

# COONAWARRA GRAPE & WINE INCORPORATED

## CONSTITUTION

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### 1. NAME

The name of the association is Coonawarra Grape & Wine Incorporated, referred to herein as “the Association”.

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### 2. DEFINITIONS

In these rules, unless the contrary intention appears :

“Act” means the Associations Incorporation Act 1985.

“AGM” means the Annual General Meeting of the Association.

“The Association” means Coonawarra Grape & Wine Incorporated.

“Association’s By-laws” means by-laws, if any, adopted by the Board pursuant to clause 16

“Board” means the committee of management of the Association as described in Part IV of the Act and as described in clause 7.1

“Coonawarra” means the Coonawarra Wine Region as defined by the Geographical Indications Committee under the *WAC Act 1980*.

“Coonawarra wine” means wine labelled as Coonawarra wine as determined by the Label Integrity Program of *WAC Act 1980*.

“Coonawarra grapes” means any variety of grapes grown in the Coonawarra region and used or intended to be used for the production of wine.

“Committees and Sub-committees” means those committees and sub-committees described in paragraphs 9.2.and 9.3

“Committee rules” means rules adopted in accordance with clause 16 to govern the proceedings of this Constitution.

“Independent Chair” shall be the Chairperson of the Board described in clause 7.2 hereof and appointed pursuant to clause 8.1

“Members” are members of the Association who have paid a subscription set by the Board.

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### **3. OBJECTS AND PURPOSES OF THE ASSOCIATION**

- 3.1 To promote Coonawarra wine and the Coonawarra wine region.
- 3.2 To encourage collaborative enterprise between members.
- 3.3 To improve profitability of wine and wine grape production.
- 3.4 To promote and protect the Coonawarra brand.
- 3.5 Initiate and / or administer projects for the benefit of the Coonawarra wine region.
- 3.6 To pursue continuous improvement and best practice in viticulture and winemaking.
- 3.7 To engender a sustainable Coonawarra wine industry through environmentally friendly initiatives and sustainable business practices.
- 3.8 To undertake or facilitate research and development and information dissemination relevant to the Coonawarra grape and wine region and the improvement of viticultural and wine making practices.
- 3.9 To participate in regional, state or national wine industry forums and, subject to approval of the Board, to affiliate with regional, State or National wine, grape grower, tourism, cultural and other related bodies.
- 3.10 To encourage communication and cooperation between all participants in the Coonawarra wine region.
- 3.11 To raise funds for the purposes of the Association, its committees and sub-committees.

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### **4. POWERS**

- 4.1 The Association shall have all of the powers conferred by section 25 of the Act.
- 4.2 In addition, the Association shall have the power to do all things necessary to achieve its objects or in furtherance of its objects or in connection with the administration of the Association including

registration as an Australian Registered Body under the Corporations Act.

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## **5. MEMBERSHIP**

Membership of the Association is open to persons, partnerships or corporations (as defined by the Corporations Act) who own or lease wine grape vineyards in Coonawarra and / or who hold a Producer's Liquor Licence and produce Coonawarra wine. An Associate Member is a person or entity other than a wine grape grower or Liquor Licence holder producing Coonawarra wine, that supports the objectives of this Association and agrees to be bound by its rules. A member, employee or related party to a member shall not be entitled to any more than one (1) representation on the Board of the Association.

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## **6. SUBSCRIPTIONS**

- 6.1 Each member shall pay a subscription fee to the Association.
- 6.2 The annual subscription payable by a member shall be determined and ratified at the Annual General Meeting of the Association.
- 6.3 The annual subscription shall be recommended to the Annual General Meeting by the Board.
- 6.4 A member whose subscription is outstanding for more than three (3) months after the date due for payment of that subscription shall cease to be a member of the Association, subject however to the Board being able to reinstate any such membership upon payment of the outstanding subscription and upon such terms as the Board shall determine.
- 6.5 The Board shall be entitled to recommend a joining fee for new members and which joining fee shall be resolved at each AGM.
- 6.6 Only financial members shall have the right to attend and vote at meetings of the Association or to be a Board member of the committee of management or to hold any other office in the

Association (other than an independent chairperson as may be provided for in clause 7.2)

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## **7. MANAGEMENT COMMITTEE - "THE BOARD"**

