

INDEPENDENT BREWERS ASSOCIATION

**CONSTITUTION OF INDEPENDENT BREWERS ASSOCIATION
LIMITED
ACN 154 036 307**

A COMPANY LIMITED BY GUARANTEE

Dated: 18 May, 2017

CONSTITUTION OF INDEPENDENT BREWERS ASSOCIATION LIMITED
ACN 154 036 307

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CONSTITUTION OF INDEPENDENT BREWERS ASSOCIATION LIMITED

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1. PRELIMINARY

1.1. Replaceable rules do not apply

The replaceable rules contained in the Corporations Act do not apply to the Company.

1.2. Definitions

In this constitution:

Alternate Director means a person appointed as an alternate director under rule 14.

Annual Membership Fee means any amount determined in accordance with rule 6.6.

Associate Member has the meaning set out in rule 6.2(b).

ATO means the Australian Taxation Office.

Auditor means the Company's auditor (if any).

Beer Sales means annual beer sales to distributors, retailers, wholesalers, customers or to the general public (but excluding sales to other brewers).

Board means the Directors acting as a board of Directors.

Brewer Category means a category of Independent Brewer whose identity and characteristics may be determined by the Board from time to time, and at the date of adoption of this constitution, includes:

- (a) Production Brewers; and
- (b) Contract Brewers.

Brewer in Planning means a person who is in the development stages of becoming an Independent Brewer.

By-laws means the By-laws of the Company prescribed by the Board from time to time.

Committee means a committee of Directors constituted under rule 12.7.

Company means Independent Brewers Association Limited ACN 154 036 307.

Contract Brewer means an Independent Brewer that:

- (a) does not hold an Excise Licence but does hold a commercial, wholesaler and/or producer licence issued by a relevant State or Territory authority allowing them to supply alcohol;
- (b) markets beer under a brand owned by it; and
- (c) has Beer Sales of not more than 40,000,000 litres in the most recent calendar year ended 31 December

Corporations Act means the *Corporations Act 2001* (Cth) as modified or amended from time to time.

Deductible Gift Recipient has the meaning given to it by the Tax Act.

Director means a person holding office as a director of the Company, and Directors means all or some of the Directors acting as a Board and, where appropriate, includes an Alternate Director.

Excise Licence means a current, valid licence issued by the ATO allowing a person to manufacture and store excisable alcohol products at their licensed premises.

Full Member has the meaning set out in rule 6.2(a).

Income Tax Exempt Entity means an entity endorsed as exempt from income tax under subdivision 50-B of the Tax Act.

Independent Brewer means an independently owned brewer based in Australia:

- (a) in which no Restricted Entity directly or indirectly holds a Material Ownership Interest; and
- (b) which is not itself a Restricted Entity.

Individual Member has the meaning set out in rule 6.2(c).

Material Ownership Interest means an Ownership Interest of greater than 20%.

Member means a person entered in the Register of Members as a member of the Company and who has not ceased to be a Member in accordance with this constitution. For the avoidance of doubt, a Member may be a Full Member, an Associate Member or an Individual Member.

Objects means the objects specified in rules 4.1 and 4.2.

Ownership Interest means an interest in the profits and/or assets of the relevant Undertaking whether held through shares, units, options, warrants, convertible preferred stock or any other instrument.

Production Brewer means an Independent Brewer that:

- (a) holds an Excise Licence; and
- (b) has Beer Sales of not more than 40,000,000 litres in the most recent calendar year ended 31 December.

Qualified Person means:

- (a) a natural person ordinarily resident in Australia;
- (b) who is a director, employee or shareholder of a Full Member; and
- (c) who is confirmed by that Full Member as being the sole qualified person in respect of that Full Member.

Register means the register of Members required to be kept by the Company in accordance with the Corporations Act.

Restricted Entity means an Undertaking:

- (a) with aggregate Beer Sales of more than 40,000,000 litres in the most recent calendar year ended 31 December; or
- (b) with Material Ownership Interests (whether directly or indirectly held) in one or more Undertakings which in aggregate have Beer Sales of more than 40,000,000 litres.

Secretary means a person appointed under rule 14 as a Secretary of the Company, and where appropriate, includes an acting Secretary and a person appointed by the Directors to perform all or any of the duties of a Secretary of the Company.

State Chapter means a sub-group of Members, who are resident or have their registered offices located in a particular State or Territory of the Commonwealth of Australia.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), as the context requires.

Undertaking means:

- (a) a company, body corporate, trust or partnership; or
- (b) an unincorporated association carrying on a trade or business, with or without a view to profit,
whether in Australia or overseas.

1.3. References to certain words and terms

In this constitution:

- (a) a reference, whether express or implied, to any legislation in any jurisdiction includes:
 - (i) that legislation as amended, extended or applied by or under any other legislation made before or after the date of adoption of this constitution;
 - (ii) any legislation which that legislation re-enacts with or without modification; and
 - (iii) any subordinate legislation made before or after the date of adoption of this constitution under that legislation;
- (b) references to persons or entities include natural persons, bodies corporate, partnerships, trusts and unincorporated associations of persons;
- (c) references to individuals or natural persons include their estate and personal representatives;
- (d) a reference to a rule is a reference to a rule of this constitution; and
- (e) a reference to writing includes any method of reproducing words in a visible form.

1.4. References to expressions used in Corporations Act

In this constitution, unless the contrary intention appears, any expression used in a rule that deals with the same subject matter as a provision of the Corporations Act has the same meaning in that rule as the meaning that applies for the purposes of that provision of the Corporations Act.

1.5. Rules of interpretation and construction

In this constitution:

- (a) singular words include the plural and vice versa;
- (b) a word of any gender includes the corresponding words of any other gender;

- (c) if a word is defined, other grammatical forms of that word have a corresponding meaning;
- (d) general words must not be given a restrictive meaning by reason of the fact that they are
- (e) followed by particular examples intended to be embraced by the general words; and
- (f) the headings do not affect interpretation.

1.6. Schedules

The schedules form part of this constitution and a reference to a schedule is a reference to a schedule to this constitution.

2. COMPANY LIMITED BY GUARANTEE

2.1. Liability of Members limited

The liability of the Members of the Company is limited to the amount of the guarantee in rule 2.2.

2.2. Guarantee by Members

Every Member undertakes to contribute an amount not exceeding \$10 to the property of the Company, in the event of the Company being wound up while he, she or it is a Member or within one year after he, she or it ceases to be a Member, for:

- (a) payment of the debts and liabilities of the Company contracted before ceasing to be a Member;
- (b) payment of the costs, charges and expenses of winding up the Company; and
- (c) adjustment of the rights of the contributories among themselves.

