



ABN 55 009 686 435

# Constitution

of Capilano Honey Limited – a public company limited by shares

Includes all amendments up to and including the Annual General Meeting of 21 November 2014

## INDEX

|   |           |
|---|-----------|
| General .....   | Rule 1    |
| Objects.....  | Rule 5    |
| Interpretation .....  | Rule 6    |
| Share Capital and Variation of Rights .....                   | Rule 8    |
| Foundation Share.....   | Rule 9    |
| Restriction of Shareholdings .....                            | Rule 10   |
| Approval of Proportional Takeover Bids .....                  | Rule 29   |
| Lien .....  | Rule 42   |
| Calls on Shares .....   | Rule 46   |
| Transfers of Shares.....                                      | Rule 53   |
| Transmission of Shares .....                                  | Rule 59   |
| Forfeiture of Shares .....                                    | Rule 63   |
| Addresses .....   | Rule 71   |
| Suspension and Restoration of Rights Attaching to Shares..... | Rule 72   |
| Alteration of Capital.....                                    | Rule 73   |
| General Meetings .....  | Rule 75   |
| Proceedings at General Meetings .....                         | Rule 82   |
| Directors .....   | Rule 101A |
| Managing Director .....                                       | Rule 118  |
| Powers and Duties of Directors .....                          | Rule 121  |
| Proceedings of Directors .....                                | Rule 128  |
| Secretary.....  | Rule 148  |
| Seal.....   | Rule 149  |
| Financial Reports.....  | Rule 154  |
| Dividends and Reserves .....                                  | Rule 155  |
| Capitalisation of Profits.....                                | Rule 163  |
| Notices.....  | Rule 166  |
| Winding Up .....  | Rule 171  |
| Indemnity .....   | Rule 172  |
| Individual Responsibility of Directors and Officers.....      | Rule 176  |
| Amendments to this Constitution .....                         | Rule 177  |
| Restricted Interests .....                                    | Rule 181  |

**CONSTITUTION  
of  
CAPILANO HONEY LIMITED  
A PUBLIC COMPANY LIMITED BY SHARES**

**GENERAL**

1. The name of the Company is Capilano Honey Limited.
2. The Company is registered as a public company, and the right to transfer shares is restricted in the manner hereinafter provided.
3. The liability of the members is limited.
4. The registered office of the Company will be situated in Brisbane in the State of Queensland.

**OBJECTS**

5. The objects for which the Company is established are:
  - a. The acquisition of honey and wax from its Contracted Suppliers for disposal and distribution.
  - b. The storage, marketing, packing and processing of honey and wax purchased from its Contracted Suppliers.
  - c. The purchase and sale to Contracted Suppliers of beekeeping equipment and supplies or any other trade lines which may be conducive to the best interests of Contracted Suppliers.
  - d. To carry on business as apiarists and beekeepers, and producers and graders and sorters of and wholesale and retail merchants and dealers in honey of all kinds.
  - e. To process, manufacture, buy and sell, and to carry on all or any of the business of manufacturers of and dealers in all goods and foods and in particular all products and by-products directly or indirectly concerned with the beekeeping industry and of and in all or any substances directly or indirectly used in or derived from all or any of the foregoing; and to construct, buy, acquire, hold, work, let, take on lease, and sell land, factories, shops, buildings, machinery, fixtures, fittings, and appliances suitable for the several businesses and activities as in this Constitution are set forth.
  - f. To carry on the business of packing, storage, warehousing, removal, carrying, delivery, purchase, sale, exchange, mortgaging and pledging of all foods (including honey) and substances and chattels of every description.
  - g. To carry on the business of exporters, and importers, of all things and in particular all foods (including honey) and for those purposes and for any other purpose to apply for and obtain any licence permit or order from any government, minister, department or authority; and to carry on business and to act as merchants, bankers, traders, commission agents, shipowners, carriers or in any other capacity in the Commonwealth of Australia or elsewhere and to buy, sell, barter, exchange, pledge, make advances upon, or otherwise deal in bees, honey, other foods, and substances and chattels of every description.
  - h. To conduct and carry on the business of pastoralist and farmers and graziers (of all description).
  - i. To buy, sell, manufacture, repair, alter, exchange, let on hire, export, and deal in all kinds of articles and things which may be required for the purposes of any of the said businesses or commonly supplied or dealt in by persons engaged in any such businesses or which may seem capable of being profitably dealt with in connection with any of the said businesses and to carry on any other business, manufacturing or otherwise which may seem to the Directors capable of being conveniently carried on in connection with any of the above specified businesses or calculated directly or indirectly to enhance the value of or render profitable any of the Company's property or rights.
  - j. To receive money, valuables and goods and materials of all kinds on deposit or for safe custody.
  - k. To purchase, acquire, conduct, manage, take over and undertake the whole or any part of the undertaking, property, assets, business, rights, liabilities, contracts and engagements of any person firm or company, and to purchase, take on lease or acquire by exchange, option hire or otherwise real or personal property of any description in particular lands, buildings, offices, yards, businesses, shares, stock and goods of any description.
  - l. To buy, sell or exchange as agents all kinds of property real or personal.
  - m. To give any guarantee in relation to sales, purchases, moneys, mortgages, loans, investments, and securities whether made, effected or acquired by or through the Company's agency or otherwise.

