

Constitution of  
Fairtrade Australia & New  
Zealand Ltd  
ACN 114 571 881

**A company limited by guarantee  
Incorporated under the Corporations Act 2001  
in Victoria, Australia**

Allens Arthur Robinson  
Stock Exchange Centre  
530 Collins Street  
Melbourne VIC 3000  
Tel 61 3 9614 1011  
Fax 61 3 9614 4661  
[www.aar.com.au](http://www.aar.com.au)

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A company limited by guarantee Incorporated under the Corporations Act 2001 in Victoria, Australia.

Constitution of Fairtrade Australia & New Zealand Ltd ACN 114 571 881.

## 1. Definitions and Interpretation

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### 1.1 Definitions

The following definitions apply in this Constitution unless the context otherwise requires.

**Board** means all or some of the Directors for the time being acting as a Board.

**Chief Executive Officer** means the chief executive appointed by the Board under Rule 12.1.

**Corporations Act** means the *Corporations Act 2001* (Cth) and any subordinate legislation and instruments made under that Act.

**Director** means a person appointed or elected to the office of director of the company in accordance with this Constitution and, where appropriate, includes an alternate director.

**Fairtrade Labelling System** means the labelling system administered by FLO.

**FLO** means the Fair Trade Labelling Organisation International e.V. incorporated in Germany.

**Initial Members** means each of: Oxfam New Zealand (AK502175); Friends of the Earth (Australia) (ABN 18 110 769 501); and Christian World Service (CH/1368928).

**Member** has the meaning given in Rule 5.1(a).

**Member Present** means, in connection with a meeting, the Member present in person at the venue or venues for the meeting or by proxy, by attorney and, where the member is a body corporate, by representative.

**Non Governmental Organisation** means an incorporated, not for profit, non governmental organisation, the main objectives of which are consistent with or include working towards social justice, poverty alleviation or environmental protection.

**Seal** means any common seal or duplicate common seal of the company.

**Secretary** means a person appointed as secretary of the company under Rule 12.3.

### 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) A **gender** includes all genders.
- (b) The **singular** includes the plural and conversely.
- (c) Where a **word** or **phrase** is defined, its other grammatical forms have a corresponding meaning.

- (d) A reference to a **person** means any person including partnerships, associations and bodies corporate, unincorporated bodies and all other entities or associations recognised by law as well as individuals.
- (e) A reference to any **legislation** or to any **provision** of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (f) Except in so far as a contrary intention appears in this Constitution, an expression has, in a provision of this Constitution which relates to a particular provision of the Corporations Act has the same meaning as in that provision of the Corporations Act.
- (g) A mention of anything after **include, includes** or **including** does not limit what else might be included.

### 1.3 Replaceable Rules

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

## 2. Company Limited by Guarantee

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- (a) The company is a company limited by guarantee.
- (b) The liability of Members is limited.
- (c) Each Member undertakes to contribute to the property of the company if the company is 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 payment of the company's debts and liabilities contracted before he, she or it ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, but not exceeding \$100.

## 3. Actions Authorised Under the Law

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Where the Law authorises or permits a company to do any matter or thing if so authorised by its Constitution, the company is and shall be taken by this Rule to be authorised or permitted to do that matter or thing, despite any other provisions of this Constitution.

## 4. Objects

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### 4.1 Objects

The company's primary objective is to alleviate poverty amongst smallholder producers and disadvantaged workers in developing countries. The company will facilitate the alleviation of poverty by:

- (a) empowering such producers and workers through facilitating and increasing sales of Fairtrade certified products in Australian and New Zealand markets;

- (b) providing a credible and cost-effective Fairtrade Labelling System for Australia and New Zealand:
  - (i) in accordance with guidelines and policies of FLO; and
  - (ii) as a vehicle for the fair trade movement in Australia and New Zealand to mainstream fair trade;
- (c) establishing policies and guiding the development of a Fairtrade Labelling System in Australia and New Zealand and participating in shaping international "Fairtrade" labelling policy and strategy as the Australian and New Zealand representative to the FLO;
- (d) promoting the Fairtrade Labelling System and the international "Fairtrade" label within Australia and New Zealand;
- (e) providing information, capacity building and licensing services related to the Fairtrade Labelling System and the "Fairtrade" label to interested parties in Australia and New Zealand;
- (f) providing information, capacity building, certification and licensing services to strengthen the capacities of small producer and worker organisations in the Asia Pacific Region, to support sustainable development through fair trade; and
- (g) undertaking activities which include but are not limited to support and coordination with regional supply chains, producers and markets which will contribute to sustainable development by providing fairer more equitable trading conditions and securing the right of marginalised and disadvantaged producers and workers.

