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# Constitution of Beef + Lamb New Zealand Limited

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**FOR FARMER APPROVAL**

[Showing all proposed changes]

draft

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## CONSTITUTION OF BEEF + LAMB NEW ZEALAND LIMITED

Date:

### COMPANY ACTIVITIES

#### 1 Statement of Intent

It is the intention of the Company to promote, develop, serve and benefit (either directly or indirectly) the general advancement of New Zealand ~~red~~ Sheep meat, beef and wool farmers by undertaking Industry-Good Activities.

#### 2 Statement of Principal Activities

The principal areas of activity of the Company (*Principal Activities*) are:

2.1 undertaking Industry-Good Activities aimed at:

- (a) achieving and maintaining the best possible access conditions for New Zealand ~~red~~ Sheep meat, beef and wool in overseas markets;
- (b) undertaking, facilitating and/or funding research and development into, on and off farm activities;
- (c) increasing international and domestic demand for New Zealand ~~red~~ Sheep meat and beef.
- (d) administering other programmes and providing services (including educational services);
- (e) building the Livestock farming sector's confidence and profile within communities;
- (f) attracting and retaining talent for the Livestock farming sector; and
- (g) developing farm and farmer capability;

2.2 raising money to fund Industry-Good Activities from such sources as the Board thinks appropriate, including:

- (a) under appropriate legislation (such as the Commodity Levies Act 1990);
- (b) government funding or investment by private organisations;
- (c) exploitation of intellectual property owned by the Company or New Zealand Meat Board; and
- (d) funding made available by New Zealand Meat Board (including, but not limited to, reserve interest or capital);

2.3 facilitating the two-way flow of quality information between the Company and the Farmers;

- 2.4 facilitating, on behalf of New Zealand Meat Board, the two-way flow of quality information between New Zealand Meat Board and Farmers in relation to any continuing New Zealand Meat Board activities;
- 2.5 representing and advocating Farmers', or a group of Farmers', interests in relation to the Industry-Good Activities and the ~~red~~ **Sheep meat**, **beef and wool** industries;
- 2.6 maintaining and enhancing the value of assets owned by the Company;  
and
- 2.7 doing all such other things as may be incidental or conducive to undertaking the above Principal Activities.

### 3 **Validity of Actions of the Company**

The validity of an action or an activity undertaken by the Company shall not be affected by the statement of Principal Activities in *clause 2* above.

### **COMMODITY LEVIES ACT 1990**

#### 4 **Commodity Levies Act Ballot**

- 4.1 The Board may from time to time conduct a ballot, relating to any levy proposed under the Commodity Levies Act 1990, in accordance with the procedures set out in the *Fourth Schedule* of this Constitution (*CLA Ballot*).
- 4.2 All Levy Payers (irrespective of whether the Levy Payer is a Farmer for the purposes of this Constitution) shall be entitled to vote on that CLA Ballot.

#### 5 **Consultation in relation to levy**

- 5.1 The Company must, in relation to any levy imposed under the Commodity Levies Act 1990, ~~and to be collected on or after 1 October 2004~~, ensure that, in order to represent adequately the views and interests of the persons who will be primarily responsible for paying the levy, it:
  - (a) consults Levy Payers and recognised organisations representing Levy Payers, such consultation to include meetings with Levy Payers held annually in each Electoral District and any other manner of consultation as the Board considers appropriate in the circumstances, in respect of matters relating to the levy, including, without limitation:
    - (i) the amount of any levy proposed by the Board in relation to any year;
    - (ii) the use of any funds received or to be received by the Company pursuant to any Levy Order; and
  - (b) provides each Levy Payer with a reasonable opportunity to attend any meeting conducted by the Company in connection with the consultation process referred to in *clause 5.1(a)*.

5.2 As soon as practicable after the determination by the Board of the amount of any levy to be imposed in relation to a particular year, the Board shall notify Levy Payers, in accordance with the Commodity Levies Act 1990 but otherwise in any manner the Board sees fit, of:

- (a) the amount of any levy determined by the Board pursuant to a Levy Order for that year; and
- (b) where applicable, the amount of any change in any levy amount from the previous year.

## 6 Use of funds received pursuant to a Levy Order

6.1 The Company shall use reasonable endeavours to ensure that:

- (a) Industry-Good Activities undertaken, or proposed to be undertaken, by the Company, that benefit, or will benefit, only ~~red~~ **Sheep meat and beef** farmers are funded only by funds received by the Company from ~~red~~ **Sheep meat and beef** farmers pursuant to any Levy Order; and
- (b) Industry--Good Activities undertaken, or proposed to be undertaken, by the Company, that benefit, or will benefit, only wool farmers are funded only by funds received by the Company from wool farmers pursuant to any Levy Order.

6.2 Where the Board is satisfied that any Industry-Good Activity undertaken, or proposed to be undertaken, by the Company provides, or will provide, benefits to both ~~red~~ **Sheep meat farmers, beef** and wool farmers, the Board may fund the activity by funds received by the Company pursuant to any Levy Order from any person subject to the Levy Order.

## FARMERS

### 7 Threshold for status as a Farmer

~~7.1 Prior to the Implementation Date, the Board shall at the earliest possible opportunity register one (1) person (chosen at the discretion of the Board) as a Farmer, and that person shall be deemed to be a Farmer.~~

~~7.1~~ 7.2 Following the Implementation Date, any Any person satisfying the following criteria shall be deemed to be a Farmer:

~~(a) any person the Board, on the basis of information known to the Board at the Implementation Date, is satisfied Owns (in New Zealand) Livestock in numbers equal to or greater than the Minimum Livestock Threshold; or~~

~~(a)~~ any person who as at [date] is recorded on the Farmers' Register; or

(b) any person (including for the avoidance of doubt those persons who have not yet been registered as Farmers) the Board is satisfied:

- (i) has made a Declaration to the Company (at any time, and including for the avoidance of doubt, on any document for the purpose of exercising a Farmer's Right); and
- (ii) Owns (in New Zealand), on the 30<sup>th</sup> June prior to the date of the next Meeting, or the exercise or proposed exercise of a Farmers' Right, Livestock in numbers equal to or greater than the Minimum Livestock Threshold.

7.2 ~~7.3~~ The Board shall, as soon as practicable, enter in the Farmers' Register the name of any person satisfying the criteria for a Farmer under *clause 7.27.1*.

7.3 ~~7.4~~ Notwithstanding *clause 7.27.1*, the Board may refuse to register as a Farmer any person who has made a Declaration that is the subject of an audit under *clause 13* until the Board is satisfied that person Owns (in New Zealand), on the 30<sup>th</sup> June prior to the date of the next Meeting, or the proposed exercise of a Farmers' Right, Livestock in numbers equal to or greater than the Minimum Livestock Threshold.

## 8 Partnerships, bodies corporate and trusts

8.1 Notwithstanding *clause 7.27.1*, where a Livestock farming business is carried on by:

- (a) a partnership, a body corporate or a trust; or
- (b) two or more persons jointly; or
- (c) two or more persons as tenants in common; or
- (d) by any society or association of persons, whether corporate or unincorporated,

those persons carrying on that business are to nominate one natural person to be registered as the Farmer on behalf of that business.

8.2 A nomination under *clause 8.1* is to be effected by delivering to the Company, a written nomination (including on any document for the purpose of exercising a Farmers' Right) signed by or on behalf of the person or persons effecting the nomination.

8.3 Any nomination under *clause 8.1* may, by notice in writing delivered to the Company, be revoked at any time in a like manner.

8.4 The Company should, as soon as practicable after receiving a nomination under *clause 8.2* or a notice under *clause 8.3*, record the details on the Farmers' Register.

8.5 If any natural person nominated under this *clause 8* is registered on the Farmers' Register, his or her entry on the Farmers' Register must be followed by the words "Nominee of [*name of partnership, body corporate or trust, etc*]".

8.6 The Board and the Company are entitled to treat a natural person nominated to be registered as the Farmer under this *clause 8* as the only person entitled to exercise all rights of that Farmer under this Constitution (including entitlement to vote) in respect of a Livestock farming business carried on by an entity referred to in *clause 8.1*.

## 9 **Rights of Farmers**

9.1 Subject to *clause 20*, each Farmer shall have the following rights (*Farmers' Rights*):

- (a) the right to attend every Meeting and to cast votes equal in number to the Voting Entitlement of that Farmer;
- (b) subject to *clause 39*, the right to vote on an Electoral District Ballot to elect an Electoral District Director for the Electoral District in which a Farmer farms Livestock equal to or greater than the Minimum Livestock Threshold;
- (c) the right to vote on a Farmers' Ordinary Resolution, in accordance with *clause 443*, removing an Electoral District Director from the office of Director;
- (d) the right to vote on a Farmers' Ordinary Resolution setting levels of Directors' remuneration or other benefits provided by the Company to a Director for services as a Director or in any other capacity;
- (e) the right to vote on a Farmers' Special Resolution directing the shareholders to alter this Constitution, or to revoke this Constitution and adopt a new constitution, provided that such right shall not limit *clause 70.2-69.2* of this Constitution;
- (f) the right to vote on a Farmers' Ordinary Resolution to change the name of the Company;
- (g) the right to vote on a Farmers' Ordinary Resolution directing the shareholders to appoint or remove the Auditor of the Company;
- (h) the right to vote on a Farmers' Special Resolution directing the shareholders to approve an amalgamation of the Company with any other person;
- (i) the right to vote on a Farmers' Special Resolution directing the shareholders to put the Company into liquidation;
- (j) the right to receive information in accordance with *clause 32* of this Constitution;
- (k) subject to *clause 33* of this Constitution, the right to access information possessed by the Company;



- (l) the right to vote on a Farmers' Ordinary Resolution to approve the issue, pursuant to ~~clause 74-73~~ of this Constitution, of Shares, options or securities by the Company;
- (m) the right to vote on a Farmers' Special Resolution directing the shareholders to apply to the High Court of New Zealand for leave to bring proceedings in the name of or on behalf of the Company or intervene in proceedings to which the Company is party, as contemplated under section 165 of the Companies Act 1993;
- (n) the right to vote on a Farmers' Ordinary Resolution approving the entry by the Company into a transaction that is a Significant Transaction and directing the shareholders to approve the transaction to the extent that it is also a Major Transaction; and
- (o) the right to vote on any resolution, including a resolution proposed by a shareholder, put to a vote at a Meeting, but excluding any resolution relating to a matter reserved solely to shareholders, including without limitation, those matters provided for in ~~clauses 70.1(a), 70.1(b) 69.1(a), 69.1(b)~~ and ~~70-269.2~~.

## VOTING BY FARMERS

### 10 Votes

~~10.1 Prior to the Implementation Date, each Farmer's Voting Entitlement shall be one (1) vote.~~

~~10.1~~ ~~10.2~~ Following the Implementation Date, ~~except~~ ~~Except~~ as provided in ~~clause 10.5~~ ~~10.4~~ the Voting Entitlement of each Farmer shall be equal to:

- (a) one (1) vote for every 250 Sheep ~~and/or Goats~~ Owned, on the 30<sup>th</sup> June prior to the date of the ~~next-relevant~~ Meeting or the exercise or proposed exercise of a Farmers' Right with no account to be taken of any Sheep ~~or Goats~~ Owned by that Farmer in excess of an exact multiple of 250;
- (b) one (1) vote for every 50 Beef Cattle Owned, on the 30 June prior to the date of the ~~next-relevant~~ Meeting or the exercise or proposed exercise of a Farmers' Right, with no account to be taken of Beef Cattle Owned by that Farmer in excess of an exact multiple of 50; ~~and~~
- (c) one (1) vote for every 100 Dairy Cattle Owned, on the 30<sup>th</sup> June prior to the date of the ~~next-relevant~~ Meeting or the exercise or proposed exercise of a Farmers' Right, with no account to be taken of Dairy Cattle Owned by that Farmer in excess of an exact multiple of 100.

