

# **The Australian Institute of Food Science and Technology Limited**

**A.C.N. 602 767 019**

**(A public company limited by guarantee)**

## **Constitution**

The following is a true and correct copy of the Constitution of The Australian Institute of Food Science and Technology Limited as adopted by the Members of The Australian Institute of Food Science and Technology Limited by Special Resolution passed at the Annual General Meeting held on 25 May 2023.

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## 1 Defined terms and interpretation

### 1.1 Defined terms

The Dictionary in Schedule 1:

- (a) defines some of the terms used in this constitution;
- (b) sets out the rules of interpretation which apply to this constitution; and
- (c) clarifies the effect of the Corporations Act on this constitution.

### 1.2 Interpretation

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this constitution.

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## 2 Nature of company and liability

### 2.1 Nature of company

The company is a public company limited by guarantee.

### 2.2 Liability of each member is limited

The liability of each member is limited. Each member guarantees to contribute up to a maximum of \$1.00 to the assets of the company if it is wound up while the member is a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the company exceed its assets. The liability of each member is limited to making such contribution and no more.

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## 3 Objects of the company

The objects of the company are:

- (a) as set out in Schedule 2;
  - (b) to carry out such other functions and purposes which are necessary or incidental to the other objects of the company.
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## 4 Legal capacity and powers of the company

The company has all of the powers of a natural person and of a body corporate, including those set out in the Corporations Act.

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## 5 Membership

### 5.1 Classes of membership

The membership of the company will consist of full voting members and part voting members:

- (a) the following classes of members shall be full voting members:
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- (i) Fellow;
  - (ii) Professional Member;
  - (iii) Life Fellow;
  - (iv) Life Professional Member;
  - (v) Retired Fellow; and
  - (vi) Retired Professional Member.
- (b) the following classes of member shall be part voting members:
- (i) Member;
  - (ii) Graduate Member;
  - (iii) Student Member;
  - (iv) Life Member;
  - (v) Retired Member; and
  - (vi) Honorary Fellows.

## **5.2 Full Voting members**

The full voting members of the company are:

- (a) those individuals who are or were corporate members of The Australian Institute of Food Science and Technology Incorporated as at or immediately prior to the date of incorporation of this company and who continue to satisfy the requirements of membership, including the payment of fees, where applicable; or
- (b) those individuals who:
  - (i) have paid the applicable membership fee;
  - (ii) have been admitted by the board to membership of the company within a class of full voting members after making an application for such membership and satisfying any eligibility criteria adopted by the board for such class; and
  - (iii) who continue to satisfy the requirements of such membership, including payment of fees, where applicable.

## **5.3 Full Voting Members rights**

A full voting member has:

- (a) the right to receive notices of and to attend and be heard at any general meeting of the company;
- (b) the right to vote, including the right to vote in relation to changes to the constitution of the company; and
- (c) the right to use such post-nominals as the board may determine from time to time.

#### **5.4 Part Voting Members**

The part voting members of the company are:

- (a) those individuals who are or were members but not corporate members of The Australian Institute of Food Science and Technology Incorporated as at, or immediately prior to, the date of incorporation of this company and who continue to satisfy the requirements of membership, including the payment of fees, where applicable; or
- (b) those individuals who:
  - (i) have paid the applicable membership fee;
  - (ii) have been admitted by the board to membership within a class of part voting members after making an application for such membership and satisfying any eligibility criteria adopted by the board for such class; and
  - (iii) who continue to satisfy the requirements of such membership, including payment of fees, where applicable.

#### **5.5 Part Voting Members Rights**

Part voting members have the same rights as full voting members other than:

- (a) not being entitled to vote in relation to changes to the constitution of the company; and
- (b) not being entitled to use any post-nominals related to the company.

#### **5.6 Membership not transferable**

No membership interest, benefit or right of any member is capable of being sold or transferred in any manner whatsoever and a membership interest shall automatically lapse if there is any such purported sale or transfer or agreement to effect same, except:

- (a) a part voting member under either of the classes referred to in rules 5.1(b)(i), 5.1(b)(ii) or 5.1(b)(iii) may elect, with the consent of an executive officer, to change membership class to being a part voting member under any other one of those classes; or
- (b) a part voting member under the class referred to in rule 5.1(b)(i) may elect, with the consent of an executive officer, to change membership class to being a part voting member under either of the classes referred to in rule 5.1(b)(iv) or rule 5.1(b)(v); or
- (c) a part voting member under the class referred to in rule 5.1(b)(i) may apply to change membership class to become a member under the full voting class referred to in rule 5.1(a)(ii) provided the application is approved by a committee established for such a purpose by an executive officer; or
- (d) a full voting member under the class referred to in rule 5.1(a)(ii) may apply or be recommended for change of membership class to being a full voting member under the class referred to in rule 5.1(a)(i) provided the application or recommendation is approved by a committee established for that purpose by an executive officer; or



- (e) a full voting member under the class referred to rule 5.1(a)(i) may elect, with the consent of an executive officer, to change membership class to being a full voting member under either of the classes referred to in rule 5.1(a)(iii) or rule 5.1(a)(v); or
- (f) a full voting member under the class referred to rule 5.1(a)(ii) may elect, with the consent of an executive officer, to change membership class to being a full voting member under either of the classes referred to in rule 5.1(a)(iv) or rule 5.1(a)(vi).

#### **5.7 Role of executive officer**

An executive officer must be appointed pursuant to rule 12.2 and have had such powers delegated to them to enable them to fulfil the responsibilities referred to in rule 5.6.

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## **6 Admission to membership**

### **6.1 Consideration of application**

If an application for membership or an application to change their existing class of membership to another class of membership (under rule 5.6(b) or rule 5.6(c)) is made by a person then it must be considered as soon as reasonably practicable after its receipt and determine the acceptance or rejection of that application.

### **6.2 Acceptance or rejection of membership application**

- (a) If an application for membership or change of membership class is accepted then the name and details of the applicant must be entered in the register as membership details of the applicant in accordance with the Corporations Act under the appropriate class of membership.
- (b) If an application for membership or change of membership class is rejected then an executive officer must notify the applicant that the application has been rejected.
- (c) The applicant does not have to be given reasons for rejecting or accepting an application for membership.

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## **7 Cessation of membership**

### **7.1 Resignation**

- (a) A member may resign from membership of the company by giving written notice to that effect to the secretary by any means specified in rule 17.3.
- (b) Unless the notice provides otherwise, the resignation of a member is deemed to take effect from the date such notice is given to the registered office.