- 7.1 The Board of the Association shall consist of :
  - 7.1.1 A President.
  - 7.1.2 A Vice-President.
  - 7.1.3 A Treasurer.
  - 7.1.4 A maximum of six (6) other members.
- 7.2 The Board shall have the power to appoint a Chairperson who may be independent and not a member of the Association and any employee of the Board as may be required to carry out the objects purposes and business of the Association. An independent Chairperson shall not have a vote.
- 7.3 The Board shall have the power to terminate any such employee where there is proper reason to do so.
- 7.4 The function of the Board shall be to carry out the objectives and purposes of the Association on a day to day basis.
- 7.5 The Board may appoint a person to fill a casual vacancy.
- 7.6 All Board positions will become vacant at each Annual General Meeting, at which time an election will be held to refill all such positions.
- 7.7 A retiring Board member is eligible for re-election.
- 7.8 A Public Officer shall be elected at the Annual General Meeting.
- 7.9 A Board member shall attend meetings of the Board in person and not by proxy.

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## **8. MEETINGS OF THE BOARD**

- 8.1 The Board shall appoint a chairperson. The chairperson may be a Board member or may be an independent appointment without the qualification of membership of the Association. The

appointment of a chairperson may be on a meeting by meeting basis or for the term of the Board.

- 8.2 A Board management meeting shall be conducted monthly.
- 8.3 Fifty percent (50%) of the Board members shall constitute a quorum at a management meeting.
- 8.4 An Annual General Meeting of the Association shall be held not later than 30<sup>th</sup> of November of each year.
- 8.5 Fifty percent (50%) of current members shall constitute a quorum at special meetings of the Association and at the Annual General Meeting.

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## **9. ORGANISATIONAL ARRANGEMENTS**

### **9.1. The Board**

- 9.1.1 The affairs of the Association shall be managed and controlled by the Board which in addition to any powers and authority conferred by this Constitution 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 this Constitution required to be done by the Association in general meeting.
- 9.1.2 The Board has the management and control of the funds and other property of the Association.
- 9.1.3 The Board shall have authority to interpret the meaning of this Constitution and any other matter relating to the affairs of the Association on which this Constitution is silent.
- 9.1.4 The Board may from time to time delegate authority to the committees and/or sub-committees provided that such delegation is permitted by the Act.
- 9.1.5 The Board shall elect / appoint a Public Officer as required by the Act.

### **9.2 The Committees**

- 9.2.1 The committees shall represent and address the interest of members.
  - 9.2.2 Each committee may from time to time determine maximum membership numbers.
  - 9.2.3 The committees may establish their own committee rules in accordance with clause 16 to govern appointments to and the business of the committee provided however that those rules are consistent with and shall be read subject to this Constitution, the Act, the regulations and Association by-laws.
  - 9.3 **Sub-committees**
    - 9.3.1 The Board or the committees may establish sub-committees to better address issues provided that at least one committee or board member is represented on any sub-committee.
  - 9.4 The Board from time to time shall be entitled to determine the manner of appointment or election of committee members and sub-committee members.
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## 10. THE SEAL

- 10.1 The Association shall have a common seal upon which its corporate name shall appear in legible characters.
  - 10.2 The seal shall not be used without the express authorisation of the Board, and every use of the seal shall be recorded in the minute book of the Association. The affixing of the seal shall be witnessed by the Chairperson and the Public Officer, and / or such other Board member authorised by the Board.
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## 11. GENERAL MEETINGS

- 11.1 **Annual General Meeting**
  - 11.1.1 The Board shall call an AGM in accordance with the Act and this Constitution.

- 11.1.2 The first AGM shall be held within 12 months after the incorporation of the Association and thereafter within 5 months after the end of its financial year.

**The order of the business at the AGM:**

- 11.1.3 Confirmation of the minutes of the previous annual general meeting and of any special general meeting held since that meeting.
- 11.1.4 The consideration of the accounts and reports of the Board and the auditor's report (as required).
- 11.1.5 The declaration of the election of Board members.
- 11.1.6 The appointment of auditors (as required).
- 11.1.7 Any other business requiring consideration by the Association in general meeting and of which notice has been given to the Public Officer at least 7 days prior to the AGM.

