

A Company limited by guarantee incorporated under
the *Corporations Act 2001 (Cth)*

Constitution of Mallee Sustainable Farming Ltd

ACN [insert]

ABN 99 557 839 332

DF Mortimer & Associates

PO Box 983

MOONEE PONDS VIC 3039

Tel: (03) 9370 9333

Ref: DFM:24/0008

1 Preliminary

1.1 Exclusion of replaceable rules

- (a) The replaceable rules contained in the Act do not apply to the Company.
- (b) To the extent there is an inconsistency between a clause in this constitution and the ACNC Act while the Company is a registered charity, the ACNC Act prevails.
- (c) A word or expression that is defined in the Act, or used in that Act and covering the same subject, has the same meaning as in this constitution.

1.2 Definitions and interpretation

In this Constitution:

- (a) **ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012*, and related legislative instruments for the time being in force.
- (b) **the Act** means the *Corporations Act 2001* for the time being in force.
- (c) **Board** means the board of Directors inclusive of Specialist Directors for the time being of the Company.
- (d) **Chair** means the person appointed to the office of chairperson under clause 8.10(a).
- (e) **the Company** means Mallee Sustainable Farming Ltd ACN [insert].
- (f) **Deductible Contribution** means a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event held for the Principal Purpose.
- (g) **Directors** means the directors for the time being of the Company, one which represent each state – Victoria, New South Wales and South Australia.
- (h) **Gift** means a gift as described in item 1 of the table in section 30-15 of the ITAA 97 to the Company.
- (i) **Guaranteed Amount** is \$1.00.
- (j) **ITAA97** means the *Income Tax Assessment Act 1997*.
- (k) **Mallee Sustainable Farming region** means the agricultural area of South Western New South Wales, North Western Victoria and South Eastern South Australia with less than 350mm annual rainfall and “Mallee” type soils as defined by the Board.
- (l) **Member** means a member or body corporate (inclusive of “Ordinary members”, “Associate members”, “Honorary life members” and “Specialist Directors”) whose name is entered in the Register.

- (m) **Office bearers** means a Director appointed as an office bearer under clause 8.10 including the Chair, Deputy Chair and Secretary.
- (n) **Principal Purpose** means the purpose set out in clause 2.
- (o) **Register** means the Register of Members under clause 3.6.
- (p) **Seal** means the common seal of the Company (if any).
- (q) **Secretary** means the secretary for the time being of the Company and if there are joint secretaries, any one or more of such joint secretaries.
- (r) **Specialist Directors** means those persons invited onto the Board who have qualifications and expertise which would advance the Principal Purpose.
- (s) **Special resolution** means a resolution:
 - (i) of which notice has been given under clause 7.5(a); and
 - (ii) that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution.
- (t) Except so far as the contrary intention appears in this constitution, an expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (u) Words importing any one gender must be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.

2 Principal Purpose

2.1 The Principal Purpose

- (a) The Principal Purpose for which the Company is established is to protect and enhance the natural environment by the encouragement of sustainable dry-land farming practices.
- (b) Solely in furtherance of the Principal Purpose, the activities the Company will undertake may include, but are not limited to:
 - (i) Carrying out research into the protection of soil, water and air quality;
 - (ii) Provision of information;
 - (iii) Undertaking soil conservation works;
 - (iv) Undertaking works to protect and enhance biodiversity;
 - (v) Undertaking works to improve air and water quality;
 - (vi) Undertaking activities to build community resilience through access to economic and social infrastructure;
 - (vii) To foster the sustainable production of food and fibre in the Mallee Region;

- (viii) Promoting the principles of ecologically sustainable development; and
 - (ix) all other things incidental or conducive to furthering the Principal Purpose.
- (c) Subject to clause 2.3, the Company has the following powers:
- (i) the powers of an individual; and
 - (ii) all the powers of a Company limited by guarantee under the Act.

2.2 The Principal Purpose is charitable

The Principal Purpose is charitable in accord with item 10 in the table at section 25.5 of the ACNC Act (advancing the natural environment).

2.3 Application of assets for Principal Purpose

- (a) The income and property of the Company must be applied solely towards the Principal Purpose.
- (b) No portion of the surplus, income or property of the Company may be paid or transferred directly or indirectly to Members or Directors by way of dividend.
- (c) Payment may be made in good faith to any Member:
 - (i) in return for any services actually rendered to the Company;
 - (ii) for goods supplied in the ordinary and usual way of business;
 - (iii) by way of interest on money borrowed from any Member at a rate not exceeding the rate for the time being fixed by the Board; and
 - (iv) of reasonable and proper rent for premises let by any Member.
- (d) A Director may be paid directors fees for serving as a Director and payments may also be made to Directors in the following circumstances:
 - (i) for the payment of out-of-pocket expenses incurred in carrying out the duties of a Director where the payments do not exceed an amount previously approved by the Board; or
 - (ii) for any service rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; or
 - (iii) as an employee of the Company where the terms of employment have been approved by a resolution of the Board.

