

**THE SOUTHERN AUSTRALIA DURUM GROWERS ASSOCIATION INC**

## **CONSTITUTION**

Registered No A22840

ORIGINAL PREPARED BY:

RUDALL & RUDALL

BARRISTERS & SOLICITORS

25 MURRAY STREET

GAWLER SA 5118

# THE SOUTHERN AUSTRALIA DURUM GROWERS ASSOCIATION INC.

## CONSTITUTION

1. The name of the Incorporated Association is:

**THE SOUTHERN AUSTRALIA DURUM GROWERS ASSOCIATION INC**

(hereinafter called "the Association").

2. In these Rules unless the contrary intention appears:

“The Southern Australia Durum Growers Association means South Australia and the  
Wimmera Region of Victoria”

“Committee” means the Committee of Management of the  
Association

“General Meeting” means a General Meeting of the Members of the  
Association convened in accordance with these rules

"Member" means a Member of the Association

"the Act" means the Associations Incorporation Act 1985

“Special Resolution” \_\_\_\_\_ means a special resolution defined in the Act

" Regulations" \_\_\_\_\_ means the Associations Regulations 2008.

“Month” shall mean a calendar month

3. **MISSION AND OBJECTIVES OF THE ASSOCIATION:**

To promote the quality and quantity of durum grain production

Objectives:

- (1) Through coordination of the multiplication and sale of durum seed.
- (2) Facilitation and participation in research programs.
- (3) Keeping our members well informed of current trends within the Durum industry.
- (4) To do all such other things as are conducive or incidental to the attainment of the above objects or any of them.

4. **POWERS OF THE ASSOCIATION:**

For the purpose of carrying out its objectives the Association may, subject to the Act and to any such modifications and exclusions as are specified in this Rule:

- (1) Acquire, hold, deal with, and dispose of any real or personal property

- (2) Administer any property on trust
- (3) Open and operate bank accounts
- (4) Invest its monies:
  - (a) in any security in which trust monies made by Act of Parliament be invested, or
  - (b) in any other manner authorized by the Rules of the Association.
- (5) Borrow money upon such terms and conditions as the Association thinks fit.
- (6) Give such security for the discharge of liabilities incurred by the Association as the Association thinks fit.
- (7) Appoint agents to transact any business of the Association on its behalf, and
- (8) Enter into any other contract it considers necessary or desirable.

## **5. MEMBERSHIP:**

### **5.1 TYPES OF MEMBERSHIP**

- (1) Membership shall be open to all persons or corporations subscribing to the objects of the Association and paying the prescribed fee.
- (2) The Committee shall be at liberty to establish such other or special classes of membership as it may from time to time decide.
- (3) Any person who applies for Membership of the Association shall complete a membership application form prescribed by the Committee. Acceptance of the application by the Committee and upon payment of the first annual subscription the applicant shall be an Ordinary Member of the Association.

### **5.2 SUBSCRIPTIONS:**

- (1) The subscription fees for each class of membership shall be such sum as the Members shall determine from time to time in General Meeting.
- (2) The subscription fees for each class of membership shall be payable annually. The Committee may determine from time to time vary the structure of membership. Any Member whose subscription is outstanding for more than four (4) months after the due date for payment shall cease to be a Member of the Association PROVIDED ALWAYS that the Committee may reinstate such person's membership on such terms as it thinks fit.

### 5.3 RESIGNATION:

A Member may resign from membership of the Association by giving written notice thereof to the Secretary or Public Officer of the Association. Any Member so resigning shall be liable for any outstanding subscriptions which shall be recovered as a debt due to the Association.

### 5.4 EXPULSION OF A MEMBER:

- (1) Subject to giving a Member an opportunity to be heard or to make a written submission, the Committee may resolve to expel a Member upon a charge of misconduct detrimental to the interests of the Association.
- (2) Particulars of the charge shall be, communicated in writing to the Member at least one (1) calendar month before the Meeting of the Committee at which the matter will be determined.
- (3) The determination of the Committee shall be communicated in writing to the Member, and in the event of an adverse determination, the Member shall subject to sub-rule (4) cease to be a Member fourteen (14) days after the Committee has so communicated its determination.
- (4) It shall be open to a Member to appeal to the Association in General Meeting against the expulsion. The intention to appeal shall be communicated in writing to the Secretary or Public Officer of the Association within fourteen (14) days after the determination of the Committee has been communicated to the Member.
- (5) In the event of an appeal under sub-rule (4) the appellant's membership of the Association shall not be terminated unless the determination of the Committee to expel the Member is upheld by the Members of the Association in General Meeting after the appellant has been heard by the members of the association, and in such event membership will be terminated at the date of the General Meeting at which the determination of the Committee is upheld.

