



Constitution of Baking Industry Group Ltd

ACN

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## **1 PRELIMINARY**

### **1.1 Company Limited by Guarantee**

Baking Industry Group (BIG) is a Company that is limited by guarantee and the liability of members is limited as provided in this document.

### **1.2 Registered Office**

The Registered office of BIG shall be at 49-51 Gregory Terrace, Spring Hill 4000, or at such place located within Queensland and will operate out of the Baking Industry Association of Queensland offices who will provide the administrative support required. The Board of BIG will enter into a financial arrangement with the board of BIAQ to secure these services.

### **1.3 Objects of the Company**

The Company has the following objects;

- (a) To foster and assist the development of the Baking (Bread Manufacturing, Pastry cooking and related products) Industry.
- (b) To support the development, implementation and continuous improvement of the Industry including enhancing innovation and improving efficiency.
- (c) To enhance the productivity and professionalism of the industry and ensure the training and development of the Industry
- (d) To act as the principal voice of the Industry by identifying emerging trends and to give strategic advice to government and the wider community on these issues.
- (e) To represent the Industry and employers therein and deal on their behalf with trade disputes and industrial matters and any other matters as come within the provisions of any Act or subordinate legislation affecting the industry or persons concerned.
- (f) To promote or oppose legislative and other measures affecting, or likely to affect, the Baking Industry or parts connected thereof or any member of BIG.
- (g) To act in conjunction or affiliate with, and to elect or appoint representatives to any association of employers or any association, body, board, commission, authority, delegation or the like as may be determined from time to time in Australia or abroad.
- (h) To support accurate industry intelligence and future direction including provision of strategic advice on standards, ethics, workforce planning and industrial relations and skills development throughout the Industry and to enforce by whatever means within its power, proper conduct within the Industry for the benefit of members.
- (i) To research, collect, plan, coordinate and provide input to research and development strategies.

- (j) To establish, acquire, administer, maintain, deal and dispose real and/or personal property, including land, for the purpose of the Company.
- (k) To borrow, raise, invest and/or deal with money for the purpose of the Company.
- (l) To amalgamate with or to enter into any affiliation or alliance with, or to promote or assist in the promotion of any other association or company or firm, having objects similar to or considered members of BIG and to acquire shares and interests in or lend money upon debentures, or otherwise to any such association, company or firm.
- (m) To establish advisory bodies in relation to any groups of members within BIG
- (n) Carry out such business activities related to these objects as the Directors of the Company consider appropriate from time to time.
- (o) To amend, delete or add to any of the objects of BIG or to adopt any additional objects from time to time.
- (p) Do all such other things as are incidental or conducive to the objects contained in this clause.

#### **1.4 Definitions and Interpretation**

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

- (a) A reference to:
  - (i) Legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced and includes any subordinate legislation issued under it;
  - (ii) A document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) A person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (iv) Anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests 1 gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.

- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word "agreement" includes an undertaking or other binding arrangement or understanding whether or not in writing.
- (g) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
- (h) A reference to a power is also a reference to authority or discretion.
- (i) A reference to something being "written" or "in writing" includes that being represented or reproduced in any mode in a visible form.
- (j) A word (other than a word defined below) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.
- (k) A reference to a Chapter, Part, Division, or section is a reference to Chapter, Part, Division or section of the Act.

The following definitions apply to this document

**Act** means the *Corporations Act 2001*.

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

**Appointer** in relation to an Alternate Director, means the Director who appointed the Alternate, and in relation to a proxy means the member who appointed the proxy.

**BIG** means the Baking Industry Group Ltd.

**Board** means the Board of BIG.

**Chairperson** means the Chairperson of the Board of Directors of the Company appointed under rule 11.4.

**Chief Executive Officer (CEO)** means a person appointed under rule 17.

**Committee and Committee of Directors** means any Director or Directors acting as a committee of Directors under rule 11.7.

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

**Consensus Decision** means any decision which the Chairperson of the meeting, after canvassing the views of the meeting, declares has been made by consensus.

**Deputy Chairperson** means the deputy Chairperson of the Board of Directors of the Company appointed under rule 11.4.

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

**Division** is a division of the Baking Industry Group appointed by the Board representing a geographical, Industry type or interest group.

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

**Observer** means a person entitled to attend general meetings of the Company under rule 12.10.

**Ordinary resolution** means a resolution passed at a meeting of members by a majority of the members present and voting at the meeting.

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

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

**Special resolution** has the meaning given by section 9.

## **2 MEMBERSHIP**

### **2.1 Classes of Members**

BIG is formed in or in connection with the Baking Industry and consists of three classes of members:-

1. Bakery Operators
2. Allied Industries and suppliers to the Baking Industry
3. Honorary

Class outlined in 2.1(3) shall be non-voting members

### **2.2 Membership and Industry**

The members of BIG shall be

- (a) Employers; and/or
- (b) Persons (excluding employees but including corporations) who carry on business; in or in conjunction with the Baking Industry.



## **2.3 Admission to Membership of BIG**

- 2.3.1 Each applicant for membership of BIG shall submit a completed form of application bearing the correct name and address of the applicant, a description of the nature of the business activities carried on by the applicant, the name of the Divisions to which the applicant wishes to be assigned, a statement whether the applicant is an employer or not, the number of employees the applicant has and the applicant's signature, or if the applicant is a company, corporation or trust, the signature of an authorized officer or agent of such company or corporation, or of a trustee or an authorized agent or representative of the trust.
- 2.3.2 Applications shall, be as far as circumstances permit, be in such form or forms as may be determined from time to time by the Board and shall be addressed to the Secretary of BIG.
- 2.3.3 A number of companies or corporations which are related corporations operating within the area covered by one or more Divisions may make application for admission to membership of BIG on a single application form approved from time to time by the Board.
- 2.3.4 Applications for membership of BIG shall be delivered, sent or forwarded to the registered office of BIG and upon receipt of such application advice shall forthwith be given to the Chairperson of any Division covering the industry group in the Division area which the applicant operates or employs employees in or in connection with the Baking industry.
- 2.3.5 If there is no Division existing and therefore no Chairperson to which such advice of the application may be given, such advice shall be given to the Chairperson of BIG
- 2.3.6 The Division Chairpersons shall refer, within a reasonable time, each application for membership of BIG, and any recommendation approving or disapproving thereof for ratification to the Board, which may approve or disapprove of the application, or may adjourn from time to time consideration of it or may reject any application.
- 2.3.7 If the Board approves the application the Secretary shall inform the Applicant and the Chairman of the Division as the case may be, covering the industry group nominated by the applicant in the application form.
- 2.3.8 Subject to the applicant or applicants having paid the membership fee, the applicant or applicants shall become a member of BIG and a deemed member of each Division covering an area in which the applicant carries on the business nominated by the applicant on his application form, on the date that his application was approved by the Board.
- 2.3.9 A member of BIG shall be assigned by the Board to one or more Divisions or such other industry groups as may be established by the Board from time to time.

