

**Denmark Co-operative Company
Limited**

(ABN 85 073 305 039)

CO-OPERATIVE RULES

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1. INTERPRETATION

In these rules, unless the context otherwise requires:

“**the Act**” means the Co-operatives Act 2009 of the State of Western Australia and includes any amendment or re-enactment of that Act, or any Act, code or other statutory instrument in substitution of that Act;

“**acting chairperson**” means a director acting as chairperson in the absence of the chairperson;

“**active member**” means a member who is in active membership under rule 7;

“**alter**” or similar word or expression used in relation to a rule amendment, includes add to, substitute, and rescind;

“**auditor**” means registered company auditor or auditors (within the meaning of that term in the Corporations Act 2001) for the time being of the Co-operative;

“**banking account**” includes an account with a credit union or building society;

“**business day**” means a day that is not a Saturday, Sunday, Public Holiday or bank holiday in Western Australia;

“**board**” means the whole or any number of the directors assembled at a meeting of the directors or transacting business in accordance with rule 60 not being less than a quorum;

“**code of conduct**” means a code under rule 50.3 and includes but is not limited to business rules, quality assurance programmes, operating instructions and business procedures as laid down by the board from time to time;

“**calendar month**” means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of the next month;

“**chairperson**” means the director elected as chairperson of the board;

“**Co-operative**” means the “Denmark Co-operative Company Limited” (ABN 85 073 305 039);

“**Co-operative capital unit**” and “**CCU**” has the meaning given to that term in section 257(1) of the Act;

“**Corporations Act**” means the Corporations Act 2001 of the Commonwealth of Australia (Cwth);

“**Deferred Capital Unit**” means the class of co-operative capital unit issued in accordance with rule 34.1;

“**deputy chairperson**” means the director, if any, elected as deputy chairperson of the board;

“**director**” means any director of the Co-operative for the time being;

“**financial institution account**” means an account at a financial institution into which the Co-operative’s money may be paid;

“**financial year**” means the financial year of the Co-operative specified in rule 68;

“**GST**” means the goods and services tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 (Cwth)

“**may**” or a similar word or expression, used in relation to a power of the board indicates that the power may be exercised or not at the board's discretion;

“**member**” means a member of the Co-operative;

“**month**” means calendar month;

“**prescribed**” means prescribed by the Act or under the Act by Regulation;

“**provision**” in relation to the Act, means words or other matter that form or forms part of the Act, and includes:

- i) a chapter, part, division, subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph or Schedule of or to the Act;

- ii) a section, clause, subclause, item, column, table or form of or in a Schedule to the Act; and
- iii) the long title and any preamble to the Act;

“Registrar” means the Registrar of Co-operatives under that title or such other title as exists from time to time, or any person delegated the Registrar's functions;

“Regulation” means a regulation made under the Co-operatives Regulations 2010;

“remuneration” means any money, consideration or benefit but does not include:

- i) amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the Co-operative or any subsidiary of the Co-operative; or
- ii) in relation to an employee director, remuneration received or due and receivable as an employee;

“rules” means the registered rules of the Co-operative as amended from time to time and reference to particular rules has a corresponding meaning;

“Schedule 1” means Schedule 1 of the Act;

“secretary” means any person appointed by the board as secretary of the Co-operative in accordance with section 206 of the Act and includes a person appointed to act as the secretary during the absence or incapacity of the secretary;

“section” means a section of the Act;

“shall” or a similar word or expression, used in relation to a power of the board indicates that the power must be exercised, subject to the Act or the rule granting the power;

“share” means share in the share capital of the Co-operative;

“special resolution” means a resolution of the type referred to in rule 49;

“State” means the State of Western Australia;

“writing” includes printing, typing, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning;

words importing one gender include other genders;

words importing persons include corporations;

words in the singular include the plural, and vice versa;

words or expressions used have the same meanings as those given to them by the Act; and

a reference to an act of Parliament is a reference to that act as it may be amended from time to time.

2. RULES

2.1 Rules constitute a contract

The rules of the Co-operative have the effect of a contract under seal:

- (a) between the Co-operative and each member; and
- (b) between the Co-operative and each director, the chief executive officer and the secretary of the Co-operative; and
- (c) between a member and each other member.

2.2 Effect of contract

Under the contract, each of those persons agrees to observe and perform the rules as in force for the time being so far as those provisions apply to the person.

2.3 Alteration of rules

- (a) These rules may be altered by a special resolution, by a resolution of the board in accordance with section 105 of the Act or as otherwise permitted by the Act.
- (b) A proposed alteration to these rules cannot be put to a resolution unless it is approved by the Registrar.
- (c) An alteration to these rules does not take effect until it is registered by the Registrar.

2.4 Inspecting and copying of rules

- (a) Any member may inspect a copy of these rules free of charge at the registered office during ordinary business hours.
- (b) A member is entitled to obtain from the Co-operative a copy of these rules on payment of \$11.60 for the first page and \$1.50 for each additional page up to a maximum of \$86.60, GST inclusive, or such lesser amount as the board may from time to time determine.

2.5 Replacement of model rules

The Co-operatives Regulations 2010 Schedule 3 model rules expressly do not apply to the Co-operative, notwithstanding any omission from these rules of something contained in the model rules.

3. POWERS

3.1 Powers of a natural person

The Co-operative has, both within and outside the State, the legal capacity of an individual.

3.2 Power to raise finance

The powers of the Co-operative to:

- (a) obtain financial accommodation; and
- (b) give security for the repayment of money

shall be exercised, subject to the Act, but otherwise unlimited by the rules.

4. NAME

4.1 Co-operative name

The name of the Co-operative is "Denmark Co-operative Company Limited".

4.2 Origins of Co-operative

The Co-operative is a transferred co-operative within the meaning of the Act and was first incorporated on the seventh day of October in the year of nineteen hundred and twenty.

4.3 Use of abbreviations

The Co-operative may abbreviate its name in accordance with section 239 of the Act.

4.4 Change of name

The Co-operative may change its name in accordance with section 241 of the Act.

5. REGISTERED OFFICE

The Co-operative must maintain a registered office. The office shall be at such place as the board of the Co-operative determines from time to time. Within 28 days after changing the address of its registered office, the Co-operative must give the Registrar written notice of the new address.

6. POWER TO FORM COMPANIES AND ENTER INTO JOINT VENTURES

The Co-operative has the power:

- (a) to form or participate in the formation of a corporation, co-operative group or unit trust;
- (b) to acquire interests in and sell or otherwise dispose of interests in corporations, unit trusts and joint ventures; and
- (c) to form or enter into partnerships, joint venture or other association with other persons or bodies.

7. ACTIVE MEMBERSHIP PROVISIONS

7.1 Primary activity

Under Part 6 of the Act:

operating a trading enterprise to provide goods and services to members, including the carrying out of functions reasonably considered by the board to be ancillary and consistent thereto,

is a primary activity of the Co-operative.

7.2 Active membership

A member must purchase from the Co-operative goods or services to the value of \$250 during a one year period.

8. QUALIFICATIONS FOR MEMBERSHIP

8.1 Minimum shareholding

- (a) Every member joining after the date of the Co-operative's registration under the Co-operatives Act 2009 must hold at least 200 ordinary shares or, subject to section 146, such other number as fixed by the board from time to time and at any time.
- (b) In the case of a joint membership, the minimum shareholding requirement applies to the joint membership and not the individual persons that comprise the joint membership.
- (c) The minimum shareholding for a person who was a member immediately before the Co-operative became registered under the Act is the lower of:
 - (i) 200 ordinary share; and
 - (ii) the number of ordinary shares held at the time of registration.

8.2 Membership prerequisite

A person is not qualified to be admitted to membership of the Co-operative unless there are reasonable grounds for believing the person will be an active member of the Co-operative.

8.3 Transition provisions

- (a) Despite rule 8.2, a person who was a member of the Co-operative immediately before the Co-operative became registered under the Act is a member of the Co-operative despite the absence of reasonable grounds for believing that the person will be an active member of the Co-operative.
- (b) The change of registration and incorporation does not affect the identity of the Co-operative which is taken to be the same body after registration as a co-operative as it was before and no act, matter or thing is affected by the change.

- (c) Any shares held by the Co-operative in itself are cancelled on the day the Co-operative is registered under the Act.

9. MEMBERSHIP, SUBSCRIPTIONS, PERIOD FEES

9.1 Intending members

- (a) The board of the Co-operative must give written notice to each person intending to become a member of the Co-operative and eligible to do so:
 - (i) that the person may request either to inspect at the Co-operative's nearest office, or to be sent:
 - (A) a consolidated copy of the rules of the Co-operative; and
 - (B) a copy of all special resolutions applicable to the member and passed by the members of the Co-operative since its last annual general meeting, except special resolutions providing for an alteration of the rules of the Co-operative; and
 - (C) a copy of the last annual report of the Co-operative; and
 - (ii) written notice of entry fees or regular subscriptions payable by a member of the Co-operative.
- (b) If a person makes a request under this rule, the Co-operative must comply with that request.

9.2 Applications

- (a) Applications for membership must be lodged at the registered office in the application form approved by the board, together with either:
 - (i) the amount required by the board to pay the shares fully or, if the shares are to be issued other than on a fully paid basis, the amount the board sets from time to time and at any time, as a deposit for each share applied for; or
 - (ii) an approved form of share transfer for the minimum number of shares required to be held by a member, signed by the transferors and the applicants.
- (b) Every applicant is required to warrant that, if accepted as a member, they will fulfil their active membership requirements.
- (c) Every application must be considered by the board.

9.3 Joint membership

Where two or more persons are accepted as joint members of the Co-operative, they shall be deemed to be joint tenants with the benefits of survivorship subject to the following provisions:

- (a) the joint holders of any share shall be liable severally as well as jointly in respect of all payments which ought to be made in respect of such share;
- (b) on the death of any one joint holder, the survivor or survivors shall be the only persons recognised by the Co-operative as having title to such share; and
- (c) any one of the joint holders may give effectual receipt for any dividend bonus or return of capital payment to the joint holders.

9.4 Applicants for joint membership

Application for a joint membership will be refused if each of the joint applicants is already a member of the Co-operative.

9.5 Joint member standing for office

- (a) Only one member of a joint membership can nominate for the position of member director.
- (b) All joint members must approve in writing to the board any nomination for election to the board or appointment to fill a casual vacancy by one of their joint members.

9.6 Membership approval

- (a) If the board approves of the application, the board must:
- (i) allot the shares applied for; or
 - (ii) approve the transfer of the minimum number of shares to be held by a member under these rules from an existing member to the applicant; and
 - (iii) have entered in the register of members, within 28 days of the board's approval, the applicant's name, the number of shares allotted or transferred and any other information required under the Act.
- (b) The applicant:
- (i) becomes a member and is entitled to the privileges attaching to membership, or to the holding of shares as is appropriate, as soon as the applicant's details are recorded according to subparagraph (a)(iii); and
 - (ii) must be notified in writing of the entry in the register.

9.7 Right to refuse

- (a) The board may, at its discretion, refuse an application for membership.
- (b) The board need not assign reasons for the refusal. On refusal, any amounts accompanying the application for membership must be refunded within 28 days without interest.

9.8 Representatives of a corporate member

- (a) If a member is a corporation, the member may by notice served on the Co-operative appoint a person to represent it (a "primary representative") in relation to its membership.
- (b) In addition to a paragraph (a) notice, the member can give notice of the appointment of one or more deputies of the primary representative and if two or more deputies are appointed must nominate the order in which they are authorised to deputise for the primary representative.
- (c) A person is not qualified to be appointed a primary representative or a deputy under this rule to represent a company that is not a listed corporation (within the meaning of the Corporations Act) unless the person is an officer, member or employee of the company.
- (d) A person appointed under this rule can exercise the same rights as the member making the appointment and their presence at a meeting constitutes the presence of the member at that meeting.

