

Dated 17 April 2003

**REWARDS PROJECTS LIMITED**  
ACN 089 582 427

Responsible Entity

and

**EACH SEVERAL GROWER**

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**CONSTITUTION FOR  
REWARDS GROUP TEAK PROJECT 3**

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**CONSTITUTION FOR THE REWARDS GROUP TEAK PROJECT 3**

made the 17<sup>th</sup> day of April 2003.

**BETWEEN**

**REWARDS PROJECTS LIMITED, ACN 089 582 427**, of Ground Level, 50 Colin Street, West Perth 6005  
(the Responsible Entity);

**AND****EACH SEVERAL GROWER.****WHEREAS:**

- A. The Responsible Entity proposes to establish a managed investment scheme under which Growers will enter into
  - (i). the Licence Agreement with respect to one or more Woodlots for the purpose of carrying out commercial Tree Farming on the Woodlots; and
  - (ii). the Management Agreement appointing the Responsible Entity to carry out, manage and supervise Tree Farming on the Woodlots on their behalf.
- B. The Responsible Entity will issue an Offer Document in relation to the Project.
- C. The Responsible Entity will act as the Responsible Entity in relation to the Project in accordance with the Corporations Act.

**NOW THIS CONSTITUTION IS EVIDENCE OF THE FOLLOWING:**

In consideration of the mutual promises hereinafter contained, the parties agree as follows:

**1. DEFINITIONS**

In this Constitution and any Offer Document, unless the context otherwise requires the following expressions shall have the following respective meanings:

**Agreements** means the Licence Agreement, the Management Agreement and all other agreements entered into or to be entered into in relation to the Project;

**Applicant** means the person who makes an Application, and includes persons who jointly make an Application;

**Application** means an application pursuant to a Offer Document to become a Grower;

**ASIC** means the Australian Securities and Investments Commission established under the Australian Securities and Investments Commission Act, 1989, or any delegate thereof;

**Auditors** means the auditor or firm of auditors for the time being of the Project and includes any additional or substituted auditor or firm;

**Australia** means the Commonwealth of Australia and includes all its territories;

**Authorised Investments** means:

- (a) money;
- (b) interest bearing deposits at call or for a term not exceeding 3 months with or without security;
- (c) bank accepted and/or Bank endorsed bills of exchange and promissory notes; and
- (d) negotiable certificates of deposit issued by or bills of exchange drawn, accepted or endorsed by any Bank;

**Authority** means any Federal, State or local governmental or other public body or authority of any kind, including any relevant Minister of the Crown having jurisdiction in relation to the relevant matter;

**Bank** means any Australian bank as defined in Section 9 of the Corporations Act;

**Company** includes a corporation or public body or Authority whether formed within or outside Australia;

**Complainant** means a person making a Complaint;

**Complaint** means any expression of dissatisfaction with the service offered or provided by the Responsible Entity, whether by a Grower or otherwise;

**Compliance Officer** means the officer of that name appointed under the Compliance Plan;

**Compliance Plan** means the Compliance Plan as in force for the time being in relation to the Project as required under the Corporations Act;

**Constitution** means this Constitution as in force for the time being;

**Corporations Act** means the Corporations Act 2001 (Commonwealth) for the time being in force together with its regulations;

**Custodian** means the Responsible Entity or any person appointed from time to time by the Responsible Entity to hold the Project Property as agent for the Responsible Entity;

**Expert** means any solicitors, barristers, accountants, tax consultants, independent accountants, auditors, valuers, forestry experts or other persons (independent of the Responsible Entity) and believed by the Responsible Entity, in good faith, to be expert in relation to the matters upon which they are consulted;

**Grower** means any person (or in the case of joint Applicants or successors or permitted assigns, each of those persons) who becomes a party to this Constitution (as a Grower) as a result of either:

- (a) the acceptance by the Responsible Entity of an Application and the allotment of one or more Woodlots to the Applicant; or
- (b) The transmission, transfer, mortgage, assignment or other disposal of a Woodlot pursuant to the Rules and the provisions of the Corporations Act,
- (c) and who remains registered as the holder for the time being of any Woodlot;

(d) and the expression Growers means all Growers in relation to the Project for the time being;

**Grower's Share** has the meaning set out in the Management Agreement;

**GST** means goods and services tax imposed under A New Tax System (Goods And Services) Act 1999;

**Harvest** means the picking, packing and transport of the Timber on the Woodlots;

**Harvest Agreement** means any agreement between, the Responsible Entity and a third party for the Harvesting of Timber as in force for the time being;

**Independent** in relation to any Expert means that no director of the Responsible Entity or of any company related to the Responsible Entity is a director, partner or proprietor of the firm from whom the opinion, advice, statements, report or information of an Expert is being sought;

**Interest Rate** means the rate of simple interest per annum being 3% per annum higher than the base rate of interest charged for the time being by National Australia Bank Limited on overdrawn accounts of less than \$100,000;

**Law** includes any statute, enactment, code, ordinance, rule, regulation, notice, order or by law of Australia or any State or any Authority and any decree order or judgment of any competent court whether of Australia or of any State;

**Licence** means the Licence in respect of the Woodlots granted to the Grower under the Licence Agreement;

**Licence Agreement** means the licence agreement between Rewards Projects Ltd 089 582 427 in its capacity as Licensor and each several Grower under which each several Grower is granted a licence in respect of the Woodlots, as in force for the time being;