### **7.2 Cancellation of membership**

- (a) Subject to rule 7.2(c) the directors may resolve to cancel the membership of a member or to change the member's class of membership if:
  - (i) a Cancellation Event occurs in respect of the member; and
  - (ii) the company has given that member at least 10 Business Days' notice in writing stating the Cancellation Event and that their membership is liable to

be cancelled or changed, and informing the member of their right under rule 7.2(c).

- (b) The directors may resolve to cancel the membership of a member if the member does not pay a fee payable by the member pursuant to this constitution within 20 Business Days after the due date for its payment.
- (c) Before the passing of any resolution under rule 7.2(a), a member is entitled to give the directors, either orally or in writing, within ten Business Days of the service of the notice under clause 7.2(a)(ii), any explanation or defence of the Cancellation Event the member may think fit.
- (d) Where a resolution is passed under rule 7.2(a) or 7.2(b), the company must give that member notice in writing of the cancellation within 10 Business Days of the resolution.
- (e) A member may by notice in writing to the company within 10 Business Days of receipt of the notice referred to in rule 7.2(d), request that a resolution under rule 7.2(a) be reviewed by the company in general meeting. If such a request is made, and subject to the member concerned promptly paying any corresponding fee levied pursuant to rule 9(b), then the directors must propose at the applicable general meeting of the company a resolution to confirm the cancellation of membership or change of class of membership of the member concerned. Pending such review, the member's rights shall be suspended unless the directors decide otherwise. If any applicable fee is not promptly paid by the member concerned then there will be no need for the board's decision to be reviewed by the company in general meeting. A resolution under rule 7.2(a) takes effect:
  - (i) if the member gives a notice under rule 7.2(e), the date (if any) the resolution is confirmed by a general meeting of the company; or
  - (ii) if the member does not give a notice under rule 7.2(e), the date of the resolution.
- (f) A resolution under rule 7.2(b) takes effect on the date of the resolution.
- (g) The directors may reinstate a cancelled membership at any time as the directors resolve, including a requirement that all amounts due but unpaid by the respective individual are paid.

### **7.3 Cessation Events**

A person will cease to be a member of the company if a Cessation Event occurs in respect of that member. Such cessation of membership does not release that person or their estate from payment of any liability accrued prior to the Cessation Event.

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## **8 No profits for members**

### **8.1 Transfer of income or property**

Subject to the operation of rule 8.2, the assets and income of the company shall be applied solely in furtherance of the objects of the company and no portion of the income or assets of the company may be paid or transferred, directly or indirectly to any member, except as bona fide compensation for services rendered or expenses incurred on behalf of the company.

## 8.2 Payments, services and information

Nothing in rule 8.1 prevents the payment in good faith of

- (a) remuneration to any officers or employees of the company for services actually rendered to the company;
- (b) an amount to any member in return for any goods supplied or services actually rendered to the company (whether by the member or any corporation or partnership in which the member has an interest or is a member) in the ordinary and usual course of business; or
- (c) reasonable and proper rent for premises let by any member to the company.

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## 9 Fees

- (a) The directors may require the payment of fees or levies by members in the amounts and at the times as the directors resolve.
- (b) The directors may, pursuant to rule 9(a), levy a fee on a member in relation to an appeal by that member under rule 7.2(e) for an amount estimated to cover the company's costs of dealing with the appeal, provided such fee would be fully refundable to the member if the appeal is successful.
- (c) The directors may charge different fee or levy amounts for each class of full voting members and each class of part voting members.
- (d) The directors may determine such criteria for applying discounts to membership fees or levies from time to time as they see fit.
- (e) The directors may revoke or postpone payment of fees or extend the time for payment of fees.
- (f) The company must give members at least 10 Business Days' notice of fees payable by members. A notice of fees must specify the amount of the fee, and the due date for payment of the fee. A fee is not invalid if a member does not receive notice of the fee.
- (g) A member must pay to the company the amount of each fee levied on the member by the due date specified in the notice of the fee. If a fee is payable in one or more fixed amounts by one or more fixed dates, the member must pay to the company all those amounts by the respective dates.
- (h) The company may recover an amount due and payable under rule 9(g) from a member by commencing legal action against the member for all or part of the amount due.
- (i) The debt due in respect of an amount payable under rule 9(g) is sufficiently proved by evidence that the name of the member sued is entered in the register and there is a record in the minute books of the company of the resolution requiring payment of the fee or the fixed amount referred to in rule 9(g).
- (j) The company may accept from any member all or any part of the fees payable before that amount is due and payable.

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## 10 General meetings

### 10.1 Convening of general meetings

- (a) A general meeting may be convened by:
  - (i) the directors by resolution of the board; or
  - (ii) members or the court in accordance with sections 249E, 249F and 249G of the Corporations Act.
- (b) A general meeting must be convened by the directors in accordance with section 249D of the Corporations Act.
- (c) The Company must hold an annual general meeting if required by, and in accordance with, the Corporations Act.
- (d) Subject to rule 10.1(f), the directors may postpone, cancel or change the venue for a general meeting by giving notice not later than five Business Days before the time at which the general meeting was to be held to each person who is at the date of the notice:
  - (i) a member;
  - (ii) a director; or
  - (iii) an auditor of the company.
- (e) A notice postponing or changing the venue for a general meeting must specify the date, time and place of the general meeting.
- (f) A general meeting convened under section 249D of the Corporations Act may not be postponed beyond the date by which section 249D requires it to be held and may not be cancelled without the consent of the member or members who requested it.
- (g) A meeting of members may be held in 2 or more venues using Virtual Meeting Technology or using Virtual Meeting Technology only.

### 10.2 Notice of general meetings

- (a) Subject to this constitution, notice of a general meeting must be given within the time limits prescribed by the Corporations Act to each person who is at the date of the notice:
  - (i) a member;
  - (ii) a director; or
  - (iii) an auditor of the company.
- (b) A notice of a general meeting must specify the date, time and place of the meeting (and if the meeting is to be held using Virtual Meeting Technology in accordance with clause 10.1(g), the technology that will be used to facilitate this and sufficient information to allow the members to participate in the meeting by means of the Virtual Meeting Technology) and, except as provided in rule 10.2(c), state the general nature of the business to be transacted at the meeting and any other matters required under the Corporations Act.

- (c) It is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of the annual financial report and the reports of the directors and auditor or the election of directors.
- (d) A person may waive notice of any general meeting by notice in writing to the company.
- (e) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 10.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
  - (i) the non-receipt or failure occurred by accident or error; or
  - (ii) before or after the meeting, the person:
    - (A) has waived or waives notice of that meeting under rule 10.2(d); or
    - (B) has notified or notifies the company of the person's agreement to that act, matter, thing or resolution by notice in writing to the company.
- (f) A person's attendance at a general meeting:
  - (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
  - (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in rule 10.2(c), unless the person objects to considering the matter when it is presented.

