

CORPORATIONS ACT (C'TH) 2001
CONSTITUTION
WILDFLOWERS AUSTRALIA LIMITED ACN 003 176 494

In this Constitution, unless there is something in the subject or context which is inconsistent: -

"Act" means the Corporations Act (C'th) 2001 as amended;

"Board" means the board of Directors;

"Company" means Wildflowers Australia Limited ACN 003 176 494;

"Director" means any person holding the position of a director of the Company;

"Entrance Fee" means the fee (if any) set by the Board from time to time and payable by new Members;

"Extraordinary General Meeting" means any meeting of the Company other than the annual general meeting;

"Industry" means the Wildflower Industry in Australia;

"Member" means a member of the Company pursuant to clause 3;

"Motion" includes any amendment to a motion;

"Objects" means the objects of the Company as set out in clause 1 of this Constitution;

"Ordinary Resolution" has the meaning set out in the Act;

"Producer" means a body or person acting as a producer in the Industry;

"Seal" means the common seal of the Company;

"Secretary" means any person appointed to perform the duties of a secretary of the Company and includes an honorary secretary;

"Special Resolution" has the meaning set out in the Act;

"Subscription" means the annual subscription payable by Members being such amount as the Company

in general meeting shall from time to time prescribe;

"Wildflower" means all sub-families, genera, species and other classifications of the botanical family of Proteaceae and Australian Native plants as now or hereafter classified and any of the species therein presently classified which may be removed from such family and all cultivars of the species now or hereinafter contained in such family.

In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes the other two genders;
- (c) the word "person" means a natural person and any partnership, association body or entity whether incorporated or not;
- (d) the words "writing" and "written" include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (f) a reference to any clause or schedule is to a clause or schedule of this Constitution.

The provisions of this Constitution displace the replaceable rules (but not replaceable rules that mandatorily apply to a public company) contained in the Act.

1. COMPANY TYPE

- (a) The Company is a public company limited by guarantee.
- (b) The liability of the Members is limited.

2. OBJECTS

- (a) The Objects of the Company are:
 - To represent, advance and promote within Australia and overseas the development and interests of the Industry.
 - To represent, advance and promote within Australia and overseas the interests of Producers.
 - To plan, promote, organize, conduct and co-operate with research activities concerning the Industry.
 - To organize the collection, dissemination and propagation of data and information on any aspect of the production of Wildflowers and such other plants as the Board determines, the management of plantations, and the handling and marketing of the produce.
 - To liaise and cooperate with all persons, Government Departments, authorities statutory or otherwise, affiliate associations and any other individual groups or entities whose business or interests in any way concerns the Industry.
 - To monitor legislative and administrative decisions, regulations and proposals that concern the development of the Industry.
 - To provide a forum for the Industry in Australia.
 - To arrange or organize conferences, seminars and other educational activities for those involved in any way in the Industry.
 - To co-operate or affiliate with such other persons or organizations on such terms as the Board may determine.
 - To set quality or other standards for plants or cut flower material and other matters relating to the Objects.
 - To promote the Industry throughout the world;
 - To invest and deal with the money of the Company not immediately required in such manner as the Board may determine from time to time.
- (b) The income and property of the Company will only be applied towards the promotion of the Objects.
- (c) No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member however nothing in this Constitution will prevent payment in good faith to a Member:
 - 1. in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
 - 2. of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company;or
 - 3. of reasonable and proper rent for premises leased by the Company.