**Licence Fee** means fee payable by the Grower under the Licence Agreement;

**Licensor** means the person who grants a Licence in respect of the Woodlots to the Grower under the Licence Agreement;

**Maintenance Fund** means the trust account kept by the Responsible Entity into which the Responsible Entity shall pay out of its own funds \$600 per woodlot to secure performance of the Ongoing Services;

**Management Agreement** means the management agreement in the form contained in Schedule 1 to this Constitution in relation to the Project as in force for the time being;

**Manager** means the person appointed by the Responsible Entity to supervise, carry out, manage and administer the performance of the Tree Farming;

**Money** includes cash, bank cheque or cheque which has been duly honoured and thereupon credited to the account of the payee;

**Offer Document** means any offer of Woodlots in the Project made by the Responsible entity as required or permitted by the Corporations Act, and for the avoidance of doubt, includes a PDS.

**Operations Agreement** means the agreement between the Responsible Entity and the Manager appointing the Manager to supervise, carry out, manage and administer the performance of the Tree Farming, as in force for the time being;

**Proceeds Fund** means the trust account established pursuant to Sub-clauses 8.1 and 8.5;

**Project** means the performance of commercial Tree Farming on the Woodlots by the Growers and all of the arrangements in relation to those matters, whether arising under this Constitution, or under the Agreements for the managed investment scheme to be known as the Rewards Group Teak Project 3;

**Project Fees** means the fees set out in paragraphs (a), (b) and (c) of Clause 4;

**Project Fund** means the trust account established pursuant to Sub-clauses 8.1 and 8.3;

**Project Property** means the interest of each Grower in:

- (a) the Subscription Money and the Subscription Fund;
- (b) Project Fees and the Project Fund;
- (c) Receipts and the Proceeds Fund;
- (d) any other entitlement to money;
- (e) any other property which the Grower acquires directly or indirectly with, or with the proceeds of, the money described in (a) or (b); and
- (f) income or property derived, directly or indirectly, from the money or property described in (a), (b), (c), (d) or (e);

**Quarter** means any of the following periods, namely from 1st July to 30th September, from 1st October to 31st December, from 1st January to 31st March, and from 1st April to 30th June;

**Receipts** means:

- (a) any refunds of Project Fees or other payments made by the Grower;
- (b) proceeds from sale of the Grower's Timber;
- (c) proceeds from the sale of or other dealing in any sequestration rights, carbon credits or other environmental credits arising from, or in connection with the Woodlots or the Trees and to which the Grower is entitled;
- (d) proceeds from any insurance claims to which the Grower is entitled;
- (e) proceeds of any action, suit or proceeding or settlement thereof relating to the Project to which the Grower is entitled;
- (f) payments made by a Grower to the Responsible Entity who elects to sell his or her own Timber in payment of outstanding costs and fees prior to the Grower collecting the Grower's Timber;
- (g) receipts from the sale of the Project or all rights of the Grower in relation to the Project; and

(h) any other receipts in relation to the Project to which the Grower is entitled.

**Register** means the register of Growers kept pursuant to Chapter 2C of the Corporations Act;

**Responsible Entity** means the Responsible Entity for the time being under this Constitution;

**Sale Agreement** means any agreement between the Responsible Entity and a buyer for the sale of Timber, as in force for the time being;

**Scheme** means the registered managed investment scheme to be known as the Rewards Group Teak Project 3 to be established under this Constitution;

**State** means a State or Territory of Australia where the Project is situated;

**Subscription Fund** means the trust account established pursuant to Sub-clauses 8.1 and 8.2;

**Subscription Money** means the money paid by an Applicant with its Application;

**Tax Act** means the Income Tax Assessment Act, 1936 and the Income Tax Assessment Act, 1997;

**Timber** means any saleable timber or wood derived from Trees grown pursuant to the Agreements on the Grower's Woodlots;

**Tree Farming** means those agricultural activities, which the Grower is obliged to carry out on the Grower's Woodlots under the Licence Agreement;

**Trees** means the crop of trees to be farmed on the Grower's Woodlots for Harvest and sale;

**Trust Accounts** means the Subscription Fund, Project Fund and Proceeds Fund;

**Woodlot** means a specified area of land, identified individually by a number, in respect of which a Licence is granted or to be granted to a Grower pursuant to the Agreements;

## 2. INTERPRETATION

- 2.1 Unless the context otherwise requires the singular number includes the plural and vice versa; words denoting one gender include any of the other genders.
- 2.2 References to an "associate", a "related" corporation or a "subsidiary" of a corporation are references to those expressions as defined in the Corporations Act.
- 2.3 References to a "person" include a company, firm or body of persons.
- 2.4 Where the word "including" or "include" is used, it is to be taken to be followed immediately by the words "but not limited to" or "but are not limited to" as the case requires.
- 2.5 The headings preceding the text of each Clause and various Sub-Clauses in this Constitution have been inserted for convenience of reference only and shall not be construed to affect the meaning construction or effect of this Constitution.