#### **4.2 Application of income and property to objects**

- (a) Subject to Rule 4.2(b), the profits (if any) or other income and property of the company shall be applied solely towards the promotion of the objects of the company as set out in Rule 4.1 and no portion of it shall be paid or transferred, directly or indirectly, to any Member or associate of the company whether by way of dividend, bonus or otherwise.
- (b) Nothing in Rule 4.2(a) shall prevent any payment in good faith by the company of:
  - (i) reasonable and proper remuneration to any Member, officer or employee of the company (whether or not such a person is a director) for any goods supplied or services actually rendered to the company;
  - (ii) reasonable and proper rent for premises let or demised by any Member of the company to the company; or
  - (iii) moneys to any director for out-of-pocket expenses paid under Rule 9.6.

#### **4.3 Amendment of Constitution**

This Constitution may only be amended by a special resolution passed by at least 75% of the votes cast by Members entitled to vote on the resolution in accordance with the provisions of the Corporations Act.

## **5. Membership**

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### **5.1 Members of the Company**

- (a) Subject to Rule 5.6, the Initial Members and any other person admitted to membership in accordance with this Constitution will be the Members of the company.
- (b) The company must have at least 2 Members and no more than 7 Members at any time.

### **5.2 Qualification for Membership**

- (a) Only Non Governmental Organisations may be Members of the company.
- (b) Other than the Initial Members, a Non Governmental Organisation is eligible for admission to membership of the company under Rule 5.3 only if:
  - (i) the Board has approved the admission of the Non Governmental Organisation as a Member under Rule 5.3.

### **5.3 Application for Membership**

- (a) An application for membership must be made in writing and be signed by the applicant.
- (b) At the next meeting of the Board after the receipt of any application for membership, the Board must decide whether or not to approve the admission of the applicant as a Member. The Board may decide whether or not to accept any Application in their absolute discretion. In no case will the Board be required to give any reason for the rejection of an applicant.
- (c) When an applicant has been accepted for membership, the secretary (or other person who the Board may appoint) must notify the applicant of the acceptance and must register the applicant in the company's register of Members. Upon registration the applicant will become a Member of the company.

### **5.4 Classes of Members**

The Board may determine and admit different classes of Members as defined by them, including non voting Members and may vary or cancel any rights of Members in any class.

### **5.5 Annual Subscriptions**

- (a) The Board may from time to time prescribe annual subscriptions for any class of Members and the terms of payment of such subscriptions.
- (b) The Board may in their absolute discretion increase or reduce the amount of any such subscriptions and determine that a different amount is payable by different classes of Members.



## 5.6 Resignation of a Member

- (a) A Member who has paid all amounts payable by the Member to the company may at any time, by giving notice in writing to the Secretary, resign as a Member of the company.
- (b) The resignation shall be effective from the date of receipt of the notice by the Secretary.
- (c) The Secretary must:
  - (i) record the date on which the Member ceased to be a Member in the register of Members; and
  - (ii) remove that Member's name from the register of Members.

## 5.7 Non-payment of Subscriptions

If the Board has prescribed an annual subscription under Rule 5.5 and the subscription of a Member remains unpaid for a period of 30 days after it becomes due, the Board may direct the Secretary to give notice to the Member of that fact. If the subscription remains unpaid on the expiration of 21 days after the date of the notice, the Board may expel the Member from membership of the company and direct the Secretary to remove the Member's name from the register of Members.

