



## **CERTIFIED WAGYU BEEF (CWB) SOUTH AFRICA**

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### CONSTITUTION

Dear CWB members,

The following document, the Certified Wagyu Beef South Africa Constitution, was presented for adoption at the CWB Annual General Meeting held at the Royal show, Pietermaritzburg on the 28<sup>th</sup> May 2019.

During the Society's first strategic planning session in 2015, facilitated by Mr Bertus de Jong, the highest priority from the strategic session was for the Board to implement a certification system for Wagyu beef. This was again rated as one of the highest priorities during a strategic planning session held by the board in 2017. During the AGM in 2018 the concept of a separate not for profit company, to be called Certified Wagyu Beef, was approved. A meeting was also held on the 17th September 2018, which was open to all members, to raise and come up with solutions regarding concerns and implementation of the CWB protocol. Subsequent changes to accommodate breeders, producers and other role-players in the value chain has been made and widely accepted.

The CWB Board has been constituted and CWB has been registered as a Not-for-Profit Section 21 Company (NPC). The CWB Board members are representative of the whole value chain, including producers (seedstock and commercial), feedlots, abattoirs, deboning facilities, retail and restaurants.

The South African Animal Improvement Act of 1998 recognises the Wagyu Society of South Africa (WSA) as be the custodian of the Wagyu breed in South Africa. This includes its efforts to establish and ensure the integrity of the Wagyu breed and its products. Certified South African Wagyu Beef is now a registered trademark of WSA that is used to certify the origin and inherent quality of beef that is marketed and sold under this trademark. WSA will become the genetics company, and the CWB-program a value chain company. CWB will ensure integrity in the product and market CWB as a brand that is subservient to industry brands, nationally and internationally. It will also be a wholly owned subsidiary of the WSA.

Sincerely

Frans Stapelberg

Chairman – Certified Wagyu Beef and Wagyu Society of South Africa

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## **PART 1 PRELIMINARY**

### **1. Name of the Organization**

The name of the organization is Certified Wagyu Beef of South Africa (CWB) NPC.

### **2. Definitions**

2.1 In this Constitution, unless the context demands otherwise:

**"Act"** means Companies Act 71 of 2008;

**"Annual Conference"** means an industry forum convened at the discretion of the Board, if at all, as an annual conference of Members;

**"Annual General Meeting"** means a meeting held pursuant to clause 30;

**"Application"** means the application, either in digital or hard copy, that must be submitted to the Licensor by any person wishing to use the Logo as a certification trademark on nominated products;

**"Board"** means the Directors who are, for the time being, appointed to the board of management of CWB under clause 22;

**"Board Meeting"** means a meeting of the Directors of the Board at which the business of CWB is undertaken;

**"Board members"** the Directors of the Board nominated at the annual AGM

**"Calendar Year"** means the year commencing 1 January and ending 31 December 2019;

**"Chief Executive Officer"** means the person appointed under clause 26 and includes any person appointed to act for the Chief Executive Officer in the Chief Executive Officer's absence;

**"Constitution"** means the Constitution (inclusive of the Regulations, Protocol and License/Member form) of CWB;

**"CWB"** means Certified Wagyu Beef South Africa and refers to the collective body of membership, all annexures and agreements.

**"Director"** means a person appointed under the provisions of this Constitution to sit on the Board and includes any substitute Director;

**"Directors Vote"** means a vote under clause 33.

**"Financial Year"** means the calendar year ending on 28 February;

**"First Annual General Meeting"** means the first Annual General Meeting held and the adoption of this document as the Constitution of CWB;

**"First Board"** has the meaning given in clause 16;

**"General Meeting"** means a meeting of Members;

**"Governance, Finance and Audit Committee"** means the committee appointed under clause 25;

**"Legal Entity"** means Company, Close Corporation, Partnership, Trust or Body Corporate

**"Licence Fee"** means the fees referred to in paragraph 5 of the Regulations in schedule 1;

**"Licensor's Bank Account"** means the bank account details of which are referred to hereunder in clause 39;

**"Member or licensee"** shall mean:

- (a) a person admitted for the time being as a member of the CWB under this document;
- (b) means an individual or Legal Entity (Company, Close Corporation, Partnership, Trust or Body Corporate) recognised as a licensed member of the CWB under clause 6 and for clarity includes any role player in the sectors of the South African Wagyu beef cattle supply chain who has been issued a CWB License;

**"Members' Vote"** means a vote under clause 34;

**"Membership"** means membership of CWB;

**"Motion"** includes any amendment to a motion;

**"Office Bearer"** includes the Chairman, the Vice-Chairman and the Chair of the Governance, Finance and Audit Committee;

**"Organization"** means Certified Wagyu Beef South Africa

**“Chairman”** means the person appointed under clause 23;

**“Protocol”** means the Certified South African Wagyu Beef Protocol, which may be amended by the board from time to time, a copy of which is annexed to this agreement as Annexure A;

**“Regulations”** means the regulations set out in the First Schedule, as amended from time to time;

**“Schedules”** means the schedules attached to this Constitution in PART 6;

**“Secretary”** means the person appointed under clause 27 or, where no such person holds that office, the public officer of CWB;

**“Special Resolution”** means a resolution of the Members where:

- (a) it is passed at a General Meeting of the CWB, being a meeting of which at least 21 days’ notice, accompanied by notice of intention to propose the resolution as a special resolution, has been given to the Members; and
- (b) it is passed by at least 2/3rds of the votes of those Members who, being entitled to vote, vote in person or by proxy at the meeting, including in any online capacity.