3. ACTIONS AUTHORISED UNDER THE CORPORATIONS ACT

Where the Corporations Act permits a company to do any matter or thing if so authorised by its constitution, the Company is and shall be taken to be authorised by this rule to be authorised or permitted to do that matter or thing, despite any other provisions of this constitution.

4. OBJECTS

4.1. Key Objects

- (a) The object of the Company is to operate as a not-for-profit association committed to educating and influencing for the benefit of Australian independent brewing.
- (b) Without limiting the generality of rule (a), the objects of the Company include:
 - (i) to be the unified voice of Australian independent brewing;
 - (ii) to be an advocate for its Members;
 - (iii) to facilitate training and development opportunities for its Members; and
 - (iv) to negotiate exclusive value opportunities for its Members.

4.2. Other Objects

The Company may only exercise the powers in section 124(1) of the Corporations Act to:

- (a) carry out the objects in this rule 4; and
- (b) do all other things as may be incidental or convenient in relation to the exercise of power under rule 4.2(a).

5. INCOME AND PROPERTY

The income and property of the Company however derived must be applied solely towards the promotion of the Objects of the Company as set out in this constitution. The Company must not pay, transfer or otherwise distribute, directly or indirectly, by way of dividend, bonus or otherwise any of the income or property of the Company to Members or Directors except:

- (a) as bona fide compensation for services rendered to the Company;
- (b) for goods supplied to the Company in the ordinary course of business;
- (c) for reasonable and proper rent for premises demised or let by any Member; or
- (d) to a Director for travelling or other expenses properly incurred on behalf of the Company.

6. MEMBERSHIP

6.1. Members

Subject to this constitution, the Members of this Company will be such persons as the Board shall admit to membership in accordance with rule 6.4 shall be the Members of the Company.

6.2. Eligibility for membership

A person is eligible to become a Member of one of the following classes:

- (a) a Full Member, if that person is an Independent Brewer; or
- (b) an Associate Member, if that person is a supplier to the Australian alcoholic beverage industry, or a member of the Australian liquor trade, or a member of the Australian media, or a person who is a Brewer in Planning; or
- (c) an Individual Member, if that person is an individual who is interested in beer, either as a consumer, home brewer, beer writer, blogger, or who is employed in the Australian liquor trade.

6.3. Application for membership

Each person eligible for membership under rule 6.2 may apply for membership in such form as the Directors may from time to time prescribe.

6.4. Eligibility and admission as a Member

The Directors must resolve in their absolute discretion whether to accept or reject each application for membership as a Full Member, Associate Member or Individual Member and, within a reasonable time, notify the applicant of their decision. The Directors are not required

to give reasons for rejection of an application for membership, and the Directors' decision is final and binding.

6.5. Register of Members

- (a) Upon admission as a Member, a Member's details will be recorded in the Register by a Director or the Secretary.
- (b) A Member must promptly notify the Company of any change in the Member's details which are recorded in the Register.

6.6. Annual Membership Fee

- (a) The Directors may determine whether there will be an Annual Membership Fee and, if so, the annual amount for each Member or class of Members.
- (b) The Directors or Secretary may notify Members of the date and manner for payment.
- (c) Subject to any date nominated under rule 6.6(b), each Member must pay any applicable Annual Membership Fee in advance by 1 July each year.

6.7. Membership classes

The Directors may, subject to this constitution and the Corporations Act:

- (a) prescribe, revoke and amend the criteria for membership and any classes of membership (but are not obliged to accept persons fulfilling those criteria as Members or Members of a class);
- (b) establish any new class of Members and define the rights (including voting rights), restrictions and obligations of Members in that class;
- (c) vary or cancel the rights, restrictions and obligations of Members in any new or existing class, if:
 - (i) at least 75% of the Members of that class give their written consent; or
 - (ii) a special resolution to that effect is passed at a separate meeting of those Members; and
- (d) transfer a Member, with the Member's consent, from membership in one class to membership in another class; and
- (e) transfer a Member from membership as a Full Member to an Associate Member in the event that in respect of any financial year ended 30 June the relevant Member ceases to satisfy the eligibility criteria. The Directors may, but need not, reinstate such a Member if in a subsequent financial year ended 30 June it satisfies the eligibility criteria.

6.8. Rights and privileges of membership

Without limiting any other rights conferred on Members:

- (a) a Full Member has the right to receive notice of, attend and vote at any general meeting of the Company, and to participate in ballots conducted under rule 11.7; and

- (b) Associate Members and Individual Members have the right to receive notice of and attend any general meeting of the Company, but do not have the right to vote at any general meeting of the Company or participate in ballots conducted under rule 11.7.

6.9. Membership not transferrable

A Member must not sell, transfer or dispose of their interests in the Company to another Member or a third party.

7. CESSATION OF MEMBERSHIP

7.1. When a person stops being a Member

A person ceases to be a Member on:

- (a) resignation; or
- (b) the termination of the person's membership in accordance with this constitution; or
- (c) in the case of a natural person:
 - (i) death;
 - (ii) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally; or
 - (iii) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health; or
- (d) in the case of a body corporate:
 - (i) being dissolved or otherwise ceasing to exist;
 - (ii) having a liquidator or provisional liquidator appointed to it; or
 - (iii) being insolvent; or
- (e) ceasing to meet the eligibility conditions for membership in rule 6.2.

7.2. Resignation

- (a) A Member may by written notice to the Company resign from membership with immediate effect or with effect from a specified date occurring not more than three months after the service of the notice.
- (b) A Member remains liable after resignation for all money due by the Member to the Company at the date of resignation, in addition to any sum for which the Member is liable as a Member under rule 2.2.

7.3. Non-payment of Annual Membership Fee

If an Annual Membership Fee for a Member is payable and remains unpaid for three months after it becomes due, the Member's membership automatically terminates and the Member ceases to be a Member. The Directors may, but need not, reinstate a Member whose membership is terminated if either the Member pays all overdue Annual Membership Fee amounts or any overdue Annual Membership Fees are waived in part or full by the Directors.

7.4. Censuring, suspension or expulsion of a Member

If a Member:

- (i) wilfully refuses or neglects to comply with the provisions of this constitution, By-laws, policies or other standards prescribed by the Directors; or
- (ii) acts in a manner which in the opinion of the Directors is prejudicial to the interests of the Company,

the Directors may by resolution censure, suspend or expel the Member from the Company.