- 2.3.10 A member of BIG may be deemed a member of more than one Division. Any member of BIG who wishes to become a deemed member of a Division of BIG in addition to any Division or Divisions of which he is already a deemed member, shall apply to the Board in such form or forms as may be determined from time to time by the Board. Such advice shall be addressed to the Secretary and shall be delivered sent or forwarded to that person. Upon receipt of such advice, the Secretary shall forthwith advise each Division Chairperson covering the Industry group in the particular Division where the member conducts business in or in connection with the Baking Industry, which he now seeks deemed membership of. Such application and any recommendation by a Division Chairperson shall be, submitted to the Board, which may ratify or disapprove of the deemed membership of the Division concerned or may adjourn from time to time consideration of it, or may reject any such application without giving reason for so doing. If the Board ratifies it, the Secretary shall inform the member accordingly, subject to the applicant or applicants having paid the additional membership fee if required for the year concerned, the member shall become a deemed member of such additional Division or Divisions on the date on which such application was approved. The same procedure shall be applied when a member of BIG wishes to withdraw from deemed membership of one or other Divisions, whilst remaining a deemed member of at least one Division.
- 2.3.11 Where the business activities conducted by a member of BIG change so that he becomes eligible to be assigned to any other industry group or groups than the industry group or groups to which the member has already been assigned, or so that he ceases to be eligible to be assigned to one or more of the industry groups to which the member has been assigned, the member shall advise the Secretary accordingly. The Board shall then assign the member to the additional Industry group or groups to which the member has become eligible to be assigned or the Board shall withdraw his assignment to any industry group or groups to which the member has ceased to be eligible to be assigned.
- 2.3.12 The Secretary shall cause to be kept at the registered office of BIG a register of the members of BIG in which shall be recorded the name of the member, the personal and business addresses provided by the member the Division or Divisions of which he is a deemed member, whether the member is an employer member or not and such other information and particulars as the Board may from time to time consider desirable. The Secretary may make or cause to be made such ratifications of the register of members as the Board directs or as the Office Bearers considers desirable, provided that such ratification is not inconsistent with any direction of the Board. The register of members of BIG, or part or section thereof, may be maintained in such form and manner as is convenient to the Board, provided such form and manner is not contrary to the requirements of law. Any entry in the register of members shall be evidence of membership of BIG and deemed membership of Division or Divisions and evidence of assignment of the industry group or industry groups recorded in respect of a member. The Board shall cause the register of members of BIG to be amended from time to time as is appropriate or in accordance with the provisions of the relevant legislation.

- 2.3.13 Upon receipt of an application for membership the Secretary shall forthwith in writing inform the applicant of the financial obligations arising from membership and the circumstances and manner in which a member may resign from BIG.
- 2.3.14 Subject to any order of the Federal Court of Australia or the High Court of Australia to the contrary, an admission to membership of BIG shall be deemed valid notwithstanding that it is not affected in accordance with the provisions of this Rule if the member is informed in writing by or on behalf of BIG that his application is accepted.
- 2.3.15 The Chairperson may make an application on behalf of any member(s) of BIG for membership of state registered counterpart organizations of employers in the Baking Industry, provided that;
- The member(s) on whose behalf application is made is/are eligible to join the State registered organization; and
  - The rules of the State registered organization permit the making of such application; and
  - The member(s) is/are informed of the making of the application on their behalf, and is/are informed that the member is entitled to refuse to be joined as a member of the State registered organization if they give notice to the Chairperson to that effect within 28 days of being notified under this paragraph of the sub-rule; and
  - The Chairperson shall notify the State registered organization of any refusal by any member in accordance with paragraph 3 of this sub-rule and shall withdraw or cancel such application.

## **2.4 Resignation**

A member may by notice in writing to the Company resign membership with effect from a specified date occurring not less than one month after the service of the notice. However, no member may resign unless they have paid all amounts which they owe to the Company.

A member of BIG who has ceased to carry on business in a Division shall be entitled to withdraw from deemed membership of that Division without affecting his membership of BIG or the members deemed membership of any other Division of BIG, A member shall cease to be a deemed member of that Division or Divisions of BIG on the expiration of three months from the date on which he shall have given notice to so withdraw, such notice of withdrawal to be in writing and addressed and delivered to the Secretary of BIG. Withdrawal from deemed membership of any Division under this sub-rule may be permitted in a period shorter if so determined by the Board.

## 2.5 Termination by BIG

The membership of any member shall be terminated by:

1. Breach of Rules:

Upon the passing of a resolution by the Board that the name of such member shall be removed from the register of members of BIG on the ground that the member has been found to have committed, in accordance with the provisions of Rule XX (offences), an offence prescribed by that Rule.

2. Bankruptcy, dissolution or insolvency:

Upon the passing of a resolution by the Board that the name of the member be removed from the register of members of BIG on the grounds that the member has:

- (i) Become bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with his creditors or has made an assignment for their benefit or a sequestration order has been made against him, or
- (ii) In the case of a firm upon the dissolution thereof or upon the making of a sequestration order or the execution of a deed of assignment or arrangements for the benefit of creditors against or by the firm or any member thereof; or
- (iii) In the case of a company upon appointment of a Liquidator, Provisional Liquidator, Office Manager or Receiver, Provided that at the written request of the Liquidator, Provisional Liquidator, Official Manager or Receiver accompanied by his undertaking to pay in full all membership and other dues accruing as from the date of the relevant appointment, the Board may provide that the membership of the company shall not terminate.