**“Vice-Chairman”** means the person appointed under clause 24; and

**“WSA”** means the Wagyu Society of South Africa.

## 2.2 In this Constitution:

- (a) a reference to a clause is a reference to a provision of this Constitution and a reference to a regulation is a reference to the Regulations set out in the First Schedule, the Protocol set out in the Second Schedule and CWB Trade Mark License agreement (Membership Form) set out in the Third Schedule;
- (b) a reference to a function includes a reference to a power, authority and duty; and
- (c) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty.

### **3. Mission and objectives**

**Mission** *Ensuring trust in the Meat Value Chain to assure consumers of the premium eating experience that Wagyu has to offer*

#### **Objectives**

- 3.1 to provide a consistent message to consumers regarding Wagyu beef as a product;
- 3.2 to provide the Wagyu industry with the opportunity to market and brand the Wagyu product appropriately;
- 3.3 to ensure that all members strictly adhere to the CWB Protocol;
- 3.4 to ensure that all members are property licensed under the CWB License Agreement;
- 3.5 to represent and promote the interests of WSA;
- 3.6 to protect the investment made by WSA members in all sectors of the Wagyu supply chain;
- 3.7 to function as a specialist Wagyu beef industry organization with concern for the profitability and livelihood of all Wagyu beef producers;
- 3.8 to collect and distribute information concerning the product available in the Wagyu beef industry;
- 3.9 to encourage and approve licensing trading platforms for the sale of Wagyu beef genetic material, carcasses and products
- 3.10 to implement an objective method to grade Wagyu carcasses and to collectively work with industry to implement a voluntary grading system;
- 3.11 to ensure the product is traceable throughout the value chain;
- 3.12 to collect data to ensure that the best genetics gets identified for the use by all actors in the value chain.

### **4. Powers of the Organization**

- 4.1 CWB shall be responsible for determining and implementing policy on all specific matters of a commodity nature affecting the Wagyu beef product industry in South Africa.

- 4.2 CWB shall have power to do all things deemed by it necessary or desirable for the purpose of achieving its objects within the sphere of its operations including raising and expenditure of finance, the power to purchase or otherwise acquire real and personal assets and to sell, lease, mortgage, charge or otherwise deal with any of its real or personal assets and in addition, to provide specialist services to its Members upon request and on such terms and conditions that may be arranged.
- 4.3 CWB shall enforce the obligations agreed under this Constitution, Regulations, Protocol and License Agreement and be entitled to restrain any Member from breaching the undertaking.

## **PART 2 MEMBERSHIP**

### **5. General**

- 5.1 On admission to membership, all Members are bound by their obligations under this Constitution, the Regulations, the Protocol and the Licensing Agreement and, without limiting that commitment, each specifically acknowledge the obligations in clauses 5.2, 11, 12 and 13 and each Member undertakes to be bound by the Constitution, the Regulations, the Protocol and the Licensing Agreement of the CWB.
- 5.2 By admission to membership, Members acknowledge that CWB alone retains the right to represent Certified Wagyu Beef members and products.
- 5.3 A Member shall only remain eligible to be a Member whilst ever their Fees/Subscriptions are not in arrears.
- 5.4 A legal entity (Company, Close Corporation, Partnership or Body Corporate) may also become a Member of CWB and the additional representative rights and obligations is set out in clause to of the Regulations.

### **6. Members**

- 6.1 Members shall be an individual/legal entity who are Wagyu licensees that apply to be and are approved to be a CWB Member and shall be identified as Members of the CWB database.
- 6.2 Application for membership of the CWB shall be made to the Secretary in writing in such a form as may be prescribed by CWB and shall be accompanied by the relevant fees/subscription and/or entrance fees as set out in the Regulations. An applicant must be willing to agree to the prescribed protocol as set out in Schedule Two herein.