~~10.2~~ ~~10.3~~ Subject to *clause 11*, the Voting Entitlement of each Farmer is to be determined in relation to each Meeting or the proposed exercise of a Farmers' Right to occur in relation to that Meeting, and each Electoral District Ballot.

**10.3** ~~10.4~~ The Voting Entitlement of each Farmer in relation to a Meeting or Electoral District Ballot is subject to receipt by the Company of a duly completed Declaration in accordance with this Constitution.

**10.4** ~~10.5~~ Notwithstanding *clause 10.1 and 10.2* ~~and 10.3~~, each Farmer's Voting Entitlement in respect of a Farmers' Ordinary Resolution:

- (a) to direct the shareholders to appoint or remove the Auditor of the Company; or
- (b) to set the levels of Directors' remuneration or other benefits provided by the Company to a Director for services as a Director or in any other capacity,

shall be deemed to be one (1) vote.

## DECLARATION

### 11 Notice to Farmers

The Board is to notify Farmers that a Declaration must be made to the Company by each Farmer who wishes to vote at a Meeting or on an Electoral District Ballot:

- (a) in the case of a Meeting, in the notice sent to Farmers relating to that Meeting under *clause 2.1* of the *Second Schedule* of this Constitution; and
- (b) in the case of an Electoral District Ballot, in the notice relating to that ballot under *clause 5.1* of the *Third Schedule* of this Constitution.

### 12 Form of Declaration

Each Declaration shall be in a form prescribed from time to time by the Board.

### 13 Audit of Declarations

13.1 The Company may at any time conduct an audit of any Declaration received.

13.2 Each audit of a Farmers' Declaration under this *clause 13* is to be conducted by the Auditor on behalf of the Company.

13.3 For the purposes of this *clause 13*, the Auditor may have regard to any documents he or she considers necessary or desirable to confirm the accuracy, or otherwise, of the number of Livestock disclosed in any Declaration made by that Farmer. For the purposes of this *clause 13.3*, a statement, signed by a Farmer's accountant, of the number of Livestock, divided into categories of Livestock, that Farmer Owns in New Zealand in each Electoral District as of the 30<sup>th</sup> June prior to the exercise of a Farmers' Right, shall be conclusive evidence for the purposes of any audit of a Declaration made by that Farmer.

### 14 Consequences of audit

14.1 If the audit conducted by the Auditor reveals that a Farmer has misrepresented the number of Livestock Owned by him or her to the extent that he or she claimed to be entitled to more votes under *clause 10* than he or she was, in fact, entitled to, then:

- (a) the Company shall notify the Farmer that a false Declaration has been made;
  - (b) the Company shall notify the Farmer that all votes cast by that Farmer on any resolution put to that Meeting or on that Electoral District Ballot (as the case may be) are invalid and deemed to be (and have been) of no effect;
  - (c) the Board must recount the votes cast on the resolutions put to the Meeting or on that Electoral District Ballot (as the case may be), taking into account the invalidity of any votes under this *clause 14* and give written notice of the new result (if it has changed) accordingly; and
  - (d) if it sees fit, the Board may, in its absolute discretion, suspend that Farmer's right to cast a vote on any resolution for a period of no more than three (3) years.
- 14.2 For the avoidance of doubt, no act done by the Company in reliance on a resolution approved by the Farmers in accordance with this Constitution prior to any recount under *clause 14.1* will be invalid if it is subsequently determined that the relevant resolution was not so approved following a recount of votes under *clause 14.1*.

## FARMERS' REGISTER

- 15 **Duty to maintain Farmers' Register**
- 15.1 The Company is to establish and, to the extent reasonably practicable, maintain a register which records each Farmer under the terms of this Constitution.
- 15.2 The Company may use information that relates to any of the matters set out in *clause 16* disclosed to it from any source, including in relation to any Levy Order, in the establishment and maintenance of the Farmers' Register.
- 16 **Required ~~Information~~information**
- The Farmers' Register is, to the extent reasonably practicable, to state, in relation to Farmers:
- 16.1 the name, alphabetically arranged, occupation, latest known address and other contact details of each Farmer;
  - 16.2 ~~following the Implementation Date,~~ the Electoral District of each Farmer;
  - 16.3 if applicable, the information required to be recorded under *clause 8.5*;
  - 16.4 the date and result of any audit of a Declaration made by a Farmer under *clause ~~10.4~~10.3*; and
  - 16.5 the number and category of Livestock Owned by each Farmer disclosed in each Declaration submitted to the Company.

**17 Place of Farmers' Register**

The Farmers' Register must be kept at the Company's registered office.

**18 Correction of Farmers' Register**

18.1 The Company may, from time to time, at its discretion (but for the avoidance of doubt, including in the circumstances described in *clause 22*):

(a) verify (including by an inquiry in writing addressed to the last known address of a Farmer) any information (including information disclosed in a Declaration) provided to the Company by a Farmer, including verifying whether that person:

(i) has died; or

(ii) has ceased to be engaged in the business of farming Livestock or ceased to Own Livestock;

(b) require a Farmer to provide evidence satisfactory to the Company to support any correction sought by the Farmer to his or her details recorded on the Farmers' Register; and

(c) direct the correction of any detail recorded on the Farmers' Register, including, where appropriate, removing a person from the Farmers' Register.

18.2 The verification of any such information or the correction of any such detail may be on the basis of any information disclosed to the Company from any source.

18.3 If any Farmer fails to respond to an inquiry or request for verification of information under this *clause 18*, within 20 Business Days from the date the inquiry or request for verification is sent by the Company, the Board may, after making such further inquiry as the Board sees fit, remove the name of that Farmer from the Farmers' Register.

18.4 No person is to be liable for any correction of any detail recorded on the Farmers' Register which is made in good faith under this *clause 18*.

**19 Farmers' right to inspect Farmers' Register**

19.1 Each Farmer is entitled to inspect the Farmers' Register at the place or places where it is kept and maintained by the Company in accordance with *clause 15* at any time when that place is open for business, provided that the Company shall only make available to Farmers for inspection the matters recorded in the Farmers' Register pursuant to *clauses 16.1, 16.2 and 16.3*.

19.2 Each Farmer may take a copy of his or her details recorded on the Farmers' Register (which, for the avoidance of doubt, includes all of the matters recorded in the Farmers' Register pursuant to *clause 16*).

## CESSATION AS A FARMER

### 20 Farmers' Rights

The rights of each Farmer under this Constitution are subject to, and contingent upon, the Farmer continuing to farm Livestock in numbers equal to or greater than the Minimum Livestock Threshold.

### 21 Voluntary cessation

21.1 A Farmer may voluntarily relinquish his or her status as a Farmer under this Constitution by notifying the Company in writing that he or she wishes to cease to be a Farmer.

21.2 Following receipt of a notice under *clause 21.1*, the Company is to record the cessation in the Farmers' Register.

### 22 Failure to exercise Farmers' Rights

If a Farmer does not vote at least once pursuant to Farmers' Rights for a period of three (3) consecutive years, then the Board may conduct an inquiry in respect of that Farmer in accordance with, and take whatever action is contemplated by, *clause 18*.

## EXERCISE OF POWERS OF FARMERS

### 23 Methods of holding Meetings

A Meeting may be held either:

23.1 by such number of Farmers and shareholders who constitute a quorum, being assembled together at the place, date and time appointed for the Meeting; ~~or~~

23.2 by means of audio, or audio and visual, communication by which all Farmers and shareholders participating and constituting a quorum, can simultaneously hear each other throughout the Meeting; ~~or~~

23.3 by a combination of both of the methods described in clauses 23.1 and 23.2.

### 24 Powers of Farmers

Unless otherwise specified in this Constitution, any power conferred on Farmers and/or shareholders may be exercised, and any approval of Farmers and/or shareholders may be given, in the case of Farmers, by Farmers' Ordinary Resolution and, in the case of ~~Shareholders~~ shareholders, by ordinary resolution.

### 25 Powers exercised by Farmers' Special Resolution and special resolution of shareholders

25.1 When Farmers and shareholders exercise a power under this Constitution:

(a) to alter this Constitution (other than an amendment which is a Technical Amendment), or revoke this Constitution and adopt a new constitution;

(b) to approve an amalgamation of the Company with any other person; or

(c) to put the Company into liquidation,

the power must be exercised by:

(d) Farmers' Special Resolution; and

(e) a special resolution of shareholders.

25.2 When Farmers exercise a power under this Constitution to approve the entry by the Company into a Significant Transaction, the power must be exercised by:

(a) Farmers' Ordinary Resolution; and

(b) if, and to the extent that, the Significant Transaction is a Major Transaction, a special resolution of shareholders.

25.3 A Farmers' Special Resolution passed pursuant to *clause 25.1(a)* ~~or 25.1(b)~~ ~~or 25.2~~ may only be rescinded by a Farmers' Special Resolution.

25.4 ~~A Farmers' Ordinary Resolution passed pursuant to clause 25.2 may only be rescinded by a Farmers' Ordinary Resolution.~~

25.5 ~~25.4A~~ Farmers' Special Resolution passed pursuant to *clause 25.1(c)* cannot be rescinded.

## MEETINGS

### 26 Annual ~~General~~ Meetings

Subject to *clause 27*, the Company is to hold an annual ~~general~~ meeting of the Company (*Annual ~~General~~ Meeting*) in each calendar year, in addition to any other Meetings in that year, not later than:

(a) six (6) months after the balance date of the Company; and

(b) fifteen (15) months after the previous Annual ~~General~~ Meeting.

### 27 Time and place of Annual ~~General~~ Meeting

27.1 Subject to *clause 26*, the Annual ~~General~~ Meeting is to be held at a time and location to be determined at the discretion of the Board, provided that the location of the Annual ~~General~~ Meeting rotates each year between the North Island and South Island.

27.2 When an Annual ~~General~~ Meeting is held by means of audio, or audio and visual, communication, that Meeting shall be deemed to have been held in the Electoral District where the ~~chairman~~ chair of the Meeting is physically present.

### 28 Special ~~General~~ Meeting

Each Meeting of the Company other than an Annual ~~General~~ Meeting is a Special ~~General~~ Meeting.

29 **Calling of Special ~~General~~ Meeting**

A Special ~~General~~ Meeting:

29.1 may be called by the Board at any time; or

29.2 is to be called by the Board within 30 Business Days of the Board being satisfied that 1,000 Farmers or 5 percent of the total number of Farmers at that time (~~which ever~~ whichever is the lesser) have in writing (collectively or otherwise) requested a Special ~~General~~ Meeting be convened.

30 **Proceedings at Meetings**

The *Second Schedule* governs the proceedings at Meetings.

**INFORMATION DISCLOSURE**

31 **Annual Report**

31.1 The Board of the Company must, as soon as is practicable after the balance date of the Company prepare an Annual Report on the affairs of the Company during the accounting period ending on that date.