2.4 Distribution of assets on revocation of endorsement

- (a) Where the endorsement of the Company as a deductible gift recipient is revoked by the Commissioner of Taxation, the following assets remaining after satisfying the Company's liabilities and expenses must be transferred to such other charitable institution or institutions in Australia to which income tax deductible gifts may be made:
 - (i) Gifts of money or property for the Principal Purpose;
 - (ii) Deductible Contributions made to an eligible fundraising event for the Principal Purpose; and
 - (iii) Money received by the Company as a consequence of those Gifts or Contributions.
- (b) The identity of the charitable institution or institutions will be decided by the Members by ordinary resolution as near as practicable following receipt of a notice of revocation from the Commissioner of Taxation. If the Members fail to decide, the institution shall be determined by application to the Supreme Court in the State of incorporation.

2.5 Distribution of assets on winding up

- (a) Where on the winding up or dissolution of the Company, there is a surplus of assets after satisfying all the Company's liabilities and expenses, the surplus:
 - (i) must not be paid or distributed to Members; and
 - (ii) will be given or transferred to such other charitable institution in Australia to which income tax deductible gifts may be made which:
 - (A) has a similar purpose to the Principal Purpose; and
 - (B) prohibits the distribution of income, profit or assets to its Members.
- (b) The identity of the charitable institution or institutions must be decided by the Members by ordinary resolution on or before the time of such winding up or dissolution. If the Members fail to decide, the institution shall be determined by application to the Supreme Court in the State of incorporation.

3 Membership

3.1 Liability of Members

The liability of the Members is limited to the Guaranteed Amount.

3.2 Contribution of Members on winding up

Every Member undertakes to contribute to the assets of the Company in the event of the Company being wound up while he or she is a Member, or within one year of ceasing to be a Member such amount as may be required not exceeding the Guaranteed Amount, for:

- (a) the payment of the debts and liabilities of the Company contracted whilst the Member or past Member as the case may be was a Member;
- (b) the costs charges and expenses of winding up; and
- (c) the adjustment of the rights of the contributors or Members amongst themselves.

3.3 Membership eligibility and application

- (a) In this clause, "person" means an individual or incorporated body.
- (b) Any person committed to the Principal Purpose may apply to become a Member provided:
 - (i) Application for Membership is made on the prescribed Application Form in Appendix 1;
 - (ii) The person agrees in writing to provide a guarantee of not less than the Guaranteed Amount to defray such liabilities and expenses of the Company upon its winding up or dissolution; and
 - (iii) The person agrees to comply with the Company's constitution.
- (c) The rights of any Member are not transferable.

3.4 Membership categories

- (a) Ordinary members are:
 - (i) Farm business entities with farming operations in the Mallee Sustainable Farming region; and
 - (ii) Persons who are owners or employees of farm business entities with farming operations in the Mallee Sustainable Farming region.
- (b) Ordinary members are entitled to vote at general meetings of the Company.
- (c) Associate members are:
 - (i) Any person with an interest in dryland farming in the Mallee Sustainable Farming region; and
 - (ii) Any person under the age of 15 years.
- (d) Associate members are not entitled to vote at general meetings of the Company.
- (e) Honorary life members are persons who in the opinion of the Board are worthy of recognition for service or financial contribution to the Company or its Principal Purpose.

- (f) Honorary life members are entitled to vote at general meetings of the Company.
- (g) Specialist Directors are members for the duration of their appointment as Specialist Directors under clause 8.1.
- (h) Specialist Directors are entitled to vote at general meetings of the Company

3.5 The Board decide on Membership

- (a) An Application for Membership must be accepted by the Board and such acceptance may be determined by the Board using any criteria as the Board alone may determine.
- (b) The Board may decline any application for Membership and is not bound to give reasons why the application was not accepted.
- (c) The first Member is the subscriber to this constitution who is not required to apply for Membership.
- (d) The minimum number of Members is 1.

3.6 Register of Members

- (a) The Secretary must maintain the Register at the Company's registered office.
- (b) When an applicant has been accepted for Membership the Secretary must cause the Member's name to be entered in the Register and must send to the Member written notice of the acceptance together with the date that their Membership commenced.
- (c) The address of a Member in the Register will be the address of the Member for the purpose of service of any notices to Members.

3.7 When an Applicant becomes a member

An applicant becomes a Member on the date that their name is entered on the Register.