### **10.3 Admission to general meetings**

- (a) The chair of a general meeting may refuse admission to a person, or require that person to leave and remain out of the meeting, if that person:
  - (i) has a camera, tape recorder or video camera, or another audio or visual recording device;
  - (ii) has a placard or banner;
  - (iii) has an article which the chair considers to be dangerous, offensive or liable to cause disruption;
  - (iv) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
  - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
  - (vi) is not:
    - (A) a member or a proxy, attorney or Representative of a member;
    - (B) a director; or
    - (C) an auditor of the company.

- (b) A person who is entitled to receive notice of a meeting or who is requested by the directors or the chair to attend a general meeting is entitled to be present, whether the person is a member or not.

#### **10.4 Quorum at general meetings**

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business and remains present throughout the meeting.
- (b) A quorum consists of fifteen members entitled to vote, present at the meeting in person or by proxy or by attorney or having cast a direct vote.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
  - (i) where the meeting was convened by, or at the request of, a member or members, the meeting must be dissolved; or
  - (ii) in any other case:
    - (A) the meeting stands adjourned to the day, time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
    - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

#### **10.5 Chair of general meetings**

- (a) The chair of directors must preside as chair at each general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) The directors present at a general meeting may elect a person present to chair the meeting if:
  - (i) there is no chair of directors;
  - (ii) the chair of directors is not present within 15 minutes after the time appointed for the meeting; or
  - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting.
- (c) Subject to rules 10.5(a) and (b), if at a general meeting:
  - (i) a chair has not been elected by the directors; or
  - (ii) an elected chair is not available or is not willing to act as a chair of the meeting (or part of the meeting),

the voting members present must elect as chair of the meeting another person who is present and willing to act.

## **10.6 Use of technology at general meetings**

- (a) Subject to the Corporations Act and this constitution, a general meeting may be held using one or more technologies that give the members participating a reasonable opportunity to participate in the meeting without being physically present.
- (b) Where a general meeting is held using any form of technology in accordance with clause 10.6(a):
  - (i) the technology used must be reasonable and allow the members who are entitled to attend the meeting, and do attend the meeting using that Virtual Meeting Technology, as a whole, to exercise their right to ask questions and make comments both orally and in writing;
  - (ii) a member participating in the meeting is taken for all purposes, including the quorum requirements in clause 10.4, to be present in person at the meeting;
  - (iii) if a person is entitled to attend the meeting, or to vote at the meeting, by proxy, attorney or Representative, the Chair of the meeting must treat a duly appointed proxy, attorney or Representative in the same way as the person would be entitled or required to be treated if the person attended the meeting in person;
  - (iv) the provisions of this constitution relating to general meetings apply, so far as they can and with any necessary changes, to general meetings held using that technology; and
  - (v) the meeting is to be taken to be held at:
    - (A) if the meeting is held at more than one physical venue (whether or not it is also held using Virtual Meeting Technology), the main physical venue of the meeting as set out in the notice of the meeting; or
    - (B) if the meeting is held using Virtual Meeting Technology only, the registered office of the company.

## **10.7 Conduct of general meetings**

- (a) The chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in their opinion necessary or desirable for:
  - (i) proper and orderly debate or discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting; and
  - (ii) the proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- (b) Subject to sections 250S and 250T of the Corporations Act, the chair of a general meeting may at any time the chair considers it necessary or desirable for the proper and orderly conduct of the meeting:
  - (i) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of those members present

who are entitled to vote on the respective business, question, motion or resolution; or

- (ii) allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.
- (c) Subject to sections 250S and 250T of the Corporations Act, the chair of a general meeting may:
  - (i) refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting or rule 10.2(c); and
  - (ii) refuse to allow any amendment to be moved to a resolution of which notice has been given under rule 10.2(a).
- (d) A decision by a chair under rules 10.7(a), (b) or (c) is final.
- (e) The chair of a general meeting may at any time during the course of the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting.
- (f) If the chair exercises their right under rule 10.7(e), it is in the chair's sole discretion whether to seek the approval of the members present to the adjournment.
- (g) If the chair does seek the voting members' approval, the chair must adjourn the meeting if the voting members present with a majority of votes agree or direct that the chair must do so.
- (h) The chair's rights under rule 10.7(e) are exclusive and, unless otherwise required by the chair, no vote may be taken or demanded by the members present in respect of any adjournment.
- (i) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (j) Notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.
- (k) Subject to rule 10.1(f), where a meeting is adjourned, the directors may postpone, cancel or change the venue of the adjourned meeting.

## **10.8 Decisions at general meetings**

- (a) Except in the case of any resolution which as a matter of law requires a special resolution, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting and that decision is for all purposes a decision of the members.
- (b) Subject to the Corporations Act, in the case of an equality of votes upon any proposed resolution at a meeting of voting members the chair of the meeting shall have a second or casting vote.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before a vote being decided by show of hands is taken or before or immediately after the declaration of the result of the show of hands:



- (i) by the chair of the meeting;
  - (ii) by at least five voting members present and entitled to vote on the relevant resolution; or
  - (iii) by a voting member or voting members present at the meeting and representing at least 5% of the votes that may be cast on the resolution on a poll.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken when and in the manner the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.
- (h) The demand for a poll may be withdrawn.

## 10.9 Voting rights

- (a) Voting members include full voting members and part voting members as applicable to the nature of the motion or resolution under consideration, and have the following voting rights:
- (i) on a show of hands, if permitted, every person present who is a voting member has one vote; and
  - (ii) on a poll, every voting member present in person or by proxy or attorney has one vote.
- (b) A voting member present at a general meeting is not entitled to vote on any resolution if any fees or any other amount due and payable by that member to the company under this constitution have not been paid, or where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction. The company must disregard any vote on a resolution purported to be cast by a voting member present at a general meeting where that person is not entitled to vote on that resolution.
- (c) Where a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member, the following rules apply to a vote taken on a show of hands, if permitted:
- (i) the person is entitled to one vote only despite the number of members the person represents; and
  - (ii) the person's vote will be taken as having been cast for all the voting members the person represents.

- (d) An objection to the qualification of a person to vote at a general meeting:
  - (i) must be raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
  - (ii) must be referred to the chair of the meeting, whose decision is final.
- (e) A vote allowed by the chair of a meeting under rule 10.9(d) is valid for all purposes.