3. Closure of Business

4. Upon the passing by the Board of a resolution that the name of the member be removed from the register of members on the ground that such member has ceased, according to Rule 2.7 (membership and Industry) to be eligible to be a member of BIG

## 2.6 Disciplining of Members

If the Board is of the *opinion that a member;*

- (a) Has persistently refused or neglected to comply with a provision of the constitution,  
or

(b) Has persistently acted in a manner prejudicial to the interests of the Company

Then the Company in general meeting may:

- (a) Terminate the membership of the member; or
- (b) Suspend the member from membership for a specified period, or may set out whatever conditions it considers appropriate which the member must satisfy before the Company will agree to revoke that suspension of membership.

If a member is suspended from membership for a specified period, that suspension is automatically revoked once that period expires. If a member is suspended until it satisfies certain conditions, that suspension is only revoked when the Company passes a resolution in general meeting confirming that the conditions have been satisfied and that the suspension is revoked.

## **2.7 Notice to member of proposed disciplinary action**

Before the Company in general meeting passes a resolution under rule 2.6, the Secretary must serve on the member, in addition to the notice of the meeting required to be served on all members of the meeting, a notice advising that unsatisfactory conduct of the member as outlined in the notice will be considered at the meeting and informing the member that they may do either or both of the following:

- (a) Attend and speak in the meeting
- (b) Submit to the Secretary on or before the date of that meeting, written representation relating to the conduct of the member.

## **2.8 Members at date of adoption of this Constitution**

The members at the date of adoption of this Constitution are the members of National Baking Industry Association Pty. Ltd. and Bread House Pty Ltd and the members of Baking Industry Association Queensland.

## **2.9 Limited liability of Members**

If the Company is wound up, each member of the Baking and Allied Industries and Supplier to the Baking Industry classes as outlined in clause 2.1 undertakes to contribute to the assets of the Company up to an amount not exceeding \$1.00 for payment of debts and liabilities of the Company including the costs of the winding up. This undertaking continues for 1 year after a person ceases to be a member.

## **2.10 Honorary Membership of BIG**

The Board may by unanimous vote confer honorary membership of BIG upon any person for outstanding service to the Baking Industry. Such honorary membership shall confer no membership rights, privileges or obligations upon the person so appointed.

### **3 DIRECTORS**

#### **3.1 Number of Directors**

3.1.1 Subject to the number of Directors not exceeding 20, the number of Directors from each division shall compose of:-

##### **Queensland Division**

4 Directors operating within Queensland appointed by the Baking Industry Association of Queensland Union of Employers.

##### **NSW & ACT Division**

1 Director operating within New South Wales and Australian Capital Territory appointed by the Board to represent members in NSW and the ACT.

##### **Victoria Division**

1 Director operating within Victoria appointed by the Board to represent members in Victoria.

##### **South Australia Division**

1 Director operating within South Australia appointed by the Board to represent members in South Australia.

##### **Tasmania Division**

1 Director operating within Tasmania appointed by the Board to represent members in Tasmania.

##### **Western Australia Division**

1 Director operating within Western Australia appointed by the Board to represent members in Western Australia.

##### **Northern Territory Division**

1 Director operating within Northern Territory appointed by the Board to represent members in Northern Territory.

##### **Training Division**

2 Directors who have an interest in advancing training within the Baking Industry appointed by the Board of Baking Industry Training Australia Pty Ltd.

### **Policy Division**

2 Directors who have an interest in policy development within the Baking Industry, appointed by the National Baking Industry Association Pty Ltd.

### **Baking Operator Division**

2 Directors who are Bakery Operators appointed by the National Baking Industry Association to represent Baking Operators.

### **Allied Industry and Suppliers Division**

2 Directors who are members of the Allied Industry and Suppliers Division appointed by National Baking Industry Association to represent Allied Industries and Suppliers;

and one director appointed by the Board from any other Division that may be established by the Board.

Notwithstanding the above the minimum number of the Board cannot fall below 6 Directors which must be composed of a minimum of:-

2 drawn from the Queensland Division

2 drawn from the other State Divisions

1 drawn from the Training Division

1 drawn from the Policy Division

## **3.2 Filling a casual vacancies on the Board**

Subject to this document, section 201E and rule 3.1, the Board may appoint a member to fill a casual vacancy

## **3.3 Directors at time of adoption of this Constitution**

The Directors of the Company at the time of adoption of this Constitution are set out in Schedule 1

## **3.4 Election by general meeting**

Subject to this document, section 201E and rule 3.1, the Company may elect Directors by ordinary resolution.

Subject to this document, a person is not eligible for election as a Director unless the members have recommended their appointment, or at least 20 days before the meeting at which the relevant resolution will be considered the Company receives a written nomination of the person signed by a member (other than the person) and the written consent of the person to act as a Director.



The Company must notify members of every eligible candidate for election as a Director at least 7 days before the relevant general meeting.

### **3.5 Retirement of Directors**

At each annual general meeting, any Director who has served a continuous term of three years or more, or, who was appointed to replace one removed from office under rule 3.6 must retire from office but is, subject to rules 3.1 and 3.2, eligible for re-election.

### **3.6 Cessation of Director's appointment**

A person automatically ceases to be a Director if the person:

- (a) Is not permitted by the Act (or an order made under the Act) to be a Director;
- (b) Becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F and 206G;
- (c) Becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
  - a. Fails to attend Board meetings (either personally or by an Alternate) for three consecutive meetings without leave of absence from the Board;
  - b. Resigns by notice in writing to the Company;
  - c. Is removed from office by ordinary resolution of the Company;
  - d. Is replaced as a member under rule 2.3; or
  - e. Ceases to qualify as a Director due to termination or suspension as a member under rule 2.6

### **3.7 Too few Directors**

If the number of Directors is reduced below the minimum required by rule 3.1, the continuing Directors may act as the Board only:

- (a) To appoint Directors up to that minimum number;
- (b) To convene a meeting of members; and
- (c) In emergencies



## **4 ALTERNATE DIRECTORS**

### **4.1 Appointment of Alternate Directors**

Subject to rule 3.2 a Director (other than an Alternate Director) may appoint another person to act as Alternate Director drawn from the same class of membership for a specified period or each time the Appointer is unable to attend a Board meeting or act as a Director.