3.8 Cessation of Membership

- (a) A Member ceases to be a Member if they:
 - (i) tender written notice of resignation to the Secretary;
 - (ii) are wound up or otherwise dissolved or deregistered (for an incorporated body);
 - (iii) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a member; or
 - (iv) are expelled or suspended in accordance with this constitution.

- (b) A Member whose Membership is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding the Guaranteed Amount for which the Member is liable under clause 3.1 of this constitution.
- (c) Except as a creditor, a Member whose Membership is terminated will not make any claim, monetary or otherwise, on the Company, its funds or property.
- (d) Any person who for any reason ceases to be a Member must not represent themselves in any manner as being a Member.

4 Internal Disputes

4.1 Internal Dispute procedure

- (a) The dispute resolution procedure in this clause 4.1 applies to disputes between a Member or Director and:
 - (i) one or more Members;
 - (ii) one or more Directors; or
 - (iii) the Company.
- (b) A Member or Director must not start a dispute resolution procedure in relation to a matter which is the subject of a Member disciplinary procedure under clause 5 until that disciplinary procedure is completed.
- (c) Those involved in the dispute must try to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.
- (d) If those involved in the dispute do not resolve it under clause 4.1(c), they must within 10 days:
 - (i) notify the Board of the dispute;
 - (ii) agree to or request the appointment of a mediator; and
 - (iii) attempt in good faith to settle the dispute by mediation.
- (e) The mediator must:
 - (i) be chosen by agreement of the parties involved in the dispute; or
 - (ii) where those involved in the dispute do not agree:
 - for disputes between Members, a person chosen by the Board; or
 - if the dispute is between a Member and the Board or the Company, a person chosen by the president of the law institute or society in the state or territory in which the Company has its registered office.
- (f) A mediator chosen by the Board under clause 4.1(e)(ii):
 - (i) may be a Member or former member of the Company;
 - (ii) must not have a personal interest in the dispute; and
 - (iii) must not be biased towards or against anyone involved in the dispute.

- (g) When conducting the mediation, the mediator must:
 - (i) give each party every opportunity to be heard;
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that procedural fairness is accorded to the parties throughout the mediation process.
- (h) The mediator must not determine the dispute.

5 Member discipline

5.1 Board may take disciplinary action

- (a) The Board may take disciplinary action against a Member in accordance with clause 5 if it is determined that the Member:
 - (i) has failed to comply with this constitution;
 - (ii) refuses to support the purposes of the Company; or
 - (iii) has engaged in conduct prejudicial to the Company.

5.2 Disciplinary subcommittee

- (a) If the Board is satisfied that there is a reasonable basis to consider disciplinary action against a Member, the Board must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the Member.
- (b) The Members of the disciplinary subcommittee:
 - (i) may be Directors, Members, or anyone else; but
 - (ii) must not be biased against, or in favour of, the Member concerned.

5.3 Notice to member

- (a) Before disciplinary action is taken against a Member, the Secretary must give written notice to the Member:
 - (i) stating that the Company proposes to take disciplinary action against the Member;
 - (ii) stating the grounds for the proposed disciplinary action;
 - (iii) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the disciplinary meeting);
 - (iv) advising the member that he or she may do one or both of the following:
 - (A) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
 - (B) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and

- (C) setting out the Member's appeal rights under clause 5.5.
- (b) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

5.4 Decision of subcommittee

- (a) At the disciplinary meeting, the disciplinary subcommittee must:
 - (i) give the Member a reasonable opportunity to be heard; and
 - (ii) consider any written statement submitted by the Member.
- (b) After complying with clause 5.4(a), the disciplinary subcommittee may:
 - (i) take no further action against the Member; or
 - (ii) subject to clause 5.4(c):
 - (A) reprimand the Member;
 - (B) suspend the Membership rights of the Member for a specified period; or
 - (C) expel the Member from the Company.
- (c) The disciplinary subcommittee may not fine the Member.
- (d) The suspension of Membership rights or the expulsion of a Member by the disciplinary subcommittee under this clause takes effect immediately after the vote is passed.

5.5 Appeal rights

- (a) A person whose Membership rights have been suspended or who has been expelled from the Company under clause 5.4 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (b) The notice must be in writing and given:
 - (i) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
 - (ii) to the Secretary not later than 48 hours after the vote.
- (c) If a person has given notice under clause 5.5(a), a disciplinary appeal meeting must be convened by the Board as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (d) Notice of the disciplinary appeal meeting must be given to each Member who is entitled to vote as soon as practicable and must:
 - (i) specify the date, time and place of the meeting; and
 - (ii) state:
 - (A) the name of the person against whom the disciplinary action has been taken;
 - (B) the grounds for taking that action; and

- (C) that at the disciplinary appeal meeting the Members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

5.6 Conduct of disciplinary appeal meeting

- (a) At a disciplinary appeal meeting:
 - (i) no business other than the question of the appeal may be conducted;
 - (ii) the Board must state the grounds for suspending or expelling the Member and the reasons for taking that action; and
 - (iii) the person whose Membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (b) After complying with clause 5.6(a), the Members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (c) A Member may not vote by proxy at the meeting.
- (d) The decision is upheld if not less than three quarters of the Members voting at the meeting vote in favour of the decision.

