**20.** (a) Any member may appoint another member as proxy by notice given to the Secretary at no later than the close of business five (5) working days before the date and time of the Extra-Ordinary Meeting or Annual General Meeting in respect of which the proxy is appointed.

(b) Proxy votes can be used for

- a. voting for nominations for board members and
- b. motions that have been circulated twenty-one (21) days before the date and time of the meeting or
- c. voting on behalf of the member to decide any motions accepted from the floor of General Meetings called in compliance with this constitution.

(c) The notice appointing the proxy is to be in the form set out in Attachment 1 to this constitution.

(d) Proxies shall be:

- I. signed and dated by the member
- II. on the appropriate form

(e) No member may hold more than two (2) proxies.

**Postal Voting**

**21.** Postal votes must be mailed no later than fourteen days (14) prior to the Extraordinary General Meeting or the Annual General Meeting. Any postal votes received with a post mark after that date will be invalid and destroyed.

Postal votes may only be used for

- a. voting for nominations for board members and
- b. motions that have been circulated twenty-one (21) days before the date and time of the meeting. Any motions accepted from the floor at the meeting will not be subject to postal voting.

**22.** The Postal Vote is to be in the form set out in Attachment 2 to these rules.

**23.** All Members shall be sent information concerning publications issued by or on behalf of the Company and other services in a format as determined by the Board.

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**General Meetings of Members**

**24.** The Chair may convene a general meeting of the Company. The Directors must convene and arrange to hold a general meeting when:

- (a) requisitioned by Members in accordance with the Corporations Act 2001; or
- (b) requisitioned by either five (5) Directors.

**25.** At least 21 days notice of any general meeting of the Company must be given to the Members, exclusive of the day on which the notice is served or deemed to be served and the day on which the meeting is to take place.

**26.** A notice of general meeting sent by post is taken to be given four business days after it is posted. A notice of general meeting sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

**27.** The notice of a meeting shall be given to each Member either personally or by facsimile or by pre-paid post to the last address shown on the Company's Register.

**28.** A notice of a general meeting shall:

- a) set out the place, date and time of meeting, and state the general nature of the business to be dealt with at the meeting and, if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner; and
- b) state that:
  - (i) a Member who is entitled to attend and cast a vote at the meeting has a right to appoint a proxy who is also a member or
  - (ii) a Member who is entitled to vote may do so by postal vote where the postal vote must be post marked 14 days prior to the day of the general meeting.

**29.** If a special resolution is to be proposed, the notice of meeting must set out an intention to propose the special resolution and state the resolution.

**30.** The non-receipt of a notice of a general meeting or accidental omission to give a Member a notice of a general meeting, does not invalidate the holding of a general meeting or any resolution passed at the meeting.

**31.** The Chair or the Directors may cancel or postpone the holding of a meeting to a date determined by them, provided that the provisions of the Corporations Act 2001 are satisfied.

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**Annual general meeting of Members**

**32.** There shall be one general meeting each year, which shall be known as the annual general meeting of the Company. The annual general meetings are to be held in accordance with the Corporations Law.

**33.** The Members at the annual general meeting shall, among other things, receive and consider the annual financial report, the Directors' report and the auditor's report of the Company in accordance with the provisions of the Corporations Law.

**Proceedings at general meetings of Members**

**34.** A financial Member may be present and vote in person or may be represented at any meeting of the Company by a proxy who is also a member; A member may only be elected or appointed to any office at the discretion of the Board.

**3.** The quorum for a general meeting of the Company shall be ten (10) Members present in person or by proxy. The quorum shall be present at all times during the meeting, but if a quorum is present at the beginning of a meeting it is deemed to be present throughout the meeting, unless the Chair on the Chair's own motion or at the motion of a Member or proxy who is present otherwise declares.

**32.** If within 30 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- a) if convened by or on requisition of Members, is dissolved; and
- b) in any other case stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

**33.** At any such adjourned meeting, if a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

**34.** The Chair of the Board shall chair all general meetings of the Company. If the Chair of the Board is not available then the Deputy Chair shall chair the meeting. If neither is available then the general meeting will appoint another Director who is willing to chair the meeting.

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**35.** A challenge to a right to vote at a general meeting may be made only at the meeting and shall be determined by the chair, whose decision is final.

**36.** The chair of a general meeting:

- a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting; and
- b) may require the adoption of any procedure, which is in the chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting, or recording of votes at the general meeting.