### **4.2 Notice of Board Meetings**

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

### **4.3 Obligations and Entitlements of Alternate Directors**

An Alternate Director:

- (a) May attend and vote in place of the Appointer at a Board meeting at which the Appointer is not present;
- (b) If also a Director, has a separate right to vote as a Alternate Director;
- (c) If Alternate Director for more than 1 Appointer, has a separate right to vote in place of each Appointer;
- (d) When acting as Alternate Director, is an officer of the Company and subject to all the duties, and entitled to exercise all the powers and rights of the Appointer as Director;
- (e) May not receive remuneration from the Company as a Director except for any special services which in the opinion of the Directors are outside the scope of ordinary duties of a Director; and
- (f) If specified in the notice of appointment by the Appointer, may attend and vote in place of the Appointer at meetings of members of the Company at which the Appointer is not present.

### **4.4 Termination of Appointment**

The Appointer may at any time revoke the appointment of a person as an Alternate Director whether or not that appointment is for a specified period. Any appointment of an Alternate Director immediately ceases if:

- (a) The Appointer ceases to be a Director; or

- (b) An event occurs which would cause the Alternate Director to cease to be a Director under rule 3.3 if the Alternate Director were a Director.

#### **4.5 Appointments and revocations in writing**

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

### **5 POWERS OF THE BOARD**

#### **5.1 Powers generally**

Subject to any specific resolutions to the contrary passed by the Company in general meeting and subject to the Act, any other applicable law or this document, the Board:

- (a) Has power to manage the business of the Company; and
- (b) May exercise every right, power or capacity of the Company.

#### **5.2 Exercise of powers**

A power of the Board can be exercised only;

- (a) By resolution passed at a meeting of the Board or otherwise in accordance with rule 11; or
- (b) In accordance with a delegation of the power under rule 7.

### **6 EXECUTING NEGOTIABLE INSTRUMENTS**

The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept, or endorse negotiable instruments only in the manner decided by the Board.

### **7 DELEGATION OF BOARD POWERS**

#### **7.1 Power to delegate**

The Management of the business shall be vested in the Board, which, in addition to the powers and authorities by these Rules that are especially conferred upon it, may exercise all such powers and do all such acts and things required for good governance of BIG including but not limited to:-

- The Board has the responsibility for legal, financial and due process of BIG

- That the Board will ensure that the policies followed by all Divisions within BIG meet and are in general agreement with the overall vision, objectives and code of practice of BIG.
- That the Board will have the power to resolve policy issues referred to it by the Divisions where the Divisions cannot reach agreement.

Without in any way limiting the general powers conferred by these Rules or otherwise on the Board, but subject to the provisions hereto, it is hereby expressly declared that it shall also have the following power for the purpose of managing the affairs of BIG.

- To adopt such measures as it from time to time considers necessary, desirable or convenient for the purpose of giving effect to the objects of BIG.
- To make any application concerning BIG or any member thereof, and to bring any Industrial disputes, claims or matters concerning BIG or any member thereof, to, or before any Court or Tribunal.
- To impose subscriptions, levies, fees, dues and fines that the Board may from time to time impose upon such basis that it may consider necessary, convenient or desirable, and may be imposed on some members or class of members to the exclusion of others, for the purpose of carrying on the affairs of BIG.
- Unless otherwise determined by the Board, membership fees shall be payable annually and in advance.
- A number of members of BIG being related companies within the meaning of the Corporations Law or Codes may, if they so wish, and if the Board so approves, pay their fees jointly.

## **7.2 Power to delegate and revoke delegation**

The Board may delegate any of its powers as permitted by section 198D of the *Corporations Act*. The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.

## **7.3 Terms of delegation**

A delegation of powers under rule 7.2 may be made:

- (a) For a specified period or without specifying a period; and
- (b) On the terms and subject to any restrictions the Board decides.

A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

## **8 DIRECTORS' DUTIES AND INTERESTS**

### **8.1 Compliance with duties under the Act**

Each Director must comply with sections 180 to 183.

### **8.2 Disclosure of interests**

Each Director must comply with section 191.

### **8.3 Director may not hold certain interest**

A Director may not, without the consent of the Company in general meeting:

- (a) Hold an office or place of profit under the Company or under any body corporate in which the Company is a member or otherwise interested; or
- (b) Enter into a contract with the Company as vendor, purchaser or otherwise or participate in any associations, institution, fund, trust or scheme for past or present employees or Directors of the Company or any of its predecessors or their dependents or persons connected with them; or
- (c) Retain for the Director's own benefit any profit arising from any such office, place of profit or contract and any pension, allowance or other benefit received because of that participation.

### **8.4 Director interested in a matter**

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

- (a) A Director may be counted in a quorum at a Board meeting that considers and may vote on, any matter in which that Director has an interest;
- (b) The Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) The Director may retain benefits under the transaction even though the Director has the interest; and
- (d) The Company cannot avoid the transaction merely because of the exercise of the interest.

If the interest is required to be disclosed under section 191, paragraph (c) applies only if it is disclosed before the transaction is entered into.

### **8.5 Agreements with third parties**

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

- (a) Fails to make a disclosure of an interest; or
- (b) Is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.

### **8.6 Obligation of secrecy**

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

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

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

## **9. DIRECTOR'S REMUNERATION**

### **9.1 Restriction on payments to Directors**

Subject to rule 9.2 and rule 10, the Company must not pay fees or other remuneration to a Director.

### **9.2 Payment to Directors with Board approval**

With the approval of the Board the Company may pay to a Director:

- (a) reasonable expenses (including travelling and accommodation) incurred in the carrying out duties as a Director;
- (b) reasonable remuneration for any service rendered by the Director to the Company;
- (c) reasonable remuneration where the Director is an employee of the Company and the terms of employment have been approved by the Board;
- (d) interest on money lent by the Director to the Company at a rate not exceeding the rate charged by Australian banks for overdrawn accounts;

- (e) reasonable remuneration for goods supplied by the Director to the Company in the ordinary course of business; and
- (f) reasonable rent for premises leased by the Director to the Company.

## **10 OFFICERS' INDEMNITY AND INSURANCE**

### **10.1 Indemnity**

Subject to and so far as permitted by the Act:

- (a) the Company must, to the extent the person is not otherwise indemnified, indemnify every officer of the Company and its wholly owned subsidiaries and may indemnify its auditor against a Liability incurred as such an officer or auditor to a person (other than the Company or a related body corporate) including a Liability incurred as a result of appointment or nomination by the Company or subsidiary as a trustee or as an officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith; and
- (b) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee or auditor in defending an action for a Liability incurred as such an officer, employee or auditor or in resisting or responding to actions taken by a government agency or a liquidator.