5.7 Expelled Member may reapply for Membership

- (a) Any Member expelled from the Company may at any time apply to the Board to be readmitted as a Member.
- (b) A Member who has been expelled from the Company or during their term of suspension as a Member, may not cast a vote at general meetings of the Company and may not serve as a Director.

6 Patron

- (a) The Company may from time to time at any general meeting appoint a person, not necessarily a member, to be Patron of the Company.
- (b) A Patron must not, as Patron, have any rights or obligations in relation to the Company other than rights to receive notices of, and to attend general meetings of Members
- (c) A Patron ceases office upon resignation or by resolution of Members in general meeting.

7 Members' meetings

7.1 Annual general meeting

- (a) A Company general meeting must be held at least once in every calendar year and within the period of five months after the end of the financial year at such time and place as may be determined by the Directors to be called the "Annual General Meeting."

- (b) Company general meetings other than the Annual General Meeting may be called “special general meetings”.
- (c) The business of the Annual General Meeting may include any of the following, even if not referred to on the notice of meeting:
 - (i) a review of the Company’s activities;
 - (ii) a review of the Company’s finances;
 - (iii) the consideration of the Annual Information Statements, Financial Statements, Directors’ Declaration and Directors’ Report, and Auditor’s Report (if any);
 - (iv) the election of Directors;
 - (v) the appointment of the auditor; and
 - (vi) the fixing of the auditor’s remuneration.
- (d) The chairperson of the Annual General Meeting must give Members a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

7.2 Convening general meetings

- (a) A Company general meeting may only be convened:
 - (i) by a Directors’ resolution; or
 - (ii) in accord with a Members’ requisition under clause 7.3; or
 - (iii) by Members in accord with clause 7.4.
- (b) The Directors must not change the venue for, postpone or cancel a general meeting convened under clause 7.2(a)(ii) and 7.2(a)(iii) without the prior written consent of the Members who respectively, requisitioned or called the meeting.

7.3 Members’ may requisition general meeting

- (a) If Members with at least 5% of the votes that may be cast at a general meeting make a written request to the Company for a general meeting to be held, the Directors must:
 - (i) within 21 days of the Members’ request, give all Members notice of a general meeting; and
 - (ii) hold the general meeting within 2 months of the Members’ request.
- (b) The percentage of votes that Members have in clause 7.3(a) is to be worked out as at midnight before the Members request the meeting.
- (c) The Members who make the request for a general meeting must:
 - (i) state in the request any resolution or special resolution to be proposed at the meeting;
 - (ii) sign the request; and
 - (iii) give the request to the Company.

- (d) Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

7.4 Members' may call general meeting

- (a) If the Directors do not call the meeting within 21 days of being requested under clause 7.3(a), 50% or more of the Members who made the request may call and arrange to hold a general meeting.
- (b) To call and hold a meeting under clause 7.4(a) the Members must:
 - (i) as far as possible, follow the procedures for general meetings set out in this constitution;
 - (ii) call the meeting using the list of Members on the Register, which the Company must provide to the Members making the request at no cost; and
 - (iii) hold the general meeting within three months after the request was given to the Company.
- (c) The Company must pay the Members who request the general meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

7.5 Notice of general meetings

- (a) A notice of a general meeting must specify:
 - (i) the place, the day and the time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) the general nature of the business to be transacted at the meeting; and
 - (iii) a statement that Members have no right to appoint proxies
- (b) The Company may hold a meeting of its Members at 2 or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.
- (c) Subject to clause 7.5(d), Notice of a meeting may be provided less than 21 days before the meeting if:
 - (i) for an Annual General Meeting, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand; or
 - (ii) for any other general meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) Notice of a meeting cannot be provided less than 21 days before the meeting if a special resolution will be moved to:
 - (i) remove a Director;
 - (ii) appoint a Director in order to replace a Director who was removed; or
 - (iii) remove an Auditor.

- (e) Notice of every general meeting of Members must be given in the manner authorised by clause 9.8 to:
 - (i) every Member and to every Director;
 - (ii) a Patron appointed under clause 6 (if any); and
 - (iii) the Auditor for the time being of the Company.
- (f) No other person is entitled to receive notices of meetings of Members.
- (g) If a general meeting is adjourned for one month or more, the Members must be given new notice of the resumed meeting.