- (b) At least 21 days before the Directors' meeting at which a resolution under rule 7.40 will be considered, the Secretary must notify the Member in writing:
 - (i) that the Directors are considering a resolution to censure, suspend or expel the Member unless the matter is rectified;
 - (ii) that this resolution will be considered at a Directors' meeting and the date of that meeting;
 - (iii) what the Member is said to have done or not done;
 - (iv) the nature of the resolution that has been proposed; and
 - (v) that the Member may provide an explanation to the Directors, and details of how to do so.
- (c) Before the Directors pass any resolution under rule 7.40, the Member must be given a chance to explain or defend themselves by:
 - (i) sending the Directors a written explanation before that Directors' meeting. and/or
 - (ii) speaking at the meeting.
- (d) After considering any explanation under rule 7.4(c), the Directors may:
 - (i) take no further action;
 - (ii) censure the Member and warn them as to their future conduct;
 - (iii) suspend the Member's rights as a Member for a period of no more than 12 months; or
 - (iv) expel the Member.
- (e) The Secretary must give written notice to the Member of the decision under rule 7.4(d) as soon as possible.
- (f) If the Directors resolve to expel the Member in accordance with this rule 7.4, the Member's membership automatically terminates and the Member ceases to be a Member.
- (g) There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this rule 7.4.

7.5. Ceasing to meet the eligibility conditions

- (a) If the Directors reasonably believe that a Member has ceased to meet the eligibility conditions for membership in rule 6.2 the Directors may expel the Member from the Company.
- (b) At least 21 days before the Directors' meeting at which a resolution under rule 7.5(a) will be considered, the Secretary must notify the Member in writing:
 - (i) that the Directors are considering a resolution to expel the Member;
 - (ii) that this resolution will be considered at a Directors' meeting and the date of that meeting;
 - (iii) why the Directors believe that the Member has ceased to meet the eligibility conditions for membership in rule 6.2; and
 - (iv) that the Member may provide an explanation to the Directors of why it believes that it continues to meet the eligibility conditions for membership in rule 6.2, and details of how to do so.
- (c) Before the Directors pass any resolution under rule 7.5(a), the Member must be given a chance to explain or defend themselves by:
 - (i) sending the Directors a written explanation before that Directors' meeting. and/or
 - (ii) speaking at the meeting.
- (d) After considering any explanation under rule 7.5(c), the Directors may:
 - (i) take no further action; or
 - (ii) expel the Member.
- (e) The Secretary must give written notice to the Member of the decision under rule 7.5(d) as soon as possible.
- (f) If the Directors resolve to expel the Member in accordance with this rule 7.5, the Member's membership automatically terminates and the Member ceases to be a Member.
- (g) There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this rule 7.5.

7.6. Representative Members

- (a) If a person is admitted as a Member as a representative of an unincorporated association or body, the name of the Member, the name of the unincorporated association or body and the fact that the Member is its representative must be entered in the Register.
- (b) Subject to the Directors' right to decline to accept any person as a Member, the unincorporated association or body may replace the Member who is its representative with another person. It must give written notice to the Company setting out the details of the new representative and be signed by an officer of the association or

body. It is not necessary for the outgoing Member to resign or the incoming Member to apply to become a Member.

8. GENERAL MEETINGS

8.1. Annual General Meetings

Subject to the Corporations Act, a general meeting of the Company called the annual general meeting must be held at least once in every calendar year, and no later than five months after the end of the Company's financial year. All other meetings of the Company will be called general meetings and may be convened at any time.

8.2. Convening a general meeting

- (a) The Directors may convene and arrange to hold a general meeting of the Company whenever the Directors think fit at any place the Directors think fit, and must do so if required to do so under the Corporations Act.
- (b) No Member may convene a general meeting except where permitted by the Corporations Act.
- (c) A general meeting may be held at two or more venues simultaneously using any technology that gives the Members as a whole a reasonable opportunity to participate.

8.3. Length and form of notice

- (a) Notice of a general meeting must be provided in writing at least 21 days before the meeting.
- (b) Subject to rule 8.3(c), 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.
- (c) Notice of a meeting cannot be provided less than 21 days before the meeting if a 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.
- (d) Notice of a general meeting must include:
 - (i) the place, date and time for 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 meeting's business;
 - (iii) if applicable, that a special resolution is to be proposed and the words of the proposed resolution; and

- (iv) a statement that Members have the right to appoint proxies and an explanation of how a proxy can be appointed.
- (e) In calculating the number of days' notice required to be given for any general meeting, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.
- (f) If a general meeting is adjourned for one month or more, the Members must be given new notice of the resumed meeting.

8.4. Persons to whom notice must be given

Notice of a general meeting must be given to each person who, at the time that the notice is given, is:

- (a) a Member;
- (b) a Director; or
- (c) an Auditor,
- (d) unless that person waives the right to receive notice by written notice to the Company.

8.5. Irregularities in giving notice

A person who attends any general meeting waives any objection that the person may have to any failure to give notice or any other irregularity in the notice of that meeting unless that person objects to the holding of the meeting at the start of the meeting. The accidental failure to give notice of a general meeting to, or the non-receipt of notice by, any person entitled to receive notice of that meeting does not invalidate the proceedings at that meeting or any resolution passed at that meeting.

8.6. Postponement

The Directors may postpone or cancel any general meeting (other than a meeting requested or called by Members under the Corporations Act) at any time before the day of the meeting. The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices of a general meeting.

9. BUSINESS OF AN ANNUAL GENERAL MEETING

9.1. Business of an annual general meeting

The business of an annual general meeting may include:

- (a) any of the following matters, even if not referred to in the notice of meeting:
 - (i) consideration of the annual financial report, Directors' report and Auditor's report;
 - (ii) election of Directors;
 - (iii) appointment of the Auditor;
 - (iv) fixing the Auditor's remuneration;
- (b) any business which under this constitution or the Corporations Act is required to be transacted at an annual general meeting; and

- (c) any other business which may lawfully be transacted at a general meeting.

10. PROCEEDINGS AT GENERAL MEETINGS

10.1. Requirement for a quorum

No item of business may be transacted at a general meeting except for the election of a chairperson and the adjournment of the meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time when the first item of business is considered, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairperson of the meeting (on the chairperson's own motion or at the request of a Member present) declares otherwise.

10.2. Number for a quorum

- (a) A quorum is 5% of voting Members present and entitled to vote unless the Company has only one voting Member, in which case that Member alone constitutes a quorum.
- (b) In determining whether a quorum is present, each individual attending as a corporate representative, proxy or attorney is to be counted, except that if a voting Member has appointed more than one corporate representative, proxy or attorney, only one is to be counted.

10.3. If quorum not present

If a quorum is not present within 30 minutes after the time appointed for a general meeting:

- (a) any meeting convened on the requisition of Members is automatically dissolved; and
- (b) any other meeting:
 - (i) will stand adjourned to the same day in the next week at the same time and place or to any other day, time and place as the Directors may appoint by notice to the Members; and
 - (ii) if at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the adjourned general meeting, then those voting Members who are present in person are deemed to be a quorum and may transact the business for which the meeting was called.