**37.** A decision by the chair under this Article is final.

**38.** The chair of a general meeting may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to a new day, time or place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

**39.** When a meeting is adjourned for 21 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

**40.** It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

**41.** A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

**42.** A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

**43.** A resolution put to the vote at a general meeting will be decided on a show of hands unless a poll is demanded. Before a vote is taken the chair shall inform the meeting whether any proxy votes have been received and how the proxy votes could be cast. On a show of hands, a declaration by the chair is conclusive evidence of the result provided that the declaration reflects the show of hands. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

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**44.** If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the chair and the result of the poll is the resolution of the meeting at which the poll was demanded.

**45.** A poll demanded on the election of a chair of a meeting or on a question of adjournment must be taken immediately.

**46.** A demand for a poll may be withdrawn.

**47.** Except for Chair of the Board, if there is an equality of votes, either on a show of hands or on a poll, the chair of the meeting is not entitled to a casting vote in addition to any votes to which the chair is entitled as a Member or as a proxy, attorney or corporate representative of a Member.

**48.** Any question to be determined by a general meeting may at any time be determined by a postal ballot of the Members instead of a formal meeting. The ballot shall clearly state the nature of the matter on which the decision is to be taken and the date the ballot closes which shall be not less than 28 days from the date of dispatch of the ballot papers. Any other terms or conditions applying to the ballot are to be clearly shown on the ballot or in material forwarded with the ballot. At least **ten (10)** ballot papers duly completed need to be returned in accordance with the terms of the ballot for the result to be valid and binding upon the Company.

**Auditor entitled to notice of meeting of Members**

**49.** The Company shall give its auditor:

- a) notice of a general meeting in the same way that a Member is entitled to receive notice; and
- b) any other communications relating to the general meeting that a Member is entitled to receive.

**Board of the Company**

**50.** The Board shall consist of not less than three (3) and not more than seven (7) Directors, including the Chair, as determined by the Board from time to time.

**51.** The Directors on Board of the Company will be elected by the members of the company. Nominations will be in writing, signed by two financial members and the nominee. The nomination, together with a brief curriculum vitae or statement from the nominee shall be

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forwarded to the Secretary for inclusion in the News Leaf published prior to the Annual General Meeting.

**52.** The term of office of each board member is 2 years.

**53.** The Directors of the Board of the Company will elect the Chair, Deputy Chair and Treasurer from the Directors of the Board of the Company at its first meeting after the AGM. The term of office shall be 1 year.

**54.** It shall be the duty of the Chairman to preside at meetings of the company and board and to perform such other duties as ordinarily pertains to this office: in the absence of the chair the deputy chair shall take the chair.

**55.** A vacancy in the board or any office shall be filled by action of the remaining members of the board. Any person appointed as a Director to fill a casual vacancy shall hold office only until the next Annual General Meeting.

**55.** The members of the Board must be company members.

**56.** A Director may not appoint an alternate to exercise some or all of the Director's powers.

**57.** The business of the Company is to be managed by the Directors who may exercise all such powers of the Company as are not, by the Corporations Act 2001 or by this Constitution, required to be exercised by the Company in general meeting including but not limited to:

- a) giving directions to management on carrying out the operations of the businesses;
- b) providing directives to allow the Company to fulfil its objects as set out in the Constitution;
- c) establishing subsidiary companies and trusts;
- d) receiving and considering recommendations from individual members on the activities, procedures and day-to-day management and operation of the Company, including the use of committees; and
- e) ensuring the continuing financial well-being of the Company in accordance with their duties as Directors.

**58.** Any two Directors, on the prior approval of the Board at a minuted meeting, may sign, draw, accept, endorse or otherwise execute a negotiable instrument. The Board may

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determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

**59.** The Directors may delegate any of their powers, other than powers required by law to be dealt with by the Board, to a committee of Directors or to an Advisory Committee.

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

**61.** A Director may resign as a Director of the Company by giving a written notice of resignation to the Company at its registered office.

**62.** The Company may pay the Directors' travelling and other expenses that they incur in attending meetings and in conjunction with the Company's business.

**63.** The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions for such period and subject to such conditions as they see fit.

**64.** Each Director shall act in the best interests of the Company as a whole and with due regard to the furtherance of the Company's objectives.

