

CONSTITUTION

MARGARET RIVER WINE ASSOCIATION (Inc.)

1. NAME

The name of the Association is **Margaret River Wine Association (Inc.)**.

2. INTERPRETATION

- (a) “Designated Area” shall mean all that part of the Shire of Augusta – Margaret River and City of Busselton which lies to the West of the line of longitude 115° 18’ East, but subject to any variation which the Association may, by Special Resolution, decide.
- (b) A special resolution shall require a 75% majority of members that are present and voting.
- (c) Notwithstanding anything contained in this Constitution, all notices and other communication may be by post, facsimile, email or personal delivery.

3. OBJECTS

- (a) To encourage and promote excellence in the production of wine and the growing of grapes within the Designated Area.
- (b) To foster the development of the Designated Area for the production of high quality wine and the growing of premium grapes.
- (c) To conduct and aid research into viticulture and winemaking.
- (d) To safeguard and promote the interests of members of the Association and generally to benefit them.
- (e) To encourage the appreciation of and to promote the consumption in moderation of wine produced by members of the Association.
- (f) To engage in events and initiatives that promote the Designated Area both nationally and internationally as a world class wine producing region for the long-term benefit of members of the Association.
- (g) To do all such other things as the Association may consider incidental or conducive to the attainment of the above objects or any of them including the custody and the responsibility to protect, develop and maintain the Margaret River wine brand and all that it encompasses.
- (h) The property and income of the Association shall be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members of the Association, except in good faith in the promotion of those objects or purposes.

4. MEMBERSHIP

- (a) The classes of membership are as follows:

(i) **Wine Producer:** Wine producers who produce wine made from fruit grown within the Margaret River wine region who pay the Wine Producers ‘Fee for Service’ charge arising

under the statutory means of an Agricultural Produce Commission, set by the Commission under The Agriculture Produce (Wine Industry) Regulations 2016 (Voting)

(ii) **Grape Grower:** Own or manage a vineyard/s within the Margaret River wine region GI (Voting)

(iii) **Commercial:** Open to businesses that supply to or support the Margaret River wine industry (Non-Voting)

(iv) **Reciprocal:** Open to organisations who work in collaboration with the Association. Reciprocal members are by invitation from the Association (Non-Voting)

(v) **Students:** Open to individual students engaged in a course of study relevant to the Margaret River wine industry (Non-Voting)

(vi) **Friends:** Open to individuals who support the Margaret River wine industry (Non-Voting)

- (b) Application for membership of the Association shall be made to the Secretary of the Association in the form specified by the Board.
- (c) Admission to membership of any class (except Wine Producers) shall be at the absolute discretion of the Board, subject to appeal to the members in a general meeting at which an ordinary resolution shall be necessary to overturn the decision of the Board.
- (d) Each member whether a person, firm, company or corporate body shall upon admission to Membership appoint in writing a representative to act for them at all meetings of the Association and its committees and to exercise their voting rights thereat. Such representative may be elected, an officer of the Association or member of the Board. The authority of a representative shall be revoked upon receipt by the Secretary of the Association of a notice in writing to that effect and a new representative shall then be appointed in writing by the member. It shall be open to any member to nominate up to two persons to act as a proxy in the absence of the representative at any general meeting of members. Proxies shall have no power to act in place of any member of the Board, except at general meetings of members.
- (e) The Association shall maintain a register of members, entries in which may be used as evidence of entitlement to vote in general meetings of members.
- (f) The rights, responsibilities and benefits of each class of membership shall be decided by the Board, and shall be submitted to members for ratification at an annual general meeting or general meeting when amended.

5. LIFE MEMBERS

- (a) The Association may from time to time nominate an individual to be a Life Member of the Association, in the form of a Lifetime Achievement Award.
- (b) A Life Member of the Association is not required to pay any subscription fees, but has all of the rights of a Non-Voting Member of the Association.

6. POWERS

The powers of the Association shall be in accordance with those conferred by Section 14 of the Associations Incorporation Act 2015, hereinafter referred to as the **Act**.