- 2.6 For convenience words and phrases defined in this Constitution are indicated by initial capital letters, but the absence of a capital letter shall not alone imply that the word or phrase is used with a meaning different from that given by its definition.
- 2.7 Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have a corresponding meaning.
- 2.8 References to "dollars" and "\$" shall be taken as referring to amounts in Australian currency unless it is clear from the context that United States dollars or other currency is referred to.
- 2.9 References in this Constitution to Clauses, Sub-clauses and paragraphs are references to Clauses, Sub-clauses and paragraphs of this Constitution unless the context otherwise requires.
- 2.10 References to any Law shall be construed as including references to the Law as amended or modified or, where repealed, re-enacted from time to time. References to any particular section which may be repealed include references to that section as re-enacted from time to time.
- 2.11 This Constitution shall be deemed severable and if any portion hereof shall be held invalid for any reason, the remainder shall not thereby be invalidated but shall remain in full force and effect provided that the portion severed is not fundamental to the Deed.
- 2.12 This Constitution shall be construed in accordance with and governed by the laws of Western Australia.

### **3. ACCEPTANCE OF APPLICATIONS**

#### **3.1 Acceptance and Refusal of Applicants**

The Responsible Entity may, in its absolute discretion, accept or refuse any application in whole or in part and will not be bound to give any reason for refusal.

#### **3.2 The Responsible Entity will not invite persons to become Growers except pursuant to a current Offer Document.**

#### **3.3 Conditions for Release of Subscription Money**

The Responsible Entity may not release any money in payment of Project Fees from the Subscription Fund in relation to an Application until the Responsible Entity is satisfied that:

- (a) The minimum subscription (if any) set out in the PDS has been reached;
- (b) (as advised by a Legal Expert) the licensor has the capacity to grant the Licence, and the Licence will remain in force for the duration of the Project;
- (c) the land the subject of the Licence is not subject to any encumbrances or restrictions which may detrimentally affect the interests of the Growers and which are not disclosed in the PDS;
- (d) the Licence Agreement and Management Agreement are in the proper form;
- (e) any other matters necessary for the creation of the Licence Agreement and the Management Agreement have been attended to; and

- (f) there are no outstanding material breaches of the Constitution which are detrimental to the interests of the Applicants

**3.4 Applicant to Become a Grower on Acceptance of Application**

Upon any Application being accepted by the Responsible Entity in whole or part, the Applicant is deemed to have become a party to and subject to:

- (a) this Constitution;
- (b) The Licence Agreement; and
- (c) The Management Agreement;

to the extent to which the Application has been accepted.

**3.5 The Responsible Entity will confirm to each Grower:**

- (a) the acceptance of the Grower's Application;
- (b) the allotment of one or more Woodlots; and
- (c) the entry into the Licence Agreement by the Grower on the Grower's behalf;

in the manner and at the time required under the Corporations Act.

- 3.6 Upon any Application being accepted by the Responsible Entity in whole or part, the Subscription Money shall be treated by the Responsible Entity as the Grower's Project Fees (to the extent to which the Application has been accepted) and held in the Project Fund, and the balance (if any) shall be repaid to the Grower.

- 3.7 In the absence of any express instructions to the contrary in or accompanying any Application, any persons who jointly constitute the Grower hold their Woodlots and enter into the Agreements as tenants in common.

**3.8 Release of Subscription Moneys**

The Responsible Entity may not release Subscription Money received from an Applicant from the Subscription Fund until the conditions in clause 3.3 are met. Until that time the Responsible Entity will hold the Subscription Money in the Subscription Fund.

**3.9 Dishonour of Grower's Cheque**

In the event that any Grower's Subscription Money (or in the case of payment by instalments, the deposit) is paid by cheque, acceptance of the Grower's Application is conditional upon clearance of the Grower's cheque and if that cheque is dishonoured, the acceptance of the Application by the Responsible Entity shall be deemed to be invalid and of no effect, the Grower shall have no rights or obligations under this Constitution and shall cease to be a Grower, and the Responsible Entity shall remove the name of the Grower from the Register.

#### 4. CONSIDERATION PAYABLE FOR ACQUIRING WOODLOTS

- 4.1 Each Grower will pay the following consideration in respect of their participation in the Project:
- (a) \$5,500 inclusive of GST (or such other amount as is specified in the PDS);
  - (b) fees, costs, interest, expenses and taxes payable by the Grower to the Responsible Entity under the Management Agreement; and
  - (c) the Licence Fee or other fees, costs, interest, expenses and taxes payable by the Grower to the Licensor under the Licence Agreement.

#### 5. RESPONSIBLE ENTITY

- 5.1 The Responsible Entity agrees to act as responsible entity for the Grower in relation to the Project subject to the terms of this Constitution and the Corporations Act.