10. CEASING MEMBERSHIP

10.1 Membership ceases

A person ceases to be a member of the Co-operative in any of the following circumstances and as otherwise provided by the Act and these rules:

- (a) if the member's membership is cancelled under rule 23 (Inactive Members);
- (b) if the member is expelled in accordance with these rules;
- (c) where the member is a natural person, if the member becomes bankrupt and the trustee of the member's estate disclaims any debt, contract, duty or liability of the member with the Co-operative;
- (d) on death of the member;
- (e) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (f) if the member's total shareholding in the Co-operative is transferred to another person in accordance with these rules and the transferee is registered as the holder of the shareholding;
- (g) if the member's total shareholding in the Co-operative is forfeited under the Act or these rules;

- (h) if the member's total shareholding in the Co-operative is purchased by the Co-operative under these rules;
- (i) if the member's share in the Co-operative is sold by the Co-operative under any power in these rules and the purchaser is registered as a shareholder in the member's place;
- (j) if the amount paid up on the member's share in the Co-operative is repaid to the member under these rules;
- (k) having first given written notice to the secretary of an unqualified intention to resign from membership, on being removed from the register of members by the board or on the expiry of 12 months' notice, whichever occurs first;
- (l) where the member is a corporation, if the corporation becomes insolvent or is deregistered;
- (m) if the member is in default of rule 26, i.e. non-payment of a regular subscription.

10.2 Former shareholders to be taken to be shareholders for certain purposes

- (a) For the purposes of sections 132(1)(a), (b) and (c) of the Act, the events contemplated must occur within one month after a person's shares were forfeited.
- (b) For the removal of doubt:
 - (i) sections 132, 133 and 134 only apply where a person's membership is cancelled under rule 23 (Inactive Members); and
 - (ii) it is declared that any entitlement under subparagraph (a) does not include an entitlement to vote on any matter.

11. CANCELLATION OF MEMBERSHIP FOR BREACH OF OBLIGATIONS

11.1 Grounds for expulsion

A member may be expelled from the Co-operative by a two-thirds majority decision of the board to the effect:

- (a) that the member has failed to discharge the member's obligations to the Co-operative under these rules or a contract written or otherwise, including inter alia the obligation to act lawfully in their dealings with the Co-operative; or
- (b) that the member has acted in a way that has:
 - (i) prevented or hindered the Co-operative in carrying out its primary activity or one or more of its primary activities; or
 - (ii) brought the Co-operative into disrepute; or
 - (iii) been contrary to one or more co-operative principles, as described in section 6 of the Act, and has caused the Co-operative harm.

11.2 Notice to affected member

The member must be given at least 28 days' written notice of the nature of the complaint, the proposed resolution and the date, time and place of the board meeting at which the resolution will be moved.

11.3 Board meeting

The following procedures apply at the board meeting at which the rule 11 resolution is to be proposed:

- (a) the member must be afforded a full opportunity to be heard and is entitled to call witnesses and cross examine witnesses called against the member;
- (b) if the member fails to attend at the time and place mentioned, without reasonable excuse, the act must be considered and the board may decide on the evidence before it, despite the absence of the member;
- (c) once the act is considered, the board may by a two-thirds majority determine to cancel the member's membership;

- (d) if the board resolves to cancel the membership, the secretary is to confirm the decision in writing to the member;
- (e) the cancellation takes effect 24 hours (Saturdays, Sundays and Public Holidays in Western Australia excluded) after the board's decision if the member does not appeal the decision, or immediately on any appeal being dismissed.

11.4 Right of appeal

- (a) A member may appeal a decision to cancel their membership within 24 hours (Saturdays, Sundays and Public Holidays in Western Australia excluded) of the decision by lodging written notice of appeal with the secretary.
- (b) Upon receipt by the secretary of a notice of appeal, the board is to convene a special general meeting of the Co-operative for the sole purpose of considering an ordinary resolution to confirm the board's decision to cancel the membership.
- (c) At the special general meeting of the Co-operative convened under paragraph (b), a decision must not be made except by vote by secret ballot of the members present, in person or represented by proxy or by attorney.
- (d) If the resolution confirming the board's decision to cancel the membership is not passed, the board resolution is revoked.

11.5 Special general meeting costs

In the event of the member's appeal being dismissed, the board can recover the costs of the special general meeting from the member and any of the member's joint members as a debt due by the member(s) to the Co-operative, otherwise the cost of the meeting is to be borne by the Co-operative.

11.6 Joint members

Expulsion of one joint member means expulsion of all members holding membership jointly with the expelled member.

11.7 Re-admission

An expelled member must not be re-admitted as a member unless the re-admission is approved by a two-thirds majority vote of directors. A member re-admitted must not have restored to them any shares that were cancelled on their expulsion.

12. MONETARY CONSEQUENCES OF EXPULSION

- (a) In this rule:
 - deficiency** means the amount of accumulated loss, deficiency or significant change disclosed in the last balance sheet of the Co-operative, or subsequently reported prior to expulsion.
- (b) If a member is expelled from the Co-operative, all amounts owing by the former member to the Co-operative become immediately payable in full.
- (c) The shares of an expelled member must be cancelled as at the day of expulsion and the cancellation must be noted in the register of shares.
- (d) Subject to subparagraph (e) and (f) and the written terms of a class of share issued, the Co-operative must pay to the expelled member the amount of capital paid up on the former member's shares at the time of expulsion (less any amount owing by the former member to the Co-operative).
- (e) If a deficiency exists, an appropriate proportion of the loss, deficiency or significant change may be deducted from the amount of capital paid up on the shares of the expelled member. This is done having regard to the number of shares held by the expelled member immediately prior to expulsion in relation to the number of comparable shares in the Co-operative at the corresponding time.
- (f) The Co-operative is to repurchase the shares of an expelled member at a price set by the board that is not greater than the paid up or adjusted paid up value nor less than 25% of the paid up or adjusted paid up value of the shares.

- (g) If the amount due to an expelled member is not greater than \$100, the board is authorised by this rule to appropriate, at its discretion, the amount as a donation to the Co-operative.
- (h) Payment to the expelled member of any amount owing by the Co-operative to the former member:
 - (i) must be made within three years from the date of expulsion and in accordance with this and other relevant rules; or
 - (ii) may, at a time decided by the board but within one year from the date of expulsion, be applied in one of the following ways:
 - (A) appropriated as a donation to the Co-operative if the former member consents in writing to the donation; or
 - (B) the Co-operative may issue debentures or Deferred Capital Units to the former member in satisfaction of the amount if the board and the former member agree, or if the board considers repayment would adversely affect the financial position of the Co-operative.
- (i) Notwithstanding any action to expel a member, an expelled member remains liable to any fine imposed in accordance with rule 16.1.

13. SUSPENSION OF MEMBERSHIP

13.1 Grounds for suspension

The board of the Co-operative may suspend a member for not more than one year, who does any of the following acts:

- (a) contravenes any of these rules;
- (b) fails to discharge obligations to the Co-operative, whether under these rules or a contract;
- (c) acts detrimentally to the interests of the Co-operative.

13.2 Notice to affected member

The member must be given at least seven days' written notice of the nature of the complaint, the proposed resolution and of the date, time and place of the board meeting at which the resolution will be moved.

13.3 Board meeting

The following procedures apply at the board meeting at which the rule 13.2 resolution is to be proposed:

- (a) the member must be afforded a full opportunity to be heard and is entitled to call witnesses and cross examine witnesses called against the member;
- (b) if the member fails to attend at the time and place mentioned, without reasonable excuse, the act must be considered and the board may decide on the evidence before it, despite the absence of the member;
- (c) once the act is considered, the board may by a simple majority determine:
 - (i) to suspend the member;
 - (ii) the period of suspension; and
 - (iii) any requirement on the member as part of having the suspension lifted;
- (d) if the board resolves to suspend the member, the secretary is to confirm the decision in writing to the member;
- (e) the suspension takes effect 24 hours (Saturdays, Sundays and Public Holidays in Western Australia excluded) after the board's decision if the member does not appeal the decision, or on any appeal being dismissed.

13.4 Right of appeal

- (a) A member whose membership has been suspended may appeal the decision within 24 hours (Saturdays, Sundays and Public Holidays in Western Australia excluded) of the decision by lodging written notice of appeal with the secretary.
- (b) Upon receipt by the secretary of a notice of appeal, the board is to convene a special general meeting of the Co-operative for the sole purpose of considering an ordinary resolution to confirm the board's decision to suspend the member.
- (c) At the special general meeting of the Co-operative convened under paragraph (b), a decision must not be made except by vote by secret ballot of the members present, in person or represented by proxy or by attorney.
- (d) If the resolution confirming the board's decision to suspend the member is not passed, the board resolution is revoked.

13.5 Special general meeting costs

In the event of the member's appeal being dismissed, the board can recover the costs of the special general meeting from the member and any of the member's joint members as a debt due by the member(s) to the Co-operative, otherwise the cost of the meeting is to be borne by the Co-operative.

13.6 Consequences of suspension

During the period of suspension, the member:

- (a) loses any rights (except the right to vote) arising as a result of membership; and
- (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Co-operative; and
- (c) remains liable for any fine that may be imposed; and
- (d) remains liable to having their membership cancelled at any time in accordance with rule 11.

14. PAYMENTS UPON RESIGNATION OF MEMBER

- (a) In this clause:

deficiency means the amount of accumulated loss, deficiency or significant change disclosed in the last balance sheet of the Co-operative, or subsequently reported prior to resignation.

- (b) If a member resigns from the Co-operative, all amounts owing by the former member to the Co-operative become immediately payable in full.
- (c) The shares of a resigning member must be cancelled as at the day of the resignation and the cancellation must be noted in the register of shares.
- (d) Subject to subparagraph (e) and (f) and the written terms of a class of share issued, the Co-operative must pay to the resigned member the amount of capital paid up on the former member's shares at the time of resignation (less any amount owing by the former member to the Co-operative).
- (e) If a deficiency exists, an appropriate proportion of the loss, deficiency or significant change may be deducted from the amount of capital paid up on the shares of the resigning member. This is done having regard to the number of shares held by the resigning member immediately prior to resigning in relation to the number of comparable shares in the Co-operative at the corresponding time.
- (f) The Co-operative is to repurchase the shares of a resigned member at a price set by the board that is not greater than the paid up or adjusted paid up value nor less than 25% of the paid up or adjusted paid up value of the shares.
- (g) If the amount due to a resigned member is not greater than \$100, the board is authorised by this rule to appropriate, at its discretion, the amount as a donation to the Co-operative.
- (h) Payment to the resigning member of any amount owing by the Co-operative to the former member:

- (i) must be made within three years from the date of resignation and in accordance with this and other relevant rules; or
- (ii) may, at a time decided by the board but within one year from the date of resignation, be applied in one of the following ways:
 - (A) appropriated as a donation to the Co-operative if the former member consents in writing to the donation; or
 - (B) the Co-operative may issue debentures or Deferred Capital Units to the former member in satisfaction of the amount if the board and the former member agree, or if the board considers repayment would adversely affect the financial position of the Co-operative.

15. DISPUTES AND MEDIATION

15.1 Procedure

- (a) The grievance procedure set out in this rule applies to disputes under the rules between a:
 - (i) member and another member; or
 - (ii) member or members and the Co-operative.
- (b) If a dispute arises, a party cannot commence any court or arbitration proceedings relating to the dispute unless it has complied with the provisions of this rule, except where a person seeks urgent interlocutory relief.
- (c) The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days of:
 - (i) the dispute coming to the attention of each party; or
 - (ii) a party giving notice to each of the other parties involved of the dispute or grievance.

15.2 Mediation

- (a) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, as soon as is practicable, hold a meeting in the presence of a mediator.
- (b) The mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - (A) for a dispute between a member and another member, a person appointed by the board of the Co-operative; or
 - (B) for a dispute between a member(s) and the Co-operative, a person appointed by the Supreme Court of Western Australia.
- (c) A member of the Co-operative can be a mediator.
- (d) The mediator cannot be a member who is a party to the dispute.
- (e) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (f) The mediator, in conducting the mediation, must:
 - (i) give the parties to the mediation process every opportunity to be heard; and
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (g) The mediator cannot determine the dispute.

- (h) The mediation must be confidential and without prejudice.
- (i) The costs of the mediation are to be shared equally between the parties unless otherwise agreed.

15.3 Excluded matters

- (a) Nothing in this rule extends to any dispute as to the construction or effect of any mortgage or any contract written or otherwise other than these rules.
- (b) Nothing in this rule extends to any dispute involving the expulsion or suspension of a member or the imposition of a fine.
- (c) If the mediation process does not result in the dispute being resolved, each party may seek to resolve the dispute in accordance with the Act or otherwise at law.

