

Skill Insight Ltd

ACN 664 163 017

CONSTITUTION

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PART 2 – THE COMPANY

2. Name

The name of the company is “Skill Insight Ltd”.

3. Object

The object of the company is to advance education by supporting industry training through:

- (a) industry engagement,
- (b) skills standards development, and
- (c) the promotion and support of skills-based education and training,

as funded by relevant government and industry programs.

4. Legal Capacity, Powers and Location

4.1 The company has:

- (a) the legal capacity and powers of an individual, and
- (b) all the powers of an incorporated body.

See section 124 of the Corporations Act.

4.2 The company may only:

- (a) exercise its powers; and
- (b) use its income and assets (including any surplus);

for:

- (c) its object, and
- (d) purposes incidental or ancillary to its object.

4.3 The company:

- (a) has a physical presence in Australia; and

- (b) to that extent, incurs its expenditure and pursues its object principally in Australia.

See section 50-50 of the *Income Tax Assessment Act 1997* (Cth).

5. Not For Profit Organisation

- 5.1 The company must not distribute any surplus, income or assets directly or indirectly to its members.

- 5.2 Clause 5.1 does not prevent the company from paying its members:

- (a) reimbursement for expenses properly incurred by them, and
- (b) for goods supplied and services provided by them,

if this is done in good faith on terms no more favourable than if the member were not a member.

PART 3 – MEMBERSHIP

6. Categories

The company has 2 categories of membership:

- (a) corporate members – see clause 7; and
- (b) stakeholder members – see clause 8.

7. Corporate Members

- 7.1 The corporate members of the company are any organisation who is admitted to the category of corporate membership of the company and whose name is entered on the register of members by the authority of the board. Corporate members are either employer members or employee members as determined at the time of admittance. At the time of registration, the Initial Corporate Members are:

- (a) National Farmers’ Federation Limited, ABN 77 097 140 166, (employer member)
- (b) ForestWorks Ltd, ABN 58 006 212 693,(employer member)

- 7.2 Following registration other corporate members include:

- (a) The Construction, Forestry, Maritime, Mining and Energy Union Manufacturing Division, ABN 34 183 611 895 (employee member)

- (b) The Australian Workers Union ABN 28 853 022 982 (employee member)
 - (c) The Australasian Meat Industry Employees Union ABN 12 206 758 691 (employee member)
 - (d) MINTRAC ABN 28 058 494 063 (employer member)
- 7.3 Only corporate members are entitled to attend, participate in and vote at general meetings of the company.
- 7.4 Corporate members undertake to contribute up to \$100 to the company's property, if the company is wound up.
- 7.5 An organisation may apply to become a Corporate Member of the company by writing to the secretary stating that they:
- (a) are a qualified organisation as defined in Clause 8.1(a);
 - (b) represent a broad cross-section of stakeholders in agribusiness, food and fibre, or a major industry within agribusiness, food and fibre;
 - (c) want to become a corporate member;
 - (d) support the purpose(s) of the company, and
 - (e) agree to comply with the company's constitution, including paying the guarantee under clause 7.4 if required.
- 7.6 The directors must consider an application for corporate membership within a reasonable time after the secretary receives the application.
- 7.7 If the directors approve an application, the secretary must as soon as possible:
- (a) enter the new member on the register of members; and
 - (b) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 14).
- 7.8 If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected and provide an accompanying reason.
- 7.9 For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 12(a), 12(b) or 12(c). In that case,

by applying to be a member, the applicant agrees to those three matters.