## 5.8 Misconduct of a Member

- (a) If any Member:
  - (i) is in breach of the provisions of this Constitution; or
  - (ii) is guilty of any act or omission which, in the opinion of the Board is unbecoming of a Member, or prejudicial to the interest of the company,the Board may expel the Member from the company and direct the Secretary to remove the Member's name from the register of Members.
- (b) The Board must not expel a Member under Rule 5.8(a) unless at least seven days notice has been given to the Member stating the date, time and place at which the question of expulsion of that Member is to be considered by the Board, and the nature of the alleged misconduct.
- (c) If the Board resolve to expel a Member, the Secretary shall immediately give notice of this to the Member. The Member then has the right, exercisable by notifying the Secretary within seven days after receipt of the notice (the **Notice Period**), to have the issue dealt with by the company in general meeting. In that event, an extraordinary general meeting of the company shall be called for that purpose, having the same powers as the Board have under Rule 5.8(a). If a resolution to expel the Member is passed at the meeting by a majority of two-thirds of those present and voting, the Member will cease to be a Member and the Secretary must remove the Member's name from the register of Members.
- (d) If the Member does not notify the Secretary on or before the expiration of the Notice Period that the Member wishes to have the issue dealt with by the company

in general meeting, the Member will cease to be a Member on the expiration of the Notice Period and the Secretary must remove the Member's name from the register of Members.

#### **5.9 Ceasing to be a Member**

A Member's membership of the company will automatically cease on the date that:

- (a) a liquidator is appointed in connection with the winding up of the Member; or
- (b) an order is made by a court for the winding up or deregistration of the Member.

#### **5.10 Liability for Subscription Fees and other Amounts Following Cessation**

Notwithstanding that the Member ceases to be a Member of the company, the Member will continue to be liable for:

- (a) all annual subscription fees or other amounts owing by it to the company that are due and unpaid as at the date that the Member ceases to be a Member; and
- (b) amounts which the Member is or may become liable to pay the company under Rule 2.

#### **5.11 Register of Members**

The register of Members must be kept by the Secretary and must contain the full name and address of each Member and any other information required by the Board.

#### **5.12 Annual Report**

Each Member is entitled to receive an annual report in respect of the company. Subject to the Corporations Act, the form of the annual report, and the time the annual report is sent to the Members, will be determined by the Board from time to time.

### **6. General Meetings**

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#### **6.1 Power to call a general meeting**

The Board or any Director may convene a general meeting whenever the Board or Director thinks fit.

#### **6.2 Frequency of Meetings**

General Meetings will be held at least once each financial year and in accordance with the requirements under the Corporations Act or any other applicable legislation.

#### **6.3 Notices of Meetings**

- (a) A notice of a general meeting must:
  - (i) set out the place, date and 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) state the general nature of the meeting's business;

- (iii) if a special resolution is to be proposed at the meeting – set out an intention to propose the resolution and state the resolution;
  - (iv) if the Member is entitled to appoint a proxy – contain a statement setting out the following information:
    - (A) that the Member is entitled to appoint a proxy;
    - (B) that the proxy does not need to be a Member of the company; and
    - (C) that a Member may only appoint one proxy; and
  - (v) contain any other information required by the Corporations Act.
- (b) The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice shall not invalidate the proceedings at or any resolution passed at that meeting.

#### **6.4 Members Resolutions**

Any Member may, by giving written notice to the company at least 7 days before a notice convening a general meeting is sent, propose a resolution concerning the general business of the company for consideration at a general meeting. Any such resolution if passed will be a recommendation to the Board but will not be binding on the Board or the company.

## **7. Proceedings at General Meetings**

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### **7.1 Quorum**

- (a) No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, a majority of the Members shall constitute a quorum.

### **7.2 If Quorum not Present**

If a quorum is not present within 30 minutes after the time appointed for the meeting specified in the notice of meeting, the meeting is dissolved unless the chair or the Board adjourn the meeting to a date, time and place determined by the chair or the Board. If no quorum is present at any adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

### **7.3 Chair of general meetings**

Subject to Rule 7.4 the chair of the Board or, in the chair's absence, the deputy chair is entitled to preside as chair at every general meeting.

### **7.4 Absence of chair**

Where a general meeting is held and:

- (a) there is no chair or deputy chair of the Board ; or

- (b) the chair or deputy chair is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting, the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members Present may elect one of their number to be chair of the meeting.

#### **7.5 Conduct of General Meetings**

- (a) The general conduct of each general meeting of the company and the procedures to be adopted at that meeting are as determined at, during or prior to the meeting by the chair of the meeting.
- (b) The chair of the meeting may make rulings without putting the question (or any question) to the vote if the chair considers action is required to ensure the orderly conduct of the meeting.
- (c) At any time the chair of the meeting considers it necessary or desirable for the proper and orderly conduct of the meeting, the chair may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members Present.
- (d) Any determination by the chair of the meeting in relation to matters of procedure (including any procedural motions moved at, or put to, any meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions at, or put to, any meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard a vote may only be made at the meeting and may be determined by the chair of the meeting whose decision is final.
- (e) If a person purports to cast a vote in contravention of the Corporations Act the chair of the meeting may determine that the vote be disregarded and treated as not having been cast.
- (f) Nothing contained in this rule limits the powers conferred on a chair of the meeting by the Corporations Act or any other law.