16. FINES PAYABLE BY MEMBERS

16.1 Contravention of rules

The board may impose on a member a maximum fine of \$1,000, or such higher amount as prescribed by regulations, for a contravention of the rules.

16.2 Procedural fairness

A fine must not be imposed on a member under rule 16.1 unless:

- (a) written notice of intention to impose the fine and the reason for it has been given to the member; and
- (b) the member has been given a reasonable opportunity to appear before the board in person (with or without witnesses), or to send to the board a written statement, to show cause why the fine should not be imposed.

16.3 Code of conduct breach

A breach of any code of conduct imposed under rule 50.3 constitutes a breach of the code and the member is liable under the code separately to this rule 16.

17. CAPITAL AND SHARES

- (a) The share capital of the Co-operative must be raised by:
 - (i) the issue of shares of nominal value of \$0.50 each; plus
 - (ii) any other class of share approved by a special resolution of the members from time to time, and at any time.
- (b) As a transferred co-operative, the share classes in existence immediately before registration of the Co-operative under the Co-operatives Act 2009 are deemed approved classes of share as if approved by a special resolution.
- (c) A member is not entitled to hold more than the lesser of:
 - (i) 20% of the nominal value of issued share capital of the Co-operative other than under section 278 of the Act; or
 - (ii) 135,000 shares.
- (d) The share capital varies in amount according to the nominal value of shares from time to time subscribed.
- (e) A share must not be issued at a discount.
- (f) A share can be issued at a premium and the premium may be in the form of cash or other valuable consideration as determined by the board.
- (g) The board may, subject to paragraph (h) of this rule, require a member to take up or subscribe for additional shares under a proposal approved of by the members by special resolution.
- (h) A proposal to require a member to take up or subscribe for additional shares must:

- (i) be accompanied by a disclosure statement, approved by the Registrar, that explains the purpose for which the funds raised by the issue of the additional shares are to be used; and
 - (ii) clearly show the class of share and total number of additional shares to be issued and the basis on which the shares are to be apportioned among members; and
 - (iii) be accompanied by a statement informing the member that the member may inform the board by notice on or before the date specified in the statement, being a date before the passing of the special resolution, that the member resigns on the passing of the special resolution.
- (i) A proposal approved under paragraph (g) of this rule is binding on:
- (i) all members of the Co-operative at the date of the passing of the special resolution, other than a member who has given a notice of resignation in accordance with paragraph (h); and
 - (ii) all persons who become members of the Co-operative after that date and before the total number of shares to be issued under the proposal has been issued.
- (j) Paragraphs (g), (h) and (i) of this rule do not apply to the issue of bonus shares to a member under rule 76(b)(ii).
- (k) Subject to paragraph (l) of this rule, the Co-operative may issue bonus shares to members if assets of the Co-operative other than assets acquired for resale at a profit:
- (i) have been sold at a profit; or
 - (ii) have been revalued at a greater value than that disclosed before the revaluation in the books of the Co-operative.
- (l) Bonus shares issued under paragraph (k) of this rule are subject to the following restrictions:
- (i) each issue must have been approved by a special resolution of the Co-operative, notice of which must have been given in accordance with paragraph (m) of this rule;
 - (ii) they are to be issued as fully paid up shares with no payment required to be made by a member of the Co-operative to whom they are issued;
 - (iii) they are to be issued only for shares of the same class of share that are fully paid up as at the date of issue of the bonus shares;
 - (iv) the total nominal value of bonus shares issued by the Co-operative in any one year cannot be more than 20%, or another percentage prescribed by the regulations, of the nominal value of the issued share capital of the Co-operative immediately before the date of issue of the bonus shares.
- (m) Notice of the meeting or postal ballot at which a resolution is to be proposed as a special resolution for the purpose of approving a bonus share issue must be accompanied by:
- (i) a statement of the value of the assets concerned as disclosed in the books of the Co-operative before the sale or revaluation; and
 - (ii) if the issue arises from, or partly from, a sale of assets, a statement of the price for which the assets were sold; and
 - (iii) if the issue arises from, or partly from, a revaluation of assets, a certificate of value of the assets, being a certificate given in relation to a valuation made not more than 12 months before the date of the notice by a person prescribed by the regulations or a person having qualifications prescribed by the regulations; and
 - (iv) particulars of acquisitions of shares in the Co-operative made within the three years immediately preceding the date of the notice by or on behalf of each of its directors and his or her spouse (or de facto partner) and the father, mother, children, brothers and sisters of each such director and spouse (or de facto partner); and

- (v) a certificate signed by two directors of the Co-operative stating that to the best of their knowledge and belief the issue of bonus shares would not be imprudent and that no circumstances are known to them as to why the issue should not take place.
- (n) Shares of the Co-operative must not be quoted for sale or purchase at any stock exchange or in any other public manner whatsoever (within the meaning of the Income Tax Assessment Act 1936 (Commonwealth)).
- (o) The Co-operative is authorised to require members to lend money to the Co-operative, under a proposal approved by special resolution of the Co-operative.
- (p) A proposal under paragraph (o) of this rule cannot require a loan to be for a term of more than seven years or another term prescribed by the regulations.
- (q) A proposal under paragraph (o) must:
 - (i) be accompanied by a disclosure statement, approved by the Registrar, that explains the purpose for which the money raised by the Co-operative under the proposal is to be used, and includes any other information that the Registrar directs; and
 - (ii) show the total amount of the loan to be raised by the Co-operative and the basis on which the money required to be lent by each member is to be calculated; and
 - (iii) be accompanied by a statement informing the member that the member may inform the board by notice on or before the date specified in the statement, being a date before the passing of the special resolution, that the member resigns on the passing of the special resolution.
- (r) When approved the proposal is binding on:
 - (i) all members of the Co-operative at the date of passing of the special resolution, other than a member who has given a notice of resignation in accordance with paragraph (q) of this rule; and
 - (ii) all persons who become members of the Co-operative after that date and before the total amount of the loan to be raised under the proposal has been raised.

18. LIABILITY OF MEMBERS TO CO-OPERATIVE

18.1 Liability for unpaid share capital and other charges

A member is liable to the Co-operative for the amount, if any, unpaid on the shares held by the member, together with any charges, including entry and periodic fees, payable by the member to the Co-operative under these rules.

18.2 Entry fee and regular subscriptions

- (a) The board may require the payment by members of entry fees and regular subscriptions set by the board from time to time.
- (b) The calculation of the amount of a particular member's regular subscription may be based on the amount of business the member does with the Co-operative.

18.3 Liabilities on death of member

On the death of a member, the member's estate is subject to the same liability as the member would have been until the member's personal representative or some other person is registered in the member's place.

18.4 Joint members

Joint members are jointly and severally liable for any amount unpaid on shares and to any such charges under rule 18.1.

19. CALLS ON SHARES

19.1 Making calls

- (a) The board may from time to time make calls on the members for any amounts unpaid on the shares of the members (whether on the nominal value of the shares or by way of premium) and not by the terms of issue of the shares made payable at fixed times.
- (b) The directors may revoke or postpone a call.
- (c) A call is taken to have been made when the resolution of the directors authorising the call was passed and may be required to be paid by instalment.

19.2 Payment of calls

- (a) Each member must, on receiving at least 14 days' notice of the time and place of payment, pay to the Co-operative, at the time and place specified, the amount called on the shares.
- (b) The joint holders of a share are jointly and severally liable to pay all calls for the share.

19.3 Interest on unpaid calls

- (a) An amount that, under the terms of issue of a share, becomes payable on allotment or at a fixed date, whether on account of the nominal value of the share or by way of premium, is for these rules taken to be a call made and payable on the day that, under the terms of issue, the amount becomes payable and, if the amount is not paid, all relevant provisions of these rules about payment of interest and expenses, forfeiture or otherwise apply as if the amount had become payable under a call properly made and notified.
- (b) If an amount called for a share is not paid before or on the day fixed for payment of the amount, the person from whom the amount is due must pay interest on the amount from the day fixed for the payment of the amount to the time of actual payment at the rate, not more than 16% per annum, the directors decide, but the directors may waive payment of all or part of the interest.

19.4 Differentiate between shareholders

The board may, in relation to the issue of shares, differentiate between the holders in the amount of calls to be paid and the times of payment.

19.5 Advance payment of calls

- (a) The board may accept from a member all or part of the money uncalled and unpaid on shares held by the member.
- (b) The board may authorise payment by the Co-operative of interest on all or part of an amount accepted under subparagraph (a) until the amount becomes payable, at a rate agreed between the board and the member paying the amount, of not more than 8% per annum or another rate fixed by the Co-operative by special resolution.

20. SALE OF MEMBERS' SHARES

- (a) The Co-operative may:
 - (i) purchase any share of a member at the request of the member; and
 - (ii) repay to a member, with the member's consent, all or part of the amount paid up to the stated nominal value on any share held by the member when the amount repaid is not required for the activities of the Co-operative.
- (b) The amount paid under this rule in purchasing shares or repaying an amount paid up to the stated nominal value on shares, or both, in any financial year of the Co-operative must not be more than the total of:
 - (i) 5% of the nominal value of the issued share capital of the Co-operative immediately before the start of that financial year; and
 - (ii) the amount of any additional share capital of the Co-operative subscribed for during that year.

- (c) The members may by special resolution exempt the Co-operative from the operation of paragraph (b) in relation to a particular financial year, either unconditionally or on conditions.
- (d) The amount paid for a share when repurchased under this rule may be an amount decided by the board that is less than the nominal value of the share.
- (e) This rule does not apply if the member has resigned or has been expelled from the Co-operative or the member's membership has been otherwise cancelled.
- (f) The Co-operative must cancel a share purchased or repaid in full by the Co-operative.
- (g) If the board and the member agree, or in the opinion of the board, payment of the repurchase price would adversely affect the financial position of the Co-operative, the board may allot or issue debentures or Deferred Capital Units of the Co-operative to the member in satisfaction of the amount.
- (h) A debenture or Deferred Capital Unit issued under subparagraph (g):
 - (i) bears interest during any period as decided under section 164 of the Act; and
 - (ii) must be repaid to the member as soon as repayment would not, in the opinion of the board, adversely affect the financial position of the Co-operative, and in any case within 10 years.

21. TRANSFER AND TRANSMISSION OF SHARES

21.1 Execution by transferor and transferee

The instrument of transfer of a share must be signed by or for the transferor (the *giver*) and the transferee (the *receiver*).

21.2 Transferor remains holder

The giver is taken to remain the holder of the share until the name of the receiver is entered in the register of members.

21.3 Form of transfer

Shares must be transferred in the following form or another form approved by the board:

DENMARK CO-OPERATIVE COMPANY LIMITED

I/we... (the "transferor") of... in consideration of the sum of \$... paid to me by ... (hereinafter called "the transferee") of... transfer to the transferee ... shares in Denmark Co-operative Company Limited (the "Co-operative"), to hold for the transferee, the transferee's executors, administrators and assigns, subject to the several conditions on which I/we hold the same at the time of the execution.

And I/we, the transferee(s), agree to take the said share (or shares) subject to the conditions of the Co-operative's rules.

Dated this.....day of20...

Signed by.....transferor(s).

In the presence of ,witness.

Signed by , transferee(s).

In the presence of , witness.

21.4 Restrictions on Transfers

A share may not be sold or transferred except:

- (a) with the consent of the board, and to a person who is an existing member or who is qualified to be admitted to membership of the Co-operative under rules 7 and 8; or
- (b) as otherwise provided by these rules or the Act.

21.5 Refusing to register transfers

- (a) The board may decline to register a transfer of shares to a person not qualified to be a member or of whom they do not approve. The board may also decline to register a transfer of shares on which the

Co-operative has a lien or charge. If the board refuses to register a transfer of shares it must send notice of the refusal to the transferee within 28 days after the day the board declined to register the transfer.

- (b) The board of the Co-operative must not consent to the sale or transfer of shares that would result in more than the nominal value of shares permitted under these rules or section 278 of the Act to be held by a member.

21.6 Transfer and evidence of title

The board may decline to recognise any instrument of transfer unless the instrument of transfer is accompanied by such evidence as the board may reasonably require to show the right of the transferor to make the transfer.

21.7 Record of transfer

The board must maintain a record of all transfers made in the proper books of the Co-operative.