10.4. Chairperson of general meeting

If the Directors have elected one of their number as chairperson, that person is entitled to preside as chairperson at a general meeting. If a chairperson of the Board has not been elected or if the chairperson is not present within 15 minutes after the time appointed for a general meeting or is unable or unwilling to act as chairperson for all or any part of the meeting, then the chairperson of the meeting (or for that part of the meeting) will be chosen from the following persons, in order of precedence:

- (a) first, any other Director present chosen by a majority of the Directors present, or if only one other Director is present, that Director, if that Director is willing and able to act as chairperson; and

- (b) second, a voting Member present chosen by a majority of the voting Members present and who is willing and able to act as chairperson.

10.5. Conduct of general meeting

Subject to the Corporations Act, the chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for proper and orderly debate or discussion including limiting the time for which Members present may speak on any motion or item of business;
- (c) may terminate discussion or debate on any matter and may make rulings without putting any question to the vote whenever the chairperson considers it necessary or desirable for the proper conduct of the meeting;
- (d) may adjourn any matter being considered or remaining to be considered by the meeting to a later time at the same meeting; and
- (e) may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for the proper and orderly casting or recording of votes at the general meeting including the appointment of scrutineers, and a decision by the chairperson under this rule 10.5 is final and conclusive.

10.6. Amendments to resolutions

No amendment may be proposed to a resolution to be considered at a general meeting unless:

- (a) in the case of an amendment to a resolution set out in the notice of meeting, either:
 - (i) notice of the intention to move the amendment and a copy of the resolution as proposed to be amended are received at the registered office of the Company at least 48 hours before the time appointed for the holding of the meeting; or
 - (ii) the chairperson of the meeting in his absolute discretion decides that the amendment may properly be considered and voted on; or
- (b) in any other case, the chairperson of the meeting in his absolute discretion decides that the amendment may properly be considered and voted on.

Nothing in this rule 10.6 nor the giving of any notice referred to in rule 10.6(a)(i) prejudices the power of the chairperson of the meeting to rule any proposed amendment unacceptable or out of order. Any ruling by the chairperson of the meeting in relation to a resolution or an amendment to a resolution is final and conclusive.

10.7. Adjournment of general meeting

The chairperson of a general meeting may, with the consent of the meeting, adjourn the meeting, provided that:

- (a) no business may be done at an adjourned meeting, except business left unfinished at the meeting from which the adjournment took place;

- (b) when a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting; and
- (c) except as provided in this rule, it is not necessary to give notice of an adjournment or of the business to be done at an adjourned meeting.

10.8. Directors and Secretary entitled to attend and speak at general meeting

The Directors and Secretary are entitled to attend and speak at a general meeting of the Company.

10.9. How resolutions are decided

- (a) Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a majority of the votes cast on the resolution are in favour of it.
- (b) If there is an equality of votes on any proposed resolution of Members, the chairperson of the meeting is entitled to a casting vote, in addition to any votes to which the chairperson is entitled to cast as a Member, corporate representative, proxy or attorney.

10.10. Voting on show of hands

- (a) At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded in accordance with rules 10.11 and 10.12 and the demand is not withdrawn.
- (b) A declaration by the chairperson that a resolution has been carried on a show of hands 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.
- (c) Neither the chairperson nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

10.11. When a poll may be demanded

A poll may only be demanded on a resolution:

- (a) before the show of hands on that resolution is taken;
- (b) before the result of the show of hands on that resolution is declared; or
- (c) immediately after the result of the show of hands on that resolution is declared.

10.12. Who may demand a poll

A poll may only be demanded on a resolution by:

- (a) at least 5 voting Members entitled to vote on the resolution;
- (b) voting Members with at least 5% of the votes that may be cast on the resolution; or
- (c) the chairperson of the meeting.

10.13. Voting on a poll

If a poll is properly demanded:

- (a) the poll must be taken at the time and place and in the manner directed by the chairperson;
- (b) the result of the poll is a resolution of the meeting at which the poll was demanded; and
- (c) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

10.14. Entitlement to vote

Subject to this constitution and to any rights or restrictions for the time being attached to any class of membership on a show of hands or poll including under rule 6.8, each person present as a voting Member and entitled to vote, or as a representative, proxy or attorney of a voting Member and entitled to vote, will have one vote.

10.15. Voting by voting Member of unsound mind

If a voting Member is of unsound mind or is a person whose assets are liable to be dealt with in anyway under the law relating to mental health then any person who properly has the management of the voting Member's estate may exercise the voting Member's rights in relation to a general meeting as if the person were the voting Member.

10.16. Restrictions on voting rights

A voting Member is not entitled to vote on a resolution at a general meeting:

- (a) unless all money then payable by the Member to the Company has been paid; or
- (b) if the Member's Annual Membership Fee is due and payable and has not been paid; or
- (c) if prevented from doing so by the Corporations Act or any provision of this constitution.

The Company must disregard any vote purported to be cast on a resolution by a voting Member or corporate representative, proxy or attorney of a voting Member in breach of this rule 10.16.

10.17. Objection to voting qualification

- (a) An objection to the right of a person to attend or vote at a general meeting or adjourned general meeting:
 - (i) may not be raised except at that meeting or adjourned meeting; and
 - (ii) must be referred to the chairperson of the meeting, whose decision is final.
- (b) If any objection is raised to the right of a person to vote and the chairperson disallows the objection then the vote cast by that person is valid for all purposes.

10.18. How Members may attend and vote

- (a) Subject to this constitution, each voting Member entitled to vote at a general meeting may attend and vote at that general meeting:
 - (i) in person or, where a voting Member is a body corporate, by its corporate representative; or

(ii) by proxy or attorney.

(b) A corporate representative, proxy or attorney may, but need not, be a Member.

10.19. Corporate representatives

The chairperson of a meeting may request a person claiming to be a corporate representative to provide evidence satisfactory to the chairperson that he or she has been validly appointed. If such evidence is not provided the chairperson may nevertheless permit that person to exercise the powers of a corporate representative at that meeting but may make it a condition of the exercise of any voting rights by that person that the person produce such evidence within a time after the conclusion of the meeting set by the chairperson. If the chairperson attaches such a condition to the exercise of any voting rights then that condition may be waived by notice in writing to the relevant Member at any time before the time specified by the chairperson.

10.20. Form of proxy appointments

The appointment of a proxy for a general meeting must be:

- (a) in the form approved by the Directors for the purposes of that meeting and sent or otherwise made available to voting Members by or on behalf of the Company; or
- (b) in any other form which complies with the Corporations Act.