- n. To promote, form or establish, or assist in promoting forming or establishing any other body whether incorporated or unincorporated and whether trading or carrying on business in the State of Queensland or elsewhere for the purpose of acquiring all or any part of the property and liabilities of this Company, or calculated directly or indirectly to benefit the Company, and to guarantee the payment of any debenture or other securities issued by any such body.
- o. To take and otherwise acquire and hold shares in any other Company having objects altogether or in part similar to those of this Company or carrying on any business capable of being conducted so as directly or indirectly to benefit this Company.
- p. To enter into any arrangements for sharing profits, union of interests or co-operation, joint adventure, reciprocal concession or otherwise with any person, firm or Company carrying on or about to carry on or engage in any business or transaction capable of being conducted so as directly or indirectly to benefit this Company and to purchase or otherwise acquire the business, property, lands and goodwill of or interest in and undertake the liabilities of any other business of a nature or character similar to any business which this Company is authorised to carry on and to continue and carry on the same.
- q. To apply for, purchase or otherwise acquire any patents rights, licences, concessions privileges and the like, conferring any exclusive or non-exclusive or limited right to use, or any secret or other information as to any invention which may seem capable to being used for any of the purposes of the Company, or the acquisition of which may seem calculated directly or indirectly to benefit the Company and to use, exercise, develop or grant licences in respect of, or otherwise turn to account the property, rights or information so acquired.
- r. To amalgamate with any other Company having objects altogether or in part similar to that of this Company.
- s. To lend money with or without security upon such terms as may seem expedient and to make, draw, accept, negotiate, endorse, discount and deal in bills of exchange, promissory notes, drafts and negotiable instruments.
- t. To borrow or raise money and to secure the payment of any money borrowed by the Company or any debt, liability or obligation of the Company, by mortgage, or charge over all or any assets of the Company or by the issue of bonds, debentures, debenture stock or securities of the Company, charged upon all or any of the assets of the Company present and future, including its uncalled capital, or in such manner as the Company shall think fit.
- u. To invest the moneys of the Company upon such investments or securities, and in such manner as may from time to time be determined.
- v. To sell, place under option or dispose of the whole or any part of the undertaking, business, property or assets of the Company for such consideration as the Company may think expedient and in particular for cash or shares in and debentures of any other Company or part cash and part shares or debentures and either with a view to division of the proceeds of any such sale in the form of cash shares or debentures or otherwise.
- w. To establish and support or to aid in the establishment and support of associations, institutions or organisations calculated to benefit the persons employed by the Company and to subscribe and guarantee money for charitable or benevolent or religious objects or for any public, general or useful object.
- x. To distribute any of the assets of the Company amongst the members in specie.
- y. To remunerate any person or persons in cash or by shares of the Company or otherwise for services rendered or to be rendered in relation to the establishment of the Company or in or about the conduct of the Company's business.
- z. To give any servants or employees of the Company or other person any share or interest in profits of the Company's business, and for that purpose to enter into any arrangements the Company may think fit.
- aa. To insure any servants of the Company against risk or accident in the course of their employment by the Company and to effect insurance for the purpose of indemnifying the Company in respect of claims by reason of any such risk or accident and to pay premiums on any such insurance.
- bb. To procure the Company to be registered or recognised in any other State.
- cc. To obtain any provisional order or Act of Parliament for enabling the Company to carry any of its objects into effect or for effecting any modification of the Company's constitution and to assist in procuring improvements in the law, and to oppose any parliamentary or other proceedings which the Company may think adverse of its interests.

- dd. To carry on business and do all or any of the objects specified or implied in this Constitution in any place, either as principals agents, or contractors or by means of the agency of others, and either singly or in connection with any other corporate Company or person.
- ee. To sell, improve, manage, develop, lease, exchange, mortgage, dispose of, turn to account or otherwise deal with all or any of the land or property of the company, and to effect insurances against loss or damage thereto or to the business of the Company and to pay premiums thereon.
- ff. To do all such other acts and things as the Company may consider incidental or conducive to the attainment of the above objects or any of them.

AND IT IS HEREBY DECLARED THAT:

- (i) In the interpretation of this clause, the meaning of any of the Company's objects shall not be restricted by reference to any other object or by the juxtaposition of 2 or more objects and in the event of any ambiguity this clause shall be construed in such a way as to widen and not to restrict the powers of the Company.
- (ii) The objects specified in each paragraph of this clause shall be regarded as independent objects and except where otherwise expressed in such paragraph shall be in no way limited by reference to or inference from the terms of any other paragraph.

## INTERPRETATION

- 6. The Replaceable Rules do not apply to the Company.
- 7. In these rules, unless it is inconsistent with the subject or context in which it is used:
  - 'Act' or 'Law'** means the *Corporations Act 2001 (Clth)* and the *Corporations Regulations 2001* (as defined in the *Corporations Act 1989*);;
  - 'Beekeeper Director'** means a person who is appointed by the Foundation Shareholder;
  - 'Company'** means Capilano Honey Limited;
  - 'Contracted Supplier'** means a person who is a party to a current Honey Supply Agreement.
  - 'Director'** means a Director of the Company including Independent Directors, the Managing Director and any Beekeeper Directors;
  - 'Foundation Share'** means the share of \$1 issued to the Foundation Shareholder;
  - 'Foundation Shareholder'** means:
    - (a) Capilano Beekeepers Ltd ACN 108 568 672; or
    - (b) any Successor Body,
 for so long as it holds the Foundation Share
  - 'Honey Supply Agreement'** means an agreement entered into by the Company and a Supplier Shareholder from time to time in respect of the supply and purchase of honey;
  - 'Independent Director'** means a Director other than the Beekeeper Directors and the Managing Director;
  - 'Listing Rules'** means the listing rules of any approved stock exchange for the purposes of the Act; and
  - 'Managing Director'** means the chief executive officer appointed by the Directors;
  - 'member'** means a shareholder in accordance with the law;
  - 'Offeror'** means an offeror under a Proportional Takeover Bid;
  - 'Office'** means the registered office from time to time of the Company;
  - 'Person'** and words importing 'persons' including partnerships, associations and corporations unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals.
  - 'Proportional Takeover Bid'** means a takeover scheme in accordance with section 635 (b) of the Act;
  - 'Proportional Takeover Resolution'** means a resolution passed in accordance with rule 29;
  - 'Relevant Day'** in relation to a Proportional Takeover Bid means the day that is 14 days before the last day on which offers under the relevant Proportional Takeover Bid remain open;
  - 'Replaceable Rules'** means all or any of the replaceable rules contained in the Act from time to time and includes any replaceable rules that were or may become, a provision of the Act;
  - 'Seal'** means the common seal of the Company, if any;
  - 'secretary'** means any person appointed to perform the duties of a secretary of the Company;
  - 'State'** means the State of Queensland;