31.2 Subject to *clause 31.3*, the Annual Report must contain the following information:

- (a) the Company's financial statements for the previous financial year (or a summary thereof);
- (b) a financial summary which contains a summary of the administration and operating costs of the Company in the previous year including all employment costs, office and operational costs and Company's Board and governance costs;
- (c) statements (relating only to money paid to the Company under a Levy Order, and assets acquired or built up with or out of, or by virtue of spending, money paid under the Levy Order) necessary to show fully the Company's financial position at the end of the previous financial year;
- (d) statements of the Company's receipt and expenditure of money paid as a levy under the Levy Order;
- (e) the amount of Directors' remuneration in the previous year and the value of any other benefits received by the Directors;
- (f) the number of employees or former employees who received remuneration in the capacity as employees, the value of which exceeded \$100,000 and state the number of such employees and former employees in brackets of \$10,000;
- (g) disclosure of each Director's material financial interest in any transaction to which the Company is a party;
- (h) a summary of activities undertaken or commissioned in the past year and, if they relate to a Livestock-specific levy, identify which levy they relate to;

- (i) a summary of information disseminated to Farmers or groups of Farmers in the past year;
- (j) an assessment by the Board of the practical benefits which the activities undertaken by the Company in the previous year have had, or are likely to create, for Farmers (or groups of Farmers) and whether the Company's Board considers those benefits to be appropriate by reference to the expenditure made in relation to them and if not, why (if applicable) the Company's Board has continued to fund such activities;
- (k) activities planned for the following year; ~~and~~
- (l) expenditure planned for the following year; ~~and~~
- (m) any other information required by law.

31.3 Except as required by law, the Board shall be under no obligation to disclose, in the Annual Report or otherwise, any information, including any of the information listed in *clause 31.2-(a) to 31.2(l)* above, if, in the reasonable opinion of the Board, the information has greater value to the Company if it kept confidential than if it is disseminated to shareholders and Farmers.

31.4 Notwithstanding *clause 31.3*, once any of the information listed in *clause 31.2-(a) to 31.2(l)* above ceases to be confidential, it must be disseminated to Farmers in the next Annual Report.

31.5 Statements made in any Annual Report in respect of information referred to in *clause 31.2(a) to 31.2(g)* must be audited within ninety (90) days of the balance date of the Company.

## 32 **Annual Report must be sent made available to Farmers and to the Minister**

32.1 The Board must cause ~~a copy of the Annual Report (or a notice pursuant to section 209(1)(b) to be made available to every Farmer in a manner consistent with sections 209 to 209B and section 212 of the Companies Act 1993, describing how to access or obtain copies of the Annual Report) to be sent to every Farmer at least 20 Business Days before the date fixed for holding the Annual General Meeting, unless (as if the word 'shareholder' was read as 'Farmer' in those sections).~~

~~(a) the Farmer has given notice in writing to the Company waiving its right to be sent a copy of that Annual Report or copies of the Annual Reports of the Company generally; and~~

~~(b) the Farmer has not revoked that notice.~~

32.2 The Board must cause a copy of the Annual Report to be sent to the Minister ~~of Agriculture and Forestry for Primary Industries~~ as soon as the Annual Report has been completed.



**33 Access by Farmers to information held by the Company**

- 33.1 A Farmer may at any time make a written request to the Company for information held by the Company.
- 33.2 Any written request for information under *clause 33.1* must specify the information sought in sufficient detail to enable it to be identified.
- 33.3 Within four (4) Business days of receiving a request under *clause ~~31.1~~ 33.1* the Company must, in writing or by such other means as the Company may, in its discretion, determine, acknowledge receipt of the request.
- 33.4 Within ten (10) Business Days of receiving a request under *clause 33.1*, the Company must either:
- (a) provide the information;
  - (b) agree to provide the information within a specified period;
  - (c) agree to provide the information within a specified period if the Farmer pays a reasonable charge to the Company (which must be specified and explained) to meet the cost of providing the information; or
  - (d) refuse to provide the information specifying the reasons for the refusal.
- 33.5 Without limiting the reasons for which the Company may refuse to provide information under this *clause 33.5*, the Company may refuse to provide information if:
- (a) the disclosure of the information would or would be likely to prejudice the commercial position of the Company;
  - (b) the disclosure of the information would or would be likely to prejudice the commercial position or the privacy of any other person, whether or not that person supplied the information to the Company;
  - (c) the information requested is or will be publicly available within a period of time the Board considers to be reasonable;
  - (d) the information requested cannot be made available without substantial collation, research and cost to the Company; or
  - (e) the request for the information is frivolous or vexatious.

**ELECTORAL DISTRICTS**

**34 Composition of Electoral Districts**

- 34.1 For the purposes of this Constitution, New Zealand shall be divided into six districts (*Electoral Districts*), the composition of which shall be determined by the Board pursuant to this Constitution.

- 34.2 The composition of each Electoral District shall be determined by the Board, having regard to the desirability of:
- (a) the numbers of Livestock (in aggregate) farmed in each Electoral District being substantially similar;
  - (b) the Electoral Districts representing, to the extent reasonably practicable, areas of common farm type, farming method, geography and climate; and
  - (c) having three (3) Electoral Districts in the North Island and three (3) Electoral Districts in the South Island.

**35 Re-determination of Electoral Districts**

- 35.1 The Board may from time to time review the composition of each Electoral District to determine whether, on the basis of information available to the Company, any material change has occurred with regard to the matters set out in *clauses 34.2(a) and 34.2(b)*.
- 35.2 If, following such review, the Board becomes aware that one or more Electoral Districts has, in the view of the Board, undergone a material change of the nature referred to in *clause 35.1*, it may re-determine the composition of the Electoral Districts having regard to the principles set out in *clause 34.2*.
- 35.3 If the Board decides to re-determine Electoral Districts under this *clause 35*, it is to give notice to the Farmers of each Electoral District as soon as practicable specifying:
- (a) that a re-determination of the composition of the Electoral Districts is taking place;
  - (b) the date by which the re-determination is to be completed; and
  - (c) that any Farmer may make a submission to the Company regarding the re-determination of the composition of the Electoral Districts no later than 15 Business Days before the date by which the re-determination is to be completed.
- 35.4 The Board may, but need not, follow all or part of the recommendations made by any Farmer following notice of the matters described in *clause 35.3*.
- 35.5 The Board is to complete re-determination of the composition of the Electoral Districts within three (3) months of the date on which it commenced that re-determination under *clause 35.1*.

**36 Effect of re-determination**

Until the Board completes its re-determination of the composition of each Electoral District, all business to be transacted by the Farmers resident in each Electoral District is to be dealt with on the basis of the existing boundaries of the Electoral District.

**37 Notice to Farmers**

Following a re-determination of the composition of each Electoral District, the Board is to give notice of the new boundaries of each Electoral District to Farmers.

**38 Determination of residence**

For the purposes of this Constitution, the Electoral District in which each Farmer's farm is located is to be determined on the basis of the information recorded on the Farmers' Register.

**39 Eligibility to vote**

Subject to *clause 10*, a Farmer is eligible to vote on an Electoral District Ballot if they are registered on the Farmers' Register on the date that is 20 Business Days before the Election Date. Farmers so registered shall be eligible to vote on an Electoral District Ballot held in:

- (a) the Electoral District where the Livestock of that Farmer are farmed; or
- (b) if the Farmer farms Livestock in more than one Electoral District, that Farmer shall be eligible to vote in:
  - (i) the Electoral District he or she chooses by notice in writing to the Company (which notice may be included in any applicable Declaration); or
  - (ii) each such Electoral District where that Farmer farms Livestock in numbers not less than the Minimum Livestock Threshold.

**DIRECTORS**

~~40 Transitional Provisions~~

~~40.1 At the date of incorporation of the Company, the Board shall be constituted by the Incorporation Directors.~~

~~40.2 In the event that the Single Organisation Proposal is supported by a majority of Levy Payers who are red meat farmers, and a majority of Levy Payers who are wool farmers, voting on the Single Organisation Proposal, four (4) persons shall be appointed as Initial Directors (in addition to the Incorporation Directors) as follows:~~

- ~~(a) New Zealand Meat Board shall be entitled, by notice to the Company, to appoint three (3) persons as Initial Directors; and~~
- ~~(b) SheepCo shall be entitled, by notice to the Company, to appoint one (1) person as an Initial Director.~~

~~40.3 In the event that the Single Organisation Proposal is not supported by a majority of Levy Payers who are red meat farmers and a majority of Levy Payers who are wool farmers voting on the Single Organisation Proposal, then the directors of the Company shall be deemed to be, and the Board shall be constituted by, those persons who are the directors of SheepCo at that time, and the Incorporation~~

~~Directors who are not also directors of SheepCo shall be deemed to have resigned from office in accordance with this Constitution.~~

~~40.4 At the earliest practicable opportunity following the appointment of four (4) Initial Directors pursuant to clause 40.2, the Board shall appoint two (2) Additional Directors, pursuant to clause 45, as follows:~~

~~(a) one (1) Additional Director (such Additional Director to be determined by the Board) appointed under this clause 40.4 shall hold office for a period of up to one (1) year from the date the Additional Director is appointed, and, subject to clause 45, may be reappointed for a further three (3) year period; and~~

~~(b) one (1) Additional Director (such Additional Director to be determined by the Board) appointed under this clause 40.4 and shall hold office for a period of between one (1) and two (2) years from the date the Additional Director is appointed, and, subject to clause 45, may be reappointed for a further three (3) year period.~~

~~40.5 At the first Annual General Meeting following incorporation of the Company, three (3) Initial Directors shall retire, and shall be replaced by three (3) Electoral District Directors elected pursuant to the Third Schedule of this Constitution.~~

~~40.6 At the second Annual General Meeting following incorporation of the Company, three (3) Initial Directors shall retire and shall be replaced by three (3) Electoral District Directors elected pursuant to the Third Schedule of this Constitution.~~

~~40.7 The order in which the Initial Directors shall retire in accordance with this clause 40 shall be determined by the Board (having regard to, among other factors, the desirability of ensuring that the composition of the Board is geographically representative of all Farmers) as soon as practicable following the appointment of the four (4) Initial Directors pursuant to clause 40.2, but in any event no later than 60 Business Days before the date of the first Annual General Meeting.~~

~~40.8 Initial Directors who retire under this clause 40 may stand for re-appointment as Electoral District Directors.~~

#### 40 ~~41~~ **Number of Directors**

40.1 ~~41.1~~ The number of Directors must not at any time be more than nine (9) nor, following the appointment of the four Initial Directors pursuant to clause 40.2 less than six (6).

40.2 ~~41.2~~ Subject to clause 47, from the date of incorporation of the Company until the date of the second Annual General Meeting of the Company 48, the Board shall be constituted by:

~~(a) the Initial Directors who hold office at the relevant time;~~

(a) ~~(b)~~ the Electoral District Directors, once elected pursuant to the *Third Schedule* of this Constitution;

(b) ~~(e)~~ two (2) Additional Directors, once appointed pursuant to *clause 4544*;  
and

(c) ~~(f)~~ if appointed by the Board from time to time pursuant to *clause 4645*,  
one (1) Independent Director.