**11.2 Special General Meetings**

- 11.2.1 The Board may call a special general meeting of the Association at any time.
- 11.2.2 Upon a requisition in writing of not less than 15% of the then financial members of the Association, or not less than 10 financial members of the Association (whichever shall be the greater), the Board shall within one month of the receipt of the requisition convene a special general meeting for the purpose specified in the requisition.
- 11.2.3 Every requisition for a special general meeting shall be signed by the relevant members and shall state the purpose of the meeting.
- 11.2.4 If a special general meeting is not convened within one month as required (11.2.2) above, the requisitionists may convene a special general meeting. Such a meeting shall be convened in the same manner as nearly as practical as a meeting convened by the Board

and for this purpose the Board 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.

### **11.3 Notice of General Meetings**

11.3.1 Subject to the above, at least 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.

11.3.2 Notice of a meeting at which a special resolution is to be proposed shall be given at least 21 days prior to the date of the meeting.

11.3.3 A notice may be given by the Association to any member by serving the member with the notice personally or by sending it by post or other form of electronic mail distribution to the address appearing in the register of members or by any other means where the member acknowledges receipt.

11.3.4 Where a notice is sent by post:

11.3.4.1 The service is effected by properly addressing, prepaying and posting a letter containing the notice; and

11.3.4.2 Unless the contrary is proved, service will be taken to have been effected at the time at which the letter or packet would be delivered in the ordinary course of post.

### **11.4 Proceedings at General Meetings**

11.4.1 Fifty percent (50%) of members present personally or by proxy shall constitute a quorum for the transaction of business at any general meeting.



- 11.4.2 If within 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 two weeks at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the members present shall form a quorum.
- 11.4.3 Where a meeting is so adjourned notice of the adjourned meeting shall be advertised in a newspaper circulating generally in the region.
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## **12. VOTING AT GENERAL MEETINGS**

- 12.1 Subject to this Constitution, every member of the Association has one vote at a meeting of the Association.
- 12.2 Subject to this Constitution, a question for decision at a general meeting other than a special resolution must be determined by a majority of ordinary members who vote in person or where proxies are allowed, by proxy at that meeting.
- 12.3 Unless a poll is demanded by at least 10 members a question for decision at a general meeting must be determined by a show of hands. The Association By-laws may provide for the conduct of the vote.
- 12.4 A member being a body corporate shall be entitled to appoint in writing one person being an officer or employee of that organisation to represent it at a particular general meeting or at all general meetings of the Association. Such a person shall be deemed to represent the member of the Association in accordance with the authority until the authority is revoked in writing.
- 12.5 An Associate member shall not be entitled to vote.
- 12.6 **Poll at General Meetings**

12.6.1 If a poll is demanded by at least 10 members 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.

12.6.2 A poll demanded for the election of a 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.

## 12.7 **Special Resolution and Ordinary Resolutions**

12.7.1 A special resolution is a special resolution as defined in the Act.

12.7.2 An ordinary resolution is a resolution passed by a simple majority at a general meeting.

## 12.8 **Proxies**

12.8.1 A member shall be entitled to appoint in writing a natural person who is also a member of the Association to be their proxy and attend and vote at any general meeting of the Association. A proxy shall be in the following form:

*"I hereby appoint ... .. by proxy to vote for me at a general meeting/special meeting of the members of Coonawarra Grape & Wine Incorporated to be held on the ... .. day of ... .. or at any adjournment thereof".*

The instrument appointing a proxy shall be given to the President prior to the relevant meeting at which the person appointed as proxy may vote and should 2 proxies be presented from the same person the most recent shall be valid.

12.8.2 The Chairman shall not have the power of a casting vote.

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## 13. **MINUTES**

- 13.1 Proper minutes of all proceedings of general meetings of the Association and of meetings of the Board and of the committees shall be entered within 1 month after the relevant meeting in the minute books kept for the purpose.
  - 13.2 The minutes kept pursuant to this rule must be confirmed by the members of the Association or the members of the Board or of the committees as the case may be at a subsequent meeting.
  - 13.3 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 following meeting at which the minutes are confirmed.
  - 13.4 Where minutes are entered and signed they shall until the contrary is proved, be evidence that the meeting was convened and duly held and 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.
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#### **14. DISPUTE RESOLUTION**

- 14.1 The dispute resolution procedure set out in this rule applies to disputes between :
    - 14.1.1 a member and another member
    - 14.1.2 a member and the Association
  - 14.2 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.
  - 14.3 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.
  - 14.4 In this rule “member” includes any person who was a member not more than 6 months before the dispute occurred.
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#### **15. FINANCIAL REPORTING**

**15.1 Financial Year**

The first financial year of the Association shall be the period ending on the next 30 June following incorporation and thereafter a period of 12 months commencing on 1 July and ending on 30 June of each year.