#### **10.10 Representation at general meetings**

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
  - (i) in person or, where a voting member is a body corporate, by its Representative;
  - (ii) by casting a direct vote;
  - (iii) by proxy; or
  - (iv) by attorneys.
- (b) A proxy, attorney or Representative may be a member of the company but does not have to be a member.
- (c) A proxy, attorney or Representative may only be appointed for a particular general meeting.
- (d) Unless otherwise provided in the Corporations Act or in the appointment, an appointment of a proxy, attorney or Representative is taken to confer authority:
  - (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this constitution;
  - (ii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
  - (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
  - (iv) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
    - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
    - (B) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
    - (C) to act generally at the meeting; and
  - (v) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.

- (e) The chair of a meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chair that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (f) An instrument appointing an attorney or Representative must be in a form as the directors may prescribe or accept. An instrument showing a direct vote by a member entitled to vote must be in a form as the directors may prescribe or accept. An instrument appointing a proxy is valid if it is signed by the voting member making the appointment and contains the name and address of that member, the name of the company, the name of the proxy or the name of the office of the proxy, and the meetings of members at which the proxy may be used. The chair of a meeting of members may determine that an instrument appointing a proxy is valid even if it contains only some of this information.
- (g) If the name of the proxy or the name of the office of the proxy in a proxy form of a voting member is not filled in, the proxy of that member is the person specified by the company in the form of proxy in the case the voting member does not choose, or if no person is so specified, the chair of that meeting.
- (h) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (i) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received:
  - (i) at the registered office of the company, at the facsimile number at its registered office or at another place, facsimile number or electronic address specified for that purpose in the notice convening the meeting; and
  - (ii) at least 48 hours before the time scheduled for the commencement of the meeting, as specified in the notice of meeting.
- (j) Unless the company has received written notice of the matter by the time and at the place or in the manner set out in rules 10.10(i)(i) and 10.10(i)(ii), a vote cast by a proxy or attorney is valid even if, before the proxy or attorney votes:
  - (i) a Cessation Event occurs in relation to the appointer; or
  - (ii) the voting member revokes the proxy's or attorney's appointment; or
  - (iii) the voting member revokes the authority under which a third party appointed the proxy or attorney.
- (k) The authority of a proxy or attorney to speak and vote for a voting member at a general meeting is suspended while the voting member is present at the meeting.

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## 11 Directors

### 11.1 Board to include certain skills

The board must:

- (a) strive to ensure that, as a whole, it has an appropriate balance of skills and experience and personal attributes, having regard to the nature of the business and affairs of the company; and
- (b) appoint, as a board committee pursuant to rule 11.16(a), a nominations committee to:
  - (i) identify and nominate persons for appointment as directors to fill any vacancies;
  - (ii) make recommendations to the board regarding the recruitment or nomination of directors; and
  - (iii) such other functions as the board may determine from time to time.
- (c) prior to each annual general meeting prepare, or delegate the nominations committee to prepare a statement:
  - (i) outlining the skills and experience and personal attributes that, in the board's or committee's view, the board as a whole should possess in order to comply with rule 11.1(a);
  - (ii) assessing the extent to which the current board has the skills and experience and personal attributes outlined pursuant to rule 11.1(c)(i);
  - (iii) outlining the specific skills and experience and personal attributes that the board or committee considers the directors to be recommended for that year by the nominations committee should possess, in order to ensure the board meets the requirements of rule 11.1(a) having regard to the fact that certain directors are due to retire; and
  - (iv) setting out a timetable for the nominations committee to make recommendations to the board regarding the recruitment or nomination of directors.
- (d) prior to each annual general meeting:
  - (i) invite full voting members and non-members to express their interest in being considered for appointment to the board; and
  - (ii) provide with the invitation reference to the skills and experience and personal attributes sought as referred to in rule 11.1(c)(iii) or a summary of them.

## **11.2 Appointment and removal of directors**

- (a) The minimum number of directors is three. The maximum number of directors is seven unless the company in general meeting determines otherwise. The members must not determine a maximum which is less than the number of directors in office at the time the determination takes effect.
- (b) The directors in office on the date that this constitution was adopted by the company continue in office but on the terms and conditions set out in this constitution.
- (c) Subject to rules 11.2(a) and 11.2(m) and 11.5(a), the company may by resolution elect any adult natural person to be a director, either as an addition to the existing directors or as otherwise provided in this constitution.

- (d) Subject to rules 11.2(a) and 11.5(a) and 11.2(f)(ii), the directors may appoint any adult natural person to be a director, either as an addition to the existing directors or to fill a casual vacancy (including any casual vacancy arising where a director is removed from office under rule 11.2(k)(i) and no person is appointed in place of that director under rule 11.2(k)(ii)).
- (e) A director appointed under rule 11.2(d) must retire from office at the next annual general meeting following their appointment.
- (f) An election of directors must take place each year and at that meeting:
  - (i) excluding any director who is required to retire at that meeting under rule 11.2(e):
    - (A) one-third of the remaining directors (rounded down, if necessary, to the nearest whole number); and
    - (B) any other director who, if that director does not retire, will at the conclusion of the meeting have been in office for three or more years or for three or more annual general meetings since that director was last elected to office,  
  
must retire from office as directors;
  - (ii) no director may be re-elected to that office for more than two terms of three years each or more than six years in aggregate; and
  - (iii) if no director is required to retire under rule 11.2(e) or 11.2(f)(i) or 11.2(f)(ii), then at least one director, must retire from office as a director.
- (g) The director or directors who must retire at a meeting in accordance with rule 11.2(f)(i)(A) or 11.2(f)(ii) or 11.2(f)(iii) (as the case may be) is the director who has, or are the directors who have, been longest in office since their last election but, as between persons who were last elected as directors on the same day, the director or directors to retire must be determined by agreement among themselves or, in the absence of agreement, by lot.
- (h) Subject to rule 11.2(m), the company may by resolution fill the office vacated by a director under rule 11.2(e) or (f) by electing a person to that office.
- (i) If a director retiring from office under rule 11.2(e) or (f) is eligible, then that director may by resolution of the company be re-elected to that office.
- (j) The retirement of a director from office under rule 11.2(e) or (f) and the re-election of the director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.
- (k) The company may:
  - (i) by resolution in accordance with section 203D of the Corporations Act remove a director from office; and
  - (ii) subject to rule 11.2(m), by resolution fill the office vacated by a director who is removed under rule 11.2(k)(i) by electing another person to that office.
- (l) A person elected as a director under rule 11.2(k)(ii) must retire under rule 11.2(e) or (f) (as the case may be) on the same day that the director in whose place that

director was appointed would have had to retire under rule 11.2(e) or (f) if that director had not been removed from office under rule 11.2(k)(i).