**41 ~~42~~ Rotation of Electoral District Directors**

41.1 ~~42.1~~ At ~~the third Annual General Meeting and at~~ each Annual ~~General~~ Meeting ~~thereafter~~, two (2) Electoral District Directors shall retire from office and be replaced by an Electoral District Director for the Electoral District represented by each retiring Electoral District Director, appointed following an Electoral District Ballot conducted for that purpose.

41.2 ~~42.2~~ Subject to *clause 42.141.1*, the Electoral District Directors to retire at an Annual ~~General~~ Meeting will be those Electoral District Directors who have been longest in office since their last election, and in the event that more than two Electoral District Directors have been in office for the equal longest period of time, the two Electoral District Directors who shall retire shall be determined by the Board.

41.3 ~~42.3~~ Each Electoral District Director who retires under this *clause 4241*:

- (a) is to cease to hold office from the date of the Annual ~~General~~ Meeting; and
- (b) may stand for re-appointment.

**42 ~~43~~ Re-election of retiring Electoral District Director**

If no other person is nominated, the retiring Electoral District Director is, if standing for re-election, deemed to have been re-elected.

**43 ~~44~~ Removal of Electoral District Directors**

43.1 ~~44.1~~ An Electoral District Director may be removed at a meeting convened in accordance with this *clause 4443* by a Farmers' Ordinary Resolution, provided that only Farmers who Own Livestock in numbers equal to or greater than the Minimum Livestock Threshold in the Electoral District represented by that Electoral District Director are eligible to vote at such a meeting.

43.2 ~~44.2~~ The Company shall convene a meeting in an Electoral District for the purpose of Farmers voting on a Farmers' Ordinary Resolution in accordance with *clause 44.143.1* if the Company receives a written request or written requests (collectively or otherwise) that a meeting be convened for that purpose from:

- (a) Farmers who together hold not less than 20 percent of the aggregate Voting Entitlement (calculated in accordance with *clause 40.210.1*) of all Farmers in that Electoral District; or
- (b) 1,000 Farmers who Own Livestock in numbers equal to or greater than the Minimum Livestock Threshold in the Electoral District represented by that Electoral District Director.

~~43.3~~ ~~44.3~~ Any meeting convened by the Company under *clause ~~44.2-43.2~~* shall be governed by the provisions of the *Second Schedule* of this Constitution with such modifications and additions as are necessary or desirable to facilitate such a meeting.

#### ~~44~~ ~~45~~ **Appointment of Additional Directors**

~~44.1~~ ~~45.1~~ Subject to *clauses ~~45.2-44.2~~* and *~~45.244.3~~*, the Board shall appoint two (2) Additional Directors on the basis of recommendations received from an Industry Organisation.

~~44.2~~ ~~45.2~~ The Board may only appoint an Additional Director pursuant to *clause ~~45.1-44.1~~* if the Board is satisfied a person recommended by an Industry Organisation pursuant to *clause ~~45.144.1~~*:

- (a) reasonably represents the views of those involved in the meat processing and meat exporting industries; and
- (b) has sufficient skills, knowledge and experience necessary to contribute to the Board, having regard to the Principal Activities of the Company.

~~44.3~~ ~~45.3~~ In the event that the Board, having regard to the criteria referred to in *clause ~~45.2(a)44.2(a)~~*, and *~~45.2(b)44.2(b)~~*, does not accept a recommendation from an Industry Organisation for the office of Additional Director, the Board will so advise the Industry Organisation that made the recommendation and seek a further recommendation from that or any other Industry Organisation.

~~44.4~~ ~~45.4~~ Subject to this Constitution, an Additional Director holds office for a period of three (3) years from the date the Additional Director is appointed, and, subject to the receipt of a new recommendation pursuant to *clause ~~45.144.1~~*, may, subject to *clause ~~45.244.2~~*, be reappointed by the Board at the end of that three (3) year period.

#### ~~45~~ ~~46~~ **Appointment of Independent Directors**

~~45.1~~ ~~46.1~~ The Board may appoint one (1) person as an Independent Director on such terms as it thinks fit.

~~45.2~~ ~~46.2~~ Subject to *clause ~~46.145.1~~*, an Independent Director appointed under *clause ~~46.1-45.1~~* is to hold office for such period of time as determined by the Board, commencing on the date on which he or she was appointed under *clause ~~46.145.1~~*.

~~45.3~~ ~~46.3~~ The Board shall, when appointing an Independent Director under *clause ~~46.1-45.1~~* have regard to the skills and experience requirements of the Board, having regard to the Principal Activities of the Company.

#### **CHAIR**

#### ~~46~~ **Directors to elect chair of the Board**

Directors must elect one of their number as chair of the Board, provided that Director is an Electoral District Director.

**47 Chair to hold office on certain terms**

The chair of the Board holds that office until the earlier of:

- (a) the end of a period of one (1) year from the date he or she is elected pursuant to *clause 46*;
- (b) until he or she vacates office; or
- (c) the Directors elect a chair in his or her place.

The incumbent chair may stand for re-election following the end of his or her term of office as chair.

**VACATION OF OFFICE**

**48 ~~47~~ Vacation of Ceasing to hold office**

A Director is to cease to hold office as a Director if:

- 48.1 ~~47.1~~ the Director becomes bankrupt or makes an arrangement or compromise with his or her creditors generally;
- 48.2 ~~47.2~~ the Director becomes disqualified from being a director of a company pursuant to section 151 of the Companies Act 1993;
- 48.3 ~~47.3~~ the Director resigns from office by notice in ~~writing to the Company~~ accordance with this constitution; ~~or~~
- 48.4 ~~47.4~~ the Director is removed from office by Farmers by Farmers' Ordinary Resolution passed in accordance with *clause ~~4443~~*; ~~or~~
- 48.5 ~~47.5~~ a declaration from the High Court is made in relation to the Director that he or she is acting in breach of his or her duties under Part VIII of the Companies Act 1993.

**CHAIRMAN**

**~~48 Directors to elect chairman of the Board~~**

~~Directors must elect one of their number as chairman of the Board, provided that Director is an Initial Director or an Electoral District Director.~~

**~~49 Chairman to hold office on certain terms~~**

~~The chairman of the Board holds that office until the earlier of:~~

- ~~(a) the end of a period of one (1) year from the date he or she is elected pursuant to *clause 48*;~~
- ~~(b) until he or she vacates office; or~~
- ~~(c) the Directors elect a chairman in his or her place.~~

~~The incumbent chairman may stand for re-election following the end of his or her term of office as chairman.~~

#### ~~VACATION OF OFFICE~~

#### ~~49~~ **50 Office of Director vacated in certain cases**

The office of Director is vacated if the person holding that office:

~~49.1~~ ~~50.1~~ dies; or

~~49.2~~ ~~50.2~~ ceases to hold office in accordance with this Constitution.

#### ~~50~~ **54 Directors' resignation procedure**

A Director may resign his or her office:

~~50.1~~ ~~51.1~~ by signing a written notice of resignation and delivering it to the address for service of the Company, the notice being effective when it is received at that address or at a later time specified in the notice; or

~~50.2~~ ~~51.2~~ in any other manner permitted by the Companies Act 1993.

#### MANAGEMENT OF THE COMPANY

#### ~~51~~ **52 Duty of Directors to act in best interests of Company**

Each Director, when exercising powers or performing duties, must act in good faith and in what the Director believes to be the best interests of the Company.

#### ~~52~~ **53 Board to manage Company**

The Company's business and affairs must be managed by, and under the direction or supervision of, the Board, except to the extent that the Companies Act 1993 or this Constitution provides otherwise.

#### ~~53~~ **54 Board has powers necessary to manage Company**

The Board has all the powers necessary for managing, and for directing and supervising the management of, the Company's business and affairs, except to the extent that the Companies Act 1993 or this Constitution provides otherwise.

#### ~~54~~ **55 Transactions requiring approval**

~~54.1~~ ~~55.1~~ The Company must not enter into a Major Transaction unless the transaction is approved, or contingent on approval, by a special resolution of shareholders.

~~54.2~~ ~~55.2~~ The Company must not enter into a Significant Transaction unless the transaction is approved, or contingent on approval, by a Farmers' Ordinary Resolution and, if, and to the extent that, the transaction is also a Major Transaction, a special resolution of shareholders pursuant to *clause 55.154.1*.

~~54.3~~ ~~55.3~~ For the purpose of this *clause 55.4*, a special resolution of shareholders shall mean a majority of 75 percent of the votes of those shareholders entitled to vote and voting on the resolution.



## PROCEEDINGS OF THE BOARD

### 55 ~~56~~ Meetings of the Board

The *First Schedule* governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. The Third Schedule to the Companies Act 1993 does not apply to proceedings of the Board.

### 56 ~~57~~ Written resolutions of Board permitted

A written resolution signed or assented to by all of the Directors then entitled to receive notice of a meeting of the Board is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

### 57 ~~58~~ Written resolutions may be in counterparts

Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors. A copy of a written resolution, which has been signed and is sent by facsimile or any similar means of communication, will satisfy the requirements of this *clause* 58.

## DELEGATION OF POWERS

### 58 ~~59~~ Restriction on Board's right to delegate its powers

Subject to the restrictions on delegation in the Companies Act 1993, the Board may delegate any one or more of its powers (including the power to execute deeds on behalf of the Company) to a committee of Directors, a Director, an employee of the Company or any other person.

### 59 ~~60~~ Board delegates to comply with regulations

In exercising the Board's delegated powers, any committee of Directors, Director, employee or employees of the Company or any other person must comply with any regulations that the Board may impose.

### 60 ~~61~~ Committee proceedings

The provisions of this Constitution relating to proceedings of the Board also apply to proceedings of any committee of Directors, except to the extent the Board determines otherwise.

## REMUNERATION

### 61 ~~62~~ Board's power to authorise remuneration and other benefits is limited

#### 61.1 ~~62.1~~ The Board may authorise:

- (a) the payment of remuneration or the provision of other benefits by the Company to a Director for services as a Director or in any other capacity;
- (b) the entering into of a contract to do any of the things set out in this *clause* 61,

only if the relevant action has been approved by a Farmers' Ordinary Resolution in accordance with *clause* ~~40-510.4~~. Each such resolution must express the Director's remuneration as either:

- (c) an annual monetary sum payable among all Directors (other than an executive Director); or
- (d) an annual monetary sum payable to any person holding office as a Director.

**61.2** ~~62.2~~ This *clause 61* does not apply to the payment of remuneration or the provision of other benefits to an executive Director in his or her capacity as an executive or to any other Director in respect of any professional services provided by that Director to the Company.

**62** ~~63~~ **Expenses**

A Director may be reimbursed for reasonable travelling, accommodation and other expenses incurred in the course of performing duties or exercising powers as a Director of the Company, without requiring the prior authorisation of shareholders or Farmers.

### INDEMNITY AND INSURANCE FOR DIRECTORS AND EMPLOYEES

**63** ~~64~~ **Company may indemnify Directors and employees for certain liabilities**  
The Company may indemnify a Director or employee of the Company or a related company for any liability or costs for which a Director or employee may be indemnified under the Companies Act 1993. The Board may determine the terms and conditions of any such indemnity.

**64** ~~65~~ **Company may effect insurance for Directors and employees**  
The Company may, with the prior approval of the Board, effect insurance for a Director or employee of the Company or a related company for any liability or costs for which a company may effect insurance for a Director or employee under the Companies Act 1993. The Board may determine the amounts and the terms and conditions of any such insurance.