10.21. Signature or authentication of proxy appointments

The appointment of a proxy for a general meeting must be:

- (a) signed by the Member making the appointment or a duly authorised agent of the Member or, in the case of a Member that is a body corporate, executed by the Member in accordance with the Corporations Act or signed by an officer or agent authorised for that purpose; or
- (b) authenticated by the Member in any manner approved by the Directors and specified in the notice convening that meeting or in any other manner permitted by the Corporations Act.

10.22. Time for receipt of proxy appointment

- (a) For the appointment of a proxy to be effective the Company must receive the proxy appointment, together with an original or certified copy of any authority under which the appointment was signed, executed or authenticated, at least 48 hours before the time appointed for holding the meeting (unless reduced in the notice of meeting to which the appointment relates).
- (b) A document referred to in this rule 10.22 is taken to be received by the Company if it is received at any of the places or by any of the means specified in the Corporations Act for the receipt of proxy documents.

10.23. Attorneys

- (a) An attorney may not attend a general meeting or exercise any of the rights of the appointing Member unless the Company receives the original or a certified copy of the power of attorney, together with an original or certified copy of any authority under

which the power of attorney was signed or executed, at least 48 hours before the time appointed for holding the meeting (unless reduced in the notice of meeting to which the appointment relates).

- (b) A document referred to in this rule 10.23 is taken to be received by the Company if it is received by any of the means specified in the Corporations Act for the receipt of proxy documents.

10.24. Rights of corporate representatives, proxies and attorneys

- (a) Subject to rules 10.25 to 10.27, unless the terms of appointment of a corporate representative, proxy or attorney provide otherwise, the corporate representative, proxy or attorney:
 - (i) has the same rights to speak, demand a poll, join in demanding a poll or act generally at the meeting as the appointing Member would have had if the Member had been present;
 - (ii) is taken to have the authority to vote on any amendment moved to the proposed resolutions, any motion that the proposed resolutions not be put or any similar motion and any procedural resolution, including any resolution for the election of a chairperson or the adjournment of a general meeting; and
 - (iii) may attend and vote at any postponed or adjourned meeting unless the appointing Member gives the Company notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed or adjourned.
- (b) This rule 10.24 applies even if the terms of appointment of a corporate representative, proxy or attorney refers to specific resolutions or to a specific meeting to be held at a specific time.

10.25. Validity of votes cast by proxy or attorney

Subject to the Corporations Act and this constitution, a vote cast by a person as proxy or attorney at a general meeting is valid despite the revocation of the appointment of the proxy or attorney or the authority under which a third party appointed the proxy or attorney, unless the Company has received written notice of the revocation at least 48 hours before the start or resumption of the meeting.

10.26. No right to speak or vote if appointing Member present

The appointment of a proxy or attorney is not revoked if the appointing Member is present in person or by corporate representative at a general meeting, but the proxy or attorney must not speak or vote at the meeting while the appointing Member is so present.

10.27. Identity of person acting as corporate representative, proxy or attorney

The chairperson of a meeting may require a person acting as a corporate representative, proxy or attorney to establish to the chairperson's satisfaction that the person is the person duly appointed to act and, if the person fails to do so, may exclude the person from attending or voting at the meeting

10.28. Auditor's right to be heard

The Auditor is entitled to:

- (a) attend any general meeting of the Company;
- (b) be heard at any general meeting of the Company on any part of the business of the meeting that concerns the Auditor in their capacity as auditor, even if:
 - (i) the Auditor retires at the general meeting; or
 - (ii) the Members pass a resolution to remove the Auditor from office; and
- (c) authorise a person in writing to attend and speak at any general meeting as the Auditor's representative.

11. DIRECTORS

11.1. Number of Directors

- (a) Subject to the Corporations Act, the Company may by resolution passed at a general meeting increase or reduce the maximum number of Directors.
- (b) Until the Company resolves otherwise in accordance with rule 11.1(a) there will be a maximum of seven Directors, each of whom will be appointed in accordance with the provisions of this rule 11.
- (c) The Directors and Secretary in office on the date this constitution becomes effective, continue in office subject to this constitution.

11.2. Appointments to the Board

- (a) The Board must include no fewer than one and no more than five Directors appointed under this rule 11.2.
- (b) Where there are more candidates standing for election as Directors than vacancies available:
 - (i) a separate resolution will be put for each candidate standing; and
 - (ii) those candidates with the highest number of 'For' votes will be elected, such that the total number of directors does not exceed the maximum.
- (c) If there are candidates who have equal number of 'For' votes, then the candidate to be appointed shall, in default of agreement between them, be determined by drawing lots.
- (d) An election of Directors must be held at every annual general meeting by ordinary resolution or if the Board resolves to conduct a postal ballot, in accordance with that ballot, for those positions which:
 - (i) are vacant due to a casual vacancy at the time of calling for nominations, or which is due to become vacant under rule 11.1; and
 - (ii) will become vacant due to the retirement of Directors under rule 11.4.
- (e) A Director appointed or elected at a general meeting is taken to have been appointed or elected with effect from immediately after the conclusion of that annual general

meeting unless the resolution by which the Director was appointed or elected specifies a different time.

11.3. Eligibility for election as Director

- (a) To be eligible for election or appointment to the Board under rule 11.2, a candidate must be a Qualified Person.
- (b) In respect of each Full Member, not more than one Director may be a person that the Full Member has confirmed is a Qualified Person at any given time.
- (c) Not more than one Director may represent a Contract Brewer at any time.
- (d) For the purposes of this rule 11, a candidate or Director is deemed to represent the same Brewer Category as the Member that nominated him as a Qualified Person.

11.4. Rotational terms of office as Directors

- (a) A Director must retire from office at the conclusion of the third annual general meeting of the Company after the Director was last elected even if his or her retirement results in more than one-third of all Directors retiring from office.
- (b) At the close of each annual general meeting of the Company in each year, one third of the Directors in office or, if their number is not a multiple of three, the number nearest to but not less than one third, must retire from office. If there are casual vacancies on the Board or seats that are due to become vacant in accordance with rule 11.12(b) then these will be deemed to be retirements for the purposes of this rule 11.4(b).
- (c) A retiring Director may act until the conclusion of the meeting at which the Director retires and is eligible for re-election, provided that the Director is not then disqualified by law or by this constitution from being re-elected.
- (d) Subject to the Corporations Act, the Directors to retire by rotation at each annual general meeting of the Company are those Directors who have been longest in office. The length of time a Director has been in office must be calculated from the date of the Director's appointment.
- (e) If two or more Directors have been in office an equal length of time, the Directors to retire are, in default of agreement between them, to be determined by drawing lots.