- (m) A person may only stand for the office of a director at a general meeting if:
  - (i) the person is a director retiring from office under rule 11.2(e) or rule 11.2(f)(i) or rule 11.2(f)(iii) and standing for re-election at that meeting; or
  - (ii) the person has been nominated by the directors for election at that meeting; or
  - (iii) if the person is a full voting member, the person has within a timetable specified by the board and consistent with the timetable referred to in rule 11.1(d), before the general meeting served on the company a notice signed by the person signifying their desire to be a candidate for election at that meeting which notice is supported in writing by the signatures of at least 25 other members, of whom at least 15 must be full voting members; and
  - (iv) that person is not otherwise ineligible under this constitution and/or under the Corporations Act 2001 to be appointed as a director of this company.

### **11.3 Vacation of office**

- (a) In addition to the circumstances prescribed by the Corporations Act, unless the board otherwise resolve to confirm the director's appointment, the office of a director becomes vacant if the director:
  - (i) becomes of unsound mind;
  - (ii) becomes bankrupt;
  - (iii) is convicted of an indictable offence; or
  - (iv) fails to attend more than three consecutive meetings of the directors without leave of absence from the directors.
- (b) Nothing in rule 11.3(a) prevents a director from vacating their office if the director resigns by notice in writing to the company.

### **11.4 Remuneration of directors**

- (a) Each director is entitled to the remuneration out of the funds of the company as the directors determine, but the remuneration of non-executive directors may not exceed in total in any year the amount fixed by the company in general meeting for that purpose.
- (b) The remuneration of directors:
  - (i) may be a stated salary or a fixed sum for attendance at each meeting of directors or both; or
  - (ii) may be a share of a fixed sum determined by the company in general meeting to be the remuneration payable to all directors which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally,

and if it is a stated salary under rule 11.4(b)(i) or a share of a fixed sum under rule 11.4(b)(ii), will be taken to accrue from day to day.

- (c) In addition to their remuneration under rule 11.4(a) or 11.3(b), the directors are entitled to be paid all travelling and other expenses properly incurred by them in connection with the affairs of the company, including attending and returning from general meetings of the company or meetings of the directors or of committees of the directors.
- (d) Subject to any amount fixed in general meeting pursuant to rule 11.4(a) or 11.3(b), if a director renders or is called on to perform extra services or to make any special exertions in connection with the affairs of the company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under rule 11.4(a) or 11.3(b).
- (e) Nothing in rule 11.4(a) or 11.3(b) restricts the remuneration to which a director may be entitled as an officer of the company or of a related body corporate in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under rule 11.4(a) or 11.3(b).
- (f) The directors may, subject to the Corporations Act and any specific amount fixed in general meeting pursuant to rule 11.4(a):
  - (i) at any time after a director dies or otherwise ceases to hold office as a director, pay to the director or a legal personal representative, spouse, relative or dependant of the director, in addition to the remuneration of that director, a pension or lump sum payment for past services rendered by that director; and
  - (ii) cause the company to enter into a contract with the director for the purpose of providing for or giving effect to that payment.
- (g) The directors may, subject to any specific amount fixed in general meeting pursuant to rule 11.4(a), establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors.

### **11.5 Director need not be a member**

- (a) A director is not required to be a member in the company to qualify for appointment, but at the time an election of directors takes place each year the company must use reasonable endeavours to ensure a majority of directors following the election are full voting members of the company.
- (b) A director is entitled to attend and speak at general meetings even if the director is not a member of the company.

### **11.6 Interested directors**

- (a) A director may hold any other office or place of profit, other than auditor, in the company or a related body corporate in conjunction with their directorship. A director may be appointed to that office or place of profit on the terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the company may be a director or other officer of:
  - (i) a related body corporate;
  - (ii) a body corporate promoted by the company; or
  - (iii) a body corporate in which the company is interested, as shareholder or otherwise, or be otherwise interested in any of those bodies corporate. A

director is not accountable to the company for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate.

- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the company as the directors think fit. This includes voting in favour of any resolution appointing a director as a director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if the director is, or may be about to be appointed, a director or other officer of that other body corporate.
- (d) A director is not disqualified merely because of being a director from contracting with the company in any respect including, without limitation:
  - (i) selling any property to, or purchasing any property from, the company;
  - (ii) lending any money to, or borrowing any money from, the company with or without interest and with or without security;
  - (iii) guaranteeing the repayment of any money borrowed by the company for a commission or profit;
  - (iv) underwriting or guaranteeing the subscription for securities in the company or in a related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise, for a commission or profit; or
  - (v) being employed by the company or acting in any professional capacity, other than auditor, on behalf of the company.
- (e) No contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with the company or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (g) Where a director has a material personal interest in a matter to be considered at a meeting, that director must not be present while the matter is being considered at the meeting or vote on the matter, unless the directors who do not have a material person interest pass a resolution in accordance with section 195(2) of the Corporations Act, or another exception applies under the Corporations Act, which permits that director to do so.
- (h) Subject to rules 11.6(i) and (j), a director who is in any way interested in a contract or arrangement or proposed contract or arrangement (other than by having a material personal interest) may, despite that interest:
  - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
  - (ii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and



- (iii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things.
- (i) Rule 11.6(h) does not apply if, and to the extent that, it would be contrary to Chapter 2D.1, Division 2 of the Corporations Act or any other provision of the Corporations Act.
- (j) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this rule bind all directors and apply in addition to any obligations imposed on the directors by the Corporations Act to disclose interests to the company.

### **11.7 Powers and duties of directors**

- (a) The directors are responsible for managing the business of the company and may exercise to the exclusion of the company in general meeting all the powers of the company which are not required by the Corporations Act or this constitution to be exercised by the company in general meeting.
- (b) Without limiting the generality of rule 11.7(a), the directors may exercise all the powers of the company to borrow or otherwise raise money, to charge any property or business of the company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may determine how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.
- (d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) The directors may:
  - (i) appoint or employ any person to be an officer, agent or attorney of the company for the purposes, for the period and on the conditions as they think fit;
  - (ii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;
  - (iii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
  - (iv) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer (excluding a director of the company), agent or attorney of the company at any time, with or without cause.
- (f) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

## **11.8 Proceedings of directors**

The directors may hold meetings for the conduct of business and adjourn and otherwise regulate their meetings as they think fit.