### INTERESTED DIRECTORS

**65** ~~66~~ **Directors must disclose their interests**  
As soon as a Director becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, then unless the Companies Act 1993 provides otherwise, that Director must disclose that interest in accordance with the Companies Act 1993.

**66** ~~67~~ **Failure to disclose does not affect validity of transaction**  
Any failure by a Director to comply with *clause 66-65* does not affect the validity of a transaction entered into by the Company or the Director, however the transaction may be avoided under *clause 6867*.

**67** ~~68~~ **Company may avoid transaction if Director interested**  
Where the Company enters into a transaction in which a Director is interested, the Company, if it is permitted to do so by the Companies Act 1993, may avoid that transaction in accordance with the Companies Act 1993.

**68** ~~69~~ **Interested Director may vote**

A Director who is interested in a transaction entered into, or to be entered into, by the Company may:

~~68.1~~ ~~69.1~~ vote on a matter relating to the transaction;

~~68.2~~ ~~69.2~~ attend a meeting of Directors at which a matter relating to the transaction arises and be included among the Directors present at the meeting for the purpose of a quorum;

~~68.3~~ ~~69.3~~ sign a document relating to the transaction on behalf of the Company; and

~~68.4~~ ~~69.4~~ do anything else as a Director in relation to the transaction,

as if he or she were not interested in the transaction.

**SHARES**

**69** ~~70~~ **Share confers rights on shareholder**

Subject to the terms on which a Share is issued, a Share confers on the holder:

~~69.1~~ ~~70.1~~ the right to one vote on any resolution to:

~~(a)~~ ~~adopt the initial Constitution;~~

~~(a)~~ ~~(b)~~ approve a Major Transaction;

~~(b)~~ ~~(c)~~ amend or repeal any clause of the Constitution ~~or~~ repeal the Constitution or adopt a new constitution;

~~(c)~~ ~~(d)~~ appoint or remove an Auditor in accordance with this Constitution;

~~(d)~~ ~~(e)~~ approve an amalgamation proposal under the Companies Act 1993;

~~(e)~~ ~~(f)~~ change the name of the Company; and

~~(f)~~ ~~(g)~~ appoint a liquidator of the Company;

69.2 ~~70.2~~ the right at its sole discretion to vote on any resolution to amend the Constitution, including repealing any clause, where such amendment is a Technical Amendment;

69.3 ~~70.3~~ the right to an equal share in dividends authorised by the Board; and

69.4 ~~70.4~~ the right to an equal share in the distribution of the Company's surplus assets.

70 ~~74~~ **Exercise of certain rights subject to Farmers' Special Resolution**

The exercise by a shareholder of a right under *clause* ~~70.1(a), 70.1(c), 70.1(d) 69.1(b), 69.1(c)~~ or ~~70.1(e) 69.1(d)~~ is subject to the right of Farmers under *clause* 9.1 to direct the shareholders to exercise their voting rights in accordance with a resolution passed by Farmers for that purpose.

71 ~~72~~ **Company must obtain approval before altering shareholders' rights**

71.1 ~~72.1~~ The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a special resolution of each interest group in accordance with the Companies Act 1993.

71.2 ~~72.2~~ Subject to this Constitution, the Board may issue Shares that rank as to voting or distribution rights, or both, equally with or prior to any existing Shares, and any such issue will not be treated as an action affecting the rights attached to existing Shares.

72 ~~73~~ **Written shareholders' resolution instead of holding a meeting**

A shareholders' resolution in writing, which complies with the requirements of the Companies Act 1993, is as valid as if it had been passed at a meeting of shareholders.

**ISSUE OF SHARES**

73 ~~74~~ **Board to issue Shares**

The Board may issue Shares or securities that are convertible into Shares or options to acquire Shares at any time, to any person, and in any number it thinks fit, provided:

73.1 ~~74.1~~ those Shares, securities or options are issued to existing shareholders in such proportions as maintain the rights which the shareholders had immediately prior to the issue;

73.2 ~~74.2~~ that no Shares, securities or options shall be issued to any person unless the Board is satisfied that that person will hold the Shares in trust pursuant to the terms of the Trust Deed for the benefit of Farmers; and

73.3 ~~74.3~~ the issue of those Shares, securities or options is approved by Farmers' Ordinary Resolution.

74 ~~75~~ **Board need not comply with statutory pre-emptive rights**

If the Board issues Shares that rank as to voting or distribution rights, or both, equally with or prior to existing Shares, the Board need not first offer those

Shares to existing shareholders for acquisition, unless any other provision of this Constitution requires otherwise.

## TRANSFER OF SHARES

### 75 ~~76~~ **Transferee must hold Shares on trust**

The shareholders may transfer all or part of their shareholding to any person (*Transferee*), provided that the Board is satisfied that the Transferee holds, or undertakes to hold, the Shares on trust pursuant to the terms of the Trust Deed for the benefit of the Farmers.

### 76 ~~77~~ **Shares transferred by entry on share register**

Shares shall be transferred by entry on the Company's share register of the name of the Transferee which appears on the transfer form delivered to the Company.

## ACQUISITION OF OWN SHARES

### 77 ~~78~~ **Company may acquire and hold Shares**

The Company may purchase or otherwise acquire Shares and may hold those Shares in accordance with the Companies Act 1993. If the Company intends to transfer any Shares which it has acquired and held, such transfer will be treated as a new issue of Shares and the Board must first comply with the requirements of this Constitution for issues of Shares.

## REDEMPTION OF SHARES

### 78 ~~79~~ **The Company may issue and redeem Shares**

The Company may, with the prior approval of Farmers by way of Farmers' Ordinary Resolution:

78.1 ~~79.1~~ issue redeemable Shares;

78.2 ~~79.2~~ redeem redeemable Shares in accordance with the Companies Act 1993 and the terms of issue of the redeemable Shares; and

78.3 ~~79.3~~ exercise an option to redeem redeemable Shares issued by the Company in relation to one or more holders of redeemable Shares, in accordance with the Companies Act 1993 and the terms of issue of the redeemable Shares.

## DISTRIBUTIONS

### 79 ~~80~~ **Board may authorise distributions**

The Board may authorise a distribution by the Company in accordance with the Companies Act 1993.

### 80 ~~81~~ **Shareholder may waive dividend**

Notwithstanding *clause* ~~8079~~, a shareholder may waive his or her entitlement to receive a dividend by giving a written notice to the Company signed by or on behalf of the shareholder.

## LIQUIDATION

### 81 ~~82~~ **Distribution of surplus assets in kind**

If the Company is liquidated the liquidator shall, at the direction of the shareholders, but subject to any other sanction required by the Companies Act 1993:

81.1 ~~82.1~~ divide among the shareholders in kind the whole or any part of the surplus assets of the Company and for that purpose the liquidator may:

- (a) fix such values for surplus assets as the liquidator considers to be appropriate, and
- (b) determine how the division will be carried out as between shareholders;

and

81.2 ~~82.2~~ vest the whole or any part of any such surplus assets in trustees upon such trusts for the benefit of such of those shareholders as the liquidator thinks fit,

but so that no shareholder is compelled to accept any Shares or other securities on which there is any liability.

## EXECUTION OF DEEDS

### 82 **Manner of execution of deeds**

An obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:

82.1 two or more Directors; or

82.2 a Director, or any other person authorised by the Board whose signature must be witnessed; or

82.3 one or more attorneys appointed by the Company in accordance with the Companies Act 1993.

## ACCESS TO DOCUMENTS BY ELECTRONIC MEANS

### 83 **Farmers may elect to receive documents electronically**

A Farmer may notify the Company:

83.1 that the Farmer wishes to receive documents that the Company is required to give to the Farmer under this Constitution or under the Companies Act 1993 by electronic means; and

83.2 of the electronic address to which documents are to be delivered.

**84 Effect of notification by Farmer**

**84.1** Notification in accordance with *clause 83* may be made in respect of a particular notice, statement, report, set of accounts, or other document, or in respect of all documents to be served under this Constitution or under the Companies Act 1993.

**84.2** If a Farmer notifies the Company under *clause 83*, the Company must send documents by electronic means in accordance with the notification, whether or not the documents are also sent by another method.

**THE RELATIONSHIP BETWEEN THIS CONSTITUTION AND THE COMPANIES ACT 1993**

**85 ~~83~~ Effect of the Companies Act 1993 on this Constitution**

The Company, the Board, each Director, each Farmer and each shareholder have the rights, powers, duties, and obligations set out in the Companies Act 1993 except to the extent that they are negated or modified, in accordance with the Companies Act 1993, by this Constitution.

**INTERPRETATION**

**86 ~~84~~ Defined terms**

In this Constitution:

**86.1** ~~84.1~~ the following expressions have the following meanings:

*Additional Director* means a Director who is appointed by the Board pursuant to ~~clause 4544~~;

*Annual ~~General~~ Meeting* has the meaning given to it in *clause 26* of this Constitution;

*Annual Report* means the report required to be prepared under *clause 31* of this Constitution;

*Auditor* means the auditor of the Company from time to time appointed by the Company in accordance with this Constitution;

*Ballot Date* means the date on which a CLA Ballot closes;

*Beef Cattle* includes beef calves;

*Board* means Directors who number not less than the required quorum acting together as the board of directors of the Company;

*Business Day* means a day other than a Saturday or Sunday or a statutory holiday in Wellington, New Zealand;

*CLA Ballot* has the meaning given to it in *clause 4.1* of this Constitution;

*Company* means Beef + Lamb New Zealand Limited;

*Constitution* means this constitution as it may be altered from time to time in accordance with the Companies Act 1993 and the Constitution;

*Dairy Cattle* comprises dairy cows, including replacement heifers and calves;

*Declaration*, in relation to a Farmer, means:

- (a) in the case of a Meeting a declaration containing the number of Livestock (~~divided dividend~~ into categories of Livestock) that he or she farms in New Zealand as at the 30<sup>th</sup> June prior to the exercise of a Farmers' Right; and
- (b) in the case of an Electoral District Ballot, a declaration of the number of Livestock (divided into categories of Livestock) that he or she farms in the applicable Electoral District as at the 30<sup>th</sup> June prior to the Electoral District Ballot,

made by way of written notice to the Company in accordance with this Constitution;

*Director* means ~~the Incorporation Directors, or~~ a person appointed as a director of the Company in accordance with this Constitution;

*Election Date* means the date on which an Electoral District Ballot closes;

*Electoral District* has the meaning given to it in *clause 34* of this Constitution;

*Electoral District Ballot* means a Postal ballot of Farmers resident in an Electoral District conducted to appoint an Electoral District Director in relation to that Electoral District;

*Electoral District Director* means a Director elected pursuant to the *Third Schedule* of this Constitution;

*Farmer* means any person deemed to be a Farmer under *clause 7.1* ~~of clause 7.2~~ of this Constitution;

*Farmers' Ordinary Resolution* means a resolution passed by Farmers whose votes together constitute a simple majority of votes cast by Farmers eligible to vote on the resolution, having regard to the Voting Entitlement of each Farmer set out in *clause 10*;

*Farmers' Proposal* has the meaning given to it in *clause 12.1* of the *Second Schedule*;

*Farmers' Register* means the register of Farmers maintained by the Company pursuant to *clause 15.1* of this Constitution;



*Farmers' Rights* has the meaning given to it in *clause 9.1* of this Constitution;