3. MEMBERSHIP

- (a) The subscribers to the Constitution and such other persons or bodies as the Board shall admit to membership in accordance with this Constitution shall be Members of the Company. The Board shall require application to be made in such a manner and, in such a form as it may determine from time to time and the Board may refuse to admit any person or body to membership without assigning any reason therefore.
- (b) The Company shall admit Members in one of the following classes:
 - i. FULL MEMBERS – being natural persons who have paid the Subscription, each such Member having one vote, and being corporations, partnerships, societies and the like that have paid the Subscription, each such Member being entitled to nominate to the Secretary in writing a representative, who, until his/her appointment is cancelled by his/her nominator or until expelled or suspended by the Board in accordance with the Constitution, shall have one vote.
 - ii. HONORARY MEMBERS – being natural persons elected by the Board without payment of Subscription. Each Honorary Member shall have one vote and his/her membership shall be for such term as is specified by the Board upon his or her election.
 - iii. LIFE MEMBERSHIP – Members at a General Meeting may by Special Resolution elect a person who has been nominated by the Board to be a Life Member of the Company without payment of any Subscription. Each Life Member shall have one vote.
- (c) The Board may invite any person of standing in the community to be the patron of the Company and if such invitation is accepted may appoint such person to that position. By virtue of this appointment, the patron shall become an Honorary Member of the Company. The Board may remove from the office of Patron any person appointed by it.

4. Deliberately Omitted.

5. Every applicant for membership of the Company shall be proposed by one Member of the Company to whom the applicant shall be personally known. The application for membership shall be made in writing, signed by the applicant and his proposer and shall be in such a form as the Board from time to time prescribes. The Board may determine that an Entrance Fee and Subscription shall be tendered by the applicant with his/her application but if such application is rejected such monies shall be refunded in full.

6. At the next meeting of the Board after the receipt of any application for membership, such application shall be considered by the Board, which shall thereupon determine upon the admission or rejection of the applicant. In no case shall the Board be required to give any reason for the rejection of an applicant.

7. When an applicant has been accepted for membership, the Secretary shall send to the applicant written notice of his/her acceptance and a request for payment of his/her Entrance Fee and for the Subscription if the same has not previously been requested or paid. Upon payment of the Entrance Fee and Subscription the applicant shall become a Member of the Company, provided nevertheless that if such payment has not been made within two calendar months after the date of notice, the Board may in its discretion cancel its acceptance of the applicant for membership of the Company.

8. The Subscription payable by Members of the Company shall be such as the Company in general meeting shall from time to time prescribe in relation to each class of Member.

9. All Subscriptions shall become due and payable in advance on the 1st day of July every year.

10. CESSATION OF MEMBERSHIP

If the Subscription of a Member remains unpaid for a period of 2 calendar months after it becomes due, then the Member, after notice of the default shall have been sent to him by a nominee of the board, may be debarred by resolution of the Board from all privileges of membership provided that the Board may reinstate the Member on payment of all arrears and

of any reinstatement fee to be determined by the Board in its absolute discretion.

11. A Member may at any time by giving notice in writing to the Secretary resign his membership of the Company but shall continue to be liable for any annual Subscription due prior to the date of such resignation and all arrears due and unpaid at the date of his resignation and for all other moneys due by him to the Company and in addition for any sum not exceeding \$10.00 for which he is liable as a Member of the Company under clause 64 of the Constitution of the Company.
12. (a) If any Member shall willfully refuse or neglect to comply with the provisions of the Constitution of the Company or shall be guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interest of the Company the Board shall have power by resolution, subject to sub clause (b) below, to censure, fine, suspend or expel the Member from the Company, and if such Member is a member of the Board his vote shall not be counted for the purpose of such resolution.

(b) At least one week before the meeting of the Board at which such a resolution as is envisaged by sub clause (a) above is passed the Member shall have had notice of such meeting and of what is alleged against him and of the intended resolution and that he shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defense he may think fit and provided further that any such Member may by notice in writing lodged with the Secretary at least twenty- four hours before the time for holding the meeting at which the resolution is to be considered by the Board, elect to have the question dealt with by the Company in general meeting of the Company and in that event an Extraordinary General Meeting of the Company shall be called for the purpose and if at the meeting such a resolution be passed by a majority of two-thirds of those present and voting (such a vote to be taken by ballot) the Member concerned shall be punished accordingly and in the case of a resolution for his expulsion the Member shall be expelled, but the Member shall not be entitled to vote at such Extraordinary General Meeting for the purposes of such resolution.

13. GENERAL MEETINGS

An annual general meeting of the Company shall be held in accordance with the provisions of the Act.

14. (a) The Board shall on requisition by 10 percent of the current financial membership (by number) cause an Extraordinary General Meeting to be called as soon as possible and in any event no later than two months after the date of such requisition.