8. Stakeholder Members

- 8.1 The company has 2 subcategories of stakeholder membership:
- (a) industry members – see clause 8.2; and
 - (b) associate members – see clause 8.3.
- 8.2 The industry members of the company are organisations representative of the industry sectors in which the company operates.
- 8.3 The associate members of the company are organisations that provide support to the industry sectors in which the company operates.
- 8.4 The Board may by regulation* prescribe more detailed criteria for eligibility to be a stakeholder member, an industry member and an associate member, in which case an organisation is only eligible to be a member in that category or subcategory if it meets those criteria.
- 8.5 Stakeholder members are entitled to attend and participate in general meetings of the company but are not entitled to vote.
- 8.6 Only industry members are entitled to nominate candidates and vote for Stakeholder Representative Forum members – see clause 29.

9. Applications

- 9.1 Applications for membership as a stakeholder member must be in writing* stating that the applicant:
- (a) is eligible to become either an industry member or an associate member;
 - (b) supports the object of the company; and
 - (c) agrees to comply with the constitution and regulations* of the company.
- 9.2 The Board may by regulation* prescribe a form for applications, in which case applications must be in the prescribed form.
- 9.3 The Board may invite an organisation to become as industry member or an associate member.

10. Approval

- 10.1 The Board may by resolution approve, defer or reject applications for membership as a stakeholder member.

*see definition in clause 71.1

- 10.2 The Board must notify applicants in writing* whether their application has been approved, deferred or rejected.
- 10.3 No reason need be given for the deferral or rejection of an application.
- 10.4 If the Board approves the application:
- (a) the applicant becomes an industry member or associate member from the date of the Board meeting; and
 - (b) the name and address of the new member, the category and subcategory of membership, and the date of becoming a member must be entered in the register of members.

11. Subscriptions

There are no subscriptions or other amounts to be paid in respect of membership of the company (subject to the liability of corporate members clause 13.2).

12. Rights and Obligations

- 12.1 The rights of members are not transferable, and end when the member ceases to be a member in accordance with clause 16.
- 12.2 By becoming and remaining members, members agree to support the object of the company.
- 12.3 Members must at all times comply with the constitution and regulations*.
- 12.4 This constitution is an enforceable contract between the company and each member.
- See section 140 of the Corporations Act.

13. Liability

- 13.1 The liability of corporate members is limited to the amount specified in clause 13.2.
- 13.2 If the company is wound up, each corporate member undertakes to contribute up to \$100 to the company's property.
- 13.3 In clause 13.2, "corporate member" includes a former corporate member who was a corporate member at any time during the year ending on the day of the commencement of the winding up, subject to clause 13.4.
- 13.4 Former corporate members need not contribute in respect of a debt or liability of the company contracted after they ceased to be a corporate member.

- 13.5 Stakeholder members have no liability to the company in respect of their membership.

14. Discipline

- 14.1 The Board may by resolution passed by an absolute majority* reprimand, suspend or expel a stakeholder member for:
- (a) failing to comply with the constitution or regulations*; or
 - (b) conduct prejudicial to the company.
- 14.2 The Board must not pass a resolution under clause 14.1 unless the stakeholder member has been:
- (a) informed of what it is alleged the member has done; and
 - (b) given a reasonable opportunity to be heard.
- 14.3 The company may not fine members.
- 14.4 Without limiting clause 45.4, the Board may delegate its powers under this clause to a discipline committee appointed by the Board.
- 14.5 The members of the discipline committee need not be directors.
- 14.6 Clauses 14.1 and 14.2 apply to the discipline committee in the same way as the Board.

15. Resignation

- 15.1 Stakeholder members may resign by writing* to the company secretary.
- 15.2 The Board may by notice in writing* request stakeholder members to confirm that they wish to remain a member. If a stakeholder member does not confirm in writing* to the company within the time set by the Board that they wish to remain a member, the member is taken to have resigned.

16. Cessation

- 16.1 Members cease to be members on resignation, expulsion or ceasing to exist.
- 16.2 If a member ceases to be a member, the date of ceasing to be a member must be entered in the register of members.

17. Register of Members

The Board must ensure that a register of members is kept in which are entered:

- (a) the name of each member,
- (b) the address for notices last given by the member,
- (c) the category and subcategory (if any) of membership,
- (d) the date of becoming a member, and
- (e) in the case of former members – the date of ceasing to be a member.