*Farmers' Special Resolution* means a resolution directing the shareholders to pass a special resolution relating to any of the matters referred to in *clause 25.1(a), 25.1(b), or 25.1(c)*, passed by:

- (a) Farmers whose votes together constitute not less than 75 percent of the votes cast by Farmers eligible to vote, having regard to the Voting Entitlement of each Farmer set out in *clause 10*; and
- (b) Farmers who together constitute not less than 75 percent of the total number of Farmers who are eligible to vote and cast votes on the resolution, provided that the total number of Farmers who cast votes on the resolution is not less than the lesser of:
  - (i) 5 percent of the total number of Farmers as at the date of the vote on the resolution; or
  - (ii) 1,000 Farmers;

~~*Goats* includes kids;~~

~~*Implementation Date* means the date determined by the Board;~~

~~*Incorporation Directors* means the directors of the Company at the time of incorporation of the Company being Jeffrey James Grant and Michael Carl Petersen;~~

*Independent Director* means a director of the Company appointed by the Board in accordance with *clause 46-45* of this Constitution;

*Industry-Good Activities* means an activity directly or indirectly related to the business of farming Livestock that is expected to provide net benefits (either directly or indirectly) to Farmers or a significant group of Farmers (as determined at the discretion of the Board), in that total benefits are reasonably expected to exceed total costs to Farmers or that group of Farmers, but which would not be provided by voluntary means because:

- (a) the benefits of the activity flowing to those prepared to pay for it voluntarily would not be sufficient to cover the costs of the activities; or
- (b) it would not be practical to prevent others who did not contribute towards paying for the costs of the activity from benefiting from the activity;

*Industry Organisation* means:

- (a) the Meat Industry Association of New Zealand or its successor; or

(b) any other meat industry organisation which the Board reasonably considers is representative of the meat industry;

~~(a) from the date of incorporation of the Company until the first anniversary of the first Levy Order Date, the funds forecast to be received by the Company pursuant to any one or more Levy Orders during that period; or~~

~~(b) in respect of any year thereafter; -~~

~~Initial Directors means:-~~

~~(a) the Incorporation Directors; and~~

~~(b) if appointed, the Directors appointed pursuant to clause 40.2;~~

*Levy Funds* means the total amount of funds received by the Company pursuant to any one or more Levy Orders during the period of one year prior to the Levy Order Date in that year;

*Levy Payer* means any person who Owns and farms any number of Livestock;

*Levy Order* means an order imposing a levy on a commodity produced by any person engaged in New Zealand in the business of farming Livestock payable to the Company in accordance with the Commodity Levies Act 1990;

*Levy Order Date* means the date (expressed as a day and month) on which a Levy Order becomes effective;

*Livestock* means Beef Cattle, Dairy Cattle, ~~Sheep~~ and/or ~~Goats~~ **Sheep**;

*Major Transaction* has the meaning given to it in section 129 of the Companies Act 1993;

*Meeting* means a meeting (including, for the avoidance of doubt, an Annual ~~General~~ Meeting and a Special ~~General~~ Meeting) of Farmers and shareholders at which all Farmers, regardless of Electoral District, and all shareholders are entitled to attend and at which a resolution is to be put to the Farmers for their approval;

*Minimum Livestock Threshold* means an amount of Livestock not less than:

(a) 250 **Sheep** ~~and/or Goats~~;

(b) 50 Beef Cattle; or

(c) 100 Dairy Cattle;

*New Zealand Meat Board* means the New Zealand Meat Board, established by section 4(1) of the Meat Board Act 1997 and continued in existence by section 6(1) of the Meat Board Act 2004, or its successors or assigns;

*Own*, in relation to Livestock:

- (a) includes any arrangement whereby a person (irrespective of whether or not title to that Livestock vests in that person):
  - (i) has the right to have that Livestock slaughtered and to receive the proceeds from the slaughter of the Livestock; and
  - (ii) would be responsible for the payment of any levy imposed on the Livestock if slaughtered; and
- (b) excludes any arrangement whereby a person (irrespective of whether or not title to the Livestock vests in that person) does not have the rights and obligation referred to respectively in paragraphs (a) (i) and (a) (ii) above,

and *Owns*, *Owned*, and *Owning* shall have a corresponding meaning;

*Personal Representative* means:

- (a) in relation to a deceased Farmer, the executor, administrator or trustee of the estate of that Farmer;
- (b) in relation to a bankrupt Farmer, the assignee in bankruptcy of that Farmer; and
- (c) in relation to any other individual Farmer:
  - (i) a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988;
  - (ii) a manager appointed or deemed to have been appointed under the Protection of Personal and Property Rights Act 1988; and
  - (iii) a donee of an enduring power of attorney complying with the Protection of Personal and Property Rights Act 1988;

*Postal* may, at the discretion of the Board, include, in relation to voting, a vote cast by electronic means permitted by the Board and the provisions of this Constitution will apply with such modifications and additions as are necessary or desirable to facilitate an electronic ballot;

*Principal Activities* shall have the meaning given to it in *clause 2* of this Constitution;

*Representative* means each person appointed as a proxy of a shareholder or a Farmer under *clause 23-24* of the *Second Schedule* of this Constitution, or a Personal Representative of a Farmer;

*Share* means a share in the capital of the Company;

*Sheep* includes lambs;

~~*SheepCo* means Sheep Incorporated, a society incorporated under the Incorporated Societies Act 1908;~~

*Significant Transaction* means, in relation to the Company:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than one third of the Levy Funds;
- (b) the disposition of, or an agreement to dispose of, whether contingent or not, assets of the Company the value of which is more than one third of the total amount of Levy Funds; or
- ~~(b)~~ ~~(e)~~ a transaction that has or is likely to have the effect of the Company acquiring rights or interests or incurring obligations or liabilities the value of which is more than one third of the total amount of Levy Funds,

except that none of the following shall constitute a Significant Transaction for the purposes of this Constitution:

- ~~(c)~~ ~~(e)~~ the granting by the Company, or the entry by the Company into an agreement to grant, a security interest over the assets of the Company, the value of which is more than one third of the Levy Funds, for the purpose of securing the repayment of money or the performance of an obligation; or
- ~~(d)~~ ~~(e)~~ the use by the Company of any amount received from New Zealand Meat Board from funds held by it as a contingency fund for the purposes of applying those funds to an emergency facing the New Zealand ~~red~~ **Sheep meat, beef and wool** industries (as determined by the Board and the board of New Zealand Meat Board);

~~*Single Organisation Proposal* means the question put to Levy Payers in the referenda conducted by the Company asking whether they support the Company collecting all levies proposed to be levied on sheepmeat, beef, goatmeat and wool under the Commodity Levies Act 1990;~~

*Special ~~General~~ Meeting* has the meaning given to it in *clause 28* of this Constitution;

*Technical Amendment* means any amendment to the Constitution, including the repeal or inclusion of any provision, reasonably required to improve administrative efficiency or to correct manifest errors;

*Transferee* has the meaning given to it in *clause ~~76-75~~* of this Constitution;

*Trust Deed* means the trust deed dated 31 July 2003 pursuant to which the Shares are held in trust for the benefit of Farmers; *and*

*Voting Entitlement* means the number of votes each Farmer is entitled to cast at a Meeting or in an Electoral District Ballot as determined in accordance with *clause 10* of this Constitution.

86.2 ~~84.2~~ Subject to *clause ~~84.1-86.1~~* and any other provision of this Constitution, expressions which are defined in the Companies Act 1993 (whether generally, or for the purposes of one or more particular provisions) have the meanings given to them by the Companies Act 1993. Where an expression is defined in the Companies Act 1993 more than once and in different contexts, its meaning will be governed by the context in which it appears in this Constitution.

## 87 ~~85~~ **Construction**

In this Constitution, unless the context requires otherwise:

87.1 ~~85.1~~ *written* or *in writing* in relation to words, figures and symbols includes all modes of presenting or reproducing those words, figures and symbols in a tangible and visible form;

87.2 ~~85.2~~ headings appear as a matter of convenience and do not affect the interpretation of this Constitution;

87.3 ~~85.3~~ the singular includes the plural and vice versa, and words importing one gender include the other genders;

87.4 ~~85.4~~ a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;

87.5 ~~85.5~~ the Schedules form part of this Constitution.



## FIRST SCHEDULE: PROCEEDINGS OF THE BOARD

### NOTICE OF MEETING

#### 1 Director's power to convene meetings

The ~~chairman-chair~~ of the Board or any three Directors may at any time convene a meeting of the Board by giving notice in accordance with this *Schedule*.

#### 2 Notice to be sent to Director's address

The notice of meeting must be a written notice delivered by hand to each Director, or sent to the address or facsimile number, or an electronic mail message sent to the electronic mail address, which each Director provides to the Company for that purpose, or if an address or facsimile number, or electronic mail address, is not provided, then a written notice to his or her last place of employment or residence or facsimile number known to the Company.

#### 3 Notice to contain certain details

The notice of meeting must include the date, time and place of the meeting and an indication of the matters to be discussed in sufficient detail to enable a reasonable Director to appreciate the general import of the matters.

#### 4 Period of notice required to be given to Directors

At least five (5) Business Days' notice of a meeting of the Board must be given unless the ~~chairman-chair~~ (or, in the ~~chairman's-chair's~~ absence from New Zealand, any other Director) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice of the meeting of the Board may be given, so long as at least three (3) hours' notice is given.

#### 5 Absent Directors

If a Director who is for the time being absent from New Zealand supplies the Company with a facsimile number or address or electronic mail address to which notices are to be sent during his or her absence, then notice must be given to that Director. Otherwise notice need not be given to any Director for the time being absent from New Zealand.

#### 6 Directors may waive irregularities in notice

Any irregularity in the notice of a meeting, or failure to comply with *clauses 1 to 5* of this Schedule, is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or failure, or if all Directors entitled to receive notice of the meeting agree to the waiver.

### MEETING AND QUORUM

#### 7 Methods of holding meetings

A meeting of the Board may be held either:

- 7.1 by a number of Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or



7.2 by means of audio, or audio and visual, communication by which a quorum of Directors participating can simultaneously hear each other throughout the meeting.

**8 Quorum for Board meeting**

The quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors. No business may be transacted at a meeting of the Board unless a quorum is present.

**9 Meeting adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the following Business Day at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Directors present will constitute a quorum.

**~~CHAIRMAN~~**

**CHAIR**

**10 ~~Chairman~~ Chair to chair meetings**

The ~~chairman~~ chair of the Board will chair all meetings of the Board at which he or she is present. If the office of ~~chairman~~ chair of the Board is vacant, or if at a meeting of the Board the ~~chairman~~ chair of the Board is not present within 15 minutes from the time appointed for the meeting, then the Directors present may elect one of their number to chair the meeting.

**VOTING**

**11 Voting on resolutions**

Each Director has one (1) vote. A resolution of the Board is passed if it is agreed to by all Directors present at a meeting and entitled to vote without dissent or if a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board may abstain from voting on a resolution, and any Director who abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Companies Act 1993.

**12 Resolutions passed in audio, or audio and visual conference**

Where:

12.1 there is an audio, or audio and visual, conference of at least a majority of existing Directors;

12.2 all reasonable efforts have been made to enable every Director to participate in the conference; and

12.3 a resolution is assented to by a majority of the Directors participating in the conference,

the resolution is valid and effectual as if it had been passed at a meeting of the Board duly called and constituted.