11.5. Maximum number of consecutive terms of office for Directors

Each Director appointed under rule 11.2 may serve a maximum number of two consecutive terms of office as a Director.

11.6. Election of Directors

- (a) The Board shall notify the voting Members at least nine weeks prior to the relevant annual general meeting of the call for nominations for election as a Director.
- (b) All nominations for election as a Director must be:
 - (i) in writing in such form as the Board may from time to time prescribe;
 - (ii) signed by at least one Full Member;
 - (iii) signed by the nominee consenting to nomination; and

- (iv) delivered to and lodged with the Secretary not less than seven weeks prior to the date of the relevant annual general meeting, and otherwise comply with any applicable By-laws.
- (c) Only persons who are eligible for election or appointment as a Director under this constitution may be nominated to stand for election.

11.7. Procedure for conducting a ballot

- (a) The Board may resolve that the election of Directors shall take place by postal ballot conducted prior to the close of an annual general meeting and may determine the form, manner of voting, timing and conduct of any such ballot.
- (b) The result of the ballot shall be received at the relevant annual general meeting and the persons elected as Directors shall hold office as from the close of that annual general meeting.
- (c) Voting papers not returned to the Secretary will not invalidate the ballot.
- (d) The non-receipt by any voting Member of a voting ballot does not invalidate the ballot.

11.8. Additional Directors

Despite anything else contained in this constitution, the Board shall have the right to appoint up to two additional Directors, each of whom the Board, in its absolute discretion, considers possesses the expertise, experience or other special attributes to make a meaningful contribution to the Company. Subject to this constitution, a person appointed as a Director under this rule shall hold office:

- (a) for an initial period of one year from the date of appointment,
and after the expiration of the initial one year period:
- (b) shall hold office until the next occurring annual general meeting of the Company; and
- (c) must retire at the next occurring annual general meeting and may be eligible for election at that meeting under rule 11.9.

11.9. Re-election of additional directors

- (a) On the expiry of their term of office a Director appointed under rule 11.8 or this rule 11.9 may, with the consent of the Board, seek re-election for a further term of one year. The Board must only permit a Director appointed under rule 11.8 or this rule 11.9 to seek re-election if the Board considers that the relevant Director may continue to make a meaningful contribution to the Company if re-elected.
- (b) In determining the number of additional Directors that may be appointed by the Board under rule 11.8 a Director elected under this rule 11.9 shall be deemed to have been appointed under rule 11.8.
- (c) The provisions of rules 11.3, 11.4, 11.5 and 11.6 do not apply to any Director appointed under 11.8 or 11.9.

11.10. Additional Directors not to be counted

A person appointed as a Director under rule 11.8 or 11.9 shall not be taken into account in determining the retirement of Directors or the number of them to retire under rule 11.4.

11.11. Removal of Directors

- (a) The Company may by resolution passed in a general meeting remove any Director before the end of the Director's term of office.
- (b) Any resolution put to the vote of the Company under this rule 11.11 must be decided on a poll.

11.12. Casual Vacancy

- (a) The Directors may, by resolution, fill a casual Board vacancy provided that at any time a Full Member may only have one Qualified Person appointed as a Director to the Board.
- (b) A Director appointed under this rule holds office until the conclusion of the next annual general meeting of the Company but is eligible for election at that meeting.

11.13. No remuneration for services as a Director

There will be no remuneration for services rendered as Directors.

11.14. Reimbursement of expenses

A Director is entitled to be reimbursed out of the funds of the Company for their reasonable out of pocket expenses incurred when travelling to or from, attending or participating in meetings of the Directors, a Committee or the Company or when otherwise engaged on the business of the Company, and any payment to a Director must be unanimously approved by the remainder of the Directors.

11.15. Director's interests

Subject to the provisions of this constitution and to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:

- (a) hold any office or place of profit in the Company, except that of auditor;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a Member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (f) despite having an interest in a matter that is being considered at a meeting of Directors, be present at, participate in, vote on and be counted in a quorum at the meeting;

- (g) despite having an interest in a document, sign or participate in the execution of a document by or on behalf of the Company; and
- (h) do any of the above despite the fiduciary relationship of the Director's office:
 - (i) without any liability to account to the Company for any benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement.

A reference to the Company in this rule 11.15 is also a reference to any related body corporate of the Company.

11.16. Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) resigns as a Director by giving notice in writing to the Company;
- (b) is or becomes disqualified from being a Director or from managing a corporation under the Corporations Act;
- (c) is removed by a resolution of the Company;
- (d) is not present personally or by proxy or represented by an Alternate Director at meeting of the Board for a continuous period of six months without leave of absence from the Board;
- (e) ceases to be a Qualified Person;
- (f) dies;
- (g) is or becomes of unsound mind or a person whose assets are liable to be dealt with in any way under the law relating to mental health; or
- (h) is or becomes bankrupt or insolvent.

12. POWERS AND DUTIES OF DIRECTORS

12.1. Management of the business of the Company

The business of the Company is to be managed by the Board, which may exercise all the powers of the Company that are not under the Corporations Act or by this constitution required to be exercised by the Company in general meeting.

12.2. Duties of Directors

The Directors must comply with their duties as Directors under the Corporations Act and common law and must:

- (a) exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Company;
- (b) act in good faith in the best interests of the Company and to further the Objects of the Company set out in rule 4;
- (c) not misuse their position as a Director;

- (d) not misuse information they gain in their role as a Director;
- (e) disclose any perceived or actual material conflicts of interest;
- (f) ensure that the financial affairs of the Company are managed responsibly; and
- (g) not allow the company to operate while it is insolvent.

12.3. Specific powers of Directors

Without limiting the generality of rule 12.1, the Directors may from time to time exercise all the powers of the Company to:

- (a) create By-laws;
- (b) to borrow or raise money;
- (c) to charge any property or business of the Company; and
- (d) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

12.4. Appointment of attorneys and agents

The Directors may, by resolution or power of attorney, appoint any person or persons to be the attorney or agent of the Company:

- (a) for the purposes;
- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this constitution);
- (c) for the period; and
- (d) subject to the conditions,
- (e) determined by the Directors.

12.5. Provisions in power of attorney

A power of attorney granted under rule 12.4 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

12.6. Financial Management

The Directors must decide on procedures for the responsible financial management of the Company including how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

12.7. Committees

The Directors may delegate, and revoke the delegation of, any of their powers, other than powers required by law to be dealt with by the Directors as a Board, to a Committee or Committees consisting of one or more of their number as they think fit.