7. MANAGEMENT

- (a) The office bearers of the Association shall consist of a chair, vice chair, a secretary and a treasurer. The office of secretary and treasurer may be combined.
- (b) The affairs of the Association shall be conducted by the Board which shall consist of the office bearers as described in 7(a) above, together with sufficient members to bring the numbers of the Board to a maximum of 10 members; 7 of whom are elected by the membership plus 3 further Board members who may be appointed to the Board at any time for up to a term of two years.
- (c) The Board shall have power to authorise the payment of all accounts, conduct social functions, appoint such sub-committees as it deems to be necessary, formulate standing orders of the Association to be applicable to meetings of any committee and the Association, and define the duties and powers of its office Bearers.
- (d) At each annual general meeting the Board members shall be elected from the accredited representatives of voting members of the Association and shall hold office until the annual general meeting at which they must retire in accordance with clause 7(f).
- (e) The chair, vice chair, secretary and treasurer shall be appointed at the first Board Meeting after the Annual General Meeting by the Board by resolution.
- (f) In order to preserve continuity each Board member shall hold office for 2 years but shall be eligible for re-election. At least 3 Board members shall be elected in even-numbered years. At least 3 Board members shall be elected in odd-numbered years.
- (g) An office bearer or Board member shall be deemed to have resigned their position if their appointment as representative of a member shall be revoked under clause 4(d), or if the member they represent shall cease to be a member of the Association.
- (h) In the event of a casual vacancy occurring in the Board, the remaining members may appoint as a replacement the accredited representative of any paid-up voting member of the Association to serve until the next annual general meeting.
- (i) The Board may resolve to pay an honorarium or stipend to any Board Member, provided that such payment is approved by resolution at a General Meeting.
- (j) The Board may resolve to pay a Board Member out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred in the following circumstances:
 - (i) in attending a Board Meeting;
 - (ii) in attending a General Meeting; or
 - (ii) otherwise in connection with the Association's business.
- (k) The Board may appoint a Chief Executive Officer of the Association from time to time.

8. MEETINGS OF THE BOARD

- (a) The Board shall meet at least 6 times each year at such times and at such places as the Board shall determine.
- (b) Any three members of the Board may call a meeting by giving 7 days' notice in writing to the other Board members specifying the general nature of the business to be transacted.

- (c) Voting of members of the Board shall be by show of hands and all resolutions shall be carried by simple majority.
- (d) The chair shall be the chairperson at all meetings of the Board and in their absence the vice-chair or in the absence of either of them such person as the meeting shall elect, shall be chairman of the meeting.
- (e) The quorum of the Board shall be 5.
- (f) Any voting member or commercial non-voting member who has a matter which they wish the Board to consider may, on giving two (2) weeks prior notice of intention to the chair and/or secretary, request to attend a Board meeting to bring forward the matter for discussion provided that such member shall only be entitled to attend the meeting for such purpose and shall not be entitled to vote at such meeting in any event.

9. GENERAL MEETINGS

- (a) An annual general meeting shall be held prior to the 31st October in each year to:
 - (i) Receive the Board's annual report on the Association's activities during the preceding financial year and financial statement
 - (ii) Elect Board members as required by section 6 of the constitution
 - (iii) Appoint an auditor of the Association in accordance with the **Act**
 - (iv) Transact such other business as may be brought before the meeting
- (b) A general meeting may be called at the discretion of the Board, provided that the Board must call such a meeting within 28 days of the receipt by the secretary of a request to that effect, signed by not less than 3 paid up voting members of the Association and specifying the general nature of the business to be transacted and giving notice of any special resolution to be put to the meeting.
- (c) At least 21 days' notice shall be given for all general meetings to be sent to all paid-up members with an agenda describing the matters to be dealt with, the terms of any special resolution to be put to the meeting and setting out the date, time and place at which the meeting is to be held.
- (d) The chair, or in their absence the vice-chair, or in the absence of either of them such person as the meeting shall elect, shall be chairperson at any general meeting.
- (e) A quorum for any general meeting shall be 10 financial members with their nominated representatives present in person.
- (f) Representatives of all paid-up GRAPE GROWER and WINE PRODUCER members shall be entitled to one vote at any general meeting. Other members shall not be entitled to vote at general meetings. Voting shall be by show of hands except where a poll is demanded. In the event of a poll, any representative personally present may vote as a proxy for any one financial member who has no representative at the meeting (additionally to the member they represent) provided that a written proxy has been lodged with the Chair at the commencement of the meeting.

- (g) Special resolutions shall be moved only for amendment to this constitution under section 18 or for a motion to dissolve the Association under section 19. All other matters shall be dealt with by ordinary resolution requiring an absolute majority to be successful.

10. MINUTES

The Board shall cause to be taken proper minutes of all committee meetings and general meetings, which shall be signed by the chairman of the meeting at which they are confirmed.

11. SEAL

The Association shall acquire a common seal and have power to break, alter or change the seal from time to time. The Board shall provide for the safe custody of the common seal, which shall only be used by authority of the Board and every instrument to which the common seal is affixed shall be signed by two (2) members of the Board of whom one shall be an office bearer.