#### **7.6 Adjournments**

- (a) During the course of the meeting the chair of the meeting may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the chair of the meeting.
- (b) If the chair exercises a right of adjournment of a meeting under this rule, the chair has the sole discretion to decide whether to seek the approval of the Members Present to the adjournment and, unless the chair exercises that discretion, no vote may be taken by the Members Present in respect of the adjournment.
- (c) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

## **7.7 Voting at General Meetings**

- (a) Any resolution to be considered at a meeting shall be decided on a show of hands unless a poll is demanded.
- (b) Unless a poll is demanded, a declaration by the chair of the meeting that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting shall be taken as conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.
- (c) A poll for a resolution may be demanded by at least 2 Members Present or by the chair of the meeting.
- (d) A poll may not be demanded on the election of a chair of the meeting or on a resolution for adjournment.

## **7.8 Procedure for Polls**

- (a) A poll when demanded may be taken in the manner and at the time the chair of the meeting directs.
- (b) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the chair of the meeting considers appropriate.
- (c) The result of the poll is the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.

## **7.9 Equality of Votes**

In the case of an equality of votes on a show of hands or on a poll the resolution is not passed. The chair of the meeting does not have a casting vote.

# **8. Votes of Members**

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## **8.1 Voting rights**

Subject to this Constitution:

- (a) at meetings of Members or classes of Members each Member entitled to attend and vote may attend and vote in person or by proxy, attorney and (where the Member is a body corporate) by representative;
- (b) on a show of hands, every Member Present having the right to vote at the meeting has one vote; and
- (c) on a poll, every Member Present having the right to vote at the meeting has one vote.

## **8.2 Restriction on Voting Rights - Unpaid Amounts**

A Member is not entitled to vote at a general meeting unless all sums presently payable by the Member in respect of membership in the company have been paid.

## **8.3 Objections to Qualification to Vote**

- (a) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.
- (b) Any objection shall be referred to the chair of the meeting, whose decision shall be final.
- (c) A vote allowed after an objection shall be valid for all purposes.

## **8.4 Right to appoint proxy**

- (a) A Member who is entitled to attend and cast a vote at a meeting of Members may appoint a person as the Member's proxy to attend and vote for the Member at the meeting.
- (b) A Member may only appoint one proxy.
- (c) A proxy need not be a Member.

## **8.5 Form of proxy**

A form of appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) which the Board may prescribe or accept.

## **8.6 Lodgement of proxies**

An instrument appointing a proxy is not valid unless it and the power of attorney or other authority (if any) under which the instrument is signed is received at the registered office of the company or, if notice of a meeting provides for electronic lodgement of proxies, at the electronic mail address specified in the notice, not less than 24 hours before the meeting commences.

## **8.7 Validity of proxies**

A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:

- (a) the previous death or unsoundness of mind of the principal; or
- (b) the revocation of the instrument (or of the authority under which the instrument was executed) or the power,

if no notice in writing of the death, unsoundness of mind, revocation or transfer has been received by the company at its registered office at least 24 hours (or any shorter period as the Board may permit) before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

## **8.8 Where Proxy is Incomplete**

- (a) No instrument appointing a proxy shall be treated as invalid merely because it does not contain:
  - (i) the address of the appointor or of a proxy;
  - (ii) the proxy's name or the name of the office held by the proxy; or
  - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument shall be taken to be given in favour of the chair of the meeting.

## **8.9 Right of Officers and Advisers to Attend General Meeting**

- (a) A Secretary who is not a Member shall be entitled to be present and, at the request of the chair, to speak at any general meeting.
- (b) Any other person (whether a Member or not) requested by the Board to attend any general meeting shall be entitled to be present and, at the request of the chair, to speak at that general meeting.

## **9. Appointment, Removal and Remuneration of Directors**

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### **9.1 Number of Directors**

The company will have at least 5 Directors (or such higher number as required by law) and no more than 10 Directors.