**‘Successor Body’** means a body approved by the Directors, established to succeed Capilano Beekeepers Ltd or any successor to Capilano Beekeepers Ltd with similar objects to Capilano Beekeepers Ltd for the purposes of holding the Foundation Share.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

Words or expressions contained in these rules and in any rules adopting the same shall be interpreted in accordance with the provisions of the *Acts Interpretation Act 1954*; and of the Act as in force at the date at which these rules and any rules adopting the same become or may become binding on the Company.

Words importing the singular include the plural and vice versa and words importing a gender include other genders.

Any reference in these rules to any statute or regulation is deemed to include all amendments and revisions made from time to time to that statute or regulation.

## **SHARE CAPITAL AND VARIATION OF RIGHTS**

8. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, but subject to the Act, shares in the Company may be issued by the Directors and any such share may be issued with such preferred, deferred, or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise, as the Directors, subject to any ordinary resolution of the Company, determine.
9. If at any time the share capital is divided or taken to be divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied by the Company with the consent in writing of the holders of 75% of the votes in that class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall mutatis mutandis apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class and that, subject to the Act, any holder of shares of the class present in person or by proxy may demand a poll.

## **FOUNDATION SHARE**

- 9A. The Foundation Share may only be held by the Foundation Shareholder.
- 9B. The Foundation Share shall have no voting rights but the Foundation Shareholder shall be entitled to receive notice of and, either by proxy or by representative, to attend, speak but not vote at any general meeting of the Company.
- 9C. The Directors shall decline the transfer of the Foundation Share except to a Successor Body.
- 9D. Deleted at 2009 AGM.
- 9E. The Foundation Share shall confer no right to participate in the capital or profits of the Company other than the right in a winding up to a distribution of capital *pari passu* with other members entitled to share in a distribution of capital in a winding up.
- 9F. Notwithstanding any other provisions of this Constitution, the rights and limitations attached to the Foundation Share under rules 9A to 9F inclusive must not be altered without the consent in writing of the Foundation Shareholder.

## **RESTRICTION ON SHAREHOLDINGS**

- 10-12 Deleted at 2009 AGM
13. The Directors may refuse to register more than 3 persons as the joint holders of any shares except in the case of executors or trustees of a deceased holder.
- 14-28 Deleted at 2009 AGM

## **APPROVAL OF PROPORTIONAL TAKEOVER BIDS**

29. Registration of a transfer giving effect to a contract resulting from the acceptance of an offer made under a Proportional Takeover Bid is prohibited unless and until a Proportional Takeover Resolution is passed.
30. A person (other than the Offeror or a person associated with the Offeror) who, as at the end of the day on which the first offer under the Proportional Takeover Bid was made, held shares of the class which are the subject of the Proportional Takeover Bid:
  - (a) may vote on a Proportional Takeover Resolution; and
  - (b) has one vote for each of the shares.



31. Where offers have been made under a Proportional Takeover Bid, the Directors must ensure that a Proportional Takeover Resolution is voted on at a meeting of the persons described in rule 30 before the Relevant Day.
32. Subject to the provisions of these rules 53-57, a Proportional Takeover Resolution is passed if more than one-half of the votes cast on the resolution are cast in favour of the resolution, and otherwise is taken to have been rejected.
33. The provisions of these rules that apply in relation to a general meeting of the Company apply, with any modifications that circumstances require, in relation to a meeting that is convened under this rule as if the meeting was a general meeting of the Company.
34. Where a Proportional Takeover Resolution is voted on in accordance with this rule before the Relevant Day the Company must, on or before the Relevant Day:
  - (a) give to the Offeror; and
  - (b) if relevant, serve on the approved stock exchange on which the Company is listed a notice in writing stating that the Proportional Takeover Resolution has been voted on and that it has been passed, or has been rejected, as the case requires.
35. If at the end of the day before the Relevant Day no Proportional Takeover Resolution has been voted on in accordance with this rule, a resolution to approve the Proportional Takeover Bid will, for the purposes of this rule, be taken to have been passed.
36. Rules 29-35 cease to have effect on the third anniversary of the later of the date of adoption or last renewal of these rules.
37. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking equally therewith.
38. The Company may exercise the powers of paying commissions conferred by the Act, provided that the rate per centum or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by the Act and the commission shall not exceed the rate of 10% of the price at which the shares in respect whereof the same is paid are issued or any amount equal to 10% of that price (as the case may be). Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The Company may also on any issue of shares pay such brokerage as may be lawful.
39. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future, or partial interest in any share or unit of a share or (except only as by these rules or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.
40. Every person whose name is entered as a member in the register of members shall be entitled without payment to receive a certificate under the Seal, if any, of the Company in accordance with the Act but in respect of a share or shares held jointly by several persons the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.
41. It is a condition of issue of any shares that the Company will have ready for delivery a certificate relating to those shares. The share certificate shall be delivered to the person who is registered as the current holder of the shares within one calendar month of issue of the shares unless that person instructs the Company otherwise.