12. FINANCE

- (a) The funds of the Association may be derived from participation fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Board.
- (i) Subscriptions applicable to each class of membership shall be determined by the Board prior to the 30th June for the financial year commencing on the following 1st July.
 - (ii) Subscriptions shall be due and payable on a date decided by the Board subject to the class of membership.
 - (iii) The Association accesses funding through the Agricultural Produce Commission (APC) Wine Producers' Committee. In recognition of the funding received from producers through the APC, the Association confers membership on all producers who have paid their APC Fee For Service (FFS) for a given year.
 - (iv) A producer who has membership conferred upon them in terms of rule 12(a)(iii) shall be deemed to be a Financial Member for the period in which their APC FFS has been paid
- (b) Any members voting rights shall be suspended for as long as their subscriptions remain overdue for more than sixty 60 days.
- (c) The Board shall operate a bank account in the name of the Association.
- (d) The signatures of the office bearers and up to three employees nominated by the Board shall be lodged with the bank and all cheques drawn on the bank account shall be signed by any two of the signatories.
- (e) The Board shall cause true accounts to be kept of all sums of money received and expended and all assets and liabilities of the Association.
- (f) The treasurer shall cause a financial statement to be prepared and presented at each general meeting, such statement to be certified by the treasurer and after receipt by the meeting, to be held by the secretary. The statement shall be supported by bank statements and vouchers.
- (g) The financial year of the Association shall end on 30th June in each year

- (h) At least once every year the accounts shall be audited by a properly qualified auditor who shall not be a Member of the Board nor the spouse of any member of that committee. The auditor's report shall be presented at the annual general meeting.

13. TERMINATION OF MEMBERSHIP

- (a) Any member intending to resign their membership of the Association shall give written notice thereof to the secretary, but such notice shall not relieve them from payment of subscriptions or other moneys owing to the Association accrued due at that time.
- (b) The Board may cancel the membership of any member who is more than 60 days in arrears in the payment of their subscription or other moneys owing to the Association. The Board may subsequently reinstate the member upon such terms as it shall deem fit.
- (c) Subject to the provisions contained within Rule 14, the Board may expel a member. This includes a member who has had their membership conferred upon them in terms of rule 12(a)(iii).

14. DISCIPLINARY ACTION

- (a) A Member commits an Offence if:
 - (i) the Member contravenes any of these rules; or
 - (ii) the Member acts detrimentally to the Association's reputation or the achievement of the Association's objects.
- (b) The Board will:
 - (i) in the case of a first Offence, give the Member a formal written warning;
 - (ii) in the case of a second Offence, suspend membership for 3 months or such other period as the Board may determine; and
 - (iii) in the case of a third Offence, expel the Member from the Association.
- (c) In the case of an Offence under rule 14(a)(ii), the Board may expel the Member from the Association without first giving a written warning or a suspension if the Board considers the detriment to the Association's reputation or the achievement of the Association's objects is sufficiently serious.
- (d) The Board must give the Member written notice of the Board's decision, and the reasons for the decision, within 7 days after the Board meeting at which the decision is made.
- (e) A Member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Board's decision, give written notice to the Public Officer requesting the appointment of a mediator under rule 16.
- (f) If notice is given under subrule (f), the Member who gives the notice and the Board are the parties to the mediation. For the purpose of this subrule and rule 16, "Member" in relation to a Member who is suspended or expelled from the Association, includes former or suspended Member.
- (g) During the period that a membership is suspended, the Member:

- (i) loses any rights (including voting rights) arising as a result of membership; and
 - (ii) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- (h) When a membership is suspended, the Public Officer must record in the Register of Members:
 - (i) that the membership is suspended; and
 - (ii) the date on which the suspension takes effect; and
 - (iii) the period of the suspension.
- (i) When the period of the suspension ends, the secretary must record in the Register of Members that the membership is no longer suspended.

15. DISPUTES

- (a) The procedure set out in this section (the **Grievance Procedure**) applies to disputes:
 - (i) between Members; or
 - (ii) between one or more Members and the Association other than a matter the subject of disciplinary action under rule 14.
- (b) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.
- (c) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 15(b), any party to the dispute may start the Grievance Procedure by giving written notice to the Public Officer of:
 - (i) the parties to the dispute; and
 - (ii) the matters that are the subject of the dispute.
- (d) Within 28 days after the Public Officer is given the notice, a Board meeting must be convened to consider and determine the dispute.
- (e) The Public Officer must give each party to the dispute written notice of the Board meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- (f) The notice given to each party to the dispute must state:
 - (i) when and where the Board meeting is to be held; and
 - (ii) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute.
- (g) If:
 - (i) the dispute is between one or more Members and the Association; and
 - (ii) any party to the dispute gives written notice to the Public Officer, prior to the date of the Board meeting, stating that the party:

A. does not agree to the dispute being determined by the Board; and

B. requests the appointment of a mediator under rule 16, the Board must not determine the dispute.

- (h) At the Board meeting at which a dispute is to be considered and determined, the Board must:
- (i) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute; and
 - (ii) give due consideration to any submissions so made; and
 - (iii) determine the dispute.
- (i) The Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within 7 days after the Board Meeting at which the determination is made.
- (j) A party to the dispute may, within 14 days after receiving notice of the Board's determination under subrule 15(h)(iii), give written notice to the Public Officer requesting the appointment of a mediator under rule 16.
- (k) If notice is given under rule 15(j), each party to the dispute is a party to the mediation.