See section 169 of the Corporations Act.

18. Grievance Procedure

- 18.1 The grievance procedure in this clause applies to all internal disputes within the company (not including employment disputes).
- 18.2 The parties must first attempt to resolve the dispute themselves.
- 18.3 If the parties are unable to resolve the dispute, the Board must appoint a conciliator and arbitrator (in this clause, “conciliator”).
- 18.4 The conciliator:
- (a) must not have a personal interest in the dispute;
 - (b) must not be biased in favour of or against any party;
 - (c) may be a director or former director; and
 - (d) if possible, must be appointed with the agreement of all parties.
- 18.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.
- 18.6 The parties must in good faith attempt to resolve the dispute by conciliation.
- 18.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.
- 18.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members and directors.

- 18.9 A determination of a conciliator under clause 18.8 is binding on the parties and all members and directors.
- 18.10 A party may appoint another person to act on its behalf in the grievance procedure.
- 18.11 The State, Territory and Commonwealth Acts applying to commercial arbitrations do not apply to the grievance procedure in this clause.

PART 4 – GENERAL MEETINGS**19. Annual General Meeting**

- 19.1 The company is not required to hold an annual general meeting of its corporate members, subject to clauses 61.2 and 61.4.
See section 111L of the Corporations Act.
- 19.2 The Board must convene* an annual general meeting if one is required for the purposes of clause 61.2 or 61.4.

20. Special General Meetings

- 20.1 The Board may convene* special general meetings.
- 20.2 The Board must convene* a special general meeting if requested by two or more corporate members.
Compare section 249D of the Corporations Act.
- 20.3 Two or more corporate members may convene* a special general meeting.
Compare section 249F of the Corporations Act.
- 20.4 Special general meetings may only consider business of which notice has been given in accordance with clause 21.2(b).
- 20.5 If stakeholder members as defined in clause 8.1 with the support of at least 5% of the organisations in making up the whole of stakeholder membership (including all sub-categories) make a written request to the company for a general meeting to be held, the directors must:
- (a) within 21 days of the members’ request, give all members notice of a general meeting, and
 - (b) hold the general meeting within 2 months of the members’ request.
- 20.6 The percentage of membership that stakeholder members have (in clause 20.5) is to be worked out as at midnight before the members request the meeting.

*see definition in clause 71.1

- 20.7 The members who make the request for a general meeting must:
- (a) state in the request any resolution to be proposed at the meeting
 - (b) sign the request, and
 - (c) give the request to the company.
- 20.8 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

21. Notice

- 21.1 At least 21 days notice in writing* of general meetings must be given to:
- (a) corporate members,
 - (b) each director, and
 - (c) the company's auditor
 - (d) industry members (see clause 8.1(a)).
- As under sections 249H(1), 249J(1) and 249K of the Corporations Act.
- 21.2 The notice must state:
- (a) the date, time and place of the meeting,
 - (b) if technology is to be used – sufficient information to allow those wishing to attend to participate in the meeting by means of the technology,
 - (c) the general nature of each item of business to be considered, and
 - (d) if a special resolution* is to be proposed:
 - (i) the proposed resolution, and
 - (ii) that it is intended that the resolution be proposed as a special resolution*.
- As under section 249L(1) of the Corporations Act.
- 21.3 The notice must include under clause 21.2(c) any business that any corporate member has requested in writing* be considered at least 7 days before the notice is sent.
- 21.4 If a general meeting is adjourned for 1 month or more, new notice of the resumed meeting must be given.
- 21.5 Despite clause 21.1, the accidental omission to give notice of the meeting to a person entitled to notice, or the non-receipt of notice

of the meeting by a person entitled to notice does not invalidate the meeting.

Compare section 1322(3) of the Corporations Act.