- 6.3 Participation as a Member in CWB and its program is subject to a License Agreement and is open to all role players in all sectors of the South African Wagyu beef cattle supply chain that subscribe to the program and follow the Protocol as set out in Schedule Two herein.
- 6.4 A Member therefore is also known as a CWB licensee and role player in one or more sectors of the South African Wagyu beef cattle supply chain.
- 6.5 All role players must be formally licensed by CWB to participate in the CWB-program. The different role players, as more specifically defined in the Protocol as per Schedule Two, in the South African Wagyu beef cattle supply chain, are as follows:
- 6.5.1 Seedstock (stud) breeders
  - 6.5.2 Commercial/Emerging Producers
  - 6.5.2 Feedlots
  - 6.5.3 Abattoirs
  - 6.5.4 Deboning and Meat Processing plants
  - 6.5.5 Wholesalers
  - 6.5.6 Retailers
  - 6.5.7 Restaurants

## **7. Membership Entitlements**

- 7.1 The Board determines all rights, privileges and obligations for each membership
- 7.2 Unless otherwise specified in this document all rights, privileges and obligations are as outlined under this Part and the Regulations and Protocol.
- 7.3 A right, privilege or obligation which an organisation has by reason of being a Member:
- (a) is not capable of being transferred or transmitted to another person or organisation; and
  - (b) terminates upon cessation of the membership.

## **8. Cessation of Membership**

- 8.1 A Membership ceases to be a Member if:
- (a) the Member dies; or

(b) the Member becomes ineligible for membership if they cease to meet the requirements prescribed in clause 6 and regulation 3.

(c) the Member resigns from membership in accordance with the terms of this Constitution; or

(d) the Member is expelled from the CWB or WSA.

8.2 A Member who's membership has been terminated as per clause 8.1 as per above, is expected to remove their membership/licensee certificate from their premises and cease trading under the CWB trademark.

8.3 A Member who, for whatever reason, has ceased to be a member of CWB, may again be admitted to membership, only upon approval of the Board and an application is made in terms of Clause 5.

## **9. Resignation of Membership**

9.1 A Member is not entitled to resign from the CWB except in accordance with this clause.

9.2 A Member who has paid all amounts due to the CWB may resign from membership.

9.3 Any Member may resign from the Organization by giving not less than one (1) month's written notice to the Secretary: Provided that such resignation shall not take effect before and until all moneys owing to the Organization by such Member have been paid, and furthermore until such Member has discharged all his obligations in respect of registrations, recordings, transfers or any other obligation he would have had to discharge as a member of the Organization.

## **10. Licensing**

Each sector of the supply chain will have its business entities licensed to comply with the CWB program. The license principles are set out in Schedule Two: Protocol.

## **11. Fees and Charges**

11.1 Unless otherwise determined by the Board, membership shall run for a period of 36 months and will be reissued at the end of the 36 month period.

11.2 All Members must pay fees/subscriptions in accordance with the Regulations and as determined by the Board from time to time. Fees/Subscriptions shall become a debt payable within 30 days after an invoice is raised and late payments will attract interest as determined by the board.

## **12. Member Sanctions**

12.1 Where the Board is of the opinion that a Member:

- (a) has refused or neglected to comply with a provision of this Constitution and Regulations; or
- (b) has acted in a manner prejudicial to the interests and objects of CWB; or
- (c) has committed a serious breach of the Constitution or Regulations; or
- (d) has failed to pay the Fees/Subscriptions as required by the Regulations;

the Board may, by resolution:

- (e) request the Member to show cause why the Member should not be either expelled from CWB or suspended from the rights and privileges of membership; or
- (f) expel the Member from CWB; or
- (g) suspend the Member's rights and privileges of membership as the Board may determine, for a specified period.

12.2 In making a decision under this clause 12, the Board may:

- (a) act on the recommendation, information or advice of any committee permitted by the Board to consider matters relevant to clause 12.1;
- (b) may act through (whether in whole or in part) any committee permitted by the Board to consider matters relevant to clause 12.1;
- (c) consider such evidence as it considers reasonably appropriate;
- (d) make its own inquiry (but without being bound to do so); and

(e) make its decision according to the matters before it by determining the weight and relevancies according to its own considerations without further review being available, except as this Constitution expressly permits.

12.3 Where the Board passes a resolution under clause 12.1 which is adverse to the Member (that is has formed the relevant opinion and has passed a resolution under clauses 12.1(e), 12.1(f) or 12.1(g)), the Secretary shall, as soon as practicable, cause a notice in writing to be served on the Member who is subject to the resolution:

- (a) setting out the resolution of the Board and the grounds on which it is based;
- (b) stating that the Member may address the Board at a meeting to be held not earlier than 14 days after service of the notice;
- (c) stating the date, place and time of that meeting; and
- (d) informing the Member that they may attend and speak at that meeting at their own cost and submit to the Board at or prior to the date of that meeting written representations relating to the resolution.

12.4 If a Member has been the subject of a notice issued under clause 12.3 and:

- (a) the Member does not respond in writing to the notice within 14 days after service of the notice advising of the Member's intention to appeal the decision (under clause 13) then the Board need not convene the meeting and the resolution shall stand unaffected; or
- (b) the Member responds in writing to the notice within 14 days after service of the notice advising of the Member's intention to appeal the decision (under clause 3) then the Board, including through a committee, shall convene the meeting as notified to the Member and the resolution shall be suspended pending the outcome of the deliberations from the notified meeting.