## 5.5 REGISTER OF MEMBERS

The Association must keep a register of members which includes

- (1) name, business, ABN and address of each member.
- (2) the date on which each member was admitted to the association, and if applicable,
- (3) the date of and reason(s) for termination of membership.

## 6. THE COMMITTEE:

### 6.1 POWERS AND DUTIES

- (1) The affairs of the Association shall be managed and controlled by a Committee which in addition to any powers and authorities conferred by these Rules may exercise all such powers and do all such things as are within the objects of the Association and are not by the Act or by these Rules required to be done by the Association in General Meeting.
- (2) The committee has the management and control of the funds and other property of the association.
- (3) The committee shall have the authority to interpret the meaning of these rules and any other matter relating to the affairs of the association on which these rules are silent.
- (4) The Committee shall have the power to appoint such officers and employees as are required to carry out the objects of the Association including the Public Officer required by this Act, and may discuss or delegate any of its powers to such officers and-employees.

### 6.2 APPOINTMENT

- (1) The Committee shall be comprised of:  
a Chairperson, Vice Chairperson and a minimum of four (4) and a maximum of (8) Committee Members all of whom shall be Members of the Association.
- (2) The first Committee of the Association shall be appointed from the promoters of the Association, or be comprised of such persons as hold office prior to

Incorporation.

- (3) The first Committee shall hold office until the first Annual General Meeting after Incorporation at which time one half (1/2) of its Members, who shall be chosen by ballot, shall retire from the Committee but shall be eligible for re-appointment.
- (4) At each subsequent Annual General Meeting one half of the members of the committee, being (the longest serving Members) shall retire and shall be eligible for re-appointment.
- (5) The term in office of the Chairman shall be two (2) years. The Chairman shall be eligible for re-appointment but not so that a period of four (4) consecutive years in office results.
- (6) The Committee may appoint an ordinary Association member to fill a casual vacancy and such a Committee Member shall hold office until the next Annual General Meeting of the Association and shall be eligible for re-appointment.
- (7) A retiring Committee Member shall be eligible to stand for re-election without nomination but no person not being a retiring Committee Member, shall be eligible to stand for election unless a Member of the Association has nominated that person by delivering the nomination of that person to the Secretary of the Association by written nomination at the Annual General Meeting. The nomination shall be by the proposer and accepted by the nominee to signify a willingness to stand for election.
- (8) Notice of all persons seeking election to the Committee shall be given to the Members of the Association at the Annual General Meeting for nomination.
- (9) If only the required number of persons are nominated to fill existing vacancies, the Chairperson shall report accordingly to the Annual General Meeting and declare such persons duly elected as Committee Members.
- (10) If more than the required number of persons are nominated to fill the existing vacancies, then Chairperson of the meeting will declare a secret ballot.
  - a) If a ballot is required for the election for a member, the Chairperson of the meeting must appoint a member to act as returning officer to conduct the ballot.
  - b) The returning officer must not be a member nominated for the position.
  - c) The election must be by secret ballot.

d) The Returning Officer must give a blank piece of paper to each member present in person; and each proxy appointed by a member.

#### 6.3 PROCEEDINGS OF THE COMMITTEE:

- (1) The Committee shall meet for the dispatch of business at least two (2) times each year.
- (2) A meeting of the Committee may be constituted using electronic technology.
- (3) Questions arising at any Meeting shall be decided by a majority of votes, and in the event of equality of votes the Chairperson shall have a casting vote in addition to a deliberative vote.
- (4) A quorum for a Meeting of the Committee shall be half plus one (1) of the members of the Committee
- (5) A Member of the Committee having a pecuniary interest in a contract with the Association must disclose the nature and extent of that interest to the Committee as required by the Act, and shall not vote with respect to that contract or proposed contract.