## **11.9 Convening of meetings of directors**

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

## **11.10 Notice of meetings of directors**

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice a director, other than a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
  - (i) must specify the time and place of, or form of technology for, the meeting;
  - (ii) must state the nature of the business to be transacted at the meeting;
  - (iii) may be given in person, by post or, subject to the Corporations Act, by a form of technology.
- (c) A director may waive notice of a meeting of directors by notifying the company to that effect in person, by post or by a form of technology.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
  - (i) the non-receipt or failure occurred by accident or error;
  - (ii) before or after the meeting, the director:
    - (A) has waived or waives notice of that meeting under rule 11.10(c); or
    - (B) has notified or notifies the company of their agreement to that act, matter, thing or resolution personally, by post or by a form of technology; or
  - (iii) the director appointed by the director attended the meeting.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if the non-receipt or failure occurred by accident or error.
- (f) Attendance by a person at a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

## **11.11 Quorum at meetings of directors**

- (a) No business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.

- (b) A quorum consists of:
  - (i) if the directors have fixed a number greater than one for the quorum, that number of directors; and
  - (ii) in any other case, two directors.
- (c) If there is a vacancy in the office of a director, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only in an emergency or for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or of convening a general meeting of the company.

#### **11.12 Chair and deputy chair of directors**

- (a) The directors may elect one of the directors to the office of chair of directors and may determine the period for which that director is to be chair of directors. The chair can also use the title of 'President' at their discretion during their term.
- (b) The directors may elect one of the directors to the office of deputy chair of directors and may determine the period for which that director is to be deputy chair of directors.
- (c) The office of chair of directors and deputy chair of directors may be treated as an extra service or special exertion performed by a director holding such office for the purposes of rule 11.4(d) if:
  - (i) the directors resolve to do so; and
  - (ii) the total amount fixed by the company for remuneration of non-executive directors under rule 11.4(a) will not be exceeded.
- (d) The chair of directors must (if present within 30 minutes after the time appointed for the holding of the meeting and willing to act) preside as chair at each meeting of directors.
- (e) If at a meeting of directors:
  - (i) there is no chair of directors;
  - (ii) the chair of directors is not present within 30 minutes after the time appointed for the holding of the meeting; or
  - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting or of part of the meeting,then if the directors have elected a deputy chair of directors, the deputy chair of directors must (if present within 30 minutes after the time appointed for the holding of the meeting and willing to act) preside as the chair of the meeting or part of it.
- (f) Subject to clause 11.12(d) and 11.12(e), if at a meeting of directors:
  - (i) there is no deputy chair of directors;
  - (ii) the deputy chair of directors is not present within 30 minutes after the time appointed for the holding of the meeting; or

- (iii) the deputy chair of directors is present within that time but is not willing to act as chair of the meeting or of part of the meeting,

then the directors present must elect one of themselves to be chair of the meeting or part of the meeting.

### **11.13 Use of technology**

- (a) Subject to the Corporations Act, a meeting of directors may be convened at two or more venues, provided that the form of technology used provides the directors participating at each venue the reasonable ability to participate in the meeting at the same time.
- (b) A meeting of directors may be held using any technology consented to by all the participating directors. The consent may be a standing one. A director may only withdraw their consent within a reasonable period before the meeting.
- (c) Where a meeting of directors is held at two or more venues using any form of technology:
  - (i) a director participating in the meeting is taken to be present in person at the meeting;
  - (ii) the provisions of this constitution relating to meetings of directors apply, so far as they can and with any necessary changes, to meetings of directors held using that technology; and
  - (iii) the meeting is taken to be held at the place determined by the chair provided that at least one of the directors present at the meeting was at that place for the duration of the meeting.
- (d) If the technology used for the purposes of this clause 11.13 encounters a technical difficulty, whether before or during the meeting, which results in one or more directors not being able to participate in the meeting, the chair may, subject to the Corporations Act and clause 11.11 (Quorum at meetings of directors):
  - (i) allow the meeting to continue; or
  - (ii) adjourn the meeting either for a reasonable period of time as may be required to fix the technology or to such other date, time and location as the chair of the meeting considers appropriate.
- (e) To avoid doubt, where the chair has allowed the meeting to continue in accordance with clause 11.13(d)(i), any resolution passed at that meeting is valid.

### **11.14 Decisions of directors**

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) Subject to the Corporations Act, in the case of an equality of votes upon any proposed resolution at a meeting of directors, the chair shall have a casting or second vote in addition to any vote the chair may have in their capacity as a director.

### **11.15 Written resolutions**

- (a) An act, matter or thing is taken to have been done or a resolution passed by a meeting of the directors, if a document containing a statement to that effect is assented to by all of the directors other than:
  - (i) a director on leave of absence approved by the directors;
  - (ii) a director who disqualifies themselves from considering the act, matter or thing in question on the grounds that the director is not entitled at law to do so or has a conflict of interest; and
  - (iii) a director who the directors reasonably believe is not entitled to do the act, matter or thing or to vote on the resolution in question,

and the directors who assent to the document would have constituted a quorum at a meeting held to consider that act, matter, thing or resolution.

- (b) The act, matter or thing is taken to have been done or the resolution passed when the document is last signed by a director.
- (c) Two or more separate documents in identical terms each of which is signed by one or more directors are to be taken as constituting one document.
- (d) A director may signify assent to a document by signing the document or notifying the company of the director's assent by post, facsimile, electronic, or other method of written communication.,.
- (e) Where a document is signed in accordance with this rule 11.15, the document is to be taken as a minute of a meeting of directors.

### **11.16 Alternate director**

A director may not appoint a person to be the director's alternate director.

### **11.17 Committees**

- (a) The directors may resolve to delegate any of their powers to a committee or committees consisting of such numbers of directors and other individuals as they think fit. The directors may revoke or vary any power so delegated.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee established by the directors.
- (d) Membership by directors of a committee established by the directors may be treated as an extra service or special exertion performed by the members of the committee for the purposes of rule 11.4(d) if:
  - (i) the directors resolve to do so; and
  - (ii) the total amount fixed by the company for remuneration of non-executive directors under rule 11.4(a) will not be exceeded.

### **11.18 Delegation to individual directors**

- (a) The directors may resolve to delegate any of their powers to one director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) Acceptance of such a delegation may be treated as an extra service or special exertion performed by the delegate for the purposes of rule 11.4(d) if:
  - (i) the directors resolve to do so; and
  - (ii) the total amount fixed by the company for remuneration of non-executive directors under rule 11.4(a) will not be exceeded.