### **9.2 Appointment of Directors**

- (a) The Board must establish a selection committee in accordance with Rule 11.12. The selection committee's functions may include making recommendations to the Board on:
  - (i) the appointment of Directors;
  - (ii) Director appointment criteria; and
  - (iii) the size and composition of the Board.
- (b) The Board may nominate candidates for election to the position of Director having considered any recommendations provided to it by the selection committee.
- (c) In nominating candidates for election to the position of Director, the Board must:
  - (i) consider the skills required to discharge the Board's duties in a competent manner having regard to the company's objects as stated in Rule 4;
  - (ii) consider the mix of skills, experience and other qualities of existing Directors and how the candidates attributes will balance and complement those qualities;
  - (iii) consider the Board's collective:

- (A) accounting or audit experience;
  - (B) commercial and business strategy expertise, including supply chain experience;
  - (C) legal experience;
  - (D) marketing or promotions experience;
  - (E) management experience;
  - (F) Non Governmental Organisation experience; and
  - (G) international development experience,
- (iv) ensure that:
- (A) at least one Director can demonstrate from his or her experience that he or she is highly skilled in corporate governance; and
  - (B) at least 1 Director ordinarily resides in New Zealand.
- (d) The company must include in the notice of any general meeting at which a Director is to be appointed a statement of the candidate recommended by the Board for each vacancy.
- (e) If the company in general meeting does not appoint a person recommended by the Board as a Director, the Board must:
- (i) recommend another candidate for consideration by the company in general meeting and in making its recommendation must take into consideration the factors in this Rule 9.2; and
  - (ii) reconvene the company in general meeting to vote on the appointment of the person recommended pursuant to Rule 9.2(e)(i) and include in the notice of such general meeting a statement of the candidate recommended by the Board.
- (f) The company may by resolution passed in general meeting appoint a person as a Director if:
- (i) that person has been recommended by the Board pursuant to this Rule 9.2; and
  - (ii) the person is eligible for appointment as a director under this Constitution and the Corporations Act.
- (g) A Director shall be appointed for a term of three years, subject to the compulsory rotation provisions in Rule 9.5.

### **9.3 Casual Vacancies**

- (a) The Board may appoint a person as a Director to fill a vacancy subject to:
- (i) consulting with the selection committee; and
  - (ii) compliance with Rule 9.1.



- (b) In order to ensure that the Directors satisfy the competency requirements of the Board, the Board may appoint additional Directors to the Board subject to:
  - (i) consulting with the selection committee; and
  - (ii) compliance with Rule 9.1.
- (c) A Director appointed under Rule 9.3(a) or Rule 9.3(b) must have their appointment ratified at the annual general meeting immediately following such appointment.
- (d) A Director appointed under Rule 9.3(a) or Rule 9.3(b) shall, for the purposes of Rule 9.5, be deemed to have been elected as a Director at the annual general meeting at which their appointment was ratified.

#### **9.4 Qualification of Directors**

A director is not required to be a Member of the company.

#### **9.5 Retirement of Directors**

- (a) A Director must retire not later than the third annual general meeting following the Director's appointment under clause 9.2(f) or ratification under clause 9.3(c).
- (b) Subject to Rule 9.5(c), a retiring Director will be eligible for re-election without needing to give any prior notice of an intention to submit for re-election and will hold office as a Director (subject to re-election) until the end of the meeting at which the Director retires.
- (c) Subject to Rule 9.5(d), a retiring Director is not eligible for re-election at an annual general meeting if that Director has been a Director for six consecutive years, measured from the annual general meeting at which they were elected, or at which their appointment was ratified. Directors who are ineligible for re-election due to this Rule 9.5(c) may be nominated for election at any subsequent annual general meeting.
- (d) A Chair who has been a Director for six consecutive years, measured from the annual general meeting at which they were elected, or at which their appointment was ratified, may, with prior approval from the Board, seek re-election at an annual general meeting for a further 12-month term.
- (e) A Director who has been re-elected under Rule 9.5(d) must retire at the next annual general meeting following their re-appointment under Rule 9.5(d).

#### **9.6 Remuneration**

- (a) Subject to Rule 9.6(b) and (c), no Director is entitled to be paid a fee for his or her service as Director.
- (b) If the Board so determine, the Directors may be paid or reimbursed for all travelling and other expenses properly incurred by them in attending and returning from any meeting of the Board, committee of the Board, general meeting of the company or otherwise in connection with the business or affairs of the company.