## **LIEN**

42. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all money (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares registered in the name of a single person for all money presently payable by him or his estate to the Company, but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The Company's lien, if any, on a share shall extend to all dividends payable thereon.
43. The Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of 14 days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or bankruptcy.
44. To give effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

45. The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue, if any, shall (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

## **CALLS ON SHARES**

46. The Directors may from time to time make calls upon the members in respect of any money unpaid on their shares and each member shall (subject to receiving at least 14 days' notice specifying the time or times and place of payment) pay to the Company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the Directors may determine.
47. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed and may be required to be paid by instalments.
48. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
49. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding 8 per centum per annum as the Directors may determine, but the Directors shall be at liberty to waive payment of that interest wholly or in part.
50. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, shall for the purposes of these regulations be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable and in case of non-payment all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.
51. The Directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.
52. The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the money uncalled and unpaid upon any shares held by him, and upon all or any part of the money so advanced may (until the same would, but for the advance, become payable) pay interest at such rate not exceeding (unless the Company in general meeting shall otherwise direct) 8 per centum per annum as maybe agreed upon between the Directors and the member paying the sum in advance.

## **TRANSFER OF SHARES**

53. For the purposes of rules 53-57 unless there be something in the subject or context inconsistent therewith:
- 'Purchaser's Commitment'** means the delivery to the Directors of a signed transfer and purchase monies in respect of the Vendor's Shares;
- 'Vendor'** means any member of the Company who intends to transfer shares held by him;
- 'Vendor's Statement'** means the statement given by the Vendor to the Directors offering the Vendor's Shares for sale at the Vendor's Price;
- 'Vendor's Shares'** means the shares offered for sale pursuant to the Vendor's Statement; and
- 'Vendor's Price'** means the price at which the Vendor offers the Vendor's Shares for sale pursuant to the Vendor's Statement.
54. Rules 55 – 58 do not apply whilst the Company is listed on any approved stock exchange for the purposes of the Act.
55. The Directors may decline to recognise any instrument of transfer unless it is accompanied by the certificate of shares to which it relates and such other evidence as the Directors may in their absolute discretion require to show the right of the transferor to make the transfer.
56. If the Directors refuse to register a transfer of any shares they shall within 2 months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
57. A transfer of shares shall be effected as follows:
- (a) Any Vendor being desirous of selling the Vendor's Shares shall give notice of his intention by a Vendor's Statement to the Directors.
  - (b) Such Vendor may sell the Vendor's Shares to any person or persons at a price nominated by the Vendor.
  - (c) Such Vendor may at his election constitute the Directors his agent for the sale of the Vendor's Shares in one or more lots at the discretion of the Directors, to any person or persons at the Vendor's Price.
  - (d) In the event of such election being made, the Vendor shall be bound, on payment of the purchase price for the Vendor's Shares so accepted, to transfer the said shares to the purchaser or purchasers nominated by the Directors.



- (e) The Vendor may at any time prior to the Directors receiving a Purchaser's Commitment vary the Vendor's Statement or withdraw the agency from the Directors.
  - (f) If the Vendor shall make default in so completing the sale as aforesaid, the chairman of Directors or failing him one of the Directors duly nominated by resolution of the Directors for that purpose, shall forthwith be deemed to be the duly appointed attorney of the Vendor with full power to execute, complete and deliver in the name and on behalf of the Vendor a transfer of the said shares to the purchaser and the Directors may receive and give a good discharge for this purchase money on behalf of the Vendor and enter the name of the purchaser in the register of members as holder by transfer of the said shares purchased by him.
58. The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine not exceeding in the whole 30 days in any year.

### **TRANSMISSION OF SHARES**

59. In case of the death of a member the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognised by the Company as having any title to his interest in the shares but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.
60. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member may upon such evidence being produced as may from time to time properly be required by the Directors and subject as hereinafter provided, elect either to be registered himself as holder of the share or to have some person nominated by him registered as the transferee thereof, but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that member before his death or bankruptcy.
61. If the person so becoming entitled elects to be registered himself he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he elects to have another person registered he shall testify his election by execution to that person a transfer of the share. All the limitations, restrictions, and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.
62. Where the registered holder of any share dies or becomes bankrupt his personal representative or the assignee of his estate, as the case may be, shall, upon the production of such evidence as may from time to time be properly required by the Directors in that behalf, be entitled to the same dividends and other advantages, and to the same rights (whether in relation to meeting of the Company, or to voting, or otherwise), as the registered holder would have been entitled to if he had not died or become bankrupt and where two or more persons are jointly entitled to any share in consequence of the death of the registered holder they shall, for the purposes of these rules, be deemed to be joint holders of the share.

### **FORFEITURE OF SHARES**

63. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
64. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
65. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
66. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.
67. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Company all money which, at the date of forfeiture, was payable by him to the Company in respect of the shares (together with interest at the rate of 8 per centum per annum from the date of forfeiture on the money for the time being unpaid if the Directors think fit to enforce payment of such interest), but his liability shall cease if and when the Company receives payment in full of all such money in respect of the shares.