### **11.19 Validity of acts**

An act done by a person acting as a director or by a meeting of directors or a committee established by the directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

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## **12 Executive officers**

### **12.1 Secretaries**

The directors must appoint at least one secretary and may appoint additional secretaries.

### **12.2 Provisions applicable to all executive officers**

- (a) A reference in this rule 12.2 to an executive officer is a reference to an executive director, executive officer or secretary appointed under this rule 12.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors think fit.
- (c) Subject to any contract between the company and the relevant executive officer, an executive officer of the company may be removed or dismissed by the directors at any time, with or without cause. Such removal or dismissal does not, where applicable, remove that person from office as a director.
- (d) The directors may:
  - (i) confer on an executive officer the powers, discretions and duties as they think fit, and may resolve to delegate any powers, discretions and duties vested in or exercisable by the directors;
  - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and

- (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
  - (e) An executive officer is not required to be a member to qualify for appointment.
  - (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
    - (i) a defect in the person's appointment as an executive officer; or
    - (ii) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.
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## 13 Execution of documents

### 13.1 Execution under the Corporations Act or other law

The company may execute a document in any way provided for by the Corporations Act or any other applicable law.

### 13.2 Non-autographic signatures

The directors may resolve (either on a standing basis or in respect of a particular act or matter) that where an instrument or resolution must be signed by an officer of the company, the signature of that officer may be affixed to a document by mechanical or, electronic means instead of that officer physically signing the document itself, subject to applicable law.

### 13.3 Adoption of common seal

The company will not have a common seal or any other form of seal.

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## 14 Winding up

Upon the winding up or dissolution of the company, any assets remaining after satisfaction of all of the company's debts and liabilities, will not be paid to or distributed among the members, but will be transferred to some other organisation determined by the board at or before the time of winding up or dissolution of the company and, in default of any determination, by the Supreme Court of New South Wales, Australia:

- (a) which has objectives similar to the objectives of the company;
  - (b) whose constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of rule 8; and
  - (c) which, if the company is a public benevolent institution for the purposes of any Commonwealth taxation law, is a public benevolent institution for the purposes of any Commonwealth taxation law.
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## 15 Minutes and records

### 15.1 Minutes

The directors must cause minutes of:

- (a) all proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of meetings of the directors and of committees established by the directors; and
- (c) resolutions passed by directors without a meeting,

to be recorded and entered in books kept for that purpose, within one month after the meeting is held or the resolution is passed.

### 15.2 Signing of minutes

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next meeting within a reasonable time after the meeting.
- (b) Minutes of the passing of a resolution without a meeting must be signed by a director within a reasonable time after the resolution is passed.

### 15.3 Minutes as evidence

A minute that is recorded and signed in accordance with rules 15.1 and 15.2 is evidence of the proceeding, or a resolution to which it relates, unless the contrary is proved.

### 15.4 Inspection of records

- (a) Subject to the Corporations Act, the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of members other than directors.
- (b) A member other than a director does not have the right to inspect any books, records or documents of the company except as provided by law or authorised by the directors.
- (c) The company must establish and administer all registers required to be kept by the company in accordance with the Corporations Act and each member must provide the company with such information as is required for the company to comply with this rule 15.4(c). If events occur which would cause the information contained in a register maintained by the company to be inaccurate the member must notify the company in writing of the change within 21 days of the date of such change occurring.
- (d) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.
- (e) The company must keep the financial records required by the Corporations Act.



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## 16 Indemnity and insurance

### 16.1 Persons to whom rules 16.2 and 16.4 apply

Rules 16.2 and 16.4 apply:

- (a) to each person who is or has been a director or executive officer (within the meaning of rule 12) of the company;
- (b) to such other officers or former officers of the company or of its related bodies corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the company or of its related bodies corporate.

### 16.2 Indemnity

The company may indemnify, to the extent permitted by law, each person to whom this rule 16.2 applies for all losses or liabilities incurred by the person in their capacity as an officer and, if the directors so determine, an auditor of the company or of a related body corporate and for reasonable legal costs incurred by that person in defending any action or proceedings for a liability incurred as an officer or auditor of the company or a related body corporate of the company.

### 16.3 Extent of Indemnity

The indemnity in rule 16.2:

- (a) is a continuing obligation and is enforceable by a person to whom rule 16.2 applies even though that person may have ceased to be an officer or auditor of the company or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule; and
- (c) operates only to the extent that the loss or liability is not paid by insurance.

### 16.4 Insurance

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 16.4 applies against any liability incurred by the person as an officer or auditor of the company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable legal costs.

### 16.5 Savings

Nothing in rule 16.2 or 16.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (b) limits the capacity of the company to indemnify or provide insurance for any person to whom those rules do not apply.

## **16.6 Company may enter into deed**

- (a) The company may enter into a deed with a person referred to in rule 16.1 and rule 16.4 to give effect to the rights of the person conferred by this rule 16, or the exercise of a discretion under this rule 16, on such terms and conditions as the directors decide in their discretion and subject to the provisions of this rule 16.
- (b) A deed entered into pursuant to rule 16.6(a) may include provisions relating to rights of access to the books of the company conferred by the Corporations Act or otherwise by law.

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## **17 Notices**

### **17.1 Notices by the company to members**

- (a) A notice may be given by the company to a member:
  - (i) by serving it personally;
  - (ii) by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or any other address supplied to the company for the giving of notices;
  - (iii) by sending it by facsimile or electronic mail to a facsimile number or electronic address as the member has supplied to the company for the giving of notices;
  - (iv) by any other electronic means (including providing an electronic link to any document or attachment to the electronic address nominated by the member for receipt of notices) approved by the directors and supplied by the member as a means of receiving notices; or
  - (v) if the member does not have a registered address and has not supplied another address to the company for the giving of notices, by exhibiting it at the registered office of the company for a period of 48 hours.
- (b) The fact that a person has supplied a facsimile number or electronic address for the giving of notices does not require the company to give any notice to that person by facsimile or electronic mail.
- (c) A signature to any notice given by the company to a member under this rule 17 need not be handwritten.
- (d) A certificate signed by a director or secretary of the company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

### **17.2 Notices by the company to directors**

Subject to this constitution, a notice may be given by the company to any auditor or director either by serving it personally, or by sending it by post in a prepaid envelope to, the auditor's or director's usual residential or business address, or such other address, or by facsimile or electronic means (including providing a URL link to a document or attachment) to such facsimile number or electronic address, as the auditor or director has supplied to the company for the giving of notices.