12.8. Powers delegated to Committees

A Committee to which any powers authorities and discretions have been delegated under rule 12.7 must exercise those powers, authorities and discretions in accordance with the terms of the delegation and any other regulations that may be imposed by the Directors on the committee. The proceedings of a Committee must be conducted in accordance with any regulations imposed by the Directors, and, subject to any such regulations, to the rules of this constitution dealing with proceedings of the Directors.

12.9. Powers of delegation

- (a) The Directors may delegate any of their powers to any persons they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.
- (b) The powers of delegation expressly or impliedly conferred by this constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

12.10. State Chapters

- (a) The Directors may establish State Chapters for managing any of the affairs of the Company in a specified locality and may appoint Members to join those sub-groups.
- (b) The Directors may delegate any of their powers to any Members so appointed for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.

13. PROCEEDINGS OF DIRECTORS

13.1. Directors' meetings

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

13.2. Director may convene a meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

13.3. Notice of Directors' meetings

- (a) A Directors' meeting must be called by not less than 48 hours' notice of a meeting to each Director, unless the Directors unanimously agree otherwise. The notice may be in writing or given using any technology consented to by all the Directors.
- (b) An accidental omission to send a notice of a meeting of Directors to any Director or the non-receipt of such a notice by any Director does not invalidate the proceedings, or any resolution passed, at the meeting.

13.4. Use of technology for Directors' meetings

- (a) A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one.
- (b) A Director may only withdraw their consent under rule 13.3(a) if the Director does so at least 48 hours before the meeting.

13.5. Questions decided by majority

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

13.6. Alternate Director or proxy and voting

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy. If that person is also a Director, they have one vote as a Director in that capacity.

13.7. Chairperson of Directors' meetings

The Directors may elect one of their number as chairperson of their meetings and may also determine the period for which the person remains as chairperson.

13.8. Absence of chairperson at a Directors' meeting

If a Directors' meeting is held and:

- (a) a chairperson has not been elected under rule 13.7; or
- (b) the chairperson is not present within ten minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairperson of the meeting.

13.9. Chairperson's casting vote at Directors' meetings

If there is an equality of votes cast for and against a question, the chairperson of a Directors' meeting has a casting vote, unless only two Directors are present and entitled to vote at the meeting on the question.

13.10. Alternate Director and number of Directors

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

13.11. Director attending and voting by proxy

- (a) A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:
 - (i) is another Director; and
 - (ii) has been appointed in writing signed by the appointor.
- (b) The appointment of a proxy under this rule 13.11 may be general or for one or more particular meetings. A Director present as proxy of another Director who would be

entitled to vote if present at the meeting has one vote for the appointor and one vote in his or her own capacity as a Director.

13.12. Quorum for Directors' meeting

- (a) A quorum for meetings of Directors may be fixed by the Directors and unless so fixed, is four Directors present. The quorum must be present at all times during the meeting.
- (b) Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, one or more of the Directors may call a general meeting of Members to deal with the matter.

13.13. Continuing Directors may act

The continuing Directors may act despite a vacancy in their number.

13.14. Circulating resolutions

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

13.15. Validity of acts of Directors

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
 - (b) a person acting as a Director was disqualified or was not entitled to vote,
- as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

14. ALTERNATE DIRECTORS

14.1. Appointment of Alternate Director

Subject to the Corporations Act, a Director may appoint a person approved by a majority of the other Directors, to be an Alternate Director in the Director's place for such period as the Director thinks fit.

14.2. Alternate Director and meetings

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointor's place.

14.3. Alternate Director's powers

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.

14.4. Alternate Director responsible for own acts and defaults

Whilst acting as a Director, an Alternate Director:

- (a) is an officer of the Company and not the agent of the appointor; and
- (b) is responsible to the exclusion of the appointor for the Alternate Director's own acts and defaults.

14.5. Alternate Director expenses and remuneration

Rules 11.13 and 11.14 and apply to an Alternate Director as if they were a Director.

14.6. Termination of appointment of Alternate Director

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

14.7. Appointment or termination in writing

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and delivered to the Secretary.

15. SECRETARY

15.1. Appointment of Secretary

The Company must have at least one Secretary who is to be appointed by the Directors.

15.2. Suspension and removal of Secretary

The Directors may suspend or remove a Secretary from that office.

15.3. Powers, duties and authorities of Secretary

A Secretary holds office on the terms and conditions and with the powers, duties and authorities as determined by the Directors. The Secretary is entitled to attend all Directors' meetings.

16. OTHER OFFICERS

- (a) The Directors may from time to time:
 - (i) create any other position or positions in the Company with the powers and responsibilities as the Directors may from time to time confer; and
 - (ii) appoint any person, whether or not a Director, to any position or positions created under rule 16(a)(i).
- (b) The Directors may at any time terminate the appointment of a person holding a position created under rule 16(a)(i) and may abolish the position.

17. SEALS AND EXECUTION OF DOCUMENTS

17.1. Common seal

The Company may have a common seal. If the Company has a common seal:

- (a) it may also have a duplicate common seal; and
- (b) rule 17.2 applies in respect of the common seal and any duplicate common seal (and references in that rule to the common seal include references to any duplicate common seal).

17.2. Use of common seal

The common seal may only be used only by the authority of the Board, or of a Committee which is authorised by the Board to authorise the use of the common seal. Every document to which the common seal is affixed must be signed by:

- (a) 2 Directors; or
- (b) a Director and a Secretary; or
- (c) a Director and another person appointed by the Board to countersign that document or a class of documents in which that document is included.

17.3. Execution of documents

Without limiting the ways in which the Company can execute documents under the Corporations Act or otherwise, the Company may execute a document if the document is signed by:

- (a) 2 Directors; or
- (b) a Director and a Secretary; or
- (c) any person or persons authorised by the Board for the purposes of executing that document or the class of document to which that document belongs (including any person or persons so authorised under a power of attorney given by the Company in accordance with this constitution).

18. TAXATION

18.1. Deductible Gift Recipient

- (a) The Company may seek to become and remain a Deductible Gift Recipient.
- (b) The Company must if it becomes a Deductible Gift Recipient notify the ATO if it ceases to be entitled to be endorsed as a Deductible Gift Recipient.

18.2. Income Tax Exempt Entity

- (a) The Company may seek to become and remain an Income Tax Exempt Entity.
- (b) If the Company becomes an Income Tax Exempt Entity, it must notify the ATO if there is a material change in the purposes or activities of the Company such that it ceases to be entitled to be endorsed as an Income Tax Exempt Entity.