12.5 In making a determination under these clauses under clauses 12.1(e), 12.1(f) or 12.1(g), 13 and 14:

- (a) to the extent permitted by law, the rules of natural justice apply in the manner and according to the procedures stated in this Constitution;
- (b) subject to this Constitution, all decisions are at the discretion of the Board, who may act through or with the recommendation, information or advice of any committee;

(c) the subject Member has no entitlement to legal representation, but may seek legal advice; and

(d) the subject Member has no further rights to appeal or information in respect of the breach or sanctions imposed, other than those provided for by this Constitution or where relevant, the Regulations.

### **13. Right of Appeal of Members**

13.1 At a meeting of the Board (who may act through a committee) to be convened under clause 12.3, the Board shall:

(a) give the Member an opportunity to make oral submissions on the grounds alleged;

(b) consider any written submissions given to the Board by that Member at or prior to the meeting;

(c) make its own inquiry (but without being bound to do so) and make its decision according to the matters before it, determining the weight and relevancies according to its own considerations without further review being available;

(d) consider any new or additional information put before it and including evidence of conduct subsequent to the time on which the resolution was passed; and

(e) by resolution determine whether to confirm or to revoke the resolution of the Board made under clause 12.1 or it may substitute a new resolution, which can result in a lower or higher penalty than that provided for in the resolution that was reviewed.

13.2 Where a resolution is made pursuant to clause 13.1 the Secretary shall, within 7 days after that resolution, issue a notice in writing to inform the Member of that resolution.

13.3 Notwithstanding anything in clause 12 or this clause, if, after service of a notice pursuant to clause 12.3 the Member advises (by whatever means) the Board that it does not intend to defend the grounds alleged in the notice or does not intend to make oral or written submissions on the grounds alleged then it shall not be necessary for the Board to meet.

### **14. Expulsion**

14.1 A Member may be expelled from CWB other than pursuant to clause 12 by a meeting of the Board on the condition that:

(a) eight weeks' written notice has been given to the Member by the Chief Executive Officer; and

(b) such Motion is carried by the majority of the Board.

14.2 An expelled Member shall pay CWB all monies owing by it to CWB at the date of expulsion.

## **15. Membership to the CWB Trading Platform**

15.1 All CWB Members will become eligible to trade their products on the trading platforms as determined by the CWB board.

15.2 Members will have the option to select on the platform they wish to use.

15.3 The membership application form as per Schedule 2 and 3 lists the confidentiality terms of the information provided by the Member.

## **PART 3 DIRECTORS**

### **16. The First Board**

16.1 The First Board shall be the Directors serving at the time of the adoption of this document as the Constitution of the CWB and shall consist of the persons nominated in regulation 6 and those subsequently appointed prior to the first Annual General Meeting and in accordance with regulation 7.

16.2 The First Board shall serve until the First Annual General Meeting at which point all Board members must resign but remain eligible for re-nomination to the Board where in accordance with this Constitution and the Regulations.

16.3 Where a seat on the First Board becomes vacant for the purposes of clause 20, any replacement Board member shall serve only until the first Annual General Meeting.

### **17. Power of Directors**

17.1 Directors are nominated and endorsed by the Membership and must act in a manner consistent with the objects outlined in clause 3 and in the best interests of all Members and of the CWB.

17.2 Directors shall have all the powers of a natural person to conduct the business of the CWB and may determine the industry policy of CWB and amend the CWB Protocol, giving proper consideration to (but not bound by):

- (a) the views expressed and resolutions passed by Members' Vote;
- (b) the views expressed at Member and industry Forums (see clause 32); and
- (c) where appropriate to the interests of the CWB industry policy and the views expressed by the WSA,

but for clarity, nothing in this clause diminishes the duties of the Board to act independently and in the best interests of CWB according to its objects outlined in clause 3.

17.3 Except as provided for under this Constitution, all decisions of the Board shall be by resolution on Motion.

## **18. Appointment of Directors**

18.1 Each year up to five Directors will be appointed from the Members and endorsed by the Membership in accordance with regulation 7.

18.2 At least 51% of the board must at all times be "*bona fide*" Wagyu beef producers and be members of WSA.

18.3 Elections for Directors shall be conducted by ballot in accordance with method prescribed by the Regulations.

18.4 Directors may be reimbursed in accordance with the Regulations for expenses reasonably incurred in the conduct of CWB business.

## **19. Term of Directors**

19.1 Subject to Schedule 1, regulation 7.1, all Directors' terms shall be two years from the date of appointment, ending at the conclusion of the Annual General Meeting. Retiring directors shall be eligible to serve for a maximum of seven years.