In this rule, "Liability" means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

### **10.2 Insurance**

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

### **10.3 Former officers**

The indemnity in favor of officers under rule 10.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

### **10.4 Deeds**

Subject to the Act, without limiting a person's rights under this rule 10, the Company may enter into an agreement with a person who is or has been an officer of the Company or

any of the Company's subsidiaries, to give effect to the rights of the person under this rule 10 on any terms and conditions that the Board thinks fit.

## **11 BOARD MEETINGS**

### **11.1 Convening Board meetings**

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

The Directors must meet at least six times in any 12 month period.

### **11.2 Notice of Board meeting**

The convener of each Board meeting:

(a) must give 14 day's notice of the meeting (and, if it is adjourned, of its resumption) individually to:

- (1) each Director who is in Australia; and
- (2) each Alternate Director in respect of whom the Appointer has given notice under rule 4.2 requiring notice of Board meetings to be given to that Alternate Director or whose Appointer is not given notice due to being outside Australia, and

(b) may give that notice orally (including by telephone) or in writing,

but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

### **11.3 Use of Technology**

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

### **11.4 Chairperson and Deputy Chairperson**

The Company must elect a Chairperson at its Annual General Meeting, who will hold office until the next Annual General Meeting. The Chairperson shall be nominated by the Queensland Division.



If the office of Chairperson is vacated for any reason before the Annual General Meeting, the Company must elect a substitute Chairperson from Queensland Division, at a general meeting, who will hold office until the next Annual General Meeting.

The Chairperson may only be removed from that office by a resolution of the Company passed in General Meeting.

The Chairperson is entitled to preside at meetings of the Directors but, if the Chairperson is not present and able and willing to act within 15 minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the Deputy Chairperson or, in the absence of that person, a Director chosen by a majority of the Directors present will preside.

At the first Directors' meeting after the Annual General Meeting, the Deputy Chair is elected.

### **11.5 Quorum**

Unless the Company in general meeting decides otherwise, the quorum for a board meeting is 6 Directors. A quorum must be present for the whole meeting. An Alternate Director who is also a Director or a person who is also an Alternate Director for more than 1 Appointer may only be counted once towards a quorum, A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending, If a meeting is held in another way permitted by section 248D, the Board must resolve the basis on which Directors are treated as present.

The Directors may not conduct any business unless a quorum is present. If a quorum is not present within 60 minutes of the time set for commencement of the meeting, the meeting is adjourned to the same place at the same time on the same day in the following week. If at an adjourned meeting a quorum is not present within 60 minutes of the time set for the commencement of the adjourned meeting, the meeting is dissolved.

An interested Director is to count in the quorum despite the Director's interest.

### **11.6 How questions decided**

Questions arising at a meeting of the Directors are to be decided first by Consensus Decision. If any Director challenges a Consensus Decision, the question is then to be decided by a majority of votes, except where only 2 Directors are present and entitled to vote on a question. In the event of an equality of votes, the Chairperson of the meeting has a second or casting vote.

### **11.7 Committees**

The Directors may delegate any of their powers by written instrument to committees consisting of such Director or Directors as they think fit and may revoke that delegation.



A Committee in the exercise of the powers so delegated must conform to any regulations imposed by the Directors.

### **11.8 Working Groups**

The Directors may establish Working Groups to examine particular issues relevant to the Industry. The composition of any Working Groups will be determined by the Directors from time to time.

The Directors may delegate any of their powers by written instrument to Working Group as they think fit and may revoke that delegation.

A Working Group in the exercise of the powers so delegated must conform to any regulations imposed by the Directors.

### **11.9 Provisions relevant to Committees and Working Groups**

Despite any delegation by the Directors under these rules, the Directors may continue to exercise any powers or functions delegated.

The Directors may, by written instrument revoke any delegations wholly or in part.

Subject to rules 11.7 and 11.8, the meetings and proceedings of a Committee consisting of 1 or more Directors or Working Group of more than 2 persons are governed by the provisions of this constitution as to the meetings and proceedings of the Directors so far as they are applicable. Committees and Working Groups may establish their own rules and modes of operation, provided, Working Groups should work on a Consensus Decision basis and wherever possible submit recommendations having broad endorsement of the members of the Working Party.

Despite any other provision of this constitution, Working Groups are purely advisory in nature and have no power to bind the Company.

Working Groups are temporary advisory groups which disband on the Directors determining that the relevant Working Group has completed the task or tasks delegated to it.

Committees and Working Groups must report to the Directors as the Directors require from time to time.

Any expenditure proposed to be incurred by a Committee or Working Group must be approved by the Directors before it is incurred.

### **11.10 Procedural rules**

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

### **11.11 Written resolution**

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

### **11.12 Additional provisions concerning written resolutions**

For the purpose of rule 11.11:

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

## **12 MEETING OF MEMBERS**

### **12.1 Annual General Meeting**

The Company must hold an Annual General Meeting as required by section 250N.

### **12.2 Calling meetings of members**

A meeting of members:

- (a) May be convened at any time by the Board or a Director, and
- (b) Must be convened by the Board when required by section 249D or 250N or by order made under section 249G.

### **12.3 Notice of meeting**

Subject to rule 12.4, at least 21 days written notice of a meeting of members must be given individually to:

- (a) Each member (whether or not the member is entitled to vote at the meeting);
- (b) Each Director and Alternate Director; and

- (c) To the auditor.

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

#### **12.4 Short notice**

Subject to section 249H (3) and (4):

- (a) If the Company has elected to convene a meeting of members entitled to attend and vote agree; or
- (b) Otherwise, if members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,
- (c) A resolution may be proposed and passed at a meeting of which less than 21 days notice has been given.

#### **12.5 Postponement or cancellation**

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

- (a) Postpone a meeting of members;
- (b) Cancel a meeting of members; or
- (c) Change the place for a general meeting.

By written notice given individually to each person entitled to be given notice of the meeting. If the meeting is postponed or cancelled, the notice must specify the reason for the postponement or cancellation. If the meeting is postponed, the notice must be provided to members eligible to attend at least 7 days before the original date of the meeting and the new date of the postponed meeting must be at least 21 days from the date of the notice of postponement, unless otherwise permitted by the Act.