#### 6.4 DISQUALIFICATION OF COMMITTEE MEMBERS

The office of Committee Member shall become vacant if a Committee Member is:

- (1) Disqualified by the Act.
- (2) Expelled under these Rules
- (3) Permanently incapacitated by ill health.
- (4) Absent without apology for two (2) in a financial year.
- (5) No longer the duly appointed representative of a Corporate Member.

### 7. General Meetings:

#### 7.1 ANNUAL GENERAL MEETING

- a) The committee shall call an Annual General Meeting in accordance with the Act and these rules.
- b) The first Annual General Meeting shall be held within eighteen (18) months after the incorporation of the Association, and thereafter within five (5) months after

the end of its financial year.

- c) the order of business at the Annual General meeting shall be:
- i. the confirmation of the minutes of the previous annual general meeting and of any special general meeting held since the meeting
  - ii. the consideration of the accounts and reports of the committee and the auditor's report.
  - iii. the election of committee members
  - iv. the appointment of auditors
  - v. Any other business requiring consideration by the association in a general meeting.

## 7.2 SPECIAL GENERAL MEETING

- (1) The Committee may call a Special General Meeting of the Association at any time,
- (2) Upon a requisition in writing of not less than 5% of the total number of Members of the Association, the Committee shall within one (1) month of the receipt of the requisition, convene a Special General Meeting for the purpose specified in the requisition.
- (3) Every requisition for a Special General Meeting shall be signed by the relevant members and shall state the purpose of the Meeting.
- (4) If a Special General Meeting is not convened within one (1) month as required by sub-rule (3) the requisitionists may convene a Special General Meeting.
- (5) Such a Meeting shall be convened in the same manner as a Meeting convened by the Committee, and for this purpose the Committee shall ensure that the requisitionists are supplied free of charge with particulars of the Members entitled to receive a notice of Meeting. The reasonable expenses of convening and conducting such a Meeting shall be borne by the Association.

## 7.3 NOTICE OF GENERAL MEETINGS

- (1) Subject to sub-rule (7.2.2) at least fourteen (14) days' notice of any General Meeting shall be given to Members. The notice shall set out where and when the Meeting will be held, and particulars of the nature and order of the business to be transacted at the Meeting.
- (2) Notice of Meeting at which a Special Resolution is to be proposed shall be given at least twenty-one (21) days prior to the date of the Meeting.



- (3) A notice may be given by the Association to any Member by serving the Member with the notice personally, electronically or by sending it by post to the address appearing in the Register of Members.
- (4) Where notice is sent by post, service of the notice shall be deemed to be effected if it is properly addressed and posted to the Member by ordinary prepaid mail.

#### 7.4. PROCEEDINGS AT GENERAL MEETINGS:

- (1) Not less than five percent (5%) present personally or by proxy shall constitute a quorum at any General Meeting.
- (2) If within thirty (30) minutes after the time appointed for the Meeting a quorum of Members is not present, a Meeting convened upon the requisition of Members shall lapse. In any other case, the Meeting shall stand adjourned to the same day in the next week, at the same time and place and if at such adjourned Meeting a quorum is not present within thirty (30) minutes of the time appointed for the Meeting the Members present shall form a quorum.
- (3) Subject to 7.4.4 the chairperson shall preside as the chairperson at a general meeting of the association.
- (4) If the chairperson is not present within five (5) minutes after the time appointed for holding the Meeting, or he/she is present but declines to take or retires from the chair, the Members present may choose a committee member or an ordinary member to be the chairperson of that meeting.
- (5) The Chairperson may with the consent of any Meeting at which a quorum is present, and shall if so directed by the Meeting, adjourn from time to time and from place to place, but no business shall be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment took place.
- (6) When a Meeting is adjourned for thirty (30) days or more, notice of the adjourned Meeting shall be given as if that Meeting were an original Meeting of Members.

#### 7.5 VOTING AT GENERAL MEETINGS;

- (1) Subject to Association rules every member of the association has only one vote at a meeting of the association.
- (2) A question for decision as a general meeting, other than a special resolution, must be determined by a majority of members who vote in person or, where proxies are allowed, by proxy, at the meeting.
- (3) Unless a poll is demanded by at least four members, a question for decision at a general meeting must be determined by a show of hands.
- (4) A member being a corporate body shall be entitled to appoint one person, who shall not be a member of the association, to represent it at a particular general meeting or at all general meetings of the association.