68. A statutory declaration in writing that the declarant is a Director or the secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share.
69. The Company may receive the consideration, if any, given for a forfeited share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
70. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

## **ADDRESSES**

71. Notwithstanding anything contained in these rules, a deceased member or a member who has not supplied to the Company a current address in Australia for the giving to him of any notice from the Company shall not be entitled to receive any notice from the Company unless and until such address is provided to the Company.

## **SUSPENSION AND RESTORATION OF RIGHTS ATTACHING TO SHARES**

72. The following conditions relevant to suspension of rights attaching to shares and restoration of such rights shall prevail:
- (a) Rights attaching to all shares of any member or deceased member who is not entitled to receive notice from the Company pursuant to rule 71 shall, upon the unanimous resolution of the Directors be suspended and shall not be exercisable by that member or on behalf of that deceased member, provided however that if any such member or the legal personal representative of a deceased member, at any time after the said resolution of Directors, makes application to the Directors, or should the Company be wound up then rights attaching to such shares shall be restored to the applicant including being entitled to receive notices from the Company and all monies that became due to the member during the period of suspension shall be forthwith paid to the member and all rights and obligations during the period of suspension shall be restored to that member as if such suspension had not occurred. In the event of the Company being wound up all notices shall be sent to the last known address of the member or deceased member.
  - (b) A statutory declaration in writing that the declarant is a Director or the secretary of the Company and that the rights attaching to a share in the Company have been suspended (in accordance with this rule) on the date stated in the declaration shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share but subject nevertheless to the proviso contained in the preceding sub-clause.

## **ALTERATION OF CAPITAL**

73. Deleted at 2009 AGM.
74. Deleted at 2014 AGM.

## **GENERAL MEETINGS**

75. An annual general meeting of the Company shall be held in accordance with the provisions of the Act. All other meetings of the Company are called general meetings.
76. Any Director may whenever he thinks fit call a general meeting, and general meetings shall be called on such requisition or in default may be convened by such requisitionists as provided by the Act.
77. Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, 28 days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place the day and the time of meeting and in the case of special business the general nature of that business and any other matters required by the Act shall be given to such persons as are entitled to receive such notices from the Company.
78. For the purposes of rule 77, special business means any business to be transacted at a meeting other than an annual general meeting, and any business to be transacted at an annual general meeting other than the matters listed in paragraphs (a) to (d), inclusive, of rule 80.
79. 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.

80. The business of an annual general meeting shall be to:
- (a) receive and consider the financial reports of the Directors and auditors required by the Act to be laid before each annual general meeting;
  - (b) elect Independent Directors;
  - (c) when relevant, appoint and fix the remuneration of the auditor; and
  - (d) transact any other business which under these rules may be transacted at a general meeting.
81. 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.

## **PROCEEDINGS AT GENERAL MEETINGS**

82. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Ten members present in person shall be a quorum. For the purposes of this rule 'member' includes a person attending as a proxy or a representative of a member that is a corporation.
83. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Directors may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present (being not less than three) shall be a quorum.
84. The chairman of Directors shall preside as chairman at every general meeting of the Company, or if there is no such chairman, or if he is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the Directors present may elect one of their number to be chairman of the meeting. If the Directors do not or cannot elect one of their number then the members present may elect a member to be chairman.
85. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
86. A poll may be demanded:
- (a) either immediately before a vote is taken;
  - (b) before the voting results on a show of hands are declared; or
  - (c) immediately after the voting results on a show of hands are declared.
87. A poll may be demanded by:
- (a) the chairman;
  - (b) at least 5 shareholders present entitled to vote on the resolution; or
  - (c) by a member or members present with at least 5% of the votes that may be cast on the resolution on a poll.
88. Unless a poll is so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.
89. If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith.
90. Subject to the Act, in the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
91. Subject to these rules and in particular rule 72 and subject to any rights or restrictions for the time being attached to any class or classes of shares, at meetings of members or classes of members each member entitled to vote may vote in person or by proxy or by attorney or a representative of a member that is a corporation and, subject to the Act on a show of hands every person present who is a member or a representative of a member that is a corporation shall have one vote, and on a poll every member present in person or by proxy or by attorney or a representative of a member that is a corporation shall have one vote for each share held.

92. In the case of joint holders the vote of the senior who tenders a vote, whether in person, by proxy, attorney or representative of a member that is a corporation, shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names of the members stand in the register of members.
93. A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a poll, by his committee or by the Public Trustee or by such other person as properly has the management of his estate, and any such committee, Public Trustee or other person may vote by proxy or attorney.
94. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
95. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
96. The instrument appointing a proxy shall be in writing (in the form determined from time to time by the Directors) under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal, if any, or under the hand of an officer or attorney duly authorised. A proxy may but need not be a member of the Company. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
97. Appointment of proxies is to be as follows:
- (a) Any shareholder entitled to vote at a general meeting may appoint a proxy. Any shareholder who is entitled to cast 2 or more votes at the meeting may appoint not more than 2 proxies to vote at a general meeting on that shareholder's behalf and may direct the proxy or proxies to vote either for or against any resolution.
  - (b) A proxy need not be a shareholder in the Company.
  - (c) Where a shareholder appoints 2 proxies and each proxy is not appointed to represent a specified proportion or number of the shareholder's voting rights, then each proxy may exercise half of the shareholder's voting rights.
98. 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 Directors) 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 Directors 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.
99. Any shareholder may deposit at the Office an instrument duly stamped (if necessary) appointing a proxy and the appointment is valid for all or any stipulated meetings of the Company until revocation.
100. A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, or the transfer of the share in respect of which the instrument is given, if no intimation in writing of such death, unsoundness of mind, revocation, or transfer as aforesaid has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used.
101. In accordance with section 9 of the Act, a special resolution is one of which relevant notice has been given and that has been passed by at least 75% of the votes cast by members entitled to vote on the resolution. A member who is absent and who does not appoint a proxy and one who although present does not vote, or whose proxy does not vote (as the case may be) is not counted in determining the said 75% of votes cast.