21.8 Suspension of transfers

The board may suspend the registration of transfers during the 45 days immediately preceding the annual general meeting in each year.

22. EFFECT OF SALE, TRANSFER OR DISPOSAL OF SHARES

A member who has sold or transferred, or disposed of the beneficial interest in, the member's shares, or has agreed to do any of those things, is not entitled to vote at any meeting of the Co-operative.

23. FORFEITURE AND CANCELLATIONS - INACTIVE MEMBERS

23.1 Board to declare membership cancelled

Subject to rules 23.2 and 23.3, the board must declare effective as at each 30 April the membership of a member cancelled if:

- (a) the whereabouts of the member are not presently known to the Co-operative and have not been known to the Co-operative for a continuous period of one year immediately prior to that date; or
- (b) the member has not been an active member at any time during the continuous period of one year immediately prior to that date.

23.2 Deferral of forfeiture by board

- (a) The board may by resolution defer cancellation of a member's membership for a period of up to 12 months (deferral period):
 - (i) if the board has reasonable grounds to believe that the member has ceased to be an active member because of unusual circumstances that prevent the member fulfilling his or her active membership obligations; or
 - (ii) if:
 - (A) the board thinks that during the deferral period an active membership resolution may be put to the members of the Co-operative; and
 - (B) the effect of the resolution would be relevant to the question of whether the member is an active member.
- (b) The board must review the resolution to defer within the deferral period to determine if a further resolution should be made under paragraph (a).

23.3 Prohibition of cancellation

Unless the regulations otherwise provide, the board must not declare the membership of a member to be cancelled under this rule:

- (a) if the Co-operative is insolvent; or

- (b) if the Co-operative is under administration under the Corporations Act Part 5.3A as applying under the Act; or
- (c) if a compromise or an arrangement is being administered in relation to the Co-operative; or
- (d) if the Co-operative is in the course of being wound up; or
- (e) if an appointment of a receiver, whether or not a receiver and manager, of any property of the Co-operative is in force; or
- (f) if the Co-operative has, for the purposes of being registered as a company under the Corporations Act, lodged with the Registrar a copy of the entry made in the minute book of the Co-operative under section 185; or
- (g) in other circumstances as may be prescribed by the regulations.

23.4 Notice of intention to cancel

- (a) Unless subparagraph (b) applies, the board of the Co-operative must ensure that notice of its intention to declare the membership of a member to be cancelled is given to the member not less than 28 days prior to the intended day of the cancellation.
- (b) Notice is not required to be given under subparagraph (a) if:
 - (i) the member's whereabouts are unknown to the Co-operative; or
 - (ii) the amount required to be repaid to the member in relation to the cancelled membership, whether because of the cancellation of shares or otherwise, does not exceed the amount prescribed by the regulations, or if an amount is not prescribed, \$100.

23.5 Shares forfeited, amount repaid and recorded

- (a) The board is to declare the shares of a member forfeited and cancelled at the same time as the membership is cancelled and the amounts payable for the forfeited and cancelled shares must be dealt with and repaid as if the member had resigned and was entitled to a payment under rule 14.
- (b) The Co-operative must keep a register of cancelled memberships under paragraph (a), that must include the particulars in the *Co-operatives Regulations 2010, Schedule 4 clause 5*.

24. FORFEITURE OF SHARES

- (a) If a member fails to pay a call or instalment of a call by the day appointed for payment, the board may, at any time any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest that may have accrued.
- (b) The notice must name a further day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice is to be made and must state that, in the event of non-payment at or before the time appointed, the shares for which the call was made will be liable to be forfeited.
- (c) If the requirements of the notice served under this rule are not complied with, any share in respect of which the notice has been given, may at any time (but before the payment required by the notice has been made) be forfeited by a resolution of the board.
- (d) Such a forfeiture must include all dividends declared for the forfeited shares and not actually paid before forfeiture.

25. FORFEITED SHARES

25.1 Membership stops

- (a) A person whose shares have been forfeited under these rules stops being a member. The person nevertheless remains liable to pay to the Co-operative all amounts that are (as at the date of forfeiture) payable by him or her to the Co-operative for the shares.

- (b) A statutory declaration in writing by a director, the chief executive officer or secretary of the Co-operative stating that a share in the Co-operative has been forfeited on a date stated in the declaration is proof of that fact as against all persons claiming to be entitled to the share.

25.2 Forfeited shares to be cancelled

- (a) The Co-operative must cancel any share forfeited to the Co-operative in accordance with these rules.
- (b) Any shares held by the Co-operative in itself at the time the Co-operative is registered under the Act are cancelled under this rule.

25.3 Charge over shares

The Co-operative has a charge on the paid up amounts of the forfeited shares and may appropriate those amounts under rule 29.1.

26. FORFEITURE FOR NON PAYMENT OF SUBSCRIPTION

26.1 Shares may be forfeited

- (a) The shares of a member whose periodic fee (subscription) under rule 18.2 has not been paid may be forfeited and cancelled by resolution of the board.
- (b) Rule 25 applies to the forfeiture.

26.2 Notice requirement

Written notice of the proposed forfeiture must be given to the member at least 14 days before the date of the board meeting at which the resolution for forfeiture of the shares is to be moved and the member must be given an opportunity of being heard at the meeting.

26.3 Amount due

The amount and payment terms for shares forfeited under this rule are the same as if the member had resigned and was entitled to a payment under rule 14.

27. DEATH OF MEMBER

27.1 Jointly held share

On the death of a joint member, the board must transfer the deceased member's share or interest in the Co-operative to the surviving joint members in accordance with rule 9.3.

27.2 Individual membership

- (a) Subject to paragraph (b), the board must transfer a deceased member's share or interest in the Co-operative to:
 - (i) the personal representative of the deceased, that is, an executor or administrator of the estate of the deceased; or
 - (ii) the person specified by the deceased's personal representative, in an application made to the Co-operative within three months after the death of the member.
- (b) The board may approve the transfer of a share to a person other than the executor or administrator if the board is satisfied that:
 - (i) there are reasonable grounds for believing the proposed transferee will be an active member of the Co-operative; or
 - (ii) the proposed transferee is qualified to be a member of the Co-operative under these rules; or
 - (iii) the transfer would not increase the proposed transferee's holding in the Co-operative beyond that allowed by the Act or these rules.
- (c) If the total value of the deceased member's shares or interests in the Co-operative is less than \$10,000 or another amount fixed by the regulations, the board may transfer the share under section 76 of the Act if there has not been a grant of letter of administration or of probate of the deceased's will.

- (d) For the purposes of paragraph (c), the board must decide the value of the shares and interest of a deceased member as the amount paid up on the shares together with any other amounts due to the deceased member less any amounts owing to the Co-operative by the deceased member.

28. DEALINGS OF MEMBERS WITH CO-OPERATIVE

28.1 Contracting with members

The Co-operative may make a contract with a member requiring the member to have specified dealings with the Co-operative for a fixed period.

28.2 Content of contract

The contract may require a member:

- (a) to sell products through or to the Co-operative; or
- (b) to obtain supplies or services through or from the Co-operative; or
- (c) to pay to the Co-operative specified amounts as liquidated damages for a contravention of a requirement authorised by this rule.

28.3 Liquidated damages and security therefore

Any amount specified as liquidated damages is to be considered as a debt payable to the Co-operative for which the Co-operative has a charge on each of the following:

- (a) the share or interest in the capital and the credit balance and deposits of the member or past member;
- (b) any dividend, interest, bonus or rebate payable to the member or past member;
- (c) any entry and periodic fees required to be repaid to a member when the member ceases to be a member.

28.4 Nature of security

The charge created under rule 28.2 shall be enforced under rule 29.

29. CHARGE ON SHARES

29.1 Charge and set off

- (a) The Co-operative has a charge on the share or interest in the capital, and on the credit balance and deposits of a member or past member, and on any dividend, interest, bonus or rebate payable to a member or past member, in respect of any debt due from the member or past member to the Co-operative. The Co-operative may also set off any amount paid on account of that share or otherwise or any amount credited or payable to the member or past member in or towards payment of the debt.
- (b) The charge may be enforced at any time after seven days' notice to the member or past member, by the appropriation by the Co-operative of the capital, interest or deposit subject to the charge. Any share for which capital has been appropriated must be cancelled.

29.2 Right to sell

- (a) The Co-operative may sell, in the way the directors consider appropriate, all or any shares on which the Co-operative has a charge. However, no sale can be made unless some amount for which the charge exists is payable at the date of the sale. Also, no sale can be made until the end of 14 days after a written notice (stating, and demanding payment of, the part of the amount for which the charge exists as is payable at the date the notice is given) has been given to the registered holder of the share or the person entitled to it because of death or bankruptcy. The notice must indicate that, on failure to make payment of the amount demanded within the time stipulated, the shares will be sold by the board.
- (b) If the highest offer received by the board is less than the amount paid up on shares to be sold, the board must, before accepting the offer, notify the member of the receipt of the offer and the amount

of the offer, and of the board's intention to accept the offer at the end of 14 days, if no payment is made before then to the Co-operative of all amounts for which the charge exists.

- (c) From the proceeds of the sale the Co-operative may deduct the expenses, if any, associated with the sale and may apply the balance to reduce the liability of the member. However, if a surplus remains after such deduction, the surplus is payable to the member whose shares were sold.
- (d) For giving effect to a sale, the board may authorise a person to transfer the shares sold to the purchaser of them.

30. REGISTRATION OF OFFICIAL TRUSTEE IN BANKRUPTCY

30.1 Registration of official trustee

If a member is declared bankrupt, the Official Trustee in Bankruptcy may be registered as the holder of the shares or other interests held by the bankrupt member.

30.2 Equitable interests of bankrupt member

The board may register the Official Trustee in Bankruptcy as the holder of a share in which a bankrupt member has an entitlement in equity, with the consent of both the Co-operative and the holder of the share.

30.3 Board right to decline

The board has the same right to decline or to suspend registration of a share as it would have had for a transfer of a share by the bankrupt person before the bankruptcy.

31. REGISTRATION AS ADMINISTRATOR OF ESTATE ON INCAPACITY OF MEMBER

A person appointed under a law of a State or a Territory to administer the estate of a member who, through mental or physical infirmity, is incapable of managing his or her affairs, may be registered as the holder of the member's share.

32. ENTITLEMENTS AND LIABILITIES OF PERSON REGISTERED AS TRUSTEE, ADMINISTRATOR ETC

32.1 Entitlements of representatives prior to registration

A person becoming entitled to be a shareholder because of the death, bankruptcy or the incapacity of the holder is entitled to the dividends and other advantages to which that person would be entitled if he or she were the registered holder of the share or shares. However, before being registered as a member, the person is not entitled to exercise any right conferred by membership in relation to meetings of the Co-operative.

32.2 Liabilities of representatives

A person registered under rule 27, 30 or 31 has, while registered, the same liabilities in relation to the share or shares as those to which the dead person, the bankrupt person or the incapable person would have been liable if he or she had remained a member with full legal capacity.

32.3 Board right to decline

The board has the same right to decline or to suspend registration of a share as it would have had for a transfer of a share by the bankrupt or incapacitated person before the bankruptcy or incapacity.

33. TRANSFER AND TRANSMISSION OF DEBENTURES

- (a) On the written request of the transferor (the *giver*) of a debenture, the Co-operative must enter in the appropriate register the name of the transferee (the *receiver*) in the same way and on the same conditions as if the application for entry were made by the transferee.
- (b) If the Co-operative refuses to register a transfer of debentures it must, within 28 days after the date on which the transfer was lodged with it, send to the receiver notice of the refusal.
- (c) An instrument of transfer of a debenture must be executed by or on behalf of the giver and the receiver. The giver is taken to remain the holder of the debenture until the debenture in the name of the receiver is entered in the register of debentures.

- (d) The board may decline to recognise an instrument of debenture and may decline to register a debenture unless:
- (i) a fee of \$5.00 (or a lesser amount decided by the board from time to time) is paid to the Co-operative for the transfer registration; and
 - (ii) the instrument of transfer is accompanied by the relevant debenture(s) and any other evidence the board reasonably requires; in particular, evidence showing the right of the giver to make the transfer; and
 - (iii) any government stamp duty payable is paid.