#### 6. RESPONSIBLE ENTITY'S POWERS

- 6.1 The Responsible Entity shall have power:
- (a) to receive and hold money from the Grower in the Subscription Fund;
  - (b) to invest those moneys in any Authorised Investment;
  - (c) to discharge any obligations of the Grower pursuant to the Agreements and this Constitution;
  - (d) to receive and hold the Project Fees in the Project Fund;
  - (e) to invest the Project Fees in any Authorised Investment;
  - (f) to use the Project Fees in discharging the obligations of the Grower pursuant to the Agreements and this Constitution (and in so doing, to make payment of any amount due to the Responsible Entity and to such persons including the Manager as the Responsible Entity may direct);
  - (g) **[Maintenance Fund]** to hold in a Maintenance Fund \$600 per Woodlot established by the Responsible Entity upon acceptance of applications (or, in the case of payment by instalments, as described in the Offer Document) to secure performance of the Ongoing Services. The Maintenance Fund will be a separate and distinct fund and will not constitute scheme property;
  - (h) to release the Maintenance Fund in annual instalments provided the Independent Forester confirms the Ongoing Services are being performed;
  - (i) to pay alternative contractors from the balance of the Maintenance Fund to perform the Ongoing Services if any Ongoing Services are not performed;
  - (j) to invest the Maintenance Fund in any Authorised Investments or any Australian equity investment fund with more than A\$1 billion under management;
  - (k) **[Licence Agreement]** to confirm the Grower as a party to the Licence Agreement;

- (l) to monitor the performance of the Licensor's obligations in accordance with the Licence Agreement;
- (m) to exercise all rights and powers of the Grower and/or to exercise any right or power under the Licence Agreement, and subject to its obligations under the Corporations Act to vary or replace the terms of the Licence Agreement;
- (n) [**Management Agreement**] to confirm the Grower as a party to the Management Agreement;
- (o) to appoint the Manager to supervise, carry out, manage and administer the performance of the Tree Farming under the Operations Agreement, and to monitor the performance of the Manager, under the Management Agreement;
- (p) to appoint the Auditors or other auditors to audit and/or monitor the accounting records and other records of the Responsible Entity;
- (q) subject to its obligations under the Corporations Act, to vary or replace the Management Agreement;
- (r) [**Harvest Agreement**] to enter into any Harvest Agreement, and subject to its obligations under the Corporations Act, to vary or replace the Harvest Agreement;
- (s) to monitor the performance of the obligations of the party commissioned to Harvest the Timber in accordance with the Harvest Agreement;
- (t) [**Sale Agreement**] to enter into any Sale Agreement and subject to its obligations under the Corporations Act, to vary or replace the Sale Agreement;
- (u) to appoint the Manager to negotiate the sale of the Timber from the Grower's Woodlots;
- (v) [**Sale on termination**] upon the termination of the Project, or earlier after the passing of a resolution at a meeting of Growers in terms which support the proposed sale or assignment, to sell or assign all right, title and interest of the Grower in relation to the Project, whether for money, shares or some other consideration;
- (w) to pay for the costs and expenses of any such sale;
- (x) to receive sale proceeds;
- (y) [**Receipts**] to receive the Receipts;
- (z) to hold the Receipts in the Proceeds Fund;
- (aa) to invest the Receipts and interest on the Receipts and other accretions in any Authorised Investment;
- (bb) to deal with the Receipts and other money in any Proceeds Fund as provided in Clause 11 (and in so doing, to make payment of any amount due to the Responsible Entity to such other persons including the Manager as the Responsible Entity may direct);
- (cc) [**Audit**] to pay for the costs and expenses of any audit from money in the Trust Accounts, each Grower to pay the Grower's Share thereof;

- (dd) **[Legal proceedings]** to commence legal proceedings as authorised in Clause 12;
- (ee) **[Settle and compromise]** to receive, collect, pay, settle and compromise any payments, debts, obligations, judgments or settlements in relation to the Project;
- (ff) **[Caveat]** to lodge and withdraw a subject to claim caveat against the certificate of title to the land the subject of the Woodlots;
- (gg) **[Other]** to execute, any deed, agreement, certificate or other document and to do all other things necessary or desirable in furtherance of the powers granted to the Responsible Entity in this Sub-clause; and
- (hh) **[Borrow]** to borrow or raise money for the purposes of the Project.

## **7. RESPONSIBLE ENTITY MAY DELEGATE POWERS**

- 7.1 The Responsible Entity may delegate to any person all or any of the functions to be performed by the Responsible Entity under this Constitution provided that no such delegation shall release the Responsible Entity from its obligations under this Constitution with respect to which the Responsible Entity shall remain liable.
- 7.2 The Responsible Entity shall remain responsible for any delegate's acts and omissions, constituting a breach of duty.

## **8. TRUST FUNDS**

- 8.1 The Responsible Entity shall create the following trust funds:
  - (a) a Subscription Fund;
  - (b) a Project Fund;
  - (c) one or more Proceeds Funds.
- 8.2 To form the Subscription Fund for the Applicant the Responsible Entity shall lodge (or cause to be lodged) in a trust bank account in the name of the Responsible Entity the Subscription Money received by the Responsible Entity from the Applicant. The Subscription Fund is to be held on trust for the Applicant.
- 8.3 Upon any Application being accepted by the Responsible Entity in whole or part, the Subscription Fund shall be deemed to have become the Project Fund to the extent that the moneys of the Applicant are applied thereto. The Project Fund shall be held on trust for the Grower in the same trust bank account established for the Subscription Fund.
- 8.4 The Responsible Entity will lodge or cause to be lodged in the same trust bank account as the Project Fund the Project Fees received by it from the Grower.
- 8.5 The Responsible Entity will lodge or cause to be lodged in a trust bank account all Receipts received by it for the Grower to constitute the Proceeds Fund. The Proceeds Fund shall be held in a trust bank account on trust for the Grower. Separate Proceeds Funds may be established in relation to different harvests.
- 8.6 The Trust Accounts may be interest bearing.
- 8.7 Money held in the Trust Accounts on behalf of any Applicant or Grower may be pooled with money held on behalf of other Applicants or Growers.