7.6 Members' resolutions and statements

- (a) Members with at least 5% of the votes that may be cast on a resolution may give:
 - (i) written notice to the Company of a resolution they propose to move at a general meeting (Members' resolution); and
 - (ii) a written request to the Company that the Company give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (Members' statement).
- (b) A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- (c) A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.
- (d) Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
- (e) The percentage of votes that Members have as described in clause 7.6(a) is to be worked out as at midnight before the request or notice is given to the Company.
- (f) If the Company has been given notice of a Members' resolution under clause 7.6(a)(i), the resolution must be considered at the next general meeting held more than two months after the notice is given.
- (g) This clause does not limit any other right that a Member has to propose a resolution at a general meeting.

7.7 Notice of proposed resolution or statement

- (a) If the Company has been given a notice or request under clause 7.6(a):
 - (i) in time to send the proposed Members' resolution or Members' statement to Members with a notice of meeting, it must do so at the Company's cost; or

- (ii) too late to send the proposed Members' resolution or Members' statement to Members with a notice of meeting, then the Members who proposed the resolution or made the statement must pay the expenses reasonably incurred by the Company in giving Members notice of the proposed Members' resolution or Members' statement.
- (iii) Members at a general meeting may pass a resolution that the Company will pay or reimburse expenses incurred by Members under clause 7.7(a)(ii).
- (b) The Company does not need to send the notice of proposed Members' resolution or Members' statement to Members if:
 - (i) it is more than 1,000 words long;
 - (ii) the Directors consider it may be defamatory;
 - (iii) clause 7.7(a)(ii) applies, and the Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members' resolution or Members' statement to Members; or
 - (iv) in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid resolution able to be put to the Members.

7.8 Chair of general meetings

- (a) The Chair must preside as chairperson at every General Meeting.
- (b) If there is no Chair or the Chair is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting, the Deputy Chair will chair the meeting.
- (c) If the Deputy Chair is not present or is present but is unwilling to act for all or part of the meeting, the Members present may elect one of their number to chair the meeting (or part of it).
- (d) The chairperson is responsible for the conduct of the general meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the Auditor).
- (e) The chairperson does not have a casting vote.

7.9 Quorum for general meetings

- (a) No business may be transacted at any Members' meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) A quorum of Members for a meeting is:
 - (i) If there is only one Member, that Member; or
 - (ii) Five members personally present and entitled to vote.

7.10 Adjournment of general meetings

- (a) If a quorum is not present within fifteen minutes from the time appointed for the meeting:
 - (i) Where the meeting was convened upon the request of Members - the meeting must be dissolved; or
 - (ii) In any other case:
 - (A) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
 - (B) if at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting, then the meeting may be dissolved.
- (b) The Chair must adjourn a Members' meeting from time to time and from place to place if the Members present with a majority of votes that may be cast at that meeting agree or direct the Chair to do so. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a Members' meeting is adjourned for thirty days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Except as provided by the preceding paragraph, it is not necessary to give notice of an adjournment.

7.11 Auditor's right to attend meetings

- (a) The Auditor is entitled to attend any general meeting and to be heard by the Members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- (b) The Company must give the Auditor any communications relating to the general meeting that a Member is entitled to receive.

7.12 Representatives of Ordinary Members that are farm business entities

- (a) A Member that is a farm business entity may appoint as a representative:
 - (i) one individual to represent the Member at meetings; and
 - (ii) the same individual or another individual for the purpose of being appointed or elected as a Director.
- (b) The appointment of a representative by a Member must:
 - (i) be in writing;
 - (ii) include the name of the representative;
 - (iii) be signed on behalf of the Member; and

- (iv) be given to the Company or, for representation at a meeting, be given to the Chair before the meeting starts.
- (c) A representative has all the rights of a Member relevant to the purposes of the appointment as a representative.
- (d) The appointment may be a standing one.

7.13 Voting at general meetings

- (a) Each Member has one vote.
- (b) Subject to requirements for special resolutions, questions arising at any Members' meeting must be decided by simple majority of votes cast by Members present at the meeting.
- (c) A resolution put to the vote of the meeting may be decided on a show of hands unless a poll is demanded (before a vote is taken or immediately after declaration of the result of the show of hands) by:
 - (i) The chair of the meeting;
 - (ii) At least 2 Members present; or
 - (iii) A Member or Members present representing at least 5% of the Members entitled to vote on the resolution.
- (d) Unless a poll is so demanded, a declaration by the chair 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, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (e) The demand for a poll may be withdrawn.
- (f) If a poll is duly demanded, it must be taken in such a manner as the chair directs and unless the meeting is adjourned, the result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded on the election of the chair or on a question of adjournment must be taken immediately.
- (h) In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the Members' meeting at which the show of hands takes place or at which the poll is demanded will have a casting vote in addition to any vote the chair may have in the capacity as a Member.
- (i) Subject to any rights or restrictions for the time being attached to any Member:
 - (i) at Members' meetings each Member entitled to vote may vote in person; and
 - (ii) on a show of hands every person present who is a Member has one vote, and on a poll every person present in person has one vote.