(e) Debentures must be transferred in the following form or in a form approved by the board:

I/We,... (the transferor) of ... in the State of ... in consideration of the sum of \$... paid to me by ... (the transferee), of ... in the State of... transfer to the transferee the following security ... (enter description and quantity of the Debenture or CCU) to be held by the transferee, the transferee's executors, administrators, and assigns, subject to any conditions on which I/we hold the security and subject to any other conditions being terms of the transfer of the security.

And I/we, the transferee agree to take the debenture/s subject to the conditions mentioned.

Dated this day of 20...

Signed by, transferor(s)

In the presence of, witness.

Signed by, transferee(s)

In the presence of, witness.

34. Co-operative capital unit

34.1 Deferred Capital Unit

- (a) A Deferred Capital Unit is a class of co-operative capital unit issued on the authority of the board in accordance with rule 12(g)(ii)(B), 14(g)(ii)(B), 20(g), 23.5 or 26.3.
- (b) Terms of issue of a Deferred Capital Unit are:
- (i) the nominal value of each unit is fixed at \$0.50;
 - (ii) each unit ranks equally with every other Deferred Capital Unit on issue;
 - (iii) the unit must be redeemed:
 - (A) as soon as redemption would not, in the opinion of the board, adversely affect the financial position of the Co-operative; and in all cases
 - (B) within 10 years after the repurchase of the shares that gave rise to the issue of the unit; or
 - (C) on liquidation of the Co-operative;
 - (iv) the unit bears interest during any period:
 - (A) at the rate (or, if there is more than one rate, at the higher or highest rate) of dividend payable for that period on the share capital of the Co-operative; or
 - (B) if the rate of dividend payable for that period has not been decided, at the rate (or the higher or highest rate) payable for the immediately preceding period for which a rate has been decided;
 - (C) if a rate of dividend has never been decided for the share capital of the Co-operative, at the rate that the board of the Co-operative considers reasonable;
 - (v) on a winding-up, the unit ranks equally with ordinary shares in priority of payment; and

- (vi) there is no limit on the total holding of units that may be acquired by persons who are not members of the Co-operative.

34.2 Co-operative capital units – other

- (a) The board of the Co-operative may, in addition to issuing Deferred Capital Units under rule 34.1, issue other classes of co-operative capital units that confer an interest in the capital of the Co-operative.
- (b) Co-operative capital units cannot be issued under this rule 34.2 unless:
 - (i) the terms of issue have been approved by a special resolution of the Co-operative; and
 - (ii) the issue is made pursuant to an offer accompanied by a copy of a statement approved by the Registrar under section 262(3) of the Act; and
 - (iii) the Registrar approves of the terms of the issue under section 262(4) of the Act.
- (c) The terms on which CCUs are issued under this rule 34.2 must include, but are not limited to the following information:
 - (i) details of entitlement to repayment of capital;
 - (ii) details of entitlement to participate in surplus assets and profits;
 - (iii) details of entitlement to interest on capital, including whether interest is cumulative or non-cumulative;
 - (iv) details of how capital and interest on capital are to rank for priority of payment on a winding-up;
 - (v) whether there is a limit on the total holding of CCUs that may be acquired by persons who are not members of the Co-operative and, if there is a limit, what the limit is.

34.3 Co-operative capital units – generally

- (a) The board of the Co-operative may issue CCUs to a person, whether or not that person is a member of the Co-operative.
- (b) Each holder of a CCU is entitled to one vote per CCU held at a meeting of the holders of CCUs.
- (c) The rights of the holders of CCUs may be varied only in the way and to the extent provided by their terms of issue and only with the consent of at least 75% of those holders of CCUs who, being entitled to do so, cast a formal vote to accept the variation at a meeting.
- (d) The holder of a CCU has, in the person's capacity as a holder of a CCU, none of the rights or entitlements of a member of the Co-operative.
- (e) The holder of a CCU is entitled to receive notice of all relevant meetings of the Co-operative and all other documents in the same manner as the holder of a debenture of the Co-operative.

35. TRANSFER AND TRANSMISSION OF CCUs

- (a) Subject to this rule, the transfer and transmission of a CCU is to follow the same process as for a debenture under rule 33.
- (b) Where the terms of issue of a CCU differ from rule 33 in respect to the manner of transfer or transmission, the terms of its issue prevail.
- (c) The board can refuse to transfer a CCU if the board has a charge over the unit under rule 29.
- (d) For the removal of doubt, Deferred Capital Units are transferrable CCUs and can be held in the name of a member or non-member.

36. ANNUAL GENERAL MEETINGS

36.1 Timing of annual general meeting

An annual general meeting must be held each year at a place and on a date and a time, decided by the board, within five months after the close of the financial year of the Co-operative or within the further time allowed by the Registrar or fixed under a regulation.

36.2 General meetings

A general meeting of the Co-operative other than the annual general meeting must be a special general meeting.

36.3 Requisition of meeting

If an annual general meeting is not held as required by rule 36.1, the members may, under rule 37, requisition a special general meeting.

37. SPECIAL GENERAL MEETINGS

37.1 Board may call on own motion

The board may, whenever it considers appropriate, call a special general meeting of the Co-operative.

37.2 Board to call general meeting on requisition

- (a) The board must call a general meeting of the Co-operative on the requisition in writing by members who together are able to cast at least 2% of the total number of votes able to be cast at a meeting of the Co-operative.
- (b) The requisition must:
 - (i) state the objects of the meeting; and
 - (ii) be signed by the requisitioning members (and may consist of several documents in like form each signed by one or more of the requisitioning members); and
 - (iii) be served on the Co-operative by being lodged at the Co-operative's registered office.
- (c) A meeting requisitioned by members under these rules must be called and held by the board as soon as practicable and in any case must be held within two months after the requisition is served.
- (d) If the board does not call a meeting within 35 days after the requisition is served, the following provisions apply:
 - (i) the requisitioning members (or any of them representing at least half their total voting rights) may call the meeting in the same way, as nearly as possible, as meetings are called by the board;
 - (ii) for that purpose, they may ask the Co-operative to supply a written statement of the names and addresses of the persons entitled, when the requisition was served, to receive notice of general meetings of the Co-operative;
 - (iii) the board must send the statement to the requisitioning members within seven days after the request for the statement is made;
 - (iv) the meeting called by the requisitioning members must be held within three months after the requisition is served;
 - (v) the Co-operative must pay the reasonable expenses incurred by the requisitioning members because of the board's failure to call the meeting;
 - (vi) any amount required to be paid by the Co-operative is to be retained by the Co-operative out of amounts payable by the Co-operative for fees or other remuneration for their services to the directors who were in default.

38. NOTICE OF GENERAL MEETINGS

38.1 Issuing notice

- (a) Subject to rule 39, at least 14 days' notice (not including the day on which the notice is served or taken to be served, but including the day for which notice is given) must be given to every member of any general meeting, in the way stipulated in rule 80.
- (b) Notice must be given to the persons who are, under these rules, entitled to receive notices from the Co-operative, but non-receipt of the notice does not invalidate the proceedings at the general meeting.

38.2 Notice to specify

The notice must state the place, day and hour of the meeting and, for special business, the general nature of the business.

38.3 Notice of special resolution

For a special resolution, notice of:

- (a) the intention to propose the special resolution; and
- (b) the reasons for proposing the special resolution; and
- (c) the effect of the special resolution being passed,

must be given at least 21 days before the meeting.

38.4 Members' business

- (a) Members who together are able to cast at least 2% of the total number of votes that are able to be cast at a meeting of the Co-operative and who have a resolution to submit to a general meeting must give written notice of it to the Co-operative at least 28 days before the day of the meeting.
- (b) In a notice calling a general meeting, the board must include any business members have notified their intention to move at the meeting under subparagraph (a) (provided the member's notification has been made under these rules and within time).

39. NOTICE OF GENERAL MEETINGS (SMALL CO-OPERATIVES)

39.1 Issuing notice

- (a) If the Co-operative is at any time a small co-operative, at least 14 days' notice (not including the day on which the notice is served or taken to be served, but including the day for which notice is given) must be given to every member of any general meeting, in the way stipulated in rule 80.
- (b) Notice must be given to the persons who are, under these rules, entitled to receive the notices from the Co-operative, but non-receipt of the notice does not invalidate the proceedings at the general meeting.

39.2 Notice to specify

- (a) The notice must state the place, day and hour of the meeting and, for special business, the general nature of the business.
- (b) Subject to paragraph (c) of this rule, the notice must include:
 - (i) a copy of the financial report (unaudited for the last financial year); and
 - (ii) a directors' solvency resolution as to whether or not, in their opinion, there are reasonable grounds to believe that the Co-operative will be able to pay its debts as and when they become due and payable.
- (c) The copies of the financial report are not required to form a part of the notice if the Co-operative has been directed under section 293 or 294 of the Corporations Act to audit its financial statements.

40. BUSINESS OF GENERAL MEETINGS

40.1 Ordinary business

The ordinary business of the annual general meeting must be:

- (a) to confirm minutes of the last preceding general meeting (whether annual or special); and
- (b) to receive from the board, auditors or officers of the Co-operative:
 - (i) the financial reports of the Co-operative for the financial year; and
 - (ii) a report on the state of affairs of the Co-operative; and
- (c) to allow members a reasonable opportunity to ask questions about, or comment on, the management and financial statements of the Co-operative and to ask any auditor or their representative, if present, questions relevant to the conduct of any audit and the preparation and content of any auditor's report and the accounting policies adopted by the Co-operative in relation to the financial statements.

40.2 Special business

- (a) The annual general meeting may also transact special business of which notice has been given to members under these rules.
- (b) All business of a general meeting, other than business of the annual general meeting that is ordinary business, is special business.

41. QUORUM AT GENERAL MEETINGS

41.1 Quorum number

- (a) An item of business cannot be transacted at a general meeting unless a quorum of members is present when the meeting is considering the item.
- (b) Unless these rules state otherwise:
 - (i) six members present in person, or by proxy or attorney, being entitled to exercise a vote, constitute a quorum for a general meeting other than a special general meeting requisitioned by members;
 - (ii) the number of members required to be present in person, or by proxy or attorney to constitute a quorum for a special general meeting requisitioned by members is the same number of members required to requisition a special general meeting.
- (c) If a quorum is not present within half an hour after the appointed time for a meeting, the meeting, if called on the requisition of members, must be dissolved. In any other case, it must be adjourned to the same day, time and place in the next week.
- (d) If a quorum is not present within half an hour after the time appointed for an adjourned meeting, the members present constitute a quorum.

41.2 Consequences of not maintaining a quorum

If at any stage after the opening of the meeting a quorum is not present, the chairperson shall adjourn the meeting for 15 minutes, at the conclusion of which the chairperson shall:

- (a) if a quorum is present, resume the meeting; or
- (b) if a quorum is not present:
 - (i) and the meeting was called on the requisition of members, declare the meeting closed; or
 - (ii) declare the meeting closed, if there is no unfinished business; or
 - (iii) adjourn the meeting to the same day in the next week at the same time and place to complete business left unfinished but no other business, and at the adjourned meeting if a quorum is not present within half an hour after the time appointed for the meeting the members present constitute a quorum.

42. CHAIRPERSON AT GENERAL MEETINGS

42.1 Chairperson of board presides

The chairperson, or acting chairperson, of the board may preside as chairperson at every general meeting of the Co-operative.

42.2 Members to choose if board chairperson not present or willing

If there is no chairperson or acting chairperson, or neither is present within 15 minutes after the time appointed for holding the meeting or neither is willing to act as chairperson, then the members present must choose someone from their number to be chairperson (until the chairperson attends and is willing to act).

42.3 Conduct of meeting

The chairman shall determine the procedures for conducting a general meeting having regard to any specific governance requirements set out in these rules.

42.4 Adjournment of meetings

The chairperson may, with the consent of a meeting at which a quorum is present (and must if directed by the meeting) adjourn the meeting from time to time and from place to place. However, the only business that can be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given just as for the original meeting. Apart from this, it is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.

43. ATTENDANCE AND VOTING AT GENERAL MEETINGS

43.1 Voting

- (a) The right to vote attaches to membership and not shareholding.
- (b) Joint members have only one vote between them.
- (c) Every joint member is entitled to attend and be heard at a general meeting.
- (d) In the event of a dispute between joint members as to which member will vote (subject to the grant of any proxy or power of attorney), the joint member whose name appears first in the register of members will vote.