#### **12.6 Fresh notice**

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

#### **12.7 Appointment of proxy, attorney or Alternate Director remains valid**

If the terms of the appointment of a proxy, attorney or Alternate Director authorize the appointment person to attend and vote at a general meeting on a specified date and that meeting is adjourned or postponed, unless the member appointing the person notifies the Company in writing to the contrary, the appointment remains valid for the postponed or adjourned general meeting.

## **12.8 Technology**

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

## **12.9 Accidental omission**

The accidental omission to give notice to or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of members.

## **12.10 Observers**

The Directors may allow persons determined by the Directors from time to time to attend general meetings of the Company. Observers may not speak at any general meeting of the Company unless invited by the Chairperson to do so.

# **13 PROCEEDINGS AT A GENERAL MEETING**

## **13.1 Business of general meeting**

Subject to the Act, the business of an Annual General Meeting is:

- (a) To confirm the minutes of the previous Annual General Meeting and of any other general meeting of the Company of which the minutes have not yet been confirmed;
- (b) To elect the Chairperson and Directors in place of those retiring or where a vacancy requiring filling exists;
- (c) To receive and consider the financial statements, Director's report and Auditor's report; and
- (d) To consider any other matters listed in the notice of the meeting.

Subject to the Act, no business other than that listed in the notice of the meeting may be transacted at a general meeting.

## **13.2 Member present at meeting**

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

## **13.3 Quorum**

The quorum for a meeting of members is 6 members which must comprise of members from a minimum of three states, and must compose of 2 from the Queensland Division 2 members drawn from the other state Divisions and 1 from the Baking Operator's Division, 1 from the Allied Industry and Suppliers Division. If an Alternate Director is

entitled to attend and vote in accordance with their appointment by the Appointer, an Alternate Director may be counted toward a quorum. Each individual present may only be counted once towards a quorum. If a member has appointed more than 1 proxy or representative only 1 of them may be counted towards a quorum.

#### **13.4 Quorum present**

If a quorum is present at the commencement of a meeting, a quorum is deemed to be present throughout the meeting unless the Chairperson of the meeting declares otherwise, whether on the Chairperson's own motion or at the instance of a member or other person present and entitled to vote.

#### **13.5 Quorum not present**

If a quorum is not present within 60 minutes after the time for which a meeting of members is called

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

#### **13.6 Chairing meetings of Members**

The Chairperson, if present and willing to chair the meeting, is the Chair at meetings of members. If the Chairperson is not present at the time for which a meeting of members is called or is not willing to chair the meeting, the following may preside (in order of entitlement) – Deputy Chairperson, or a Director present elected from the members, or if no Director is present, the Chief Executive Officer.

#### **13.7 Attendance at General Meetings**

- (a) Every member has the right to attend all meetings of members.
- (b) Every Director has the right to attend and speak at all meetings of members.

The auditor has the right to attend all meetings of members and to speak on any part of the business of the meeting which concerns the auditor in the capacity of auditor.

### **13.8 Adjournment**

Subject to rule 12.6 the Chairperson of a meeting of members at which a quorum is present

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

### **13.9 Business at adjourned meetings**

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

## **14 PROXIES, ATTORNEYS AND REPRESENTATIVES**

### **14.1 Appointment of proxies**

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

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

### **14.2 Limit on number of proxies that may be held by a person**

Other than the Chairperson, no person may hold more than five proxies for a meeting of members of the Company. The Chairperson may hold any number of proxies.

### **14.3 Member attorney**

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

### **14.4 Deposit of proxy forms and powers of attorney**

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

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

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

#### **14.5 Corporate representatives**

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

#### **14.6 Standing appointments**

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

#### **14.7 Suspension of proxy or attorney's powers if member present**

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

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

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

#### **14.8 Priority of conflicting appointments of attorney or representative**

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

- (a) An attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
- (b) Subject to rule 14.8 (a), an attorney or representative appointed under a more recent appointment may act to the exclusion of an attorney or representative appointed earlier in time.

#### **14.9 More than 1 current proxy appointment**

An appointment of proxy by a member is revoked (or, in the case of a standing appointment, suspended for that particular meeting), if the Company receives a further appointment of proxy from that member which would result in there being more than 1 proxy of that member entitled to act at a meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this rule.

#### **14.10 Continuing authority**

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

- (a) Dies or becomes mentally incapacitated;
- (b) Becomes bankrupt or an insolvent under administration or is wound up; or
- (c) Revokes the appointment or the authority under which the appointment was made by a third party.

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

### **15 ENTITLEMENT TO VOTE**

#### **15.1 Number of votes**

Subject to section 250A (4):

- (a) Each member has 1 vote on a show of hands or a poll; and
- (b) A member who is present and entitled to vote and is also a proxy, attorney or representative of another member, has 1 vote on a show of hands.

#### **15.2 Member must be financial**

No member may vote at a meeting of members of the Company unless all moneys due and payable by the member to the Company have been paid.

#### **15.3 Casting vote of Chairperson**

The Chairperson of a meeting of members does not have a casting vote. If an equal number of votes are cast for and against a resolution, the matter is decided in the negative.

#### **15.4 Voting restrictions**

If:

- (a) The Act requires that some members are not to vote on a resolution, or that votes cast by some members be disregarded, in order for the resolution to have an intended effect; and
- (b) The notice of the meeting at which the resolution is proposed states that fact,

Those members have no right to vote on that resolution and the company must not count any votes purported to be cast by those members. If a proxy purports



to vote in a way or in circumstances that contravene section 250 A(4), on a show of hands the vote is invalid and the Company must not count it and on a poll rule 16.5© applies.

### **15.5 Decision on right to vote**

A member or Director may challenge a person's right to vote at a meeting of members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the chairperson, whose decision is final.

## **16 HOW QUESTIONS ARE DECIDED AT MEETINGS OF MEMBERS**

### **16.1 Consensus Decision Preferred**

Subject to rule, every question submitted to a meeting will first be determined by consensus with the Chairperson, after canvassing the view of the meeting, declaring the decision of the meeting.

If the Chairperson is unable to declare a decision, the question will be decided by a show of hands, or if a poll is demanded in accordance with this constitution, by a poll.