19. INDEMNITY AND INSURANCE

19.1. Indemnity

To the maximum extent permitted by law, the Company must indemnify each person who is or has been a Director, Secretary or other officer of the Company against:

- (a) any liability incurred by the person in that capacity, other than a liability for legal costs;
- (b) all legal costs incurred in connection with, any civil, criminal, administrative or judicial proceedings or investigation in which that person becomes involved as a result of holding that office; and
- (c) all legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of that person's functions and the discharge of that person's duties as an officer of the Company, except to the extent that the person is otherwise entitled to be indemnified and is actually indemnified by another person including under any insurance policy.

19.2. GST

The amount of any indemnity payable under rule 19.1 will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of any input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

19.3. Extent of indemnity

The indemnity in rule 19.1 applies to liabilities and legal costs incurred both before and after adoption of this constitution and is enforceable by a person:

- (a) without that person first having to first incur any expense or make any payment; and
- (b) even though the person may have ceased to be an officer of the Company.

19.4. Insurance

To the extent permitted by law, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been a Director, Secretary or other officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs.

19.5. Company may enter into contracts

The Company may enter into a contract with a person who is or has been a Director, Secretary or other officer of the Company setting out the rights and obligations of that person and the Company with respect to the matters referred to in rules 19.1 to 19.4. A contract entered into pursuant to this rule 19.5 may also include provisions requiring the Company to make payments to that person by way of advance or loan of legal costs and to give that person access to the accounting records and other books and documents of the Company.

20. WINDING UP

- (a) If any property or funds remain on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, the property or funds may not be paid to or distributed among the Members but must be given or transferred to one or more funds, authorities or institutions:
 - (i) having objects similar to the Objects of the Company; and
 - (ii) whose constitution or rules prohibit the distribution of its property and funds among its Members to an extent at least as great as is imposed on the Company under or by virtue of rule 5; and
 - (iii) which is an Income Tax Exempt Entity and a Deductible Gift Recipient; and
 - (iv) which has been established for charitable purposes.
- (b) The fund, association or institution is to be determined by the Directors, or if they determine, by the Members in general meeting, at or before the time of dissolution and in default by application to the court.

21. ACCOUNTS

- (a) The Directors must cause the accounts and records of the Company to be maintained audited in respect of each financial year of the Company and the correctness of the profit and loss account, balance sheet and the account of Members' contributions must be ascertained by the Auditors of the Company in accordance with the Corporations Act.
- (b) Auditors of the Company must be appointed and removed and their remuneration, rights and duties will be regulated in accordance with the Corporations Act.

22. INSPECTION OF RECORDS

22.1. Inspection by Members

Subject to the Corporations Act, the Board may determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other books and documents of the Company or any of them will be open to the inspection of Members. A Member does not have the right to inspect any document of the Company except as provided by law or this constitution or as authorised by the Board or by the Company in general meeting.

22.2. Inspection by current and former officers

In addition to any rights given by law, each person who is or has been a Director, Secretary or other officer of the Company may access the accounting records and other books and documents of the Company in accordance with the terms of any contract entered into under rule 19.5.

23. NOTICES, DOCUMENTS AND OTHER COMMUNICATIONS

23.1. Meaning of communication

In this rule 23, a reference to a communication includes a reference to any notice or other document.

23.2. Communications by the Company to Members

The Company may give any communication to a Member:

- (a) by delivering it personally to the Member;
- (b) by sending it to the address for the Member in the Register or an alternative address nominated by the Member by giving notice in writing to the Company for this purpose:
 - (i) by ordinary post, if that address is in Australia; or
 - (ii) by airmail, if that address is outside Australia;
- (c) by sending it to a fax number nominated by the Member by giving notice in writing to the Company for this purpose;
- (d) by sending it to an email or other electronic address, or by any other means of electronic communication, nominated by the Member by giving notice in writing to the Company for this purpose, in which case the Company may give that communication to the Member by attaching a file containing it to, or by providing a URL link to it from, the email or other electronic communication; or
- (e) by any other method permitted by the Corporations Act.

23.3. Communications by the Company to Directors

The Company may give any communication to a Director:

- (a) by delivering it personally to him or her;
- (b) by sending it by ordinary post to his or her usual residential address or any other address he or she has nominated by giving notice in writing to the Company for this purpose;
- (c) by sending it to any fax number he or she has nominated by giving notice in writing to the Company for this purpose; or
- (d) by sending it to an email address or other electronic address he or she has nominated by giving notice in writing to the Company for this purpose, in which case the Company may give that communication to the Director by attaching a file containing it to, or by providing a URL link to it from, the email or other electronic communication.

23.4. Communications given by Members to the Company

Without limiting any other way that a communication may be given to the Company under the Corporations Act or this constitution, a Member may give any communication to the Company:

- (a) by delivering it or sending it by ordinary post to the Company's registered office; or

- (b) if the Company has specified any fax number, email address or other electronic address for the receipt of that any particular communication, by sending it to that fax number, email address or other electronic address.

23.5. Communications given by Directors to the Company

A Director or Alternate Director may give any communication to the Company:

- (a) by delivering it or sending it by ordinary post to the Company's registered office;
- (b) by sending it to the principal fax number at the Company's registered office; or
- (c) if the Company has notified the Directors of any email address or other electronic address for the receipt of communications from the Directors in that capacity, by sending it to that email address or other electronic address.

23.6. When communications taken to be received

A communication is taken to have been received:

- (a) if sent by ordinary post or airmail, on the day after it was put into the post;
- (b) if sent by fax, at the time shown in the transmission report as being the time at which the fax was sent;
- (c) if sent by email or other electronic communication under rule 23.2(d), at the time the email or other communication is sent; and
- (d) if sent by email or other electronic communication under rule 23.3(d), 23.4(b) or 23.5(c) at the time the email or other communication is sent or, if the recipient has previously notified the sender that it requires the sender to request electronic verification of the receipt of the email or other electronic communication and such verification is able to be produced by the recipient's system, when that verification is received by the sender.

24. BY-LAWS

- (a) The Board may prescribe By-Laws, consistent with this constitution, governing matters related to:
 - (i) the identity and characteristics of Independent Brewers, for the purposes of the definition of Brewer Category;
 - (ii) the procedure for application as Member;
 - (iii) the discipline of Members;
 - (iv) the procedure for voting at general meetings;
 - (v) nominations of appointees to the Board;
 - (vi) conduct of elections of Directors;
 - (vii) appointments to the Board;
 - (viii) State Chapters;
 - (ix) advisory boards; and

- (x) committees.
- (b) Members and Directors must comply with by-laws as if they were part of this constitution.
- (c) Where there is any inconsistency between the terms of this constitution and the By-Laws the terms of this constitution will prevail.
- (d) The Board must take reasonable steps to ensure that up-to-date copies of all By-Laws are available to Members upon their request.