43.2 Decision

- (a) A resolution, other than a special resolution, must be decided by simple majority.
- (b) Subject to subparagraph (c) and (d), at any general meeting a question for decision must be decided on a show of hands of members present at the meeting.
- (c) A poll may be demanded on any question for decision.
- (d) Where, before a vote is taken or before or immediately after the declaration of the result on a show of hands:
 - (i) the chairperson directs that the question is to be determined by a poll; or
 - (ii) at least five members present in person or represented by proxy demand a poll,the question for decision must be determined by a poll.
- (e) Subject to subparagraph (f), the poll must be taken when and in the manner that the chairperson directs.
- (f) A poll on the election of a chairperson or on the question of adjournment must be taken immediately and without debate.
- (g) Once the votes on a show of hands or on a poll have been counted then, subject to subparagraph (d), a declaration by the chairperson that a resolution has been carried (unanimously or by a particular majority) or lost is evidence of that fact.
- (h) The result of the vote must be entered in the minute book.

44. VOTING ON A SHOW OF HANDS

On a show of hands at a general meeting, each member:

- (a) present; or
- (b) represented by a non-member acting under a power of attorney; or
- (c) represented by a non-member appointed under rule 9.8,

may exercise only one vote.

45. VOTING ON A POLL

On a poll called at a general meeting, each member:

- (a) present; or
- (b) represented by a proxy; or
- (c) represented by a person acting under a power of attorney; or
- (d) represented by a person appointed under rule 9.8,

has one vote.

46. DETERMINING OUTCOME WHERE EQUALITY OF VOTES

- (a) Where the votes in favour and against a resolution at a meeting of members are equal, the chairperson of the meeting, provided he or she is a member of the Co-operative, may exercise a second or casting vote.
- (b) Where the chairperson is not a member of the Co-operative or decides not to exercise a casting vote, the outcome of an equality of votes is taken to have been decided in the negative.

47. PROXY VOTES

- (a) The instrument appointing a proxy must be in writing signed by the appointer or the appointer's attorney properly authorised in writing.
- (b) An instrument appointing a proxy may direct the way the proxy is to vote in relation to a particular resolution and, if an instrument of proxy directs, the proxy is not entitled to vote on the resolution other than as directed in the instrument.
- (c) A person must not act as a proxy unless the person is:
 - (i) a member of the Co-operative; or
 - (ii) a person appointed under rule 9.8; or
 - (iii) the Chairman of the meeting.
- (d) An instrument appointing a proxy may be in the following form, or another form the board approves:

PROXY FORM

DENMARK CO-OPERATIVE COMPANY LIMITED

I/we... (name) of... (address) being a member/s of the Co-operative appoint ... (name) of... (address) as my/our proxy or, in that person's absence, the chairperson of the meeting or a person nominated by the chairperson as my proxy, to vote for me/us and on my/our behalf at the *annual general/*special general meeting of the Co-operative, to be held on the... day of... 20... and at any adjournment of the meeting

*Strike out as applicable.

I/We direct my/our proxy to vote in respect of the following resolutions to be considered as indicated with an "X" below i.e. as a directed proxy, and to vote or abstain from voting in respect of any

- (i) the number of formal votes cast in favour of the proposal concerned; and
 - (ii) the number of formal votes cast against the proposal concerned; and
 - (iii) the number of informal votes cast.
- (g) On declaration of the result of the ballot, the secretary must enter the subparagraph (f) details in the minute book of the Co-operative.
- (h) If the board decides to conduct a secret postal ballot it must ensure that the method used to conduct the ballot will ensure that votes can be counted without identifying the way each member has voted.

49. SPECIAL AND ORDINARY RESOLUTIONS

- (a) A special resolution is a resolution of which the notice set out in subparagraph (b) has been given of the intention to propose the resolution as a special resolution and that is passed:
- (i) by two-thirds of the members who vote in person or by proxy or attorney, at a general meeting; or
 - (ii) by a two-thirds majority in a postal ballot; or
 - (iii) by three-quarters of the members who cast formal votes in a special postal ballot of members.
- (b) A resolution is not taken to have been passed as a special resolution unless not less than 21 days' notice has been given to the members of the Co-operative stating:
- (i) the intention to propose the special resolution; and
 - (ii) the reasons for proposing the special resolution; and
 - (iii) the effect of the special resolution being passed.
- (c) A special resolution has effect from the date it is passed. However, a special resolution required to be passed by special postal ballot has no effect until registered by the Registrar and no amendment to these rules is to take effect until the amendment is registered by the Registrar.
- (d) An ordinary resolution is one passed by a simple majority and has effect from the date it is passed.

50. BOARD OF DIRECTORS

50.1 Number of member directors

The board must have no less than three and no more than eight member directors, each of whom must be an individual, whether as a member of the Co-operative, or as a representative of a corporation member, and at least 18 years old.

50.2 General powers

- (a) The business and operations of the Co-operative are to be managed and controlled by the board of directors, and for that purpose the board has and may exercise the powers of the Co-operative as if expressly conferred on the board by a general meeting of the Co-operative.
- (b) The powers of the board are subject to any restrictions imposed by the Act or by these rules.

50.3 Power to impose a code of conduct

The board has power to impose a code of conduct, by whatever name, relating to the conduct of members of the Co-operative, that:

- (a) are not inconsistent with the Act, regulations or these rules;
- (b) are binding on members at all times; and
- (c) can include monetary and non-monetary penalties or a combination of both for infringement of a code as set out in the code.

50.4 Copying and inspecting code of conduct

A member can:

- (a) inspect any rule 50.3 code of conduct free of charge at the Co-operative's registered office or principal place of business during ordinary business hours;
- (b) take copies of a code; and
- (c) obtain from the Co-operative a copy of a code on payment of a sum not exceeding \$10.00 plus GST, if applicable.

50.5 Management contract

- (a) The Co-operative must not enter into a management contract, unless that contract has first been approved by special resolution.
- (b) A Management Contract means a contract or other arrangement under which:
 - (i) a person who is not an officer of the Co-operative agrees to perform the whole, or a substantial part, of the functions of the Co-operative, whether under the control of the Co-operative or not, or
 - (ii) the Co-operative agrees to perform the whole or a substantial part of its functions:
 - (A) in a particular way; or
 - (B) in accordance with the directions of any person; or
 - (C) subject to specified restrictions or conditions.

51. QUALIFICATIONS OF DIRECTORS

51.1 Qualification

A person is not qualified to be a director of the Co-operative unless the person is:

- (a) a member of the Co-operative or a representative of a corporation that is a member of the Co-operative and free from any rule 51.2 conflict of interest; or
- (b) an employee of the Co-operative appointed in accordance with rule 53 to be an independent director; or
- (c) a person qualified under rule 53 to be an independent director;
- (d) in the case of a person who is a joint member with one or more other members, is authorised in accordance with rule 9.5; and
- (e) not a disqualified person within the meaning of the Act.

51.2 Conflict of interest

An employee of the Co-operative is not qualified to hold office as a member director on the grounds of a conflict of interest.

52. MAINTAINING MINIMUM NUMBER OF DIRECTORS

If, at any time, the number of directors in office is less than the required minimum number of directors under these rules:

- (a) the board may appoint sufficient directors so that the number of directors is not less than the minimum number; and
- (b) for the purpose only of enabling the board to make such an appointment, the number of directors required to constitute a quorum is the number of directors in office at that time.

53. INDEPENDENT DIRECTORS

53.1 Board to appoint

- (a) The board may appoint persons with special skills to be independent directors of the Co-operative on the conditions and for the period the board decides.

- (b) The special skills required of an independent director may be specified by the board, and may be varied by the board from time to time, or from appointment to appointment.
- (c) An independent director is, subject to this rule, a director of the Co-operative for the period of the appointment.
- (d) The majority of directors must be member directors.
- (e) Unless this rule provides otherwise, an independent director is subject to all other rules relating to directors.
- (f) On the termination of appointment as independent director by death, retirement, resignation or another way, the independent director stops being a director of the Co-operative.
- (g) An independent director is entitled to attend any general meeting of the Co-operative and be heard on any part of the business of the meeting.
- (h) An independent director cannot be required to be an active member of the Co-operative.

53.2 When not to vote

- (a) An independent director is not entitled to vote at a meeting of directors on a motion about the terms and conditions of his or her appointment, conditions of service or termination of service but may be permitted by the chairperson of the board to speak in relation to the motion.
- (b) Despite anything else in these rules, a vote is not valid if taken at a meeting of the board of directors unless, when the vote is taken, the number of independent directors present is less than the number of member directors present.

53.3 Ratification and removal

- (a) Despite the term of appointment fixed under rule 53.1(a), the appointment of an independent director must be ratified by the members of the Co-operative at the general meeting next after the appointment of the independent director. Ratification must be by a simple majority of members of the Co-operative present and voting at the meeting.
- (b) If the appointment of an independent director is not ratified by the members of the Co-operative, anything done by the independent director since the appointment and up to that time is taken to have been validly done.
- (c) Despite the terms of appointment, the members of the Co-operative may, by special resolution at a general meeting of members, terminate the appointment of an independent director.

54. MANAGING DIRECTOR

- (a) The board may, if it considers appropriate, appoint a person to be managing director of the Co-operative and may from time to time remove the person from office.
- (b) The conditions and the period of appointment must be decided by the board.
- (c) The managing director is not counted for the purposes of rule 50.1.
- (d) In all other respects, the managing director has all the privileges of a director and all other rules relating to directors apply to the managing director.
- (e) On the termination of the appointment as managing director either by death, retirement, resignation or termination by the board, the managing director stops being a director of the Co-operative.
- (f) The managing director is not entitled to be present or to vote at a meeting of directors on a motion concerning the conditions of his or her own appointment, conditions of service or termination of service.
- (g) A managing director cannot be required to be an active member of the Co-operative.
- (h) A managing director is classified as an independent director under the Act.

55. FIRST AND SUBSEQUENT DIRECTORS

55.1 First member directors

- (a) The first member directors of the Co-operative are the member directors in office immediately prior to the date of registration under the Act (referred to in this rule as the “registration date”).
- (b) The initial term of office of the first member directors is not to extend past the third annual general meeting after the registration date.
- (c) The board of the Co-operative must, within one month of the registration date, determine and minute which of the first member directors shall retire at:
 - (i) the first annual general meeting following the registration date;
 - (ii) the second annual general meeting following the registration date; and
 - (iii) the third annual general meeting following the registration date.
- (d) A retiring member director is eligible for re-election.

55.2 Term of office of subsequent directors

The term of office of a member director, not being a director filling a casual vacancy, elected after the registration date ends at the conclusion of the third annual general meeting following their election.

55.3 Election procedures

The following procedures apply to the election of member directors:

- (a) director vacancies are to be filled at a general meeting of the Co-operative;
- (b) if the number of eligible candidates is equal to, or less than the number of positions to be filled, then
 - (i) a separate ordinary resolution for each candidate is to be voted on at the annual general meeting to determine if the candidate is appointed to the board; and
 - (ii) if vacancies are being filled for different terms, the Chairman shall determine which appointed candidate serves which term.
- (c) if the number of eligible candidates exceeds the number of positions to be filled, then:
 - (i) a first-past-the-post ballot is to be conducted as a single poll;
 - (ii) the full name of each candidate shall appear in an identical order, as determined by the drawing of lots by the returning officer, on the notice of meeting, proxy form and a single ballot paper;
 - (iii) for a vote to be valid, a voter must mark their proxy form or ballot paper, as the case might be, to cast clearly a vote for the exact number of candidates as there are vacancies to be filled;
 - (iv) if the poll is being held to fill vacancies of different terms of office:
 - (A) the candidate receiving the highest number of votes shall be elected for the longest term of office of the vacancies to be filled; and
 - (B) the candidate receiving the next highest number of votes shall be elected for the next longest term of office of the vacancies to be filled and so on until all vacancies are filled;
- (d) the term of office of the successful candidate commences at the conclusion of the meeting at which they were appointed;
- (e) a director vacancy remaining unfilled at the close of a general meeting at which it ought to have been filled shall be treated as a casual vacancy;
- (f) in the absence of a board decision to the contrary, the secretary is the returning officer for director elections; and

- (g) the returning officer shall have carriage of all director election procedures and can appoint and delegate any and all functions to one or more assistant returning officers.