22. Representatives

- 22.1 Each corporate member may appoint an individual to represent it at general meetings. The appointment may be a standing one.
- As under section 250D of the Corporations Act.
- 22.2 Appointments of representatives must be:
- (a) in writing*, naming the individual (or individuals, in order) appointed;
 - (b) sealed by, or signed* on behalf of, the corporate member making the appointment; and
 - (c) sent to the company or given to the chair of the meeting before the commencement of the meeting.
- 22.3 Representatives may exercise all the rights of corporate members at general meetings.

23. Proxies

- 23.1 Each corporate member may appoint any person (including the other corporate member) as a proxy.
- As for section 249X(1) of the Corporations Act.
- 23.2 Appointments of proxies must be:
- (a) in writing*, naming the person (or persons, in order) appointed;
 - (b) sealed by, or signed* on behalf of, the corporate member making the appointment; and
 - (c) sent to the company or given to the chair of the meeting before the commencement of the meeting.
- 23.3 Appointments of proxies are valid if they contain the information required by clause 23.2.
- Compare section 250A(1) of the Corporations Act.
- 23.4 Proxies may exercise all the rights of corporate members at general meetings.

24. Use of Technology

- 24.1 General meetings may be held using technology, provided the technology enables all those attending to communicate orally clearly and simultaneously with each other.

Compare sections 249R & 249S of the Corporations Act.

- 24.2 A corporate member attending a general meeting using technology is taken to be present at the meeting.

Compare section 249RA(3) of the Corporations Act.

25. Quorum

- 25.1 The quorum for general meetings is the presence by representative or proxy of four or more corporate members.
- 25.2 If a quorum is not present within 30 minutes from the time of the meeting of which notice has been given, the meeting must not proceed.

26. Chairing

- 26.1 The Chair is entitled to chair general meetings.
- 26.2 If the Chair is not present, or does not wish to chair the meeting, the Deputy Chair is entitled to chair.
- 26.3 If neither the Chair nor the Deputy Chair is present, or if neither wishes to chair the meeting, the meeting must elect another member to chair.
- 26.4 The chair of the meeting does not have a casting vote.

27. Voting

- 27.1 Only corporate members are entitled to vote at general meetings.
- 27.2 Each corporate member has 1 vote.
- 27.3 Members may vote by representative or by proxy.
- 27.4 Voting is by show of hands, unless a poll is demanded.
- 27.5 Proxies are entitled to vote on a show of hands.
- 27.6 If an equal number of votes are cast for and against a proposed resolution or amendment, the chair of the meeting must declare the proposed resolution or amendment lost.
- 27.7 A challenge to a right to vote:
- (a) may only be made at the meeting; and
 - (b) must be determined by the chair of the meeting, whose decision is final.

28. Poll

- 28.1 A corporate member or the chair of the meeting may demand a poll on any resolution, other than a resolution concerning:
- (a) the election of the chair of the meeting, or
 - (b) the adjournment of the meeting.
- 28.2 The poll may be demanded:
- (a) before a vote is taken,
 - (b) before the voting results on a show of hands are declared, or
 - (c) immediately after the voting results on a show of hands are declared.
- 28.3 On a poll, a resolution is only passed if a majority of the votes cast by both:
- (a) the employee members, and
 - (b) the employer members,
- are in favour.
- 28.4 A demand for a poll may be withdrawn.

PART 5 – THE STAKEHOLDER REPRESENTATIVE FORUM

29. Membership

- 29.1 The number of members of the Stakeholder Representative Forum is between 15 and 25, as determined by the Board by regulation*.
- 29.2 The members of the Stakeholder Representative Forum must be elected by the industry members of the company from candidates nominated by the industry members in accordance with regulations* made by the Board.