- (j) If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his or her committee or trustee or such other person as properly has the management of his or her estate may exercise any rights of the Member in relation to a Members' meeting as if the committee, trustee or other person were the Member.
- (k) A Member is not entitled to vote at a Members' meeting unless all sums presently payable by the Member in respect of the Company have been paid.
- (l) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (m) Any such objection must be referred to the chair of the Members' meeting, whose decision is final.
- (n) A vote not disallowed pursuant to such an objection is valid for all purposes.

7.14 Proxies

- (a) A Member who is entitled to attend and cast a vote at a Members' meeting must not appoint a person as the Member's proxy to attend and vote for the Member at the meeting.

8 Directors

8.1 Appointment and removal of Directors

- (a) The number of the Directors must be not less than 3.
- (b) The Board must comprise:
 - (i) at least 1 Director representing each of the Victorian, New South Wales and South Australian Regions; and
 - (ii) such Specialist Directors appointed for a term of 2 years by a majority of the Directors.
- (c) For the avoidance of doubt, a Specialist Director may serve as an Office-bearer set out in clause 8.10.
- (d) Subject to clause 8.1(b)(i) at each Annual General Meeting there must be an election by the members of a minimum of 2 Directors under the Ordinary membership category to hold office for 2 years.
- (e) The Members may by resolution passed at a general meeting:
 - (iii) determine the method for electing a Director;
 - (iv) fix the number of Directors or increase or reduce the number of Directors (but so that the number is not less than 3); and
 - (v) determine in what rotation a Director is to go out of office.

- (f) Subject to clause 8.1(e)(iii), Members may appoint a person to be a Director by resolution passed at a general meeting. The resolution may specify the period during which the Director is to hold office and if it does so specify the Director will cease to hold office at the expiration of that period but will be eligible for reappointment. If the Members' resolution does not specify the term of the Director's appointment, the Director must hold office in accordance with clause 8.4.
- (g) A Director must have suitable qualifications, skills and experience (as determined by the Board) to discharge the function of a Director.
- (h) A Director need not be a Member but is entitled to receive notices of and attend and speak at meetings of Members.
- (i) No person (not being a retiring Director) is eligible for election to the office of Director unless:
 - (i) such person has, at least 28 days before the meeting, left at the registered office of the Company a duly signed notice in writing giving such persons consent to their nomination; and
 - (ii) Notice of every candidate for the position of Director is served by the Board on Members at least 14 days before the meeting at which the election is to take place.
- (j) The Company in general meeting may at any time by special resolution remove any appointed or elected Director before the expiration of that Director's period of office and, if so desired, elect another person in that Director's stead. The person so elected must hold office during such time only as the Director in whose place such person is elected would have held office if such Director had not been removed.

8.2 Vacancies

- (a) In the event of a vacancy in the office of a Director, and the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they must act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a meeting of Members for that purpose.
- (b) The Directors have power to:
 - (i) appoint a new Director to fill any casual vacancy; and
 - (ii) appoint additional Directors.
- (c) Any Director so appointed may hold office only until the next following Annual General Meeting of the Company and may then be eligible for election but a term filling a casual vacancy or as a co-opted additional Director must not then be taken into account in determining the number of Directors who are to retire by rotation at such meeting.

- (d) In addition to the circumstances in which the office of a Director or becomes vacant by virtue of the Act, the office of a Director or Specialist Director becomes vacant if the Director or Specialist Director:
 - (i) becomes of unsound mind;
 - (ii) resigns their office by notice in writing to the Company;
 - (iii) is absent without the consent of Directors from 3 consecutive meetings of the Board;
 - (iv) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of his or her interest as required by clause 8.15; or
 - (v) is expelled or suspended as a Member in accordance with clause 3.8.

8.3 Defects in appointment of directors

All acts done by a meeting of the Directors or by any person acting as a Director are valid, despite that it is afterwards discovered that there was a defect in the appointment of a person to be a Director, or to act as a Director, or that person so appointed was disqualified.

8.4 Rotation of directors

Subject to clause 8.18.1(e)(iii), the following provisions apply to all Directors:

- (a) At every Annual General Meeting those Directors who have been in office for 2 years or until the second Annual General Meeting following such Directors' appointment (whichever is the longer) must retire.
- (b) The Directors or Director to retire under clause 8.4(a) must be the Directors or Director longest in office since last being elected but as between Directors who were elected on the same day, the Director or Directors to retire must (in default of agreement between them) be determined by lot.
- (c) The Company at any general meeting at which any Directors retire may fill up the vacated office by electing a like number of persons to be Directors and may fill up any other vacancies.
- (d) If, at any Annual General Meeting at which an election of Directors ought to take place and the places of the retiring Directors are not filled up, the retiring Directors, may be re-appointed.