## **DIRECTORS**

- 101A Subject to rule 101B, for as long as the Foundation Share is on issue, the Foundation Shareholder may appoint two Beekeeper Directors to the board of Directors of the Company from time to time by written notice to the Company. The Foundation Shareholder may then remove or substitute the Beekeeper Directors appointed under this rule by written notice to the Company.
- 101B The Foundation Shareholder's rights of appointment, removal and substitution of Beekeeper Directors cease if:
- a) The Company's main business operations or undertaking ceases to be involved in the sale or marketing of honey; or
  - b) The company ceases to source honey from suppliers associated with or represented by the Foundation Shareholder.

102. The number of Directors shall not be less than 3 nor more than 8 and shall comprise the Beekeeper Directors (in accordance with rule 101A), Independent Directors and may include a Managing Director.
103. Deleted at 2000 AGM
104. The Independent Directors shall be elected by the shareholders.
- 105-107 Deleted at 2009 AGM
108. At every annual general meeting, one third of the Independent Directors or, if their number is not a multiple of 3, then the number nearest, but not less than one third must retire from office provided that no Independent Director who has served less than 2 years in office since his last election shall be required to retire except as provided in rules 112 and 113.
109. The Independent Directors to retire in every year, in accordance with rule 108, shall be those who have been longest in office since their last election, but as between persons who became Directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot. Unless disqualified by the Act or under these rules from holding office as a Director, a retiring Director may offer himself for re-election.
110. Deleted at 2009 AGM
111. No person, other than an existing or retiring Independent Director of the Company, shall be eligible for election as a Director at any general meeting unless a nomination form signed by 3 other members of the Company and by the proposed candidate signifying his acceptance of the nomination has been received at the registered Office at least 30 business days before the date of the meeting.
112. The Directors shall have power at any time, and from time to time, to appoint a person to be an Independent Director, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors shall not at any time exceed the number fixed in accordance with these rules. Any Director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election but shall not be taken into account in determining the Directors who are to retire by rotation at that meeting.
113. The Company may by ordinary resolution remove any Director before the expiration of his period of office, and may in the case of an Independent Director by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director.
114. The total amount of Directors' fees payable shall from time to time be determined by the Company in general meeting and shall be divided amongst Directors at their discretion. Directors' fees shall be deemed to accrue from day to day. The Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company.
115. Deleted
116. The office of Director shall become vacant if the Director:
- (a) ceases to be a Director by virtue of the Act;
  - (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - (c) becomes prohibited from being a Director by reason of any order made under the Act;
  - (d) becomes of unsound mind, or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (e) resigns his office by notice in writing to the Company; or
  - (f) is absent from meetings of Directors during a continuous period of 6 calendar months without special leave of absence from the Directors and the Directors resolve that his office be vacated provided that attendance by his alternate if appointed shall be deemed attendance by him for the purposes of this rule.
117. Deleted

## **MANAGING DIRECTOR**

118. The Directors may from time to time appoint a person to the office of managing Director for such period and on such terms as they think fit, and subject to the terms of any agreement entered into in any particular case, may revoke any such appointment. A Director so appointed shall not, while holding that office, be subject to retirement by rotation or be taken into account in determining the rotation on retirement of Directors, but his appointment shall be automatically terminated if he ceases from any cause to be a Director.
119. A managing Director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration (whether by way of salary, commission, or participation in profits, or partly in one way and partly in another) as the Directors may determine.

120. The Directors may entrust to and confer upon a managing Director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of those powers.

## **POWERS AND DUTIES OF DIRECTORS**

121. The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the Company, and may exercise all such powers of the Company as are not, by the Act or by these rules, required to be exercised by the Company in general meeting.
122. The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking property and uncalled capital or any part thereof and to issue debentures and other securities whether outright or as security for any debt, liability, or obligation of the Company or of any third party.
123. The Directors may exercise all the powers of the Company in relation to any official seal, if any, for use outside the State and in relation to branch registers.
124. The Directors may from time to time by power of attorney appoint any corporation, firm, or person or body of persons, whether nominated directly or indirectly by the Directors to be the attorney or attorneys of the Company for such purposes and with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the Directors under these regulations) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities, and discretions vested in him.
125. All cheques, promissory notes, drafts, bills of exchange, and other negotiable instruments, and all receipts for money paid to the Company shall be signed, drawn accepted endorsed or otherwise executed, as the case may be, by any 2 Directors or in such other manner as the Directors from time to time determine.
126. The Directors shall cause minutes to be made:
- (a) of all appointments of officers;
  - (b) of names of Directors present at all meetings of the Company and of the Directors; and
  - (c) of all proceedings at all meetings of the Company and of the Directors.
127. Such minutes shall be signed by the chairman of the meeting at which the proceedings were held or by the chairman of the next succeeding meeting.