**65.** The Board may set up such committees as it deems fit to assist in the management of the Company's business.

**66.** The Board may set up such subsidiary companies as it deems fit to assist in furthering the objectives of the Company. The Chair (or representative) shall always be appointed as Directors of any subsidiary Company.

**67.** A Director must disclose to the Company any material personal interest in a matter before the Board. The right to vote and attend any meeting on the matter shall be as decided by the Board, but shall also be consistent with the provisions of the Corporations Act 2001.

**Directors' Meetings**

**68.** The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they see fit.

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**69.** The Chair shall chair all Board meetings of the Company. If the Chair is not available then the Deputy Chair shall chair the meeting. If neither is available the Board will appoint another Director who is willing to chair the meeting.

**70.** A resolution of the Directors must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. The Chair has the casting vote, if necessary, in addition to any vote he may have in his capacity as a Director.

**71.** The quorum for a Directors' meeting shall be three (3) Directors and the quorum must be present at all times.

**72.** A notice of meeting of the Board shall be sent to all Directors. The notice shall set out the place, date and time of meeting, and state the general nature of the business to be dealt with at the meeting and, if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner. The notice may be given in person or by post, facsimile, electronic or other forms of audio and visual communication.

**73.** A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent of a Director may be a standing one and may only be withdrawn within a reasonable period before the meeting.

**74.** The non-receipt of a notice of a Board meeting or accidental omission to give a Director a notice of a Board meeting does not invalidate the holding of a Board meeting or any resolution passed thereat.

**75.** The Directors must cause minutes of meetings to be made and kept in accordance with the Corporations Law.

**76.** The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy and the resolution is passed when the last Director signs. Electronic methods of transmitting copies of the document may also be used.

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**77.** The Chair and the Secretary must upon the written requisition of three (3) or more Directors, convene a meeting of the Directors.

**78.** An act done by a person acting as a Director or by a meeting of Directors or a committee of Directors is not invalidated by reason only of a defect in the appointment of the person as a Director or the person not being entitled to vote, if that circumstance was not known by the person or the Directors or committee (as the case may be) when the act was done.

**Company Secretary**

**79.** The Secretary of the Company is to be appointed by the Directors. A Secretary holds office on the terms and conditions (including as to remuneration) that the Directors determine and has the following duties:

- (a) the Secretary or another officer nominated by the Board shall cause proper minutes to be kept of all general meetings, and Board meetings and meetings of any committee.
- (b) the Secretary shall ensure that a register of members is maintained;
- (c) the Directors may vest in the Secretary such other duties, powers and authorities as they may from time to time determine and the Secretary must exercise all such powers and authorities subject at all times to the control of the Directors; and
- (d) the Secretary shall ensure that the elections for the positions of Chair and Directors are held in accordance with the Constitution and take place in sufficient time to allow the elected persons to take office on completion of the relevant annual general meeting.

**80.** The Secretary cannot be a director.

**Company Treasurer**

**81.** The Company Treasurer is responsible for keeping the accounts of the business of the Company in accordance with the requirements of the Corporations Law.

**Accounts**

**82.** Persons authorised by the Treasurer shall:

- a) deposit all funds of the Association in some financial institution to be named by Board.
- b) ensure all cheques, drafts, bills of exchange, promissory notes and other negotiable instruments are drawn and signed by any 2 of a group of signatories appointed by the board. No beneficiary of a cheque shall sign that cheque.

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**83.** The Company shall appoint an auditor who must not be a member of, or related to a member of the company to audit the accounts of the Company in accordance with the provisions of the Corporations Law.

**Inspection of Books**

**84.** By resolution of any of the Board, the Members in general meeting, or under any provision of the Corporations Law, a Member may be authorised to inspect the books of the Company.

**Common Seal**

**85.** The common seal of the Association shall be kept in the custody of the Secretary.

**86.** The common seal shall not be affixed to any instrument except by authority of the board or of a general meeting of the company; and the affixing of the common seal shall be attested by the signature of one appointed member of the board and the Secretary.

**87.** The Board or the Secretary at the direction of the Board must provide for the safe custody of the Common Seal.

**88.** The Common Seal may be used only by the authority of the Directors, or of a committee of Directors authorised by the Directors to authorise the use of the Common Seal. Every document to which the Common Seal of the Company shall be affixed must be signed by a Director and countersigned by another Director or the Secretary or another person appointed by the Board for that purpose. All documents signed under Common Seal shall be recorded in a register and noted by the Board at a subsequent Board meeting.