8.5 Powers and duties of directors

- (a) Subject to the Act and to any other provision of this constitution, the Company business must be managed by the Board, who may pay all expenses incurred.

- (b) Solely in furtherance of the Principal Purpose, the Board may exercise all the powers of the Company to borrow money, to charge any property or business of the Company or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The Board may, by power of attorney, appoint any person (either by name or by reference to position or office held) to be the attorney of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board), for such period and subject to such conditions as they think fit.
- (d) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney as the Board think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.
- (e) All negotiable instruments and all receipts for money paid to the Company, must be signed, drawn, accepted, endorsed, executed, as the case may be in such manner as the Board determine.

8.6 Power to make by-laws

Subject to the Act and this constitution, the Board has power to make by-laws concerning:

- (a) Membership application and qualification for Company Membership;
- (b) delegation of powers to committees under clause 8.12; and
- (c) any other matter which the Board believes suitable for including in such by laws.

8.7 Meetings of directors

The Board must meet face to face at least 3 times a year for the dispatch of business etc. and adjourn and otherwise regulate its meetings as it thinks fit.

8.8 Convening meetings of directors

The Board may at any time and the secretary must at the request of any 4 elected Directors, convene a meeting of the Directors.

8.9 Quorum for directors' meetings

A quorum consists of:

- (a) If the Directors have fixed the number for the quorum greater than a majority of office-bearers, that number of the Board present at the meeting; or
- (b) In any other case, at least a majority of office-bearers present at the meeting.

8.10 Chair and office bearers

- (a) The Office-bearers comprise:
 - (i) Chairperson;
 - (ii) Vice-Chairperson; and
 - (iii) Secretary.
- (b) At the first Board meeting following each Annual General Meeting the Board must elect one of their number as Chair by a simple majority for an annual term of office.
- (c) A retiring Chair is eligible for re-election to that office.
- (d) Where a meeting of the Board is held and:
 - (i) a Chair has not been elected as provided by the preceding two paragraphs; or
 - (ii) the person so elected is not present within ten minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,the Board present must elect one of their number to chair such meeting or part of it.
- (e) At the first Board meeting following each Annual General Meeting the Board must appoint the Secretary and such other Office Bearers other than the Chair, as they see fit.
- (f) The duties of the Office Bearers must be determined by the Board.
- (g) An Office Bearer, including the Chair, may be elected for more than one successive term.

8.11 Voting at directors' meetings

- (a) Subject to this constitution, questions arising at a meeting of Directors shall be decided by a majority of votes of the Directors and Specialist Directors present and voting and any such decision must for all purposes be deemed a decision of the Board.
- (b) A Director or Specialist Director may not appoint a proxy for the purpose of voting at Board meetings.
- (c) In a case of an equality of votes, the Chair of the meeting must have a casting vote in addition to any vote the Chair may have in the capacity as a Director.

8.12 Delegation of powers

- (a) Directors may delegate any of their powers to a committee or committees consisting of such of their number and such other qualified persons as they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors and a power so exercised are deemed to have been exercised by the Directors.

- (c) The members of such a committee may elect 1 of their number as Chair of their meetings.
- (d) Where such a meeting is held and:
 - (i) A Chair has not been elected as provided by the preceding paragraph; or
 - (ii) The person so elected is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,

Members present may elect one of their number to be Chair of the meeting or part of it.
- (e) Subject to any by-laws, a committee may meet and adjourn as it thinks proper.
- (f) Questions arising at a meeting of a committee must be determined by a majority of votes of committee Members present and voting.
- (g) In the case of an equality of votes, the Chair must not have a casting vote in addition to any vote the Chair may have in the capacity as a committee member.

8.13 Electronic meetings of the Board

- (a) A meeting of the Board may be called or held using any technology consented to by all the Directors. Consent of a Director for the purposes of this clause may be standing one. A Director may only withdraw their consent within a reasonable time before the meeting of Directors.
- (b) A minute of the proceedings at a meeting held using technology is sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair of the meeting.

8.14 Circulating resolutions

- (a) A resolution of the Board is deemed to have been passed at a meeting of the Board at the time at which a document containing the resolution is last signed by a Director.
- (b) For the purposes of the preceding section, 2 or more separate documents containing statements in identical terms each of which is signed by 1 or more Directors or Specialist Directors must together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate document.