## **PROCEEDINGS OF DIRECTORS**

128. The Directors shall meet together for the despatch of business and otherwise regulate their meetings as they think fit provided that a meeting of the Directors in person shall be held at least 6 times per year at intervals of approximately 2 months. The Directors may at their discretion hold additional meetings.
129. The Directors may at any time, and the secretary, upon the request of any one Director, must convene a meeting of the Board.
130. The Directors 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. 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 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.
131. The Directors 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.
132. Subject to these rules questions arising at any meeting of Directors shall be decided by a majority of votes and a determination by a majority of Directors shall for all purposes be deemed a determination of the Directors. In case of an equality of votes the chairman of the meeting shall have a second or casting vote.
133. The quorum for consideration at a meeting of the Directors of a matter in which one or more Directors have a material personal interest is 2 Directors who are entitled to vote on any motion that may be moved at the meeting in relation to that matter.

134. Each Director must disclose to the Company any material contract in which the Director is interested, and must provide the Company with the names of the parties to the contract, particulars of the contract, and the Director's interest in the contract.
135. A Director's failure to make disclosure under this rule does not render void or voidable a contract in which the Director has an interest.
136. A Director may attest the affixing of the Seal, if any, to any document relating to a contract or arrangement or proposed contract or arrangement in which the Director has an interest.
137. A Director and any firm, body or entity in which a Director has a material direct or indirect interest may in any capacity:
- (a) enter into any contract or arrangement with the Company or any other person; and
  - (b) act in a professional capacity, other than as auditor, for the Company,
- and may receive and retain for his or her own benefit any remuneration, profits or benefits as if he were not a Director.
138. Notwithstanding the provisions of rules 133-137 nothing in these rules 133-138 permit a Director to participate at a meeting of Directors or do any other act which would be in breach of the Act.
139. Subject to rule 139A, any Director with the approval of the Directors may appoint any person (whether a member of the Company or not) to be an alternate or substitute Director in his place during such period as he thinks fit. Any person while he so holds office as an alternate or substitute Director shall be entitled to notice of meetings of the Directors and to attend and vote thereat accordingly, and to exercise all the powers of the appointor in his place. An alternate or substitute Director shall not require any share qualification, and shall ipso facto vacate office if the appointor vacates office as a Director or removes the appointee from office. Any appointment or removal under this rule shall be effected by notice in writing under the hand of the Director making the same.
- 139A. A Beekeeper Director may only appoint an alternate who is also a beekeeper. Any such appointments are conditional upon the alternate in either case continuing to maintain their initial status during the period of their appointment as an alternate Director.
140. Subject to rule 133, the quorum necessary for the transaction of the business of the Directors shall be 2 Directors, at least 1 of whom must be a Beekeeper Director (if any).
141. The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the rules of the Company as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company but for no other purpose.
142. The Directors may elect a chairman of their meetings and determine the period for which he is to hold office, but if no such chairman is elected, or if at any meeting the chairman is not present within 10 minutes after the time appointed for holding the meeting, the Directors present may choose one of their number to be chairman of the meeting.
143. The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
144. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within 10 minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairman of the meeting.
145. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.
146. All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.
147. A resolution in writing signed by a minimum of one less than the number of Directors in office at the time being entitled to receive notice of meeting of the Directors, is as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held.
- A resolution in writing may consist of several documents in like form produced by mechanical or electronic means, each signed by one or more Directors.
- The date of the resolution is the date the last Director signs the document or a counterpart, as the case may be.



## **SECRETARY**

148. The secretary shall in accordance with the Act be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit and any secretary so appointed may be removed by them.

## **SEAL**

149. The Company may have a Seal.
150. If the Company has a Seal, the Directors shall provide for the safe custody of the Seal, which shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors in that behalf, and every instrument to which the Seal is affixed shall be signed by a Director and shall be countersigned by the secretary or by a second Director or by some other person appointed by the Directors for the purpose.
- 150A. The Company may also have a duplicate common seal which is a facsimile of the common seal. The Directors may determine generally or in a particular case that the duplicate common seal and the signature or signatures of any persons authorised by the Directors for the purpose of signing documents to which the seal is affixed may be affixed by a specified mechanical means on documents.
151. The Company may execute any document, including a deed, by having the document signed by:
- (a) 2 Directors; or
  - (b) a Director and the secretary.
152. 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 150 or rule 151.
153. Notwithstanding the provisions of rules 150, 151 and 152, any document including a deed, may also be executed by the Company in any other manner permitted by law.

## **FINANCIAL REPORTS**

154. The Directors shall cause proper financial and other records to be kept and shall distribute copies of balance sheets as required by the Act and shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the financial and other records of the Company or any of them shall be open to the inspection of members not being Directors and no member (not being a Director) has any right of inspecting any record or book or paper of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.

## **DIVIDENDS AND RESERVES**

155. The Directors may from time to time determine that a dividend is payable to the members. The dividend is (subject to the rights of, or any restrictions on, the holders of shares created or raised under any special arrangement as to dividend) payable on all shares in proportion to the amount of total issue price for the time being paid or credited as paid in respect of the shares, and may be paid at a rate per annum in respect of a specified period provided that (for the purposes of this rule) no amount paid on a share in advance of calls is to be treated as paid on that share.
156. The Directors may from time to time pay to the members such interim dividends as appear to the Directors to be justified by the profits of the Company.
157. No dividend shall be paid otherwise than out of profits or shall bear interest against the Company.
158. The Directors may, before paying any dividend, set aside out of the profits of the Company such sums as they think proper as reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending any such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments as the Directors may from time to time think fit. The Directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.
159. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this rule as paid on the share. Different rates of dividend may be determined in respect of different classes of shares but within each such class all dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date that share shall rank for dividend accordingly.