- (c) Subject to Rule 9.6(d), a director may be engaged by the company in any other capacity (other than auditor) and may be appointed on such terms as to remuneration, tenure of office and otherwise as may be agreed by the Board.
- (d) Any amount paid under Rule 9.6(b) or (c) must be approved by the Board.

## **9.7 Vacation of Office**

- (a) In addition to the circumstances in which the office of a director becomes vacant:
  - (i) under the Corporations Act; or
  - (ii) under Rule 9.5;the office of a director becomes vacant if the director:
  - (iii) ceases to satisfy the eligibility criteria in Rule 9.4;
  - (iv) is removed from the office of Director under Rule 9.7(b) or Rule 9.7(c);
  - (v) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (vi) resigns by notice in writing to the company; or
  - (vii) dies.
- (b) The Board may remove any director from office if that director is absent without the consent of the Board from meetings of the Board held during a continuous period of 6 months.
- (c) The company may by resolution passed in general meeting remove any director from office.

## **10. Powers of the Board**

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Subject to the Corporations Act and this Constitution, the business of the company, including financial control, is managed by the Board, who may exercise all powers of the company which are not, by the Corporations Act or this Constitution, required to be exercised by the company in general meeting.

## **11. Proceedings of the Board**

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### **11.1 Board Meetings**

- (a) The Board may meet together for conducting business and may adjourn and otherwise regulate their meetings as they determine.
- (b) The Board may establish, and from time to time amend, a board charter setting out an appropriate and practical framework for the Board's decision making and to facilitate compliance with all statutory requirements and best practice corporate governance.

- (c) Any board charter established under Rule 11.1(b) is intended to supplement the requirements of this Constitution only and to the extent of any inconsistency the provisions of the Constitution will prevail.

#### **11.2 Power to call for a Board Meeting**

- (a) A Director may convene a Board Meeting at any time.
- (b) On the request of a Director, the Secretary must convene a Board Meeting.

#### **11.3 Frequency of Board Meetings**

Board meetings will be held at least twice each year, and in accordance with a schedule decided by the Board.

#### **11.4 Quorum for Board Meetings**

The number of Directors necessary to form a quorum at a Board meeting is the greater of:

- (a) three Directors; or
- (b) a majority of the number of Directors.

#### **11.5 Notice**

Notice of meeting of the Board may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or at any other address given to the Secretary by the Director or by any technology agreed by all the Directors.

#### **11.6 Conflicts of Interest**

- (a) The Board must maintain, manage and update its own conflicts of interest policy.
- (b) A Director must not vote or take part in decisions where there is a potential for a conflict of interest to arise and must excuse him or herself from any part of a meeting where there is a potential for a conflict of interest to arise.

#### **11.7 Meetings by Technology**

- (a) For the purposes of the Corporations Act, each director, on becoming a director (or on the adoption of this constitution), consents to the use of the following technology for calling or holding a directors meeting:
  - (i) video;
  - (ii) telephone;
  - (iii) electronic mail;
  - (iv) any other technology which permits each director to communicate with every other director; or
  - (v) any combination of the technologies described in the above paragraphs.

A director may withdraw the consent given under this Rule in accordance with the Corporations Act.

- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each director can communicate with the other directors:
  - (i) the participating directors are for the purpose of every provision of this Constitution concerning meetings of the Board, be taken to be assembled together at a meeting and to be present at that meeting; and
  - (ii) all proceedings of those directors conducted in that manner shall be as valid and effective as if conducted at a meeting at which all of them were present.

#### **11.8 Chair of the Board**

- (a) The Board may elect one of their number as their chair.
- (b) The chair of the Board will hold the position for a period of no longer than two years, after which time the chair may be reappointed by the Board pursuant to Rule 11.8(a).
- (c) Where a meeting of the Directors is held and:
  - (i) a chair has not been elected as provided by Rule 11.8(a); or
  - (ii) the chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,the Directors present shall elect one of their number to be a chair of the meeting.

#### **11.9 Votes at Meetings**

- (a) Subject to this Constitution, questions arising at a meeting of the Board shall be decided by a majority of votes of directors present and voting and any such decision shall for all purposes be taken to be a decision of the Board.
- (b) In the case of an equality of votes, the chair of the meeting has a casting vote in addition to the chair's deliberative vote.