(b) An Extraordinary General Meeting shall be convened by the Board if so required by persons having five (5) per cent of the total voting rights, to vote at General Meetings.

(c) The Board in its own right may convene an Extraordinary General Meeting.
15. Subject to the provisions of the Act relating to Special Resolutions and agreements for shorter notice, fourteen days notice at the least (exclusive of the day on which the notice is served or deemed to be served, and exclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and in case of special business the general nature of that business shall be given of general meetings to such persons as are entitled to receive such notices from the Company.
16. For the purposes of clause 15 all business shall be special that is transacted at the Extraordinary General Meeting and also all that is transacted at an annual general meeting, with the exception of the consideration of the accounts, balance sheets, and the report of the Board, and auditors, the election of officers and other members of the Board in the place of those retiring, and the appointment of the auditors.

17. PROCEEDINGS AT GENERAL MEETINGS

No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Save as herein otherwise provided 10 percent of financial Members present in person shall be a quorum. For the purpose of this clause "Member" includes a person attending as a proxy or as representing a corporation that is a Member.

18. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Board may determine and if at the

adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present (being not less than three) shall be a quorum.

19. The Board shall appoint a Chairman for every general meeting of the Company. If no such appointment is made then the Members present shall elect one of their number to be the Chairman of the meeting.
20. The Chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting 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. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or the business to be transacted at an adjourned meeting.
21. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded before or on the declaration of the result of the show of hands,
 - (a) By the Chairman, or
 - (b) By at least three Members present in person or by proxy.

Unless a poll is so demanded a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

22. If a poll is duly demanded it shall be taken in such a manner and either at once or after an Interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.
23. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
24. A Member may vote in person or by proxy and on a show of hands every person present who is a Member or a representative of a Member shall have one vote and on a poll every Member present in person or by proxy or other duly authorised representative shall have one vote.
25. A Member entitled to vote who is of unsound mind or whose person or estate, is liable to be dealt with in any way under the law relating to mental health may not vote whether on a show of hands or on a poll.
26. No Member shall be entitled to vote at any general meeting or meeting of the Board or be eligible for election to the Board or as an office bearer unless that Member's Subscription has been paid for the current year.
27. The instrument appointing a proxy shall be in writing under the hand of the appointer or of the attorney duly authorised in writing or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct his proxy in favour of or against any proposed resolutions. Unless otherwise instructed- the proxy may vote as he thinks fit.
28. The instrument appointing a proxy may be in the following form or in a common or usual form.

I, of

being a Member of Wildflowers Australia Limited hereby appoint

..... of

or failing him of

as my proxy to vote for me on my behalf at the (annual/ Extraordinary *as the case may be) general meeting of the

Company, to be held on the day of 20 and at any adjournment thereof. My proxy is hereby authorised to vote +in favour of/against *the following resolutions:

Signed this day of 20.... ..

- 29.** The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a certified copy of that power or authority, shall be deposited at the registered office of the Company not less than twenty four hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.
- 30.** A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed provided that no intimation, in writing, of such death, unsoundness of mind or revocation as aforesaid has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.
- 31. THE BOARD**
- The Board shall consist of no fewer than 3 Directors, being a Chairperson, a Secretary and a treasurer (who shall all be Directors) as well as any other Directors appointed to the Board provided that unless the Company resolves in general meeting to the contrary pursuant to clause 36, the Board must not consist of more than 10 Directors.
- 32.** Each Director must be a Full Member or the nominated representative of a Constituent Member.
- 33.** Deliberately omitted.
- 34.** (a) At the first annual general meeting of the Company and at the annual general meeting of the Company in each year until the next annual general meeting when they shall retire but they shall be eligible for re-election.
(b) The office-bearers of the Company shall be elected by ballot held amongst the members of the Board.
- 35.** The election of office-bearers and other members of the Board shall take place in the following manner: -
- (a) Any Member of the Company shall be at liberty to nominate any other Member to serve as a member of the Board.
(b) The nomination, which shall be in writing and signed by the Member and his proposer and shall be lodged with the Secretary at least fourteen days before the annual general meeting at which the election is to take place.
(c) A list of the candidates' names in alphabetical order, with the proposers' names shall be posted in a conspicuous place in the registered office of the Company for at least seven days immediately preceding the annual general meeting.
(d) Balloting lists shall be prepared (if necessary) containing only the names of the candidates only in alphabetical order, and each Member present at the annual general meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies.
(e) In the case there shall not be sufficient number of candidates nominated the Board may fill up the remaining vacancy or vacancies.
(f) Not more than three Board members so elected shall reside in any one State or Territory of the Commonwealth.
- 36.** The Company may from time to time by ordinary resolution passed at a general meeting increase or reduce the number of office-bearers or other members of the Board.
- 37.** The Board shall have power at any time, and from time to time, to appoint any Member to the Board, either to fill a casual vacancy or as an addition to the existing office-bearers or other members of the Board but so that the total number of office-bearers or other members of the Board shall not any time exceed the number fixed in accordance with this Constitution. Any office-bearer or other member of the Board so appointed shall hold office only until the next following annual general meeting.