160. The Directors may deduct from any dividend payable to any member all sums or money, if any, presently payable by him to the Company on account of calls or otherwise in relation to the shares of the Company.
161. The Directors may determine payment of a dividend or bonus differentially in respect of various classes of shares and wholly or partly by the distribution of specific assets and in particular of paid-up shares, debentures or debenture stock of any other Company or in any one or more of such ways and the Directors shall give effect to such resolution and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the Directors.
162. Any dividend, interest, or other money payable in cash in respect of shares may at the member's option be paid by electronic funds transfer (EFT) to an account nominated by the member or by cheque or warrant sent through the post directed to the registered address of the holder or in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or any other money payable in respect of the shares held by them as joint holders.

### **CAPITALISATION OF PROFITS**

163. The Company in general meeting may upon the recommendation of the Directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such members respectively or paying up in full un-issued shares or debentures of the Company to be allotted and distributed credited as fully paid up to and amongst such members in the proportion aforesaid, or partly in the one way and partly in the other, and the Directors shall give effect to such resolution.
164. Such accounts or reserve funds from which shares may be issued under the Act may, for the purposes of this rule be applied in the paying up of un-issued shares to be issued to members of the Company as fully paid bonus shares.
165. Whenever such a resolution as aforesaid shall have been passed the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the Directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions and also to authorise any person to enter on behalf of all the members entitled thereto into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalisation, of (as the case may require) for the payment up by the Company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on such members.

### **NOTICES**

166. A notice may be given by the Company to any member personally, by sending it by post to him to the current address within Australia supplied by him to the Company for the giving of notices or by sending it by facsimile transmission or by electronic mail to an address (if any), nominated by the member. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, preparing and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post. 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. Any notice served on a member by electronic means is deemed to have been served when the electronic message is sent.
167. A notice may be given by the Company to the joint holders of a share by giving the notice to the joint holder first named in the register of members in respect of the share.
168. A notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the bankrupt, or by any like description, at the current address, within Australia supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

169. Subject to rules 71 and 72, notice of every general meeting shall be given in any manner hereinbefore authorised to:
- (a) every member except those members who have not supplied to the Company a current address within Australia for the giving of notices to them;
  - (b) every person entitled to a share in consequence of the death or bankruptcy of a member who, but for his death or bankruptcy, would be entitled to receive notice of the meeting; and
  - (c) the auditor for the time being of the Company.
170. No other person shall be entitled to receive notices of general meeting.

## **WINDING UP**

171. If the Company is wound up the liquidator may, with the sanction of a special resolution of the Company, divide amongst the members in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may for that purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how the division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, thinks fit, but so that no members shall be compelled to accept any shares or other securities whereon there is any liability.

## **INDEMNITY**

172. 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 Act.
173. Every employee who is not a Director, secretary or executive officer of the Company may be indemnified out of the property 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 Act.
174. 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:
- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
  - (b) 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.
175. 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.

## **INDIVIDUAL RESPONSIBILITY OF DIRECTORS AND OFFICERS**

176. No Director, auditor or other officer of the Company shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or for joining in any receipt or other act for conformity or for any loss or expense happening to the Company through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Company or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Company shall be invested or for any loss or damage arising from the bankruptcy or tortious act of any person with whom any moneys securities or effects shall be deposited or for any loss occasioned by any error of judgment, omission, default or oversight on his part or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto unless the same should happen through his own negligence, default, breach of duty or breach of trust.

## **AMENDMENTS TO THIS CONSTITUTION**

177. Subject to the Act the Company may by special resolution amend this Constitution.
178. If the Act or any declaration or exemption from the provisions of the Act granted by ASIC requires that this Constitution contain certain provisions, then those provisions:
  - (a) are deemed to be incorporated into this Constitution at all times at which, and to the extent to which, they are required to be included; and
  - (b) prevail over any other provisions of this Constitution to the extent of any inconsistency.
179. Whilst any shares are officially quoted on the official list of any approved stock exchange (for the purposes of the Act) the Company and each member must comply with the provisions of the Listing Rules relevant to them.
180. If the Company is admitted to the official list of any approved stock exchange (for the purposes of the Act), the following provisions apply:
  - (a) if the Listing Rules prohibit an act being done, the act shall not be done;
  - (b) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
  - (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
  - (d) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;
  - (e) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision; and
  - (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

## **RESTRICTED INTERESTS**

181. For the purpose of clauses 182 to 184:
  - (a) 'Escrow Period' means the escrow period in the relevant Restriction Agreement;
  - (b) 'Restricted Interest' means an Interest that is a restricted security for the purposes of the Listing Rules;
182. A member cannot dispose of Restricted Interests during the Escrow Period except as permitted by the Listing Rules or the Exchange.
183. The Company will refuse to acknowledge a disposal (including registering a transfer) of Restricted Interests during the Escrow Period except as permitted by the Listing Rules or Exchange.
184. During such period as there is a breach of the Listing Rules relating to Restricted Interests, or a breach of a restriction agreement relating to Restricted Interests, the holder of the Restricted Interests is not entitled to any Distribution, or voting rights, in respect of the Restricted Interests.

\*\*\*\*\*



399 Archerfield Road, Richlands (PO Box 531, Inala) QLD 4077.

**T:** +(61 7) 3712 8282 **F:** +(61 7) 3712 8286 **E:** [honey@capilano.com.au](mailto:honey@capilano.com.au)

**[www.capilano.com.au](http://www.capilano.com.au)**