## **20. Vacancies**

20.1 For the purpose of this Constitution, a vacancy in the office of Director occurs if the Director:

- (a) dies;
- (b) ceases to be a Member;
- (c) resigns the office;
- (d) suffers from mental or physical incapacity;
- (e) ceases to be eligible under the Regulations; or
- (f) is not accepted or endorsed in accordance with clause 22.1.

20.2 If an office of Director falls vacant:

- (a) where that Director held a Board Seat, the Board may appoint someone to fill the vacancy as per Clause 18.

## **21. Expulsion, Suspension or Sanctioning of a Director**

21.1 Pursuant to clause 22.3(g), the Board may expel or suspend or otherwise discipline a Director if the Board determines by resolution that:

- (a) a Director is in substantial breach of a provision of this Constitution;
- (b) a Director is in substantial breach of the WSA Constitution;
- (c) any act or omission of a Director is unbecoming of a Director, or prejudicial to the interests or reputation of the CWB; or
- (d) the Director engages in persistent and/or vexatious litigation against CWB;

21.2 The Board must not expel or suspend or otherwise discipline a Director unless:

- (a) at least 14 days' Notice has been given to the Director stating the date, time and place at which the question of suspension, expulsion or disciplining of that director is to be considered by the Board, and the nature of alleged event(s) giving rise to the expulsion; and
- (b) the affected Director is given the opportunity of explaining to the Board, orally or in writing, why the Director should not be suspended, expelled or otherwise disciplined; and



21.3 Notwithstanding clause 21.2, the Board will be entitled to immediately suspend a Director if, in the opinion of the Board, the Director's behaviour or actions pose a threat to staff or the operation of the CWB.

21.4 At a meeting to be convened for the purpose of 21.2, the Board may:

- (a) act on the recommendation, information or advice of any committee permitted by the Board to consider matters relevant to the matter before the meeting;
- (b) consider such evidence as it considers reasonably appropriate;
- (c) make its own inquiry (but without being bound to do so); and
- (d) make its decision according to the matters before it, determining the weight and relevancies according to its own considerations without further review being available except as this Constitution or the Act expressly permits.

21.5 Where a Director is appointed to a seat on the Board to which a Member has the right to nominate the appointee, and that Director has resigned, been suspended or expelled, then the full rights of that Member will remain and the Member will be entitled to replace the Director with an alternate Director on a temporary or permanent basis as determined by the Member.

## **22. The Board**

22.1 Members at each Annual General Meeting shall elect candidates to hold office in the Member Board Seats and vote to elect or accept as required nominees to the Board and each Director shall take office from the close of the Annual General Meeting.

22.2 The Board shall comprise of the Chairman, and at least four additional Directors as prescribed in regulation 7.

22.3 The Board shall, owing its duty to CWB as a whole be responsible for:

- (a) the day to day management of CWB;
- (b) the management policies of CWB;
- (c) the determination of CWB industry policy, paying due consideration to matters approved under clause 34 and to the views expressed by any relevant sub-committees;

- (d) the implementation of policy and the strategic plan;
- (e) the resolution of the issues which arise between Annual General Meetings;
- (f) the exercise of any power or right explicitly granted to the Board by this Constitution and Regulations;
- (g) the expulsion, suspension or disciplining of a Member or Director as directed by clauses 12, 14 or 21 respectively; and
- (h) the exercise of any power ordinarily exercised by the board of management of an incorporated association.

22.3 Directors must attend such CWB and other Wagyu industry forums attracting broad attendance by Wagyu producers as the Board reasonably directs.

22.4 Board Members absenting themselves from two consecutive meetings without leave, or other satisfactory reasons, shall automatically vacate their seats

### **23. Chairman**

23.1 At the first Board meeting following election of Directors at the Annual General Meeting the newly appointed Board shall elect a Chairman from amongst its Directors. The first Board meeting may be called prior to the conclusion of the Annual General Meeting.

23.2 The Chairman:

- (a) must be a current Member and must be nominated by two current Directors;
- (b) shall assume office at the conclusion of the Annual General Meeting and hold office for two years, until the conclusion of the Annual General Meeting in their 2nd year;
- (c) shall chair Board meetings;
- (d) shall have a casting vote, but not a deliberative vote; and

23.3 The incumbent Chairman is entitled to re-nomination for the position of Chairman in successive terms provided that the maximum continuous term shall be four years.

23.4 Notwithstanding clause 23.1, an incumbent Chairman is eligible for re-election without having to revert to the position of Director for the purpose of the election for a second term.

23.5 If, for any reason, the office of the Chairman becomes vacant, the Vice-Chairman shall fill that vacancy until the next Annual General Meeting and the office of the Vice-Chairman shall be deemed vacant.

23.6 When the Chairman is absent from a Board meeting, the next most senior Office Bearer or, in their absence, the Chief Executive Officer, will act as chair in place of the Chairman. The acting chair shall retain his or her total deliberative votes but shall not have a casting vote. If a vote is tied then the resolution shall be held over and put again when the Chairman resumes the chair.