38. The Company may by Ordinary Resolution of which special notice has been given remove any office-bearer or other member of the Board before the expiration of his period of office, and may by an Ordinary Resolution appoint another person in his stead; -the person so appointed shall hold office only until the next following annual general meeting.
39. The office of a member of the Board shall become vacant if the member -
- (a) becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (b) becomes prohibited from being a director of a company by reason of any order made under the Act;
 - (c) ceases to be a member of the Board by operation of the Act;
 - (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (e) resigns his office by notice in writing to the Company;
 - (f) for more than six-months is absent without permission of the Board from meetings of the Board held during that period;
 - (g) holds any office of profit under the Company other than as authorised by the Board;
 - (h) ceases to be a Member of the Company; or
 - (i) is directly or indirectly interested in any contract or proposed contract with the Company.

POWERS AND DUTIES OF THE BOARD

40. The business of the Company shall be managed by the Board, which may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Act or by the Constitution, required to be exercised by the Company in general meeting, subject nevertheless, to the Constitution and to the provisions of the Act.
41. The Board may exercise all the powers of the Company to borrow money and to mortgage or charge its property or any part thereof, and to issue debentures and other securities whether outright or as security for any debt liability, or obligation of the Company.
42. The rate of interest payable in respect of money lent by members of the Company shall not exceed the lowest rate paid for the time being by banks in the State in respect of term deposits.
43. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company shall be signed, drawn accepted, endorsed or otherwise executed, as the case may be, by any two members of the Board or in such other manner as the Board from time to time determines.
44. The Board shall cause minutes to be made: -
- (a) of all appointments of officers,
 - (b) of names of members of the Board present at all meetings of the Company and of the Board; and
 - (c) of all proceedings at all meetings of the Company and of the Board.

Such minutes shall be signed by the Chairman of the meeting at which the proceedings were held or by the Chairman of the next succeeding meeting.

45. BRANCHES

- (a) The Board may establish branches in each State or Territory and delegate to each branch such powers as it may determine for the purposes of this Company.
- (b) The office-bearers of each branch executive shall be a president, vice president, secretary and treasurer. The first such branch executive in each State or Territory shall be appointed by the Board until a general meeting of

members of the branch shall be held in such State or Territory and thereafter election of office-bearers shall be in accordance with procedures set out in clauses 35 to 39 of this Constitution, altered where necessary to reflect their application to branches rather than to the Board, and the calling and conduct of meetings of members and branches shall be in accordance with the procedures hereinbefore contained for the Board.

- (c) A branch is hereby authorised to exercise within the limits of its area the powers and duties and discretions conveyed to it by the Board.
- (d) The Board may at its discretion, appoint remove or suspend such secretaries officers clerks agents and servants of the branches, for permanent temporary or special services, as it may from time to time think fit (other than the Auditors) and may determine their duties and fix their salaries and their emoluments and may require security in such instances and to such amount as it shall think fit.
- (e) With the prior approval of the Board, branches may rent and furnish or purchase suitable premises for the use of such branch.
- (f) Branches may take cognisance of anything affecting the Company or the conduct of Members and shall forthwith make report thereof to the Board.
- (g) Branches shall furnish annually to the Board a copy of the balance sheets and profit and loss accounts and reports and statements thereon for the branch together with a report of the proceedings of the branch during the previous year and such other information as the Board may from time to time require. Such accounts as are presented to the Board shall also be available for Inspection by all Members.