### **16.2 Challenge of Consensus Decision**

If not less than 3 members present in person or by proxy or by an Alternate Director or a member present who represents not less than 10% of the total voting rights of all persons having a right to vote at the meeting, challenges a Consensus Decision, the question is to be decided by a show of hands, or if a poll is demanded in accordance with this constitution, by a poll.

### **16.3 Method of voting if question to be decided by the meeting**

A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded under rule 16.4 either before or on declaration of the result of the vote on a show of hands. Unless a poll is demanded, the Chairperson's declaration of a decision on a show of hands is final.

Unless the motion is a special resolution as set out in the Act, a motion is carries if a simple majority of those present in person or by proxy or by Alternate Director is entitled to vote, vote in its favor.

### **16.4 Demand for a poll**

A poll may be demanded on any resolution (except a resolution concerning the election of the Chairperson of a meeting) by:

- (a) At least three members present in person or by proxy or by an Alternate Director entitled to vote on the resolution; or

(b) A member present who represents, but not less than 10%, of the total voting rights of all persons having a right to vote at the meeting; or

(c) The Chairperson,

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

## **16.5 When and how polls must be taken**

If a poll is demanded;

- (a) If the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule 16.5(c), in the manner that the chairperson of the meeting directs;
- (b) In all other cases, the poll must be taken at the time and place and, subject to rule 16.5 (c), in the manner that the Chairperson of the meeting directs;
- (c) Votes which section 250A(4) requires to be cast in a given way must be treated as cast in that way;
- (d) A person voting who has the right to cast 2 or more votes need not cast all those votes and may cast those votes in different ways; and
- (e) The result of the poll is the resolution of the meeting at which the poll was demanded.

## **17 CHIEF EXECUTIVE OFFICER**

### **17.1 Appointment and removal**

The Directors may appoint a person to the office of Chief Executive Officer either for a fixed term or without limitation as to period of appointment but not for life, and may remove a person so appointed and appoint another instead.

### **17.2 Remuneration**

The Directors may determine the remuneration of a Chief Executive Officer.

### **17.3 Powers of Chief Executive Officer**

The Directors may confer on a Chief Executive Officer such of the powers conferred on the Directors by this constitution, for such time, to be exercised for such purposes, on such terms and with such restrictions as they think fit and all or any of those powers may be conferred collaterally with but not to the exclusion of the powers of the Directors and may be revoked or varied by the Directors.

## **18 SECRETARY**

### **18.1 Appointment of Secretary**

The Board:

- (a) Must appoint at least 1 individual; and
- (b) May appoint more than 1 individual,

To be a Secretary either for a specified term or without specifying a term.

### **18.2 Terms and conditions of office**

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

### **18.3 Cessation of Secretary's appointment**

The person automatically ceases to be a Secretary if the person:

- (a) Is not permitted by Act (or an order made under the Act) to be a secretary of a company;
- (b) Becomes disqualified from managing corporations under Part 2 D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) Becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) Resigns by notice in writing to the Company; or
- (e) Is removed from office under rule 18.4

### **18.4 Removal from office**

The board may remove a Secretary from that office whether or not the appointment was expressed to be for a specific term.

## **19 MINUTES**

### **19.1 Minutes must be kept**

The Board must cause minutes of:

- (a) Proceedings and resolutions of the Company's members;
- (b) The name of Directors present at each Board meeting or committee meeting;
- (c) Proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 7);
- (d) Resolution passed by Directors without a meeting; and

(e) Disclosure and notices of Director's interests.

To be kept in accordance with section 191, 192 and 251 A.

## **19.2 Minutes as evidence**

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

## **19.3 Inspection of minute books.**

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

## **20 COMPANY SEALS**

### **20.1 Common seal**

The Board:

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

### **20.2 Use of seals**

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

### **20.3 Fixing seals to documents**

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

- (a) By 2 Directors
- (b) By 1 Director and 1 Secretary; or
- (c) By any other signatories or in any other way (including the use of facsimile signatures) authorized by the Board.

## **21 FINANCIAL REPORTS AND AUDIT**

### **21.1 Company must keep financial records**

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

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

## **21.2 Financial reporting**

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

## **21.3 Audit**

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report. The eligibility, appointment, removal, remuneration, rights and duties of the auditor are regulated under sections 324 to 331 and 1280 and 1289.

## **21.4 Conclusive reports**

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

## **21.5 Inspection of financial records and books**

Subject to the Act, any resolution of the Company in general meeting, the Directors may determine whether, and to what extent, and at what times and places, and under what conditions and regulations the books and documents of the Company or any of them will be open to inspection by the members and other persons.

A member or other person has all rights to inspect any of the books or documents of the Company conferred by the Act and are entitled to receive any information concerning the affairs of the Company which the Directors determine is reasonable request, in their absolute and unfettered discretion.

A member must pay all reasonable costs incurred by the Company in allowing any inspection of its books and documents by the member or providing the member with information concerning the affairs of the Company.

## **22 FUNDS AND FUNDS MANAGEMENT**

### **22.1 Funds Management**

The funds of BIG and its income and property shall be under the control of the Board and shall be managed and controlled in accordance with the Rules relating to BIG.

The BIG Fund shall consist of:

Any real or personal property of which the Board, by the Rules or any established practice not inconsistent with the Rules, has, or in the absence of any limited term lease, bailment or arrangement would have, the right of custody, control or management;

- All property, including subscriptions, fines, fees, or levies paid or payable by a member to BIG;
- Fees paid or payable;
- Any interest, rents, dividends or other incomes derived from the investment or use of Federal Funds;
- Any staff leave provisions or the like operated and controlled in accordance with the rules relating to BIG;
- Any property acquired wholly or mainly by expenditure of the monies of BIG or derived from other assets of BIG; and
- The proceeds of any disposal of parts of BIG.

### **22.2 Application of and control of funds and property**

- (a) The income and property of the Company shall be applied solely towards the promotion of the objects of the Association, and no portion thereof shall be paid or transferred directly or indirectly, by way of dividends, bonus or otherwise howsoever by way of profit or gain to the individual members of the Association. However, the Board by majority may apply a portion of the funds to charity or to the recognition of special services rendered to the Association.
- (b) The current funds of the Company shall be deposited in the name of the Company in such a bank, or invested in such financial institutions as is from time to time directed by the Board. All monies received shall be so deposited or invested provided that such amount as decided by the Board shall be retained in cash in the Association's registered office for the purpose of petty cash.