## **9. MANNER OF PAYMENT OF PROJECT FEES**

- 9.1 The Responsible Entity shall send the Grower an invoice requesting payment of any Project Fees at least one month prior to the date for payment. In any invoice, GST must be shown separately.
- 9.2 Upon receipt of an invoice under this Clause, the Grower shall pay the Project Fees to which that invoice relates to the Responsible Entity by the date for payment under the Licence Agreement or the Management Agreement, as the case may be.
- 9.3 In the event that the Grower fails to pay any Project Fees by the date for payment in the invoice, the Grower will pay to the Responsible Entity interest on the amount outstanding from day to day at the Interest Rate and any interest so paid shall be applied in payment of any interest payable by the Grower under the Agreements in the same proportion as money is owed by the Grower there under.

## **10. FEES OF THE RESPONSIBLE ENTITY**

### **10.1 Interest on Funds**

The Responsible Entity shall be entitled to any interest earned on the Subscription Fund and the Project Fund. The Manager is entitled to interest on the Maintenance Fund. Any interest earned on any Proceeds Funds is added to those funds and Growers are entitled to such interest.

### **10.2 Indemnity for Legal Proceedings**

The Responsible Entity may indemnify itself from the Receipts in relation to the Project, from and against the Grower's Share of any expense or liability that may be incurred by the Responsible Entity in prosecuting or defending any action or suit arising in respect of the Project (including the costs of obtaining Expert opinions) except to the extent that any such expense or liability is attributable to any breach by the Responsible Entity of its duties under the Corporations Act or otherwise.

### **10.3 Indemnity for Tax Liability**

If for any reason the Project or the Trust Accounts are taxed pursuant to the Tax Act, the Responsible Entity may indemnify itself from and against the Grower's Share thereof out of the Receipts.

### **10.4 Waiver or Deferment of Fees and Remuneration**

The Responsible Entity may at any time and from time to time waive or defer payment to the Responsible Entity of any fees or expenses due to it generally or in relation to the Project.

## **11. DEALING WITH RECEIPTS**

- 11.1 The Responsible Entity shall deal with the Receipts and any other money in the Proceeds Fund of the Grower in the following manner and priority:
- (a) to pay the Grower's Share of the costs of the harvest and sale (unless the Grower has made an election to sell their Timber under the Management Agreement);

- (b) to pay to the Responsible Entity any outstanding Project Fees or other fees, costs, interest or taxes owing by the Grower to the Responsible Entity under this Constitution;
- (c) to pay to the Responsible Entity or as directed by the Responsible Entity on the advice of the Manager reasonable estimates of Project Fees payable by the Grower in the following 12 months (after paying any amount due to the Responsible Entity);
- (d) to pay to the Responsible Entity any outstanding amount owing to the Responsible Entity under the Management Agreement;
- (e) to pay to the Licensor any outstanding amount owing to the Licensor under the Licence Agreement;
- (f) to distribute the balance to the Grower PROVIDED THAT if the aggregate sum to be distributed to all of the Growers is less than \$1,000 then, at the discretion of the Responsible Entity, distribution to Growers may be postponed.

## 11.2 Distributions

The Responsible Entity shall deal with the Receipts in accordance with clause 11.1 in a timely manner. The calculation of distribution of Receipts shall be checked by the Compliance Officer.

## 12. COMPLAINTS, ALTERNATIVE DISPUTE RESOLUTION, LEGAL PROCEEDINGS

### 12.1 Complaints Handling Methods

The Responsible Entity will deal with all Complaints according to the following methods, the details of which are to be set out in the Compliance Plan:

- (a) each Complaint is to be acknowledged promptly;
- (b) A Complaint that does not require investigation to be resolved immediately or expeditiously;
- (c) If a Complaint requires investigation, the Complaint is to be investigated within 21 days of the date of the Complaint, the Complainant is to be given an opportunity to provide information, the Complaint is to be properly considered, and a report is to be prepared;
- (d) a decision is to be made and the decision communicated to the Complainant with the reasons for the decision within 28 days of the date of the Complaint;
- (e) if the Complainant remains unsatisfied, the Complainant is to be provided with information as to appropriate avenues by which the Complainant can pursue the Complaint including notifying ASIC of the Complaint or having the Complaint resolved by an industry complaints tribunal; and
- (f) a copy of the Complaints handling procedures will be made available on request by any Grower free of charge.

## 12.2 **Alternative dispute resolution**

If any dispute or difference (other than one subject to the discretion of the Responsible Entity or some other person) arises touching or concerning this Constitution or the construction meaning operation or effect of any of the covenants or provisions of this Constitution or as to the rights duties or liabilities of the Responsible Entity or any Grower under this Constitution, no action may be commenced in respect thereof unless and until the parties have attempted in good faith to resolve the matter by mediation. The mediator must be a person chosen by agreement between the parties, or, if they are unable to agree, a person appointed by the chairman of Lawyers Engaged in Alternative Dispute Resolution (LEADR). The role of the mediator is to assist the parties in negotiating a resolution of the dispute, and the mediator must not determine the dispute.