## **24. Vice-Chairman**

24.1 At the first Board meeting following the Annual General Meeting the Board shall elect a Vice-Chairman from among the members of the new Board.

24.2 The Vice-Chairman shall assume office at the conclusion of such Annual General Meeting and shall hold office for one year and continue in office until the conclusion of the next Annual General Meeting.

24.3 The term of office of the Vice-Chairman shall be two year's but the incumbent Vice-Chairman shall be eligible for re-election provided that the maximum continuous term shall be four years.

24.4 If, for any reason, the office of the Vice-Chairman becomes vacant, the Board may appoint another Director to fill that vacancy for the remainder of the Vice-Chairman's term.

## **25. Governance, Finance and Audit Committee**

25.1 At the first Board meeting following the Annual General Meeting the Board shall:

(a) elect a Governance, Finance and Audit, Technical and Marketing Portfolio from among the members of the Board;

25.2 The Corporate Governance, Finance and Audit, Technical and Marketing Portfolio shall:

(a) assume responsibility at the conclusion of the Annual General Meeting;

(b) be responsible until the conclusion of the next the Annual General Meeting;

(c) is accountable to the Board.

25.3 The Corporate Governance, Finance and Audit, Technical and Marketing Committee shall procure that the Chief Executive Officer:

- (a) collects and receives all moneys due to the CWB and makes all payments authorised by the CWB;
- (b) keeps or procures to be kept correct accounts and books showing the financial affairs of the CWB with full details of all receipts and expenditure connected with the activities of the CWB; and
- (c) meets the audit requirements set out in clause 45.

25.4 If, for any reason, one of the Corporate Governance, Finance and Audit, Technical and Marketing Committee positions becomes vacant, the Board may appoint another Director to fill that vacancy for the remainder of the term.

## **26. Staff**

26.1 The Board (or a sub-committee including the Chairman appointed by the Board) shall appoint a Chief Executive Officer, responsible to the Chairman, and other such salaried officers as the Board may determine.

26.2 In the absence of the Chief Executive Officer the Board may appoint a person to act for the Chief Executive Officer.

26.3 The Chief Executive Officer shall:

- (a) be responsible to the Board for the management of CWB;
- (b) conduct the correspondence of CWB, attend meetings, take or procure to be taken minutes of proceedings, and attend properly to directions given to them by the Board;
- (c) be responsible for reporting on actions taken on all resolutions carried at meetings of CWB and for bringing to the notice of each meeting any resolutions not attended to;
- (d) be responsible for fulfilling the role and directions of the Board and the Corporate Governance, Finance and Audit, Technical and Marketing Committee in respect of good corporate governance and financial dealings of CWB;

(e) advise the Chairman and Board on the effects for the Wagyu industry of implementation of CWB's policies;

## **27. Secretary**

27.1 The Chief Executive Officer or his/her representative shall hold the office of Secretary of CWB.

27.2 The Secretary shall keep or procure to be kept minutes of:

(a) all elections and appointments of Directors;

(b) names of Directors or sub-committee members present at a Board or sub-committee meetings or of Members present at Annual General Meetings;

(c) all proceedings at any CWB meeting including Board meetings, sub-committee meetings and Annual General Meetings; and

(d) minutes of all proceedings at any meeting of CWB shall be signed by the person presiding at the meeting or by the person presiding at the next succeeding meeting and shall be counter signed by the Chief Executive Officer. The Secretary or a nominee of the Secretary shall hold the office of Public Officer.

## **28. Indemnification Clause**

28.1 Every Office Bearer and member of the staff of CWB and any member of a sub-committee thereof, shall be indemnified by the CWB against all costs, losses and expenses, which any officer may incur or become liable to by reason of any authorised contract or act pursuant to the discharge of their duties. Such cost, losses and expenses shall be paid by CWB.

## **PART 4 DECISIONS AND MEETINGS**

### **29. Board Meeting**

29.1 The Board shall meet at such times and places as it deems appropriate.

29.2 The Board may resolve all matters by a vote where, on a poll, each Board member may exercise their vote that he or she holds, as prescribed in regulation 8.

29.3 At a meeting of the Board a quorum shall exist where 51% of the total votes and 51% of the Directors currently appointed are present.

29.4 Except in the case of urgent meetings, prior to each meeting of the Board, the Chief Executive Officer shall send to each Director a copy of the agenda for that meeting.

29.5 As soon as practicable after any meeting of the Board, the Secretary shall:

- (a) send to each Director a record of that meeting; and
- (b) once the Directors have approved that record, make available to Members a summary of that meeting record.

### **30. Annual General Meeting**

30.1 The Annual General Meeting shall be convened once per year, subject to the Act, on such date and at such place and time as the Board sees fit.