13 **~~Chairman-Chair~~ has casting vote**

In the case of an equality of votes, the ~~chairman-chair~~ of the Board has a casting vote.

**MINUTES**

14 **Board must keep minutes of proceedings**

The Board must ensure that minutes are kept of proceedings at meetings of the Board. Minutes which have been signed correct by the ~~chairman-chair~~ of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

**OTHER PROCEEDINGS**

15 **Board may regulate other proceedings**

Except as set out in this *Schedule*, the Board may regulate its own procedure.

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## SECOND SCHEDULE: PROCEEDINGS AT MEETINGS

### INTERPRETATION

#### 1 Construction

A reference in this *Schedule* to a shareholder or Farmer present at a Meeting or entitled to vote at a Meeting includes a reference to a Representative of a shareholder or a Farmer.

### NOTICE OF MEETING

#### 2 Notice

- 2.1 Written notice of the time and place of a Meeting is to be given to all shareholders-, Directors and Farmers not less than 20 Business Days before the Meeting.
- 2.2 Written notice of the time and place of a Meeting is to be given to the Auditor not less than 10 Business Days before the Meeting.

#### 3 Contents of notice

- 3.1 Each notice of a Meeting is to state:
- (a) the nature of the business to be transacted at the Meeting in sufficient detail to enable a shareholder and a Farmer to form a reasoned judgment in relation to it;
  - (b) the text of any resolution to be submitted to the Meeting;
  - (c) the text of any statement relating to a Farmers' Resolution proposed by a group of Farmers under *clause 12* of this *Schedule*;
  - (d) that votes may be cast on a poll in relation to any resolution by way of Postal vote;
  - (e) the name and address of the person authorised by the Board to receive and count any Postal votes;
  - (f) the name and address of the person authorised by the Board to receive proxy forms; and
  - (g) that each Farmer who wishes to vote on any resolution to be put to the Meeting must make a Declaration to the Company.

#### 4 Adjourned Meetings

If a Meeting is adjourned for a period of less than 20 Business Days, it is not necessary to give notice of the time and place of the adjourned Meeting other than by announcement at the Meeting which is adjourned.



## **CHAIRMAN-CHAIR OF MEETING**

### **5 Chairman-Chair of Board to act**

Subject to *clause 6* of this *Schedule*, if the chairman-chair of the Board is present at a Meeting, the chairman-chair of the Board must chair the Meeting.

### **6 Other chairmanchair**

#### **6.1 If:**

- (a) no chairman-chair of the Board has been elected; or
- (b) at any Meeting, the chairman-chair of the Board is not present within 15 minutes of the time appointed for the commencement of the Meeting or the chairman-chair is unwilling or unable to act,

the Directors present, if any, may elect one of their number to be chairman-chair of the Meeting.

- 6.2 If no Director is willing to act as chairman-chair or if no Director is present within 15 minutes of the time appointed for the commencement of the Meeting, the Farmers present may choose one of their number to be chairmanchair.

### **7 Adjourned Meetings**

- 7.1 The chairman-chair may, and if directed by a Meeting must, adjourn a Meeting to a new time and place.

- 7.2 No business can be transacted at any adjourned Meeting other than unfinished business at the original Meeting.

### **8 Regulation of procedure**

Except as otherwise provided in this Constitution, the chairman-chair is to regulate the proceedings at Meetings.

## **QUORUM FOR MEETINGS**

### **9 Quorum required**

Subject to *clause 11* of this *Schedule*, no business may be transacted at a Meeting if a quorum is not present.

### **10 Size of quorum**

A quorum for a Meeting is present if a majority of the shareholders and 50 or more Farmers are present in person or by Representative, or have cast Postal votes.

### **11 Lack of quorum**

If a quorum is not present within 30 minutes after the time appointed for the commencement of a Meeting:

- 11.1 in the case of a Meeting called by the Board on the written request of Farmers under *clause 29.2*, the Meeting is dissolved; or



11.2 in the case of any other Meeting, the Meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the Directors may appoint and if, at the adjourned Meeting, a quorum is not present within 30 minutes after the time appointed for the commencement of the Meeting, the shareholders and Farmers or their Representatives present will constitute a quorum.

## 12 Farmer's Proposal

12.1 ~~Following the Implementation Date, if~~ If the Board is satisfied that:

- (a) in the case of a resolution that would be binding on the Company, the Board or the shareholders under *clause 14* of this *Schedule*, no less than 1,000 Farmers or 5 percent of the total number of Farmers at that time (whichever is the lesser); or
- (b) in the case of a resolution that would not be binding on the Company, the Board or the shareholders under *clause 14* of this *Schedule*, no less than ten (10) Farmers,

have in writing (collectively or otherwise) given notice to the Board, not less than 20 Business Days before the last day on which notice of the relevant Meeting is required to be given by the Board under *clause 2* of this *Schedule*, of a matter those Farmers propose to raise for discussion and resolution at the next Meeting, the Board must, at the expense of the Company, give notice of the Farmers' proposal and the text of any proposed resolution (*Farmers' Proposal*) to all Farmers entitled to receive notice of the Meeting under *clause 2* of this *Schedule*.

12.2 Notwithstanding *clause 12.1* of this *Schedule*, the ~~chairman~~ chair of any Meeting has, at that Meeting, the discretion to accept resolutions proposed by Farmers from the floor and put any such resolution to a vote in the Meeting in accordance with this Constitution.

## 13 Defamatory, frivolous or vexatious Farmers' Resolutions, statements or Floor Resolutions

The Board is not required to include in or with the notice of Meeting given by the Board, or the ~~chairman~~ chair of the Meeting to accept from the floor, a Farmers' Resolution or a statement or a resolution from the floor under *clause 12.2* of this *Schedule* (whichever the case may be) which the Board or the ~~chairman~~ chair of the Meeting consider to be defamatory, frivolous or vexatious.

## 14 Binding nature of Farmers' Proposals

14.1 A Farmers' Proposal relating to the exercise of Farmers' Rights set out in *clauses 9.1(c) to 9.1(i)* and *clauses 9.1(l) to 9.1(n)* (inclusive) and duly passed at a Meeting in accordance with this Constitution shall be binding on the Company, the Board and the shareholders.

14.2 A Farmers' Proposal relating to any matter other than the matters contemplated in *clause 14.1* of this *Schedule* (including, for the avoidance of doubt, a Farmers' Resolution relating to the management of the Company) and duly passed at a Meeting in accordance with this Constitution is not binding on the Company, the Board or the shareholders.



- 14.3 Any resolution of the type described in *clause 12.2* of this *Schedule* passed at a Meeting shall not be binding on the Company, but shall be regarded by the Board as an indication of the mood of those persons attending the Meeting and not the wishes of Farmers generally.

#### VOTING AT MEETINGS

#### 15 Meetings in once place

In the case of a Meeting held under *clause 23.1*, voting at the Meeting is to be:

- 15.1 in respect of a resolution of the type described in *clause 12.2* of this *Schedule*, by voice or by show of hands (as determined at the discretion of the ~~chairman~~ chair of the Meeting);
- 15.2 in respect of all other resolutions, by a poll in accordance with *clause 17.2* of this *Schedule*.

#### 16 Audio-visual Meetings

In the case of a Meeting held under *clause 23.2* or *23.3*, voting at the Meeting is to be:

- 16.1 in respect of a resolution of the type described in *clause 12.2* of this *Schedule*, by the Farmers and shareholders signifying individually their assent or dissent by voice;
- 16.2 in respect of all other resolutions, by a poll in accordance with *clause 17.2* of this *Schedule*.

#### 17 Number of votes

Subject to any rights or restrictions under this Constitution:

- 17.1 where voting is by voice or a show of hands:
- (a) each Farmer present in person has one (1) vote;
  - (b) each Representative present in person has one (1) vote, irrespective of how many different Farmers that person is a Representative of; and
  - (c) each shareholder present in person or by Representative has one (1) vote; and
- 17.2 where voting is on a poll:
- (a) each Farmer present in person or by Representative or who has cast a Postal vote has the same number of votes as his or her Voting Entitlement under *clause 10*, determined by reference to his or her Declaration; and
  - (b) each shareholder present in person or by Representative has one (1) vote.



## 18 Postal votes

- 18.1 Farmers may exercise the right to vote on a poll at a Meeting by casting a Postal vote (which, to avoid doubt, includes a vote cast using electronic means permitted by the Board).
- 18.2 The notice of a Meeting at which Farmers are entitled to cast a Postal vote is to state the name of the person authorised by the Board to receive and count Postal votes at that Meeting.
- 18.3 If no person has been authorised to receive and count Postal votes at a Meeting, or if no person is named as being so authorised in the notice of the Meeting, then the chairman-chair is to have the right to authorise any person he or she considers fit to so receive and count such Postal votes.
- 18.4 A Farmer may cast a Postal vote on all or any of the matters notified to Farmers in the relevant notice of Meeting by sending a notice (in a form which may be prescribed by the Board from time to time) of the manner in which his or her votes are to be cast to a person authorised to receive and count Postal votes at that Meeting.
- 18.5 A Postal vote cast by a Farmer will be invalid if the notice provided by the Farmer under *clause 18.4* of this *Schedule*:
- (a) fails to reach the person authorised to receive and count Postal votes not less-later than on the date specified by the Board in the notice of the Meeting; or
  - (b) is not accompanied by the applicable Declaration required by *clause ~~10.4~~10.3*.
- 18.6 A person authorised to receive and count Postal votes on a poll at a Meeting must:
- (a) collect together all Postal votes received by him or her or by the Company;
  - (b) in relation to each resolution to be voted on at the Meeting, count:
    - (i) the number of votes cast in favour of the resolution; and
    - (ii) the number of votes cast against the resolution;
  - (c) sign a certificate that he or she has carried out the duties set out in *clauses 18.6(a) and 18.6(b)* of this *Schedule* and which sets out the results of the counts required by *clause 18.6(b)* of this *Schedule*; and
  - (d) ensure that the certificate required by *clause 18.6(c)* of this *Schedule* is presented to the chairman-chair of the Meeting.
- 18.7 If a vote is taken at a Meeting on a resolution by way of a poll on which Postal votes have been cast, the chairman-chair of the Meeting must cause to be



counted the votes cast by the Farmers who have submitted Postal votes for and against the resolution.

- 18.8 The ~~chairman~~ chair of a Meeting must ensure that a certificate of votes cast by way of Postal vote is annexed to the minutes of the Meeting.

**19 Counting of votes on poll**

If a poll is taken at a Meeting, votes are to be counted (or recounted in the circumstances in which *clause 14* applies) according to the votes of each shareholder or Farmer entitled to vote at that Meeting in accordance with this Constitution, who:

19.1 is present in person and whose votes are cast on the relevant resolution; or

19.2 is present by Representative and whose votes are cast on the relevant resolution; or

19.3 in the case of a Farmer, has cast a Postal vote under *clause 18* of this *Schedule* and whose votes are cast on the relevant resolution.

**20 Declaration of ~~chairman~~ chair conclusive**

A declaration by the ~~chairman~~ chair that a resolution is carried by the requisite majority is conclusive evidence of that fact.

**21 Validity of votes**

- 21.1 If there is any dispute as to the admission or rejection of a vote, the ~~chairman~~ chair is to determine the dispute.

- 21.2 Any such determination made by the ~~chairman~~ chair in good faith is to be conclusive.