## 12.3 **Legal Proceedings on behalf of Each Grower**

The Responsible Entity shall be entitled but not obliged on its own behalf or on behalf of each Grower or all Growers to commence, institute, carry on, defend and prosecute any legal proceedings of any kind and in any court and against any person:

- (a) to procure compliance with the provisions of this Constitution and any Agreement;
- (b) to procure compliance with the terms of the Offer Document;
- (c) to obtain and recover any money payable to it or to the Grower;
- (d) to enforce the payment of any money payable to it or to the Grower; and
- (e) for damages arising out of any loss suffered by the Grower,

and to pursue the same to judgment decree order and execution, or to discontinue, or abandon or otherwise to act therein as the Responsible Entity may determine. All costs and disbursements incurred by the Responsible Entity with respect to any such legal proceedings shall be paid out of the Trust Account(s).

- 12.4 The Responsible Entity shall not be under any obligation to appear in, prosecute, or defend any legal proceedings with respect to the provisions hereof or otherwise with respect to the Project which in its opinion would or might involve it in expense or liability unless a meeting of the Growers by resolution shall so request and shall as often as required by the Responsible Entity furnish it with an indemnity satisfactory to it against such expense or liability, subject to the legal proceedings not being attributable to any breach by the Responsible Entity of its duties under the Corporations Act or otherwise. So that the Growers may make a decision regarding the giving of such an indemnity, the Responsible Entity shall provide them with all relevant information in relation to the legal proceedings or proposed legal proceedings. In the event of any legal proceedings affecting the interests of the Growers, the Responsible Entity shall notify the Growers of the same.

**13. WITHDRAWAL RIGHTS**

There are no withdrawal rights under the Project.

**14. PERIOD AND TERMINATION OF PROJECT****14.1 Commencement of the Project**

The Project shall be deemed to have commenced upon the date upon which Applications are first accepted.

14.2 Subject to the provisions of this Clause and the Corporations Act, the Project shall terminate upon the latter of the termination of the Licence Agreement or the final distribution to the Grower of Receipts following sale of all the Timber, unless previously terminated under the provisions of this Constitution.

**14.3 Termination of Project**

At any time, a meeting of Growers may by extraordinary resolution resolve that the Project be terminated. The Responsible Entity may terminate the Project in accordance with the Corporations Act.

**14.4 Continuation of Project**

Notwithstanding anything to the contrary contained in this Constitution, the Project may be continued if it appears to be in the interest of the Growers for it to do so, during such period as is or such periods as are determined by the Responsible Entity.

**14.5 Consequences of Termination of the Project**

Upon the termination of the Project, the following successive Sub-clauses of this Clause shall apply.

14.6 The Responsible Entity shall immediately following such termination sell, call in, convert and realise all remaining Timber and Project Property and pay for all proper costs and disbursements, commissions, brokerage fees, legal fees and other outgoings in relation to termination of the Project. The Responsible Entity may but need not have regard to any contingency or outstanding matter and may if it sees fit to do so settle or discharge any such contingencies, and retain part or all of the assets by way of indemnity in respect thereof but such retention shall not affect any release under Sub-Clause 14.9.

14.7 The Responsible Entity may postpone the said sale, calling in, conversion and realisation of any part of the Timber and Project Property for such time as it thinks it desirable so to do in the interests of the Grower and the Responsible Entity shall not be responsible for any loss attributable to such postponement.

14.8 The balance obtained after the sale of the Timber and Project Property in relation to the Project shall be held by the Responsible Entity and distributed at the direction of the Responsible Entity as if the balance represented part of the Receipts, PROVIDED THAT if the aggregate sum to be distributed to all of the Growers is less than \$1,000, then at the discretion of the Responsible Entity, the sum shall be either distributed as aforesaid or retained by the Responsible Entity.

- 14.9 Upon the balance being so distributed, the Responsible Entity shall forward to the Grower, subject to sub-clause 14.10, a final statement setting out the details of the sale, calling in and conversion of the assets and the balance obtained in relation to the Project and the distribution and all payments otherwise made or allowed for, whereupon the Responsible Entity shall be released from all further duties and obligations incurred under this Constitution in relation to the Grower without prejudice to any liability of the Responsible Entity previously incurred under this Constitution or under the Compliance Plan to the Grower for any breach of its duties imposed by Law or otherwise.
- 14.10 The final statement prepared in accordance with Sub-clause 14.9 shall be audited by the Auditor before it is forwarded to the Grower.
- 14.11 Upon the release of the Responsible Entity under Sub-clause 14.9, the Responsible Entity shall be released from all further duties and obligations incurred under this Constitution and the provisions of the Agreements in relation to the Project, but without prejudice to any liability of the Responsible Entity previously incurred under this Constitution to the Growers for any breach of its duties imposed by Law or otherwise, and each of the Growers shall be released from all further duties and obligations incurred under this Constitution and the provisions of the Agreements in relation to the Project, without prejudice to any liability of the Growers previously incurred under this Constitution to any other party to this Constitution for any breach of its duties imposed by law or otherwise.

## **15. LIMITATIONS IN RELATION TO EACH GROWER'S RIGHTS AND LIABILITIES**

### **15.1 Grower's Right regarding the Trust Accounts**

No Grower shall have the right to require payment to the Grower of any part of the Trust Accounts to which it is beneficially entitled or entitled at law other than as provided in this Constitution.