30.2 In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting shall be:

- (a) to confirm the minutes of the last preceding Annual General Meeting and of any other General Meeting held since that meeting;
- (b) to receive from the Board reports on the activities of the CWB during the last preceding Financial Year;
- (c) to elect and accept members of the Board as the case requires; and
- (d) to receive and consider the statement of accounts and the reports that are required to be submitted to Members pursuant to conditions of the Act.

30.3 The Annual General Meeting may be held as the Board sees fit and minutes shall be kept in respect of the business transacted under clause 30.2.

30.4 There shall be a quorum at an Annual General Meeting or General Meeting when at least 10% of the membership is present either in person or via proxy.

30.5 In the event that there is no quorum, the Annual General Meeting shall be adjourned for a period of 14 days at the same time and place. The AGM will then be reconvened as decided by the Chief Executive Officer and no quorum will be required.

### **31. Adjournment of Board meetings**

31.1 The person presiding at a CWB meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from

time to time and place to place, but, except with the consent of all Members, no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

31.2 Where a meeting is adjourned for 14 days or more, the Secretary shall give written or oral notice of the adjourned meeting to each Member stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

31.3 Except as provided in clause 31.2 above, there is no requirement that a notice of adjournment or notice of adjourned business be given.

## **32. Member Forums**

32.1 CWB may hold Wagyu member forums ("Forums") at such times and places as the Board may determine.

32.2 The Board may determine in its discretion:

- (a) the number of Forums in a given year; and
- (b) who will chair the Forums.

32.3 Forums are not formal meetings of CWB and will be open to non-members. No CWB business will be conducted at these Forums. The chair may allow recommendations to be made and those recommendations will be passed on to the CWB Board and its sub-committees for deliberation.

## **33. Director Voting**

33.1 At meetings of the Board voting of the Directors shall be as prescribed in regulation 9. The means of voting by Directors may be reviewed by the Board, which shall, if appropriate, amend the Regulations by resolution at the AGM.

33.2 Upon any Motion put to the Board by correspondence or other recorded means, each Director may exercise their vote.

33.3 A Director who is absent from a Board meeting may exercise their vote on any matter before that meeting by:

- (a) providing their vote in writing to the Chief Executive Officer; or
- (b) passing their vote by written proxy to another Board Member, to be exercised on their behalf.

### **34. Members/Licensee's' Vote and Elections**

34.1 For the purposes of putting a resolution for consideration, a Members' Vote shall constitute a vote of the Members present and entitled to vote in person or by proxy.

34.2 The Board must give 14 days' notice to all Members that a Members' Vote has been called.

34.3 Notwithstanding clause 34.2, 14 days' notice is required for Motions put from the floor at an Annual General Meeting.

34.4 A Members' Vote must be held on the following matters:

- (a) the election and/or acceptance of the Directors to the Board;
- (b) approval of the audited accounts as prescribed in clause 38; and
- (c) any other matter that the Board decides to put to a Members' Vote.

34.5 Unless otherwise stated in this Constitution, a Members' Vote shall be resolved by simple majority and can be conducted by:

- (a) show of hands; or
- (b) secret ballot.

34.6 Members may vote by proxy in the form determined by the Board from time to time. Each Member is restricted to have 2 (two) proxies at a time, meaning each Member may not represent more than two other members.

34.7 All proxies must be lodged with the Secretary a minimum of 10 business days prior to the commencement of the General Meeting.

### **35. Submission of Motions**

35.1 Motions for consideration at a meeting of the CWB may be submitted to CWB by:

- (a) a minimum of 15% of the membership at the end of the preceding financial year;
- (b) the Chairman; and
- (c) the Board.



35.2 Motions for consideration at a meeting of CWB may, subject to any conditions hereinafter provided:

- (a) be moved at an Annual General Meeting;
- (b) be submitted to the Chief Executive Officer in writing for placing on the agenda for the Board or Annual General Meeting; or
- (c) subject to the Regulations, be put and resolved by correspondence, or other electronic or recorded means, provided that the Chairman may decide that the Motion be resolved in this manner.

### **36. Determination of Motions**

36.1 Except as prescribed in clause 34.5 all Motions will be determined by a show of hands unless a poll is demanded in accordance with clause 35.2.

36.2 A poll may be demanded at any time before or on the declaration of a show of hands by not less than five Members present and entitled to vote in that Motion.

### **37. Delegation to Sub-Committees**

37.1 The Board may, by instrument in writing, delegate to one or more sub-committees (consisting of such Directors, Members and individuals as the Board thinks fit) the exercise of such of the functions of the sub-committee as are specified in the instrument, other than:

- (a) this power of delegation;
- (b) the determination of policy of CWB; and
- (c) a function which is a function imposed on the Board by the Act or by resolution at an Annual General Meeting.

37.2 A function, the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

37.3 A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances as may be specified in the instrument of delegation.

37.4 Notwithstanding any delegation under this clause, the sub-committee may continue to exercise any function delegated.