PROCEEDINGS OF THE BOARD

- 46.** The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Two members of the Board may at any time and the Secretary shall on the requisition of two members of the Board summon a meeting of the Board.
- 47.** Subject to this Constitution questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the members of the Board shall for all purposes be deemed a determination of the Board. In case of an equality of votes the Chairman of the meeting shall have a second or casting vote.
- 48.** The quorum necessary for the transaction of the business of the Board shall be a majority of the total Board or such greater number as may be fixed by the Board.
- 49.** The continuing members of the Board may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board, the continuing member or members may act for the purpose of increasing the number of members of the Board to that number or of summoning a general meeting of the Company, but for no other purpose.
- 50.** Deliberately omitted
- 51.** The Board may delegate any of its powers and or functions (not being duties imposed on the Board as the Directors of the Company by the Act or the general law) to one or more sub- committees consisting of such Member or Members of the Company as the Board thinks fit. Any subcommittee so formed shall conform to any regulation that may be imposed by the Board and subject thereto shall have the power to co-opt any Member or Members of the Company and all members of such sub-committees shall have one vote.
- 52.** Deliberately Omitted
- 53.** A sub-committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the Chairman of that sub-committee shall have a second or casting vote.
- 54.** All acts done by any meeting of the Board or of a sub-committee or by any person acting as a member of the Board shall,

notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member of the Board or person acting as aforesaid, or that the member of the committee or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to be a member of the committee.

55. A resolution in writing signed by all members of the Board for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more members of the Board.

SECRETARY

56. The Secretary shall in accordance with the Act be appointed by the Board for such term, upon such conditions as it thinks fit, and any secretary so appointed may be removed by it.
57. Deliberately Omitted

ACCOUNTS

58. The Board shall cause proper accounting and other records to be kept in compliance with the Act and shall distribute to all Members copies of every annual profit and loss account and balance- sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditors report thereon as required by the Act, provided however that the Board shall cause to be made out and laid before each annual general meeting a balance sheet and profit and loss account made up to a date not more than five months before the date of the meeting.
59. The Board shall from time to time determine in accordance with the Constitution at what times and places under what conditions or regulations the accounting and other records of the Company shall be open to the inspection of members.

AUDIT

60. A properly qualified Auditor or Auditors shall be appointed and his or their duties regulated in accordance with the Act.

NOTICE

61. Any notice required by law or by or under this Constitution to be given to any Member shall be given by email to the email address most recently nominated by that Member to the Company. Such notice shall be deemed to have been validly given on the day after the date of its sending to that address.
62. (1) Notice of every general meeting shall be given to the auditor or auditors for the time being of the Company by registered mail.
- (2) No other person shall be entitled to receive notices of general meetings.

INDEMNITY

63. Every member of the Board, the Auditor, and other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability arising out of the execution of the duties of his office which is incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under the Act in which relief is granted to him by the Court in respect of

any negligence default 'breach of duty or breach of trust.

64. WINDING UP

(a) If the Company is wound up:

1. each Member; and
2. each person who ceased to be a Member in the preceding year

undertakes to contribute to the property of the Company for the:

3. payment of the debts and liabilities of the Company (but in relation to those persons referred to in sub clause 2 above, only those contracted before the person ceased to be a Member) and payment of the costs, charges and expenses of winding up; and
4. adjustment of the rights of the contributories amongst themselves such amount as may be required but not exceeding \$10.00.

(b) If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another institution or corporation which has:

1. objects which are similar to the Objects;
2. a constitution which requires its income and property to be applied in promoting its objects; and
3. a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Company by this Constitution.

The identity of the corporation or institution is to be determined by the Members at or before the time of dissolution and failing such determination being made, by application to the Supreme Court for determination.