55.4 Nomination

- (a) No person (not being a retiring director) shall be eligible for election to the office of director at any general meeting unless:
 - (i) They, at least 28 days before the meeting, lodge at the office a notice in writing of their candidature; or
 - (ii) their nomination has been recommended by the directors and their written nomination has been lodged at the office at least 21 days before the meeting.
- (b) Nomination papers must:
 - (i) include details of the qualifications and experience of the person nominated;
 - (ii) be in such form as may be prescribed by the directors; and
 - (iii) be signed by the candidate; and
 - (iv) warrant that the candidate is not a disqualified person within the meaning of section 200 of the Act.
- (c) Notice of each and every candidate for the position of director shall be served on members at least 14 days prior to the meeting at which the election is to take place.

55.5 First independent directors

An independent director of the Co-operative in office immediately before the registration date continues in office for the balance of their term of office.

56. REMOVAL FROM OFFICE OF MEMBER DIRECTOR

The members of the Co-operative can remove a member director before the end of the member director's period of office by passing a special resolution provided:

- (a) notice of the resolution was given as a special resolution; and
- (b) if removal of the director would cause the number of directors to fall below the minimum number required under rule 50.1, the same resolution must appoint a qualified replacement director; or
- (c) if removal of the director would not cause the number of directors to fall below the minimum number required under rule 50.1, the meeting may by a separate simple majority resolution, notice of which was given as if it was a special resolution, appoint another person in place of the removed member director; and
- (d) any person appointed must retire when the removed member director would otherwise have retired.

57. VACATION OF OFFICE OF DIRECTOR

A director vacates office if:

- (a) the director dies or is permanently incapacitated;
- (b) the director is disqualified or otherwise unable to be a director under section 200 of the Act or rule 51.2; or
- (c) the director absents himself or herself from three consecutive ordinary meetings of the board without its leave; or
- (d) the director resigns from the office of director by written notice given by the director to the Co-operative; or
- (e) the member director is removed from office by special resolution of the Co-operative; or
- (f) an independent director is removed from office by special resolution of the Co-operative; or

- (g) the person ceases to hold a qualification that qualified the person to be a director; or
- (h) an administrator of the Co-operative's affairs is appointed under Part 12 Division 5 of the Act.

58. FILLING OF CASUAL VACANCIES

58.1 Member director

- (a) The board may appoint a qualified person to fill a casual vacancy in the office of a member director until the next annual general meeting.
- (b) For the purposes of this rule, a casual vacancy arises if the office of director is vacated under rule 57.
- (c) A person appointed under subparagraph (a) is eligible for election for the balance of the term of office that the original member director would have served had there not been a casual vacancy.
- (d) If a member director appointed in accordance with subparagraph (a) is not elected by the members of the Co-operative at the annual general meeting, anything done by the director since the appointment and up to that time is taken to have been validly done.

58.2 Independent director

A casual vacancy in the office of an independent director can be filled by the board making an appointment in accordance with rule 53.

59. REMUNERATION

- (a) The directors must not receive remuneration for their services as directors other than fees, concessions and other benefits approved at a general meeting of the Co-operative.
- (b) All necessary expenses incurred by the board members in the business of the Co-operative must be refunded to them.
- (c) As a transferred co-operative, the directors' fees approved immediately prior to registration under the Act are deemed approved as if they had been approved at a general meeting.

60. PROCEEDINGS OF THE BOARD

- (a) Meetings of the board (including meetings conducted under rule 61) are to be held as often as may be necessary for properly conducting the business and operations of the Co-operative and must be held at least quarterly.
- (b) A meeting may be held with one or more of the directors participating by using a form of communication that allows reasonably contemporaneous and continuous communication between the directors taking part in the meeting.
- (c) Questions arising at a meeting must be decided by a majority of votes.
- (d) If votes are equal, the chairperson, if a member director, has a second or casting vote.
- (e) A meeting of the board of directors may be called by a director giving notice individually to every other director.
- (f) Other than in special circumstances decided by the chairperson, at least 48 hours' (Saturdays, Sundays and Public Holidays in Western Australia excluded) notice must be given to the directors of all meetings of the board, without which the meeting cannot be held.

61. TRANSACTION OF BUSINESS OUTSIDE BOARD MEETINGS

- (a) The board may transact any of its business:
 - (i) by the circulation of papers among all the members of the board, and a resolution in writing by a majority of the members is taken to be a decision of the board; or

- (ii) at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter before the meeting, can be heard by the other members.
- (b) For the purposes of this rule, the chairperson of the board and each member of the board have the voting rights they have at an ordinary meeting of the board.
- (c) A resolution approved under subparagraph (a)(i) is to be recorded in the minutes of the meetings of the board.
- (d) The secretary may circulate papers among members of the board for subparagraph (a)(i) by fax or other transmission of the information in the papers concerned.

62. DECLARATION OF INTEREST BY DIRECTORS

- (a) A director who is or becomes in any way, whether directly or indirectly, interested in a contract, or proposed contract with the Co-operative must declare the nature and extent of the interest to the board in accordance with Part 9 Division 5 of the Act.
- (b) Every declaration under subparagraph (a) is to be recorded in the minutes of the meeting at which it was made.
- (c) The interest in a contract or proposed contract that a director is required to declare does not include an interest in:
 - (i) a contract or proposed contract for a purchase of goods and services by the director from the Co-operative; or
 - (ii) a lease of land to the director by the Co-operative; or
 - (iii) a contract or proposed contract for the sale of commodities or animals by the director to the Co-operative; or
 - (iv) a contract or proposed contract that, under these rules, may be made between the Co-operative and a member; or
 - (v) a contract or proposed contract of a class of contracts prescribed by the regulations, but only if the contract is made in good faith, in the ordinary course of the business of the Co-operative, and on the terms that are usual and proper in similar dealings between the Co-operative and its members.
- (d) If a director has made a declaration under this rule, then unless the board determines otherwise, the director cannot:
 - (i) be present during any deliberation of the board in relation to the matter; or
 - (ii) take part in any decision of the board in relation to the matter.

63. QUORUM FOR BOARD MEETINGS

- (a) The quorum for a meeting of the board is 50% of the number of directors.
- (b) The number of independent directors must be fewer than the number of member directors present at a meeting of the board.

64. CHAIRPERSON OF BOARD

- (a) The chairperson of the board is to be elected by the board.
- (b) If no chairperson is elected or the chairperson is not present within 15 minutes after the time fixed for holding the meeting or is unwilling to act as chairperson of the meeting, the directors present may choose one of their number to be chairperson of the meeting until the chairperson attends and is willing to act as chairperson.

- (c) The chairperson may be removed and a new chairperson elected by ordinary resolution of the board.

65. DELEGATION AND BOARD COMMITTEES

65.1 Delegation by board

The board may by resolution delegate to:

- (a) a director; or
- (b) a committee of two or more directors; or
- (c) a committee of members of the Co-operative; or
- (d) a committee of members of the Co-operative and other persons if members form the majority of persons on the committee; or
- (e) a committee of directors and other persons,

the exercise of the board's powers (other than this power of delegation) specified in the resolution. The Co-operative or the board may by resolution revoke all or part of the delegation.

65.2 Delegation within terms of delegation

- (a) A power delegated under this rule may, while the delegation remains unrevoked, be exercised from time to time in accordance with the delegation.
- (b) A delegation under this rule may be made subject to conditions or limitations as to the exercise of any of the functions delegated, or as to time or circumstance.

65.3 Board's powers on delegation

Despite any delegation under this rule, the board may continue to exercise the power delegated.

65.4 Delegation to a director

If a power is exercised by a director (alone or with another director) and the exercise of the power is evidenced in writing, signed by the director in the name of the board or in his or her own name on behalf of the board, the power is taken to have been exercised by the board. This is so whether or not a resolution delegating the exercise of the power to the director was in force when the power was exercised, and whether or not any conditions mentioned in rule 65.2(b) were observed by the director exercising the powers.

65.5 Chairperson of committees

A committee may elect a chairperson of their meetings. If no chairperson is elected or if, at a meeting, the chairperson is not present within 15 minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairperson of the meeting.

65.6 Meetings of committees

A committee may meet and adjourn as it thinks appropriate. Questions arising at a meeting must be decided by a majority of votes of the members present and voting and, if the votes are equal, the chairperson has a second or casting vote.

65.7 Committee minutes

Minutes of each meeting of a committee to which a board function has been delegated must be entered in the appropriate records within one month after the meeting and confirmed at, and signed by the chairman of, the next meeting.

66. OTHER COMMITTEES

- (a) The board may by resolution appoint committees of members or other persons or both, to act in an advisory role to the board and to committees of directors.
- (b) Rule 65.5 and 65.6 apply to committees appointed under this rule, with the changes approved of by the board.
- (c) The quorum for a meeting of the committee is 50% of the members of the committee.

67. MINUTES

- (a) The board must cause to be kept minutes of meetings in books kept for the purpose and, in particular, of:
- (i) all appointments of officers and employees made by the directors; and
 - (ii) the names of the directors present at each meeting of the board and of a committee of the board; and
 - (iii) all resolutions and proceedings at all meetings of the Co-operative and of directors and of committees of directors.
- (b) Minutes must be recorded in the appropriate records within one month after the meeting to which they relate is held.
- (c) The minutes are to be confirmed at, and signed by the chair of, the next meeting.

68. FINANCIAL YEAR

The financial year of the Co-operative ends on the thirtieth day of April each year.

69. SEAL

69.1 Authentication of document or proceeding

This rule applies if the Co-operative chooses to authenticate a document under the common seal of the Co-operative.

69.2 Description of seal

The name of the Co-operative must appear in legible characters on its common seal and any official seal.

69.3 Custody of seal

The common seal must be kept at the registered office in such custody that the board directs.

69.4 Official seal

The Co-operative may have for use in place of its common seal outside the State one or more official seals. Each of the additional seals must be a facsimile of the common seal with the addition on its face of the name of the place where it is to be used.

69.5 Restrictions on affixing seal

The seal of the Co-operative must not be affixed to any instrument other than under a resolution of the board. Two directors, or one director and the secretary must be present and must sign all instruments sealed while they are present.

69.6 Authentication need not be under seal

A document or proceeding requiring authentication by the Co-operative may be authenticated by the signature of two people, one of whom is a director of the Co-operative and one of whom is a director or the secretary of the Co-operative and need not be authenticated under the seal of the Co-operative.

70. CUSTODY AND INSPECTION OF RECORDS AND REGISTERS

70.1 Inspection of registers, etc

The Co-operative must have at its registered office and available during normal office hours for inspection by any member free of charge the following:

- (a) a copy of the Act and the regulations;
- (b) a copy of the rules of the Co-operative and any attachments under section 345 of the Act;
- (c) a copy of the last annual report of the Co-operative under section 235 of the Act;
- (d) the register of directors and members;

- (e) the register of names of persons who have given loans or deposits to or hold securities or debentures given or issued by the Co-operative;
- (f) the register of memberships cancelled under rule 23 (Inactive Members) required to be kept under section 230(1)(g) of the Act;
- (g) the register of notifiable interests required to be kept under section 284 of the Act;
- (h) a copy of the minutes of each general meeting;
- (i) the other registers required under the Act or the regulations to be open for inspection.

70.2 Copying register of members, directors and shares

A member may make a copy of the entries in a register mentioned in rule 70.1 during normal office hours for a fee of \$11.60 GST inclusive, for the first page and \$1.50 GST inclusive, for each additional page, up to a maximum of \$86.60 GST inclusive, or such lesser fee as the board may set from time to time.

70.3 Use of information on registers

- (a) A person must not:
 - (i) use information about a person obtained from a register kept under the Act to contact or send material to the person; or
 - (ii) disclose information of that kind knowing that the information is likely to be used to contact or send material to the person,
 unless that use or disclosure of the information is:
 - (iii) relevant to the holding of the directorship, membership, shares, loans, securities, debentures, co-operative capital units or deposits concerned or the exercise of the rights attaching to them; or
 - (iv) approved by the board; or
 - (v) necessary to comply with a requirement of the Act.
- (b) A person who contravenes subparagraph (a) is liable to compensate anyone else who suffers loss or damage because of the contravention.
- (c) A person who makes a profit from a contravention of subparagraph (a) owes a debt to the Co-operative.
- (d) The amount of the debt is the amount of the profit.