### **17.3 Notices by members or directors to the company**

- (a) Subject to this constitution, a notice may be given by a member or director to the company by serving it on the company at, or by sending it by post in a prepaid envelope to, the registered office of the company or by facsimile or electronic mail to the principal facsimile number or electronic address at the registered office of the company.
- (b) The directors may resolve generally, or on a case by case basis, that a notice that is to be received by the company is not to be accepted if given by electronic means (excluding by facsimile).
- (c) If a resolution of directors is passed under rule 17.3(b), the company must give sufficient notice of the resolution to those required to give the particular notice to allow for the giving of notice by other means.

### **17.4 Notices to voting members outside Australia**

A notice to be sent to a voting member outside Australia and its external territories must be sent by airmail, by facsimile or by electronic mail, or in another way that ensures it will be received quickly.

### **17.5 Time of service**

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
  - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
  - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by facsimile, the notice is to be taken to be given on the Business Day after it is sent.
- (c) Where a notice is sent by electronic mail or electronic transmission, service of the notice is taken to be effected on the Business Day after it is sent.
- (d) Where the company gives a notice under rule 17.1(a)(v) by exhibiting it at the registered office of the company, service of the notice is to be taken to be effected when the notice was first so exhibited.

### **17.6 Other communications and documents**

Rules 17.1 to 17.5 (inclusive) apply, so far as they can and with necessary changes, to the service of any communication or document.

### **17.7 Notices in writing**

A reference in this constitution to a notice in writing includes a notice given by facsimile, email or another form of written communication.

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## 18 Rules

### 18.1 Power to formulate rules of the company

Without limiting the board's powers under this constitution, the board may from time to time pass resolutions to make regulations and rules relating to;

- (a) the qualifications of members and applicants for membership;
- (b) the process, procedure, approval and timing for admission or change of membership, whether by application or otherwise;
- (c) procedure for nomination of directors;
- (d) the delegation by the board of its powers to committees;
- (e) the powers, role and function of any committee members, executive or directors (including the terms of appointment of any executive director);
- (f) the casting of direct votes, including regulations for the form, method and manner of voting by direct votes and when direct votes must be received by the company to be valid and effective; and
- (g) any other matter not being inconsistent with this constitution which relates to the operations or conduct of the company.

### 18.2 Inconsistency

In the event of any inconsistency between rules or regulations formulated pursuant to rule 18.1 and the provisions of this constitution or the provisions of the Corporations Act, the provisions of this constitution and the Corporations Act shall prevail.

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## 19 General

### 19.1 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the registered office of the company is located, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

### 19.2 Prohibition and enforceability

Any provision of, or the application of any provision of, this constitution which is void, illegal, prohibited or unenforceable in any place:

- (a) is, in that place, ineffective only to the extent to which it is void, illegal, prohibited or unenforceable; and
- (b) does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

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Schedules 1 & 2 follow

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## Schedule 1 — Dictionary

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### 1 Dictionary

In this constitution:

**Business Day** means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the place where the company's registered office is located.

**Cancellation Event** means, in respect of a member:

- (a) the member has wilfully refused or neglected to comply with the provisions of this constitution; or
- (b) the conduct of the member, in the opinion of the directors, is unbecoming of the member or prejudicial to the interests or reputation of the Company.

**Cessation Event** means in respect of a member of the company who is an individual:

- (i) the death of the member;
- (ii) the bankruptcy of the member;
- (iii) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (iv) the member is convicted of an indictable offence;
- (v) the member ceases to satisfy any eligibility criteria specified by the board; or
- (vi) the member, by word or conduct, brings the company into disrepute.

**Chair** means the chair of a general meeting appointed in accordance with rule 11.12(a).

**Corporations Act** means *Corporations Act 2001* (Cth).

**Representative**, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the Corporations Act or a corresponding previous law.

**Virtual Meeting Technology** means any technology that allows a person to participate in a meeting without being physically present at the meeting.

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### 2 Interpretation

#### 2.1 General

- (a) A voting member is to be taken to be present at a general meeting if the voting member is present (whether at a physical venue or by using Virtual Meeting Technology) in person or by proxy, attorney or Representative or has cast a direct vote on matters before the meeting.

- (b) A director is to be taken to be present (whether at a physical venue or by using Virtual Meeting Technology) at a meeting of directors if the director is present in person or by alternate.
- (c) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (d) In this constitution, headings and underlinings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:
  - (i) words importing the singular include the plural and vice versa;
  - (ii) words importing a gender include every other gender;
  - (iii) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
  - (iv) a reference to a person includes that person's successors and legal personal representatives;
  - (v) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
  - (vi) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

## **2.2 Application of the Corporations Act**

- (a) This constitution is to be interpreted subject to the Corporations Act.
- (b) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act, has the same meaning as in that provision.
- (c) Subject to rule (b), unless the contrary intention appears, an expression in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section.

## **2.3 Exercise of powers**

- (a) The company may exercise in any manner permitted by the Corporations Act any power which under the Corporations Act a company limited by guarantee may exercise if authorised by its constitution.
- (b) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.

- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
  - (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
  - (ii) subject to any contract between the company and the relevant person, to remove or suspend any person appointed, with or without cause; and
  - (iii) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
  - (i) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
  - (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
  - (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
  - (iv) the delegation may include the power to delegate;
  - (v) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
  - (vi) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

## **2.4 Replaceable rules not to apply**

The replaceable rules contained in the Corporations Act from time to time do not apply to the company.



## **2.5 Single member company**

If at any time the company has only one member then, unless the contrary intention appears:

- (a) a reference in a rule to the “members” is a reference to that member; and
- (b) without limiting paragraph (a), a rule which confers power or imposes an obligation on the members to do a particular act or thing confers that power or imposes that obligation on that member.

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## Schedule 2 — Objects

The objects of the company include to:

- (a) advocate for or promote the standing, contribution and wellbeing of individuals operating within or advising those operating within the agri-food system
- (b) encourage and facilitate education and advocacy, relevant to all aspects of the agri-food system
- (c) provision of sound, evidence-based knowledge to support awareness of food science, public health, nutrition, and all other matters relating generally to the agri-food system
- (d) affiliate or cooperate with other bodies or organisations whether within or outside Australia having objects in whole or in part like those of the company
- (e) promote interest in the company and its objects and activities
- (f) provide networking and continuing professional development opportunities and other worthwhile services for the benefit of members generally, and
- (g) generally, to do all such acts, matters and things and enter and make such agreements with other parties as are incidental to or conducive to the attainment of any of the objects of the company.