- (c) All payments shall be confirmed by the Treasurer. Where practicable all cheques shall be signed by the Treasurer, or in his absence some other office bearer, and countersigned by the Executive Director or such additional countersigning officer, being an employee of the Company as the Board may authorize by resolution.
- (d) No Member shall have by reason of his Membership any transmissible or assignable interest in the property of the Company. On a Member ceasing to be a Member all his interests shall survive, accrue, and belong to the other Members of the Company for the time being.
- (e) All property which may be acquired or be purchased with the monies of the Company or be donated to the Company shall be vested in the Company and the Board shall have power to control and invest the same in the name of the Company.

### **22.3 Derivation of Funds**

The funds of the Company will be derived from government grants, fees paid by members, donations, other grants and such other sources as the Directors or the Company in general meeting determines from time to time.

The funds of the Company will be used to further the objects of the Company as set out in this constitution in the manner determined by the Directors and subject to any resolution passed by the Company in general meeting from time to time.

Cheques, bills of exchange, promissory notes and other negotiable instruments may be signed, accepted, drawn, made or endorsed on behalf of the Company in such manner and by two persons (whether Directors or officers of the Company or not) as the Directors determine but not otherwise.

The financial year of the Company will be 1st July to 30<sup>th</sup> June

All funds received by the Company will be deposited as soon as possible in an account of the Company.

Any payments by the Company greater than \$100 (or such other amount as determined by the Directors from time to time) will be made by cheque or electronic funds transfer in a manner approved by the Directors and petty cash amounts approved by the Directors for conduct of office procedures will be accounted for in the manner determined by the Directors from time to time.

All accounts must be authorized for payment by the Directors.

## **23 REGISTER OF MEMBERS**

The Company must set up and maintain a register of members

In accordance with section 169, the Register must contain the following information:

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

## **24 SALE OF ASSETS**

Assets over \$100,000.00 owned by the Company must remain the property of the Company and may only be sold by consensus of Directors. If the asset is sold, the value obtained from the sale of that asset must only used within the geographical boundary of the state from which it was derived.

## **25 WINDING UP**

If the Company is wound up any surplus property must not be paid to members but paid or transferred to another corporation which complies with section 150(1) or to an institution with similar objects to those of the Company and which prohibits the distribution of income and property to its members to an extent at least as great as that imposed on the Company under this constitution.

## **26 NOTICES**

### **26.1 Notices by Company**

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

- (a) In writing signed on behalf of the Company (by original or printed signature);
- (b) Addressed to the person to whom it is to be given; and
- (c) Either
  - (i) Delivered personally;
  - (ii) Sent by prepaid mail (by airmail, if the addressee is overseas) to that person's address; or



(iii) Sent by fax to the fax number (if any) nominated by that person; or

(iv) Sent by electronic message to the electronic address (if any) nominated by that person.

## **26.2 Overseas members**

A member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

## **26.3 When notice is given**

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

(a) If it is delivered personally or sent by fax or electronic message:

(i) By 5.00 pm (local time in the place of receipt) on a business day – on that day; or

(ii) After 5.00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day – on the next business day; and

(b) If it is sent by mail:

(i) Within Australia – 1 business day after posting; or

(ii) To a place outside Australia – 3 business days after posting.

A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

## **26.4 Business days**

For the purposes of 26.3, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

## **26.5 Counting days**

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

## **26.6 Notices to 'lost' members**

If:

(a) On 2 or more consecutive occasions a notice served on a member in accordance with this rule is returned unclaimed or with an indication that the member is not known at the address to which it was sent; or

(b) The Board believes on other reasonable grounds that a member is not at the address shown in the Register or notified to the Company under rule 26.5,

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

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

**SCHEDULE 1**

Members at the date of Adoption of this Constitution

**MEMBERSHIP APPLICATION**

Application for membership of the Baking Industry Group Ltd  
(the Company)

I, .....  
(name of duly authorized officer),

.....  
Of (name of nominating organization)

.....  
Of (address of nominating organization)

..... State..... Post Code.....

Hereby nominate (name of member/s).....

As member/s of the Company. The member/s so nominated belong to the (state class of member)

.....  
In accordance with the Constitution of the Company.

The attached Consent to Act form/s (Appendix 2) provides details of the member/s

Signed:.....  
(nominating person)

Name:.....

Position:.....

Date:.....

### CONSENT TO ACT AS A DIRECTOR

Name (surname and given names):.....

Former name:.....

**Residential**

Address:.....

.....

.....

Suburb/City, State, postcode.....

Office: Director

Place of birth.....

Date of birth:.....

Business occupation:.....

Other directorships:.....

I hereby consent to acting as a Director of the Baking Industry Group Ltd  
ACN..... This information is required by the Australian Securities  
Commission.

Dated this.....day of.....20

Signed.....

Contact details – business hours.....

Title:.....

Organisation:.....

Address:.....

.....State.....Post Code.....

Phone:.....Fax.....

Email.....Mobile.....

Website;.....Other;.....

.....

## MEMBER PROXY FORM

I.....\*

Of.....

A Member of .....\*\*

**A Member of the Baking Industry Group Ltd appoint**

.....\*\*\*

Of.....

State.....Post Code.....

Failing whom, or if no person is named, the Chairperson of the meeting as our proxy to vote and act on our behalf at the Director's or general meeting of the National Baking Industry AssociationLtd to be held on .....and any other day to which that meeting is adjourned or postponed.

**We direct our proxy to vote in the following manner:**

### Motion Numbers

1.....for..... Against.....

2.....for..... Against.....

3.....for..... Against.....

### Other Instructions:

.....  
.....

**If no directions are given our proxy may vote as the proxy thinks fit or may abstain.**

**Signature of Member:**.....

**Date:**.....

No person may hold more than 5 proxies, except the Chairperson of the meeting who may hold any number of proxies.

The proxy form must be received by the Company at the Registered Office or at such other place as is specified for that purpose in the notice convening the meeting.

Notes\* Insert name and address of member, \*\* Insert class of membership, \*\*\* Insert name and address of proxy. The proxy must be a natural person.