71. FINANCIAL INSTITUTION ACCOUNTS

71.1 Bank accounts

The board must have a financial institution account or accounts, electronic or otherwise, in the name of the Co-operative, into which all amounts received must be paid as soon as possible after receipt.

71.2 Signatories

- (a) All cheques drawn on the accounts and all drafts, bills of exchange, promissory notes and other negotiable instruments for the Co-operative, must be signed by two directors or any two persons authorised by the board or authorised by the chief executive officer.
- (b) The board is authorised to make suitable arrangements to enable the Co-operative to initiate and manage the inflow and outflow of cash electronically.

72. SAFE KEEPING OF SECURITIES

Shares, debentures, charges and any other certificates or documents or duplicates of them pertaining to securities must be safely kept by the Co-operative in the way and with the provision for their security the board directs.

73. INAUGURAL AUDITOR

- (a) The board of the Co-operative (unless the Co-operative is a small co-operative or otherwise exempt from requiring an auditor) must appoint an auditor within one month of being registered under the Act, unless an auditor has already been appointed at a general meeting of the Co-operative.
- (b) An auditor appointed under subparagraph (a) holds office until the first annual general meeting of the Co-operative.
- (c) At its first annual general meeting, the Co-operative must appoint an auditor of the Co-operative and at each subsequent annual general meeting must appoint an auditor to fill any permanent vacancy in the office of the auditor.
- (d) As a transferred co-operative, the Co-operative is taken to have complied with subparagraph (a) if any person holding the office of auditor immediately prior to the date of registration under the Act continues to be the Co-operative's auditor.

74. APPOINTING AN AUDITOR - SMALL CO-OPERATIVES

- (a) The Co-operative, if a small co-operative (as defined by the regulations), may appoint an auditor at its first annual general meeting and at subsequent annual general meetings to fill a permanent vacancy in the office of the auditor.
- (b) Subparagraph (c) and (d) only apply where no appointment is made under subparagraph (a).
- (c) If the Co-operative is a small co-operative, the board must appoint an auditor within one month of being directed to prepare a financial report and have it audited under either section 293 or 294 of the Corporations Act.
- (d) An auditor appointed under subparagraph (c) holds office until the financial report prepared as a result of the direction has been audited and sent to members.

75. TERMS OF APPOINTMENT, REMUNERATION AND REMOVAL OF AUDITORS

- (a) The appointment, remuneration and removal of an auditor must comply with those provisions of the Corporations Act that apply under section 225 of the Act.
- (b) An auditor appointed at an annual general meeting holds office until the auditor:
 - (i) dies; or
 - (ii) is removed or resigns from office in accordance with section 329 of the Corporations Act; or
 - (iii) ceases to be a registered company auditor within the meaning of the Corporations Act; or
 - (iv) ceases to be an auditor under sections 327B(2A), (2B) or (2C) of the Corporations Act.
- (c) While a casual vacancy in the office of the auditor continues, the surviving or continuing auditors or auditor, if any, may act.
- (d) Where there is no surviving or continuing auditor, the board must fill a casual vacancy in the office of auditor, other than a vacancy caused by the removal of an auditor from office, within one month of the vacancy occurring, unless the Co-operative at a general meeting has already appointed an auditor to fill the vacancy. A person or firm appointed as auditor under this subparagraph holds office until the next annual general meeting of the Co-operative.
- (e) An individual, audit company or audit firm can be appointed as an auditor.
- (f) The Co-operative cannot appoint a person:
 - (i) (including a person who is a substantial shareholder in a corporation) who is indebted to the Co-operative (or to a subsidiary corporation of the Co-operative) for an amount that is more than \$5,000; or
 - (ii) who is:

- (A) an officer of the Co-operative; or
 - (B) a partner, employer or employee of an officer of the Co-operative; or
 - (C) a partner of an employee of an officer of the Co-operative; or
 - (D) an employee of an employee of an officer of the Co-operative,
to be auditor of the Co-operative.
- (g) All reasonable fees and expenses of an auditor are payable by the Co-operative.
 - (h) The board must enable an auditor to have access to all books, accounts, vouchers, securities and documents of the Co-operative and to be given such information as the auditor requires to perform his or her duties as auditor.
 - (i) An auditor may attend any general meeting of the Co-operative and is entitled to be heard at any general meeting the auditor attends on any part of the business of the meeting.
 - (j) An auditor is entitled to receive all notices and other communications relating to a general meeting that any member of the Co-operative is entitled to receive.
 - (k) Subject to section 329 of the Corporations Act, an auditor may be removed from office by resolution at a general meeting.
 - (l) Subject to section 329 of the Corporations Act, an auditor may resign as auditor.

76. CO-OPERATIVE FUNDS

- (a) The board may resolve to retain all or part of the surplus arising in any year from the business of the Co-operative, to be applied for the benefit of the Co-operative.
- (b) Any part of the surplus arising in a year from the business of the Co-operative or any part of the reserves may be:
 - (i) distributed to a member by way of rebate in proportion to the value of business done by each member with the Co-operative or to profits earned by the Co-operative on business done by each member with the Co-operative; or
 - (ii) distributed by the issue of bonus shares to a member in proportion to the value of business done by each member with the Co-operative, to profits earned by the Co-operative on business done by each member with the Co-operative or to shares held by the member; or
 - (iii) distributed to a member by way of a dividend of not more than the prescribed amount for the shares held (a **limited dividend**).
- (c) The amount of a rebate or dividend payable to a member under subparagraph (b)(i) and (iii) may, with the consent of the member:
 - (i) be applied in payment for the issue to the member of bonus shares; or
 - (ii) be applied as a loan to the Co-operative or
 - (iii) remain with the Co-operative as part of retained surplus.
- (d) Any part of the surplus arising in any year from the business of the Co-operative may be credited to any person who is not a member, but is qualified to be a member, by way of rebate in proportion to the business, or to profits earned by the Co-operative on business done by him or her with the Co-operative, if:
 - (i) the person was a member at the time the business was done and the membership has lapsed; or
 - (ii) the person has applied for membership after the business was done.

- (e) Nothing in this rule precludes the payment of a bonus to an employee under the terms of the employee's employment.
- (f) Nothing in this rule precludes the board from issuing members with bonuses or rebates in the form of a non-transferrable voucher which shall lapse with the value remaining part of the Co-operative's funds if not used within three months of the date of issue or such longer period as the Directors may allow or by crediting the account of the member with the Co-operative or by deposits to a rotating levy fund or any combination thereof.
- (g) A part of the surplus, not more than 10%, arising in any year from the business of the Co-operative may be applied for:
 - (i) charitable purposes; or
 - (ii) supporting any activity approved by the Co-operative,
 as determined by the board.
- (h) Nothing in this rule precludes a special postal ballot to apply a sum greater than 10% of a surplus or any part of the reserves for a community purpose.
- (i) In this rule:

surplus means the excess of income over expenditure after making appropriate allowance for taxation expense, depreciation in value of the property of the Co-operative and future contingencies.
- (j) A dividend or rebate that accrues to the holder of partially paid up shares must be applied to paying off any subscriptions or calls on shares that may (when the dividend or rebate becomes payable) be payable and unpaid by the holder.
- (k) If several persons are registered as joint holders of a share, any one of them may give a valid receipt for any dividend or other money payable on or for the share.
- (l) Unless the Act otherwise provides, interest does not accrue to a member on a dividend or rebate held by the Co-operative for a member.

77. ACQUISITION AND DISPOSAL OF ASSETS THAT REQUIRE SPECIAL POSTAL BALLOTS

- (a) For the purposes of the Act section 273(2)(a)(ii), the prescribed percentage is 50%.
- (b) For the purposes of the Act section 273(2)(b), the prescribed percentage is 5%.
- (c) For the purposes of the Act section 273(2)(c), the prescribed percentage is 50%.

78. METHOD AND NOTICE OF CASH REMITTANCES

- (a) Any remittance of funds by the Co-operative to a member can, at the board's option, be effected exclusively by direct electronic funds transfer to an Australian domiciled financial institution.
- (b) Members can be required to provide details of their nominated financial institution and account number for the remittance of funds from the Co-operative.
- (c) Each member of a joint membership must be party to nominating the paragraph (b) financial institution and account details.
- (d) Members are to be provided with details of any payment made by the Co-operative under this rule within 28 days of the remittance.

79. PROVISION FOR LOSS

The board must make provision for loss that may result from transactions of the Co-operative.

80. NOTICES

- (a) A notice or other document required under the Act, the regulations or these rules to be given to a member of the Co-operative may be given:
- (i) personally; or
 - (ii) by leaving it with a person who appears to be 16 years of age or more at the member's address; or
 - (iii) by post; or
 - (iv) by faxing it or emailing it to a fax number or email address provided by the person; or
 - (v) by sending it to the member by other electronic means (if any) nominated by the member; or
 - (vi) by publishing the notice in a newspaper circulating generally in this State or in the area served by the Co-operative, if:
 - (A) the member's whereabouts are unknown to the Co-operative; or
 - (B) the Registrar permits notice to be given to members of the Co-operative in that way.
- (b) A document may be served on the Co-operative:
- (i) by post addressed to the registered office; or
 - (ii) by leaving it at the registered office of the Co-operative with a person who appears to be 16 years old or older.
- (c) If a notice is sent by post, service is taken to be effected by properly addressing, prepaying and posting a letter containing the notice. For a notice of a meeting, service is taken to be effected at the end of 24 hours (Saturdays, Sundays and Public Holidays in Western Australia excluded) after the letter containing the notice is posted. Otherwise, service is taken to be effected when the letter would be delivered in the ordinary course of post and, in proving service, it is enough to prove that the envelope containing the notice was properly addressed and posted.
- (d) A notice or other document directed to a member and advertised in the newspaper is taken to be given to the member on the day the advertisement appears.
- (e) A notice given by fax or other electronic means is taken to have been served, unless the sender's fax or other electronic device indicates a malfunction in transmission, on the day the notice is sent, if sent on a business day, otherwise on the next business day.
- (f) A notice may be given by the Co-operative to the joint holders of a share by giving the notice to the joint holder named first, in the register of members and shares, for the share.
- (g) A notice may be given by the Co-operative to the person entitled to an interest because of the death, incapacity or bankruptcy of a member by sending it through the post in a prepaid letter addressed to the person by name. Alternatively, it can be addressed to the person by the title of representative of the deceased, or incapacitated person, or trustee of the bankrupt, or by any similar description. The address should be the address given for the purpose by the person claiming to be entitled. Alternatively, if no address has been given, the notice can be given in the way it could have been given if the death, incapacity or bankruptcy had not happened.
- (h) Notice of every general meeting must be given in the same way as authorised in this rule to:
- (i) every member of the Co-operative other than members who have not supplied to the Co-operative an address for giving notices to them; and
 - (ii) every person entitled to an interest because of the death, incapacity or bankruptcy of a member, who, but for the member's death, incapacity or bankruptcy, would be entitled to receive notice of the meeting; and
 - (iii) every independent director.

- (i) Except as provided in this rule and in rule 75(j), no other person is entitled to receive notices of general meetings.

81. WINDING UP

- (a) The winding up of the Co-operative must be in accordance with Part 12 of the Act.
- (b) If, on the winding up or dissolution, there remains any property after the satisfaction of all its debts and liabilities (including the refund of the amounts paid up on the shares), this must be paid to, or distributed among, the members of the Co-operative:
 - (i) in proportion to the value of business done by each member with the Co-operative over the immediately preceding five years; or
 - (ii) in proportion to profits earned by the Co-operative on business done by each member with the Co-operative over immediately preceding five years; or
 - (iii) in proportion to shares held by the member; or
 - (iv) by a combination of all or any of the three options set out in paragraph (i), (ii) and (iii).

Certification

We, the undersigned, certify that this is a copy of the rules presented to the formation meeting on (date) at..... for forming a co-operative to be known as:

Denmark Co-operative Company Limited

Name:

..... Chairperson of formation meeting

(signature)

Name:

..... Secretary of formation meeting

(signature)

Note: This certification is signed at the formation meeting that is held after the rules have been approved by the Registrar and returned to the sponsors of the proposed co-operative.