#### **11.10 Alternate Directors**

- (a) A director may:
  - (i) with the approval of a majority of the other directors (if any), appoint a person; or
  - (ii) without the need for the approval of the other directors, appoint another director,to be an alternate director in the director's place during any period that the director thinks fit.
- (b) An alternate director is entitled to notice of meetings of the Board and, if the appointor is not present at such a meeting, is entitled to attend and vote in the director's stead.
- (c) An alternate director may exercise any powers that the appointor may exercise. The exercise of any power by the alternate director (including signing a document)

will be taken to be the exercise of the power by the appointor. The exercise of any power by the alternate director will be as agent of the company and not as agent of the appointor. Where the alternate is another director, that director shall be entitled to cast a deliberative vote on the director's own account and on account of each person by whom the director has been appointed as an alternate director.

- (d) The appointment of an alternate director:
  - (i) may be terminated at any time by the appointor even if the period of the appointment of the alternate director has not expired; and
  - (ii) terminates automatically if the appointor vacates office as a director.
- (e) An appointment or the termination of an appointment of an alternate director will be effected by service on the company of a notice in writing signed by the director making the appointment.
- (f) The company will not be responsible for remunerating the alternate director.
- (g) An alternate director will be entitled to be reimbursed under Rule 9.6 as if the alternate director was a director.

#### **11.11 Powers of meetings**

A meeting of the Board at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

#### **11.12 Committees**

- (a) The Board may delegate any of their powers to a committee or committees consisting of such number of them and/or other persons as they think fit. A committee may consist of one or more persons.
- (b) Upon establishing a committee, the Board must approve the terms of reference for the committee including the delegated powers, reporting requirements, composition of the committee and quorum requirements. Each committee will then establish its own rules of procedure.
- (c) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board. A power so exercised is taken to have been exercised by the Board.
- (d) Rules 11.1, 11.5, 11.6 and 11.7 shall apply to any committee as if each reference in those Rules to the Board was a reference to the members of the committee and each reference to a meeting of the Board was to a meeting of the committee.
- (e) The number of members whose presence at a meeting of the committee is necessary to constitute a quorum is the number determined by the Board and, if not so determined, is 2. Unless the Board determine otherwise, the quorum need only be present at the time when the meeting proceeds to business.

- (f) Minutes of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Corporations Act to be made, entered and signed.

#### **11.13 Written Resolutions**

- (a) A resolution in writing signed by a majority of all Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Board) is a valid resolution of the Board and is effective when signed by the last of the Directors required to form a majority.
- (b) For the purpose of this Rule 11.13 the references to **Directors** include any alternate Director for the time being present in Australia who is appointed by a Director for the time being not present in Australia but do not include any other alternate Director.
- (c) The resolution may consist of several documents in the same form each signed by one or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director and is deemed to be signed when received in legible form.

#### **11.14 Defects in Appointments**

- (a) All actions at any meeting of the Board or by a committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been properly appointed and was qualified and continued to be a Director or a member of the committee.

#### **11.15 If less than minimum number of Directors**

- (a) If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the company but for no other purpose.

## **12. Officers of the Company**

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### **12.1 Appointment of Chief Executive Officer**

The Board may appoint a person to be the Chief Executive Officer of the company for such period and on such terms as it thinks fit. Subject to the terms of any agreement entered into in a particular case, the Board may at any time terminate any such appointment.

### **12.2 Powers of a Chief Executive Officer**

The Board may delegate, on the terms and conditions and with any restrictions as it determines, to the Chief Executive Officer any of the powers exercisable by it under this Constitution and may at any time withdraw, suspend or vary any of those powers.

### **12.3 Appointment of Secretary**

There must be at least one Secretary who is to be appointed by the Board.

### **12.4 Powers, duties and authorities of Secretary**

A Secretary of the company holds office on the terms and conditions, and with the powers, duties and authorities, as the Board decides.

### **12.5 Termination of appointment of Secretary**

The Board may at any time terminate the appointment of a Secretary.

### **12.6 Other Officers**

- (a) The Board may from time to time:
  - (i) create any other position or positions in the company with the powers and responsibilities as the Board may from time to time confer; and
  - (ii) appoint any person, whether or not a director, to any position or positions created under Rule 12.6(a)(i).
- (b) The Board may at any time terminate the appointment of a person holding a position created under Rule 12.6(a)(i) and may abolish the position.