- 15.2 The rights and powers of the Responsible Entity in Clause 6 are sole and exclusive to the Responsible Entity PROVIDED THAT nothing in this Sub-clause shall affect the rights of Growers to mortgage or charge their Woodlots.

### **15.3 Relationship Between Each Grower**

No Grower shall have any relationship with any other Grower, and the relationship between each Grower and each other Grower and between each Grower and the Responsible Entity is not intended to be, shall not be deemed to be, and shall not be treated as a general partnership, limited partnership, joint venture, limited company or association nor shall Growers or any Grower and the Responsible Entity or any of them for any purpose be or be deemed to be or be treated as in any way whatsoever liable or responsible under this Constitution as partners or joint venturers.

- 15.4 Nothing in this Constitution is, or is intended to be, or shall be deemed to be a contract between Growers and each Grower shall take and enjoy all its rights and shall incur all its liabilities and obligations under this Constitution severally and independently of each other Grower, and none of the undertakings or conditions in this Constitution on the part of any Grower shall operate for the benefit of or be enforceable by any other Grower or Growers and no Grower has any rights or claims against any other Grower or against any other Growers.

- 15.5 No Grower is, or is intended to be, or shall be deemed to be the partner, agent, or legal representative of any other Grower or of the Responsible Entity whether for the purpose of this Constitution or otherwise, nor shall any Grower have any authority or power to act for or to undertake any obligation or responsibility or incur any liability on behalf of any other Grower.

## **16. PROTECTIONS AND INDEMNITIES**

### **16.1 Restraint by Law**

The Responsible Entity shall not incur any liability to any party to this Constitution for doing or performing or any failure to do or perform any act or thing which by reason of any present or future Law the Responsible Entity shall be required to do or perform or frustrated or prevented or forbidden from doing or performing.

### **16.2 Expert Advice**

The Responsible Entity may act and rely upon the opinion or advice of or information obtained from any Expert. The Responsible Entity shall not be liable for anything done or suffered by it in good faith in reliance upon such opinion, advice, statement or information.

### **16.3 Misconduct of Experts**

The Responsible Entity shall not be liable for any misconduct, mistake, error of judgment or want of prudence on the part of any Expert acting as advisers in relation to the Project.

### **16.4 Default of Other Parties**

Except to the extent that any loss is attributable to the Responsible Entity's own act, neglect or default, the Responsible Entity shall not be under any liability on account of anything done or suffered by other parties.

- 16.5 To the extent permitted by law, the Responsible Entity is not liable for any loss or damage to any person arising out of any matter where, in respect of that matter it acted as required by law or followed a direction given to it by a resolution passed at a duly convened meeting of Growers and Applicants.

### **16.6 Reliance Upon Documents**

The Responsible Entity shall not incur any liability in respect of any action taken or thing suffered by the Responsible Entity in reliance upon any notice, minutes, resolution, direction, consent, certificate, receipt, affidavit, statutory declaration, statement, or other paper or document reasonably believed by the Responsible Entity to be genuine and to have been authorised and (if applicable) signed by the persons properly responsible therefore.

**16.7 Absolute Discretion**

Except insofar as otherwise expressly provided in this Constitution the Responsible Entity shall as regards all powers, authorities and discretion vested in the Responsible Entity have absolute and uncontrolled discretion as to their exercise whether in relation to the manner or as to the mode of and time of the exercise and in the absence of breach of any duty on the part of the Responsible Entity under Section 601FC of the Corporations Act or otherwise, the Responsible Entity shall not in any way be responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise thereof.

**16.8 Non-interference**

Except by a special resolution of the Growers, and except as permitted under the Complaints handling procedures set out in Clause 12, no Grower shall be entitled to interfere with or question the exercise or non-exercise by the Responsible Entity of any of the powers authorities or discretions conferred upon it by this Constitution.

**16.9 Tax Deduction**

The Responsible Entity will not be liable for the failure of any Grower to obtain a tax deduction in respect of the Project.

**16.10 Proviso**

- (a) The protections and indemnities in this Clause apply to the extent permitted by law.
- (b) The Responsible Entity is entitled to be indemnified from the Trust Accounts for any liability or expense incurred in relation to the proper performance of its duties.
- (c) Nothing in this Clause shall limit the Responsible Entity's duties under Section 601FC or any other provision of the Corporations Act, or as a trustee, and any provision contained in this Constitution is void in so far as it would have the effect of exempting the Responsible Entity from, or indemnifying the Responsible Entity against, liability for breach of trust where the Responsible Entity fails to show the degree of care required of a trustee having regard to the powers, authorities or discretions conferred on the Responsible by this Constitution and the Corporations Act.

## **17. MISCELLANEOUS**

### **17.1 Notices**

Any notice, report or other communication to be given to any Applicant or Grower under this Constitution shall be deemed to have been duly given if it is sent to the Applicant at its address (including any email address) appearing in the Application and to the Grower at its address (including email address) appearing in the Register. Any notice, report or other communication required to be given to the Responsible Entity under this Constitution shall be deemed to have been duly given if it is given in writing and either delivered or sent to the Responsible Entity by post in a prepaid envelope addressed to the registered office for the time being. In the case of joint Applicants or Growers a notice, report or other communication given to that joint Applicant or Grower whose name stands first on the Application or in the Register shall be sufficient notice to all such joint Applicants or Growers. Any notice, report or other communication given by post shall be deemed to have been received on the third day after the day when it was posted and in proving receipt it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted and a statement signed by the sender that it was so posted and when, shall be conclusive of that fact.