37.5 Any act or thing done or suffered by a committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Board.

37.6 The Board may, by resolution, revoke wholly or in part any delegation under this clause. A sub-committee may meet and adjourn as it thinks proper, subject to the Board.

## **PART 5 MISCELLANEOUS**

### **38. Expenses**

38.1 The funds of CWB shall be derived from entrance fees and Fees/Subscriptions of Members, animal transfers, donations and, subject to any resolution passed by CWB in General Meeting, such other sources as the Board determines.

38.2 Each Member shall pay the Fees/Subscription determined in accordance with regulation 5.

38.3 The Board shall review from time to time the level of reimbursement for travel expenses and shall take into account the determinations of the Corporate Governance, Finance and Audit, technical and marketing committee.

38.4 The Board shall prepare a budget for each year's expenditure and recommendations for Fees/Subscription rates for that year.

38.5 Members who are in arrears 30 days after any instalment is due to interest being charged in accordance with clause 12. After 90 days the Member can be handed over to for debt collection.

38.6 All money received by CWB shall be deposited as soon as practicable and without deduction to the credit of the CWB's bank account.

38.7 The office shall, as soon as practicable after receiving any money, issue or cause to be issued an appropriate receipt.

### **39. Bank Account**

39.1 CWB shall have its own bank account, which shall be operated upon as directed by the Board.

#### **40. Alteration of Constitution**

40.1 The Constitution may be amended by Special Resolution. Alterations to Motions of constitutional amendment will be permitted by leave of a majority of the Board, provided that the original intent of the resolution is maintained.

#### **41. Access to formal Records**

41.1 As described in Schedule 2 (protocol), all phenotypic data remains the intellectual property (IP) of the producer and will not be made available to other licensees or the public. If CWB, for whatever reason, intend to use the data, permission can only be granted by the breeder who is the rightful owner.

#### **42. Service of Notice**

42.1 For the purpose of this Constitution a notice to be given by a Member for any purpose under this Constitution shall, unless stated expressly otherwise, be given in writing and shall be subject to a notice period of seven days, provided that a simple majority of the Board, may waive the seven day requirement.

42.2 Where a document is sent to a person by properly addressing, prepaying and posting or emailing to the person a letter containing the document, the document shall, unless the contrary is proved, be deemed for the purposes of this Constitution to have been served on the person at the time at which the letter or email would have been delivered in the ordinary course of post or email.

#### **43. Electronic Communication**

Any notice required to be served under this Constitution or Regulations may be served by electronic means:

(a) an approved electronic communication address must be provided by the recipient;

#### **44. Head Office**

44.1 CWB shall have its head office at 4 Genius Loci Office Park, 6 CP Hoogenhoutstreet, Langenhoven Park, Bloemfontein 9301, or such other place as the Board may determine.

#### **45. Audit**

45.1 Yearly audits of the accounts of CWB shall be made by a professional accountant appointed each year at the Annual General Meeting. Audits shall be in accordance with the Act.

## **46. Dissolution**

46.1 A special General Meeting may be called by the Board for the purpose of dissolving CWB.

46.2 At least three months' notice in writing must be given to Members and the resolution must be carried by not less than three quarters of the Members' Vote.

46.3 Upon such determination, the Board shall direct the determination and adjustment of outstanding charges amongst the Members, the manner in which property and assets of CWB are to be realised, and the payment of all debts and liabilities of CWB.

46.4 If there remains after the satisfaction of all such debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members, but shall be given or transferred to:

- (a) the entity nominated pursuant to clause 47; or
- (b) if the nominated entity is no longer available, some other institution, or institutions, whether incorporated or not, having objects similar to the objects of the CWB, and which shall prohibit the distribution of its or their own income and property amongst its or their Members or in default thereof, by the High Court of South Africa, and if so far as effect cannot be given to the aforesaid provision, then to some charitable object.

## **47. Use of Name**

47.1 Each Member shall be entitled to describe itself as a "Member or licensee of the CWB of South Africa".

## **48. Power to Make Regulations, Protocol and License/Membership Agreements**

48.1 Unless otherwise stated in this Constitution, the Board shall have power to make, amend or repeal the Regulations, Protocol and License/Membership agreement.

## **49. Miscellaneous Matter**

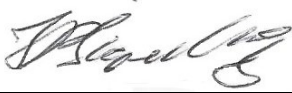
49.1 The decision of the Board upon any interpretation or upon any matter affecting CWB not provided for by this Constitution or by the Regulations shall be final and binding on the Members.

## PART 6 SCHEDULES

### 50. Schedule 1: Regulations

### 51. Schedule 2: Protocol

### 52. Schedule 3: CWB Trademark License agreement (Membership Form)

Subject:	<b>Certified South African Wagyu Beef Constitution</b>		
Approved by:	CWB AGM	Revision:	19.1
Signature:		Effective Date:	28 May 2019
		Revision Date:	