#### 7.6 POLLS AT GENERAL MEETINGS;

- (1) if a poll is demanded by at least four (4) or more Members present personally or by proxy, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- (2) A poll demanded for the election of person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

#### 7.7 SPECIAL AND ORDINARY RESOLUTIONS;

- (1) a special resolution as defined in the Act. A clause can be included repeating the definition in section 3 of the Act.
- (2) an ordinary resolution is a resolution passed by a simple majority at a general meeting.

#### 7.8 PROXIES

- (1) A member shall be entitled to appoint in writing a person who is a member of the association to be their proxy, attend and vote at any general meeting of the association.

## **8. MINUTES:**

- (1) Proper Minutes of all proceedings of general meetings of the Association and of meetings of the committee, shall be entered within one (1) month after the relevant meeting in Minute Books kept for the purpose and distributed to committee members.
- (2) The minutes kept pursuant to this rule must be confirmed by the members of the association or the members of the committee (as relevant) at a subsequent meeting.
- (3) The Minutes kept pursuant to this Rule shall be signed by the Chairperson of the Meeting at which the proceedings took place or by the Chairperson of the next succeeding Meeting at which the minutes are confirmed.
- (4) Where Minutes are entered and signed they shall until the contrary is proved be evidence that the Meeting was convened and duly held, that all proceedings held at the Meeting shall be deemed to have been duly held, and that all appointments made at a Meeting shall be deemed to be valid.

## **9. DISPUTE RESOLUTION**

### **9.1 PROCEDURE FOR DISPUTE RESOLUTION**

The dispute resolution procedure may be applied to disputes between a member and another member, or a member and the Association.

- (1) The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all the parties.
- (2) If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.
- (3) In the rule 'member' includes any person who was a member not more than six months before the dispute occurred.

9.2 Section 40 of the Act provides that where the committee exercises any power of adjudication in relation to a dispute between the members, or a dispute between itself and members of the Association, the rules of natural justice must be observed.

9.3 Section 61 of the Act provides that an application to the Court for an order under the section may be made by a member of an incorporated association or by a former member expelled from the association (providing that the application is made within six months of the expulsion), who believes that the affairs of the Association are being conducted in a manner that is oppressive or unreasonable.

## **10. FINANCIAL REPORTING**

### **10.1 FINANCIAL YEAR:**

The financial year of the Association shall be the period of twelve months commencing on 1<sup>st</sup> July and ending on the 30<sup>th</sup> of June of each year.

### **10.2 ACCOUNTS:**

- (1) The Association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act.
- (2) the accounts, together with the auditor's report on the accounts, committee's report shall be laid before members at the annual general meeting.

### **10.3 APPOINTMENT OF AUDITOR**

At each Annual General Meeting, the members shall appoint a person to be auditor of the association. The auditor shall hold office until the next Annual General Meeting and is eligible for re-appointment. If an appointment is not made at an Annual General Meeting the committee shall appoint an auditor for the current financial year.

## **11 PROHIBITIONS AGAINST SECURING PROFITS FOR MEMBERS:**

The income and capital of the association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to members or their associates except as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the association.

**12. WINDING UP:**

The Association may be wound up in the manner provided for in the Act.

**13. APPLICATION OF SURPLUS ASSETS:**

If after the winding up of the Association there remains "surplus assets" as defined in the Act, such surplus assets shall be appropriated in accordance with a Special Resolution passed by the Association for that purpose.

**14. RULES:**

(1) Subject to approval by a special resolution of the Members of the Association, these Rules may be altered (including an alteration to name), or be rescinded and replaced by substituted Rules.

Such an alteration shall be registered with the Consumer and Business Services, Corporate Affairs Commission, as required by the Act.

(2) The registered Rules shall bind the Association and every Member to the same extent as if they had respectively signed them and agreed to be bound by all of the provisions thereof.

(3) Subject to any provision in the rules or a resolution to the contrary, an alteration to the rules comes into force at the time that the alteration is passed. This does not apply to an alteration to the name of the association which does not come into force until registered by Consumer and Business Services, Corporate Services Commission.