16. MEDIATION

- (a) This rule applies if written notice has been given to the Public Officer requesting the appointment of a mediator by a party to a dispute under rule 15(j), or under rule 14(c).
- (b) If this rule applies, a mediator must be chosen or appointed under rule 16(c) or rule 16(d).
- (c) The mediator must be a person chosen by agreement between the parties to the dispute.
- (d) If there is no agreement for the purposes of rule 16(c), then, subject to rules 16(e) and 16(f), the Board must appoint the mediator.
- (e) The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre.
- (f) The person appointed as mediator by the Board may be a Member or former Member of the Association but must not:
- (i) have a personal interest in the matter that is the subject of the mediation; or
 - (ii) be biased in favour of or against any party to the mediation.
- (g) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (h) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (i) In conducting the mediation, the mediator must:

- (i) give each party to the mediation every opportunity to be heard; and
 - (ii) allow each party to the mediation to give due consideration to any written statement given by another party; and
 - (iii) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (j) The mediator cannot determine the matter that is the subject of the mediation.
 - (k) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that takes place in relation to the matter that is the subject of the mediation.
 - (l) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator (and if more than one, in equal shares).
 - (m) If mediation takes place because a Member whose membership is suspended or who is expelled from the Association gives notice under this rule, and as the result of the mediation, the decision to suspend the Member's membership or expel the Member is revoked, that revocation does not affect the validity of any decision made at a Board meeting or General Meeting during the period of suspension or expulsion

17. RECORDS

- (a) The Board shall ensure that the books, documents, records and securities of the Association are at all times kept in the custody of an office bearer or of an employee of the Association responsible to an office bearer of the Association
- (b) A member may at any reasonable time inspect without charge the books, documents, records and securities of the Association.

18. ALTERATION OF CONSTITUTION

- (a) This constitution, including the name of the Association, may be amended only by a Special Resolution of the Association.
- (b) In accordance with the provisions of the Act, no such alteration will come into effect until required documents are lodged with the Commissioner, under section 31 or 33. The required documents must be lodged within one month after the special resolution is passed.

19. DISSOLUTION

- (a) An extraordinary general meeting called for that purpose may, provided the Association is solvent, resolve by Special Resolution that it be wound up voluntarily. Such a Special Resolution requires a majority of 75% of members present and entitled to vote to pass same. A copy of that Special Resolution must be lodged with the Commissioner within 14 days after the passing of the Special Resolution.
- (b) The notice conveying such extraordinary general meeting shall state that the dissolution of the Association is to be proposed or confirmed as the case may be.

- (c) If upon the winding up of the Association there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid or distributed amongst the members or former members, but shall be given or transferred:
- (i) to another association incorporated under the Act which has similar objects; or
 - (ii) for charitable purposes which association or purposes, as the case requires, shall be determined by resolution of the members.

20. DEFINITIONS

In this constitution:

Act means the Associations Incorporation Act 2015 (WA).

Association means the Margaret River Wine Association (Inc).

Board means the board of the Association constituted pursuant to rule 7.

Board Member means a member of the Board.

Chief Executive Officer means the person appointed in accordance with rule 7(k).

Commissioner means the person for the time being designated as the Commissioner under section 153 of the Act.

Financial Member means a Member who has paid the Subscription or is a Life Member or who has membership conferred upon them in terms of rule 12(a)(iii).

Financial Year means a period commencing 1 July and ending on 30 June in the following year.

General Meeting means a meeting to which all Members of the Association are entitled to attend.

Grievance Procedure means the procedures set out in rule 15.

An **Offence** is an action as defined in Rule 14.

Public Officer is the Association's Chief Executive Officer unless otherwise determined by the Board.

Region means the Margaret River wine region, 'GI' or 'designated area' within the boundaries of the City of Busselton and the Shire of Augusta Margaret River, which lies to the West of the line of longitude 115° 18' East, but subject to any variation which the Association may, by Special Resolution, decide.

Regulations means The Agricultural Produce (Wine Industry) Regulations 2016.

Special General Meeting means a General Meeting other than an Annual General Meeting.