### **17.2 Payments to Growers**

Any money payable to any Applicant or Grower under the provisions of this Constitution may be paid by

- (a) Bank transfer to the bank account of the Applicant or Grower notified to the Responsible Entity; or
- (b) crossed "not negotiable" cheque made payable to the Applicant or Grower or bearer and sent by post, in the case of an Applicant, to the address of the Applicant appearing on the Application and, in the case of a Grower, to the address of the Grower shown on the register of Growers.

In the case of joint Applicants or Growers, the bank account and address of the first named Applicant or Grower shall be used.

In the case of cheques, receipt of every such cheque if duly presented and paid shall be in full satisfaction of the money payable and shall be a good discharge to the Responsible Entity PROVIDED THAT if the Responsible Entity shall be directed in writing by any Grower so to do, the Responsible Entity may pay any such money to the credit of an account in any bank and the receipt of such bank shall be a good discharge to the Responsible Entity.

### **17.3 Retention of Documents**

Applications and instruments of transfer and transmission shall be retained by the Responsible Entity, but on the expiration of 7 years from the date of each the same may, in the absolute discretion of the Responsible Entity be destroyed.

**17.4 Rules**

- (a) The Responsible Entity may make, vary and replace Rules for the purpose of this Constitution.
- (b) Each Grower and the Responsible Entity will comply with the Rules as in force from time to time.
- (c) No variation, or replacement or any Rules which may be prejudicial to any Grower shall take effect unless and until 14 days have expired from the date upon which a copy was mailed to every Grower.
- (d) A breach of the Rules by the Grower shall not be treated as or deemed to be a breach of this Constitution or of the Compliance Plan.
- (e) The Responsible Entity may at any time and from time to time waive compliance with any of the Rules or in any case.

**17.5 Assignments**

- (a) No assignment of Woodlots may be registered unless a deed of assignment in writing in the form required from time to time by the Responsible Entity has been delivered to the Responsible Entity.
- (b) The deed of assignment shall be signed both by the assignor and the assignee, and duly stamped.
- (c) Until such deed of assignment is registered and the name of the assignee is entered in the Register in respect of the Woodlots assigned the assignee shall not be deemed the Grower in respect of such Woodlots.

**17.6 Transmission**

- (a) No transmission of Woodlots may be registered unless an instrument of transmission in writing in the form required from time to time by the Responsible Entity has been delivered to the Responsible Entity.
- (b) The instrument of transmission shall be signed by the party to whom the Woodlots are being transmitted.
- (c) Until such instrument of transmission is registered and the name of the transferee is entered in the Register in respect of the Woodlots transmitted, the transferee shall not be deemed the Grower in respect of such Woodlots.

**17.7 Registration**

Upon receipt of a deed of assignment or transmission the Responsible Entity shall enter the assignee or transferee in the Register as the holder of the Woodlots the subject of the assignment or transmission.

**17.8 Confirmation**

- (a) The Responsible Entity shall confirm the assignment or transmission in the manner form and at the time required under the Corporations Act.
- (b) If the Responsible Entity refuses to enter in the Register a deed of assignment or transmission, it shall, within the period required by the Corporations Act, send to the assignee or transmittee notice of the refusal.

**17.9 Meeting of Growers****(a) Quorum**

No business shall be transacted at any meeting unless a quorum is present at all times during the meeting. The quorum necessary for a meeting at which an ordinary resolution is to be proposed shall be two Growers and for a meeting at which a special resolution is to be proposed shall be persons holding or representing by proxy more than 50% of the number of Woodlots issued to the Growers for whom the meeting has been called.

**(b) Expenses**

Pursuant to section 252B(9) of the Corporations Law, the Responsible Entity may meet the expenses of any meeting of Growers from the Scheme Property. Each Grower shall bear the Growers Share of those expenses.

**17.10 FEES****(a) Inspection of the Register**

The Responsible Entity may charge the maximum fee payable under the Corporations Act to any person who is not a Grower and who wishes to inspect the Register.

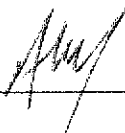

**(b) Copying of Documents**

The Responsible Entity may charge the maximum fee payable under the Corporations act to any Grower or other person who wishes to copy any document which that person is permitted to copy under the Corporations Law.

**(c) Deed of Assignment**

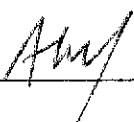
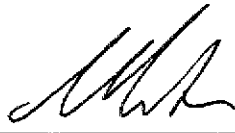
The Responsible Entity may charge a handling fee for any Deed of Assignment presented for approval and registration of \$100 or such other amount as it considers reasonable.

Executed by **REWARDS PROJECTS LTD ACN 089 582 427** on its own behalf in accordance with its constitution and section 127 of the Corporations Act:

Director:  Secretary: 

Name: Andrew Radomiljac Name: CRAG BURTON  
(Please print) (Please print)

Executed by **REWARDS PROJECTS LTD ACN 089 582 427** on behalf of Growers in accordance with its constitution and section 127 of the Corporations Act:

Director:  Secretary: 

Name: Andrew Radomiljac Name: CRAG BURTON  
(Please print) (Please print)

Schedule 1 – Management Agreement