## **13. Seals and Executing Documents**

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### **13.1 Seals and their use**

- (a) The company may have a common seal and a duplicate common seal. If the company has any such seal:
  - (i) it may only be used with the authority of the Board; and
  - (ii) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.
- (b) This Rule does not limit the ways in which the company may execute a document.

## **14. Inspection of Records**

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### **14.1 Inspection of Records**

- (a) The Board may authorise a Member to inspect books of the company (to the extent, at the time and places and under the conditions the Board consider appropriate).
- (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 Board.

## **15. Winding Up**

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### **15.1 Winding Up**

Subject to clause 15.2, if, on the winding up or dissolution of the company by any means and for any reason, there remains any property after the satisfaction of all the company's debts and liabilities, the property shall not be paid to or distributed among the Members of the company, but shall be given or transferred to one or more charitable organisations selected by the Members of the company at or before the dissolution of the company, having charitable purposes similar to the company and whose rules prohibit the distribution of its or their income and property among its or their Members.

### **15.2 Revocation of Deductible Gift Recipient Status**

If Fairtrade Australia and New Zealand Ltd is registered as a deductible gift recipient and is wound up or its endorsement as a deductible gift recipient is revoked, (whichever occurs first), any surplus of the following assets will be transferred to another charitable organisation having objects similar to the company and whose rules prohibit the distribution of its or their income and property among its or their Members and to which income tax deductible gifts can be made:

- (i) gifts of money or property for the principal purpose of the company;
- (ii) contributions made in relation to an eligible fundraising event held for the principal purpose of the company;
- (iii) money received by the company because of such gifts and contributions.

## **16. Notices**

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### **16.1 Notices Generally**

- (a) Any Member who has not left at or sent to the registered office a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the company may be served or sent shall not be entitled to receive any notice.
- (b) A notice may be given by the company to any Member by:
  - (i) serving it on the Member personally;
  - (ii) sending it by post to the Member or leaving it at the Member's address as shown in the register or the address supplied by the Member to the company for the giving of notices;
  - (iii) serving it in any manner contemplated in this Rule 16.1(b) on a Member's attorney as specified by the Member in a notice given under Rule 16.1(c);
  - (iv) fax to the fax number supplied by the Member to the company for the giving of notices; or



- (v) transmitting it electronically to the electronic mail address given by the Member to the company for giving notices.
- (c) A Member may by written notice to the Secretary left at or sent to the registered office require that all notices to be given by the company or the Board be served on the Member's attorney at an address specified in the notice.
- (d) Notice to a Member whose address for notices is outside Australia shall be sent by airmail, fax or electronic mail.
- (e) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
  - (i) in the case of a notice of a meeting, on the day after the date of its posting; and
  - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (f) Where a notice is sent by fax or electronic transmission, service of the notice shall be taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.

## **16.2 Notices of General Meeting**

- (a) Notice of every general meeting shall be given in the manner authorised by Rule 16.1:
  - (i) to every Member and to each Director; and
  - (ii) to the auditor to the company (if any).
- (b) No other person is entitled to receive notice of general meetings.

## **17. Indemnity**

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### **17.1 Indemnity and Insurance**

- (a) The company is to indemnify each officer of the company out of the assets of the company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the company or in or arising out of the discharge of the duties of the officer.
- (b) Where the Board consider it appropriate, the company may execute a documentary indemnity in any form in favour of any officer of the company or a subsidiary.
- (c) Where the Board consider it appropriate, the company may:
  - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the company against any liability incurred by the officer in or arising out of the conduct of the business of the company or in or arising out of the discharge of the duties of the officer; and

- (ii) bind itself in any contract or deed with any officer of the company to make the payments.
- (d) Where the Board consider it appropriate, the company may:
  - (i) give a former director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
  - (ii) bind itself in any contract with a director or former director to give the access.
- (e) In this Rule 17.1:
  - (i) **officer** means:
    - (A) a Director or Secretary; or
    - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the company,and includes a former officer.
  - (ii) **duties of the officer** includes, in any particular case where the Board consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the company or, where applicable, the subsidiary of the company to any other corporation.
  - (iii) **to the relevant extent** means:
    - (A) to the extent the company is not precluded by law from doing so;
    - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
    - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
  - (iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.