**Validity of Appointments**

**89.** All acts done by any meeting of an Advisory Board, the Board or any committee of or established by the Board or by any person acting as a Member of or an officer of the Board or of any committee shall (notwithstanding it be afterwards discovered that there was some defect in the appointment of any such person or body acting as aforesaid or that the person or body had been disqualified or had vacated office) be as valid as if every person or body had been duly appointed and was qualified to do such acts.

**Indemnity**

**90. General**

Subject to Article 145, each person who is or has been an officer of the Company or, a committee member including, but not limited to, members of properly constituted

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subcommittees that are formed to advise, act on behalf of or engage other services in the further pursuit of the interests of the Company, are entitled to be indemnified, to the relevant extent, out of the property of the Company against any liabilities for costs and expenses incurred by that person:

- (a) in the case of an officer, relating to that person's position with the Company or its subsidiaries; and
- (b) in the case of a committee member, relating to that person's involvement in the affairs of the Company or its subsidiaries, save in relation to:
  - (i) a liability owed to the Company or a related body corporate of the Company;
  - (ii) a liability for a pecuniary penalty order under section 1317G of the Corporations Law or a compensation order under section 1317H of the Corporations Law;
  - (ii) a liability that is owed to someone other than the Company or a related body corporate of the Company and which did not arise out of conduct in good faith.

**Legal Costs**

**91.** Each person who is or has been an officer of the Company or a sub committee member including, but not limited to, members of the committees that are formed to perform other services in the further pursuit of the interests of the Company are entitled to be indemnified, to the relevant extent, out of the property of the Company against any liabilities for legal costs and expenses incurred by that person (including in connection with proceedings other than criminal or civil proceedings such as but not limited to a Royal Commission of Inquiry or Inquiries constituted by any Act of Parliament or Government or Statutory Authority) unless the legal costs and expenses are incurred:

- a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under Article 90;
- b) in defending or resisting criminal proceedings in which the person is found guilty;
- c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established (provided that the person shall be entitled to be indemnified in respect of costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order); or
- d) in connection with proceedings for relief to the person under the Corporations Act 2001 in which the court denies the relief.

**92.** In Articles 91 and 92:

- (a) "officer" has the meaning given to that term in the Corporations Act 2001;

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(b) "to the relevant extent" means:

- (i) to the extent that the Company is not precluded by law from doing so;
- (ii) where the liability is incurred in the conduct of the business of another corporation or in the discharge of the duties of the person in relation to another corporation, to the extent and for the amount that the person is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation;
- (iii) to the extent and for the amount that the person is not otherwise actually indemnified, including an indemnity under any insurance policy or contract;
- (iv) where the indemnity consists of a payment or an agreement to make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by the person in defending an action for a liability incurred as an officer of the Company, the indemnity may only be provided on the condition that the person agrees to repay the amount if the costs become costs for which the Company is prohibited under Articles 90 and/or 91 from giving the person such an indemnity, unless the Board resolves otherwise;

(c) the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

**93.** The benefit of any indemnity given under Articles 90 and 91 continues, despite any amendment to or deletion of Articles 90 and 91, in respect of liability arising from acts or omissions occurring before the amendment or deletion.

**Insurance**

**94.** The Company may pay a premium for a contract insuring a person who is or has been a member of the Company Board, an officer of the Company or a committee member of the Company and its related bodies corporate against:

(a) any liability incurred by that person:

- (i) in the case of an officer, as such an officer, which does not arise out of conduct involving a wilful breach of duty in relation to that person's position with the Company or its subsidiaries or a contravention of Section 182 or 183 of the Corporations Law; and
- (ii) in the case of a committee member, relating to that person's involvement in the affairs of the Company or its subsidiaries which does not arise out of fraudulent conduct relating to that person's involvement in the affairs of the Company or its subsidiaries; and

(b) any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with or involvement in the affairs of the Company, whether civil or criminal, and whatever their outcome.

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**Amending the Constitution**

**95.** This constitution may only be amended by a special resolution at a general meeting of the Company, or by ballot and requires a majority of the Members present in person and by proxy, or a majority of the returned ballots.

**96.** Where there is disagreement over the interpretation of this Constitution the decision of the Board of the Company will be the correct meaning or procedure and will be final.

**Conflicts and Disputes**

**97.** Where there are conflicts and disputes the decision of the Board of the Company will be the correct meaning or procedure and will be final.