8.15 Directors' conflicts of interest

- (a) Subject to the Act, no Director or Specialist Director may be disqualified by their office or of the fiduciary relation thereby established, from contracting or entering into any arrangement with the Company, nor may any such contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested be avoided, nor may any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or agreement.
- (b) Every Director and Specialist Director must observe the provisions of section 191 of the Act relating to the disclosure of the interest of Directors which might create duties or interests in conflict with their duties or interests as Directors.
- (c) Subject to the Act, a Director or Specialist Director must not as a Director be present at a meeting of the Board or vote in respect of any contract or arrangement in which such Director is interested in the manner described in the preceding clause being considered at that meeting.

9 Administration

9.1 Minutes

- (a) Directors must cause minutes of:
 - (i) all proceedings and resolutions of Members' meetings;
 - (ii) all proceedings and resolutions of Directors' meetings, including meetings of a committee of Directors;
 - (iii) resolutions passed by Members without a meeting; and
 - (iv) resolutions passed by Directors without a meeting, to be duly entered into the books kept for that purpose in accordance with the Act.
- (b) A minute recorded and signed in accordance with the Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.
- (c) Books containing the minutes of Members' meetings and resolutions passed by Members without a meeting will be open for inspection by a Member free of charge.

9.2 Financial year

- (a) The Financial Year will begin on the first day of July and ends on the thirtieth day of June.

9.3 Accounts

- (a) Directors must keep true and complete books of accounts of the transactions of the Company.
- (b) The accounts must be held at the registered office or any other place as Directors think fit.

- (c) The accounts must always be open to inspection by the Directors.
- (d) Directors must arrange for the financial report, the Directors' report and the Auditors or Reviewers' report (if required by the ACNC Act) to be made out and laid before the Annual General Meeting.
- (e) Directors must arrange for any information statement or financial statement as required by the ACNC Act to be made out.

9.4 Audit

- (a) A registered Company Auditor must be appointed.
- (b) The remuneration of the Auditor must be fixed and the auditor's duties regulated in accordance with the Act and the ACNC Act.

9.5 Inspection of records

- (a) Subject to the Act, the Board must determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in a Members' meeting.

9.6 Execution of documents

- (a) The Company may execute a document if the document is signed by:
 - (i) two Directors; or
 - (ii) one Director and one Secretary; or
 - (iii) one Director and another person appointed by Directors for that purpose.
- (b) The signature of such persons may be affixed to the document by manual, autographic or electronic means.

9.7 Alteration of constitution

The Company must only alter this constitution by special resolution passed at a general meeting of Members.

9.8 Notices

- (a) A notice must be given by the Company to any Member either:
 - (i) by serving it on the Member;
 - (ii) by sending it by post to the Member at the Member's address, including any email address, as shown in the Register or the address supplied by the Member to the Company for the giving of notices to that Member; or

- (iii) by sending it by email to an email address supplied by the Member to the Company for the giving of notices to the Member.
- (b) Where a notice is sent by post, service of the notice is deemed to be effective by properly addressing, prepaying and posting a letter containing the notice, and to have been effected, in the case of a notice to a Member, 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.
- (c) Where a notice is sent by email, service of the notice is deemed to be effected 24 hours after the transmission of the email unless the person transmitting the email is notified at any time that the email was undelivered or undeliverable.

9.9 Officers: indemnities and insurance

- (a) To the extent permitted by the Act:
 - (i) the Company indemnifies every person who is or has been an Officer against any liability for costs and expenses incurred by that person in defending any proceedings in which judgement is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any proceedings in which the Court grants relief to the person under the Act; and
 - (ii) the Company indemnifies every person who is or has been an Officer against any liability incurred by that person, as an Officer to another person, unless the liability arises out of conduct involving a lack of good faith.
- (b) The Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer against a liability:
 - (i) incurred by the person in his or her capacity as an Officer or in the course of acting in connection with the affairs of the Company except where the liability arises out of conduct involving a wilful breach of duty in relation to the Company or wilful breach of a governance standard under the ACNC Act; or
 - (ii) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.
- (c) In the two preceding sections:
 - (i) the term "proceedings" means any proceedings whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in his or her capacity as such an Officer or in the course of acting in connection with the affairs of the Company or otherwise arising out of the Officer's holding such office (including proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to the Company).

9.10 Winding up

- (a) Subject to clause 2.5, the Company must be dissolved by a special resolution of Members at a Members' meeting.

APPENDIX 1

Application for Membership of
Mallee Sustainable Farming Ltd

I, of
(name and occupation) (address)

desire to become a Member of Mallee Sustainable Farming Ltd (“the Company”).

In the event of my admission as a Member:

1. I agree to be bound by the constitution of the Company for the time being in force; and
2. I agree to pay the Guaranteed Amount should the Company be wound up and unable to pay its debts.

Signature of Applicant

Date

I, , a member of the Company,
(name)

nominate the applicant, who is personally known to me, for Membership.

Signature of Proposer

Date

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