**22 Notice**

The Board is to give written notice of the results of a poll under *clause 17.2* of this *Schedule*, within 10 Business Days of the date of the applicable Meeting or recount under *clause 14* (as the case may be).

**PROXIES**

**23 Proxies permitted**

- 23.1 A Farmer or a shareholder may exercise his or her right to vote either by being present in person or by proxy.

- 23.2 A proxy for a Farmer or a shareholder is to be entitled to attend, be heard and vote at a Meeting as if the proxy were the Farmer or the shareholder.

**24 Form of proxy**

- 24.1 A proxy is to be appointed by notice in writing signed by or, in the case of an electronic notice, sent by the Farmer or the shareholder.



24.2 The notice is to state whether the appointment is for a particular Meeting or a specified term.

25 **Lodging proxy**

No proxy is effective in relation to a Meeting unless the duly completed proxy form is delivered by the proxy before the Meeting commences to a person appointed by the Board for verifying proxy forms. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

26 **Validity of proxy vote**

A vote given in accordance with the terms of an instrument of proxy is to be valid notwithstanding:

26.1 the previous death or mental disorder of the Farmer or the shareholder; or

26.2 the revocation of the proxy or of the authority under which the proxy was executed,

if no written notice of such death, mental disorder or revocation has been received by the Company at its registered office before the commencement of the Meeting or adjourned Meeting at which the proxy is used.

27 **Minutes Of Meeting**

27.1 The Board must ensure that minutes are kept of all proceedings at each Meeting.

27.2 Minutes of a Meeting which have been signed correct by the chairman-chair are conclusive evidence of the proceedings at that Meeting.



### THIRD SCHEDULE: ELECTORAL DISTRICT BALLOTS

#### 1 **Appointment of Electoral District Directors**

Farmers entitled to vote in each Electoral District shall elect an Electoral District Director to fill any vacancy at that time in the office of Electoral District Director for that Electoral District on the basis of the greatest number of the votes of the Farmers entitled to vote in relation to an Electoral District cast on the Electoral District Ballot conducted by the Company for that purpose.

#### 2 **Farmers to be notified of Electoral District Ballot**

2.1 When an Electoral District Ballot is required to be conducted by the Company pursuant to this Constitution to fill any vacancy in the position of Electoral District Director, the Company shall, at least 60 Business Days before the applicable Election Date (as determined by the Company) notify each Farmer of the Electoral District Ballot.

2.2 The notice under *clause 2.1* of this *Schedule* must state:

- (a) that an Electoral District Ballot is to be held by Postal ballot;
- (b) the Election Date; and
- (c) that the Company invites nominations for candidates in the Electoral District Ballot and the form and closing date for nominations.

#### 3 **Nomination of candidates**

3.1 Each person who stands as a candidate for appointment as the Electoral District Director in relation to an Electoral District:

- (a) need not be a Farmer or resident in the Electoral District;
- (b) is to be nominated by a Farmer and seconded by another Farmer each of whom is resident in the Electoral District; and
- (c) is to assent in writing to his or her nomination.

3.2 Each nomination of a person as a candidate for appointment as an Electoral District Director in relation to an Electoral District is to be in writing and is to be delivered to the Company not less than 35 Business Days before the applicable Election Date.

3.3 If the Company receives only one nomination for Electoral District Director in respect of an Electoral District, that person is deemed to be elected as the Electoral District Director and no Electoral District Ballot is required.

#### 4 **Electoral District Ballot**

4.1 The Company is to be responsible for:

- (a) conducting each Electoral District Ballot to appoint a Director in relation to that Electoral District; and





(b) for supervising the conduct of each such Electoral District Ballot.

4.2 The ballot paper for an Electoral District Ballot conducted under this *Schedule* is to be in the form determined by the Company from time to time, but must, in each case:

- (a) identify each candidate's name clearly;
- (b) arrange candidates' names alphabetically;
- (c) subject to the foregoing, give no greater prominence to any candidate over another; and
- (d) state that the Electoral District Ballot closes at 2:00pm on the applicable Election Date.

## 5 **Notice of Electoral District Ballot**

5.1 The Company is to send to each Farmer who farms Livestock in an Electoral District in which the Electoral District Ballot is to be conducted and who is entitled to vote in that Electoral District Ballot pursuant to *clause 39*, a ballot paper together with written notice of the applicable Election Date not less than 15 Business Days before that date.

5.2 Each notice under *clause 5.1* of this *Schedule* is to state:

- (a) the Election Date;
- (b) that votes may only be cast on the Electoral District Ballot by way of Postal vote;
- (c) the name and address of the person authorised by the Company to receive and count Postal votes; and
- (d) that each Farmer who is eligible under *clause 39* to vote on the Electoral District Ballot must make a Declaration to the Company on or before 2:00pm on the Election Date.

## 6 **Voting on Electoral District Ballot**

6.1 A Farmer may cast a Postal vote (which, to avoid doubt, includes a vote cast using electronic means permitted by the Board) on an Electoral District Ballot by sending a duly completed ballot paper in the form required under this Constitution to a person authorised to receive and count Postal votes for that Electoral District Ballot.

6.2 A ballot paper will be invalid if:

- (a) it fails to reach the person authorised to receive and count votes before 2:00pm on the Election Date; or
- (b) it is not accompanied by the applicable Declaration required by ~~clause 10.410.3~~.



- 6.3 Subject to any rights or restrictions under this Constitution, each Farmer who is eligible under *clause 39* to vote on an Electoral District Ballot has the number of votes equal to their Voting Entitlement.
- 6.4 Each vote cast by a Farmer on an Electoral District Ballot must be cast by way of Postal vote personally and not by proxy.
- 6.5 As soon as practicable, the Company is to give notice of the result of each Electoral District Ballot conducted under this *Schedule*.

## 7 Term of Office as an Electoral District Director

- 7.1 An Electoral District Director who is appointed under this *Schedule* by the Farmers resident in an Electoral District is to take office as an Electoral District Director on:
- (a) the date of the Annual ~~General~~ Meeting immediately following the Election Date; or
  - (b) in the case of an Electoral District Director elected to replace an Electoral District Director who has died or ceased to be a Director pursuant to *clause 4748*, a date determined by the Board, such date to be no more than 5 Business Days after the Election Date in the case of a Director elected under *clause 7.2* of this *Schedule*, or at the next Board meeting in the case of a Director appointed under *clause 7.3(a)* of this *Schedule*.
- 7.2 Subject to the following *clause 7.3* of this *Schedule*, if an Electoral District Director who is appointed by the Farmers resident in an Electoral District dies or otherwise ceases to be a Director pursuant to this Constitution, an Electoral District Ballot to appoint a replacement Director in relation to that Electoral District must be conducted in accordance with this *Schedule*.
- 7.3 Notwithstanding *clause 7.2* of this *Schedule*, if an Electoral District Director who is appointed by the Farmers resident in an Electoral District dies or otherwise ceases to be a Director pursuant to this Constitution within:
- (a) three (3) months from the Election Date in relation to the Electoral District Ballot under which the Electoral District Director was appointed, the vacancy must, instead of being filled following a new Electoral District Ballot, be filled by the highest polling unelected candidate in the Electoral District Ballot under which the deceased or removed Electoral District Director was appointed; and
  - (b) one (1) year before the date on which that Electoral District Director would be required to retire in accordance with *clause 4241*, no Electoral District Ballot will be conducted before the time at which it would have been conducted if the Electoral District Director remained in office until the date of his or her retirement in accordance with *clause 4241*;
- 7.4 Unless a Postal ballot to appoint an Electoral District Director in relation to an Electoral District is to be conducted to replace ~~a~~ an Electoral District Director who dies or ceases to be a Director pursuant to *clause 4248*, the Election Date in



relation to each Electoral District Ballot is to be a date no more than ten (10) Business Days before the date on which the Annual ~~General~~ Meeting is to be held that year.

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## FOURTH SCHEDULE: COMMODITY LEVIES ACT BALLOT

### 1 Approval of Levy

- 1.1 Levy Payers may approve the imposition of a levy in accordance with the Commodity Levies Act 1990 on the basis of the levels of support required by the Commodity Levies Act 1990.
- 1.2 The Company is to be responsible for conducting each CLA Ballot.

### 2 Voting Entitlement

- 2.1 The number of votes to which a Levy Payer is entitled to cast on a CLA Ballot shall be the same as the Voting Entitlement of each Farmer, except that:
- (a) a Levy Payer who is not eligible to be a Farmer by virtue of not satisfying the Minimum Livestock Threshold shall be entitled to:
- (i) one (1) vote if that person Owns any **Sheep** ~~or Goats~~;
  - (ii) one (1) vote if that person Owns any Beef Cattle; and
  - (iii) one (1) vote if that person Owns any Dairy Cattle;
- (b) a Levy Payer who is eligible to be a Farmer shall be entitled to:
- (i) one (1) additional vote if that person Owns any **Sheep** ~~or Goats~~;
  - (ii) one (1) additional vote if that person Owns any Beef Cattle; and
  - (iii) one (1) additional vote if that person Owns any Dairy Cattle.

### 3 Levy Payers to be notified of CLA Ballot

- 3.1 When a CLA Ballot is to be conducted by the Company to approve the imposition of a levy in accordance with the Commodity Levies Act 1990, the Company shall, publicise the CLA Ballot so that potential Levy Payers have a reasonable opportunity to be adequately informed about its date, nature and possible consequences.
- 3.2 The Company shall make information relevant to the CLA Ballot reasonably available to Levy Payers, including:
- (a) that a CLA Ballot is to be held by Postal ballot (which, to avoid doubt, may include a ballot conducted by electronic means permitted by the Board);
  - (b) the persons who would be primarily responsible for paying the levy;
  - (c) the maximum and minimum amounts of levy which would be payable;
  - (d) the periods in respect of which the levy would be paid; and
  - (e) the Ballot Date.



(f) the identity of the person supervising the conduct of each such CLA Ballot.

#### 4 **CLA Ballot**

4.1 The Company shall use reasonable efforts to make available to potential Levy Payers a ballot paper stating the applicable Ballot Date not less than 15 Business Days before the Ballot Date.

4.2 The ballot paper for an CLA Ballot conducted under this *Schedule* shall be in the form determined by the Company from time to time, but must, without limiting what the ballot paper may contain, in each case specify those matters required by section 6(1) of the Commodity Levies Act 1990 to be specified in a Levy Order.

#### 5 **Voting on CLA Ballot**

5.1 A Levy Payer may cast a Postal vote (which, to avoid doubt, may be conducted by electronic means permitted by the Board) on an CLA Ballot by sending a duly completed ballot paper to a person authorised to receive and count Postal votes for that CLA Ballot.

5.2 A ballot paper will not be counted if it fails to reach the person authorised to receive and count votes before 5:00pm on the Ballot Date.

5.3 Each vote cast by a Levy Payer on an CLA Ballot must be cast by way of Postal vote personally and not by proxy.

5.4 As soon as practicable, the Company is to give notice of the result of each CLA Ballot conducted under this *Schedule*.

#### 6 **Voting on other matters**

At the time of any CLA Ballot, the Company may, at the Board's discretion, seek the views of Levy Payers as to other matters. Any voting on such matters shall be conducted in accordance with the procedures set out in this *Schedule*, including, for the avoidance of doubt, the voting entitlements set out in *clause 2* of this *Schedule*.