**15.2 Accounts to be kept**

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.

**15.3 Accounts and reports to be laid before members**

The accounts together with the auditor's report on the accounts the Board's statement and the Board's report shall be laid before the members at the AGM.

**15.4 Annual Return**

The annual or periodic return shall be lodged with the Office of Consumer and Business Affairs within 5 months after the end of each financial year. It must be accompanied by a copy of the accounts, the auditor's report, the Board's statement and the Board's report.

**15.5 Appointment of Auditor**

15.5.1 At each AGM the members shall appoint a suitably qualified person to be auditor of the Association in accordance with the Act.

15.5.2 The auditor shall hold office until the next AGM and is eligible for re-appointment.

15.5.3 If an appointment is not made at an AGM the Board shall appoint an auditor for the current financial year.

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**16. BY-LAWS AND COMMITTEE RULES**

16.1 The Board may by resolution adopt Association By-laws for the better management of the Association's business and

procedures. The Board shall have the power to interpret any Association By-laws.

16.2 Association By-laws shall be read subject to and in conjunction with this Constitution.

16.3 Association By-laws shall be binding on all members of the Association.

16.4 Each of the committees may adopt committee rules for the better management of the business and procedures of the committees.

16.5 Committee rules must be endorsed by a majority of committee members.

16.6 Committee rules may be altered by a like majority of committee members.

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## **17. PROHIBITION 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.

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## **18. PUBLIC STATEMENTS**

Official statements shall be made and recognised only by the president (or acting president) of the Association or by such other member as authorised by the Board.

Public statements shall only be deemed to include those made through the medium of radio, television, electronic (internet / email), social or newspaper.

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## **19. EXPULSION OF A MEMBER**

19.1 Subject to giving a member an opportunity to be heard or to make a written submission, the Board may resolve to expel a

member upon a charge of misconduct detrimental to the objects of the Association.

- 19.2 Particulars of the charge shall be communicated to the member at least one calendar month before the meeting of the Board at which the matter will be determined.
- 19.3 The determination of the Board shall be communicated to the member and in the event of an adverse determination the member shall, subject to sub-rule 4, cease to be a member 14 days after the Board has communicated its determination to him.
- 19.4 It shall be open to the member to appeal to the Association in general meeting against the expulsion. The intention to appeal shall be communicated to the Chairperson or Public Officer of the Association within 14 days after determination of the Board has been communicated to the member.
- 19.5 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 Board to expel the member is upheld by the members of the Association in general meeting after the appellant has been heard and in such event membership will be terminated at the date of the general meeting at which the determination of the Board is upheld.

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## 20. DISQUALIFICATION OF BOARD MEMBERS

The office of a Board member shall become vacant if a Board member is :

- 20.1 Disqualified by the Act
- 20.2 Expelled under the rules
- 20.3 Permanently incapacitated by ill health
- 20.4 Absent without apology from more than 3 or more Board meetings in any financial year.
- 20.5 No longer the duly appointed representative of a corporate member.

## 21. WINDING UP

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

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## 22. APPLICATION OF SURPLUS ASSETS

22.1 If after the winding up of the Association there remains “surplus assets” as defined in the Act, such surplus assets shall be distributed to any organisation which has similar objects and has rules which prohibit the distribution of its assets and income to its members.

22.2 Such organisation or organisations shall be identified and determined by a resolution of members in general meeting.

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## 23. LIABILITY AND INDEMNITY

To the maximum extent permitted by law, every person who is or has been a Board member or committee member of the Association shall be indemnified by the Association against any liability incurred by that person in that capacity and all costs and expenses incurred in defending any proceedings in respect of such liability or in respect of such person’s conduct in relation to their position **PROVIDED HOWEVER** that the person has acted in good faith and in the best interests of the Association.

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## 24. ALTERATION OF CONSTITUTION

24.1 This Constitution may be altered (including alteration to the Association’s name) by a special resolution of the members of the Association. This includes rescission or replacement by substitute provisions in whole or in part.

- 24.2 The alteration shall be registered with the Office of Consumer and Business Affairs, Corporate Affairs and Compliance Branch, as required by the Act.
- 24.3 The registered Constitution shall bind the Association and every member to the same extent as if they have respectively signed and sealed them and agreed to be bound by all of the provisions thereof.