30. Role and Responsibilities

- 30.1 The role of the Stakeholder Representative Forum is to be the peak industry voice on skills development and training for the industry sectors in which the company operates.
- 30.2 The Stakeholder Representative Forum is responsible for:
- (a) formulating and communicating the views of the industry sectors that the industry members represent;
 - (b) providing strategic advice to the Board on the activities of the company; and

- (c) without limiting clause 30.2(b), directing the work program of the company, including skills strategies, priorities and projects.
- (d) providing advice on compliance with government approved standards in accordance with any contract with government; and
- (e) providing advice to government on behalf of industry in relation to skills and vocational education and training matters.

31. Meetings

The Board must make regulations* providing for the convening and conduct of Stakeholder Representative Forum meetings, including the frequency of meetings, notice to members, use of technology, quorum, chairing, participation and voting, and decision-making processes.

PART 6 – DIRECTORS AND COMPANY SECRETARY

32. Appointment

32.1 The company must have at least 3 directors at all times, and a maximum of 8 directors, or 9 directors including the Chair.

See section 201A(2) of the Corporations Act.

32.2 The appointment of the Board is to occur as follows:

- (a) each Initial Corporate Member (clause 7.2) may appoint 2 directors each;
- (b) other corporate members may appoint 1 director each; and
- (c) the Board itself must appoint 1 further director, who must be an independent director (as that term is defined in clause 33.1).

32.3 A corporate member may only appoint an individual as a director if he or she is qualified under clause 33.

32.4 The company does not have:

- (a) alternate directors, or
- (b) a managing director.

33. Qualifications

33.1 In this clause:

- (a) “independent director” means a director who is free of any interest, position or relationship that might influence, or reasonably be perceived to influence, in a material respect their capacity to bring an independent judgement to bear on issues before the Board and to act in the best interests of the company as a whole rather than in the interests of an individual member or other party; and
- (b) “relevant professional expertise” includes the following skills:
 - (i) strategic expertise,
 - (ii) business management,
 - (iii) accounting and finance,
 - (iv) legal,
 - (v) governance,
 - (vi) standards,
 - (vii) risk management,
 - (viii) people management,
 - (ix) stakeholder communication, and
 - (x) VET sector and broad industry knowledge.

33.2 All directors must be individuals who have:

- (a) governance expertise,
- (b) relevant professional expertise; and
- (c) strategic capability.

33.3 Initial Corporate Members (clause 7.2) must appoint independent directors.

33.4 The Board must consist of a majority of independent directors, other than during periods of temporary vacancies.

33.5 Before being appointed, each director must give the company a signed consent to act as a director of the company.

See section 201D of the Corporations Act.

34. Term of Office

34.1 Each corporate member must appoint directors for terms that:

- (a) are as close as practicable to 3 years (except when filling casual vacancies); and
- (b) overlap by as close as practicable to 12 months with the terms of the other

directors appointed by that corporate member.

- 34.2 Directors hold office for the term of office specified by the corporate member making the appointment, subject to clauses 34.3–34.7.
- 34.3 Directors may be re-appointed.
- 34.4 Directors may resign by writing* to the company secretary.
- 34.5 Directors may be removed at any time by the corporate member appointing them.
- 34.6 Directors may be removed by a general meeting in accordance with the Corporations Act. The resulting vacancy may only be filled in accordance with clause 34.8.
See section 203D of the Corporations Act.
- 34.7 Directors also cease to hold office if they:
- (a) fail to attend 3 consecutive Board meetings without leave of absence under clause 56;
 - (b) accept any payment from the company otherwise than in accordance with this constitution and the Corporations Act; or
See Chapter 2E of the Corporations Act.
 - (c) become disqualified under the Corporations Act.
See Part 2D.6 of the Corporations Act.
- 34.8 If there is a vacancy in directors, the corporate member who appointed the director whose position is vacant may appoint an individual to fill the vacancy for the remainder of the term of office in accordance with clause 32.3.
- 34.9 The Board may continue to act despite any vacancy in directors or the majority of directors not being independent directors.
- 34.10 Even if it is subsequently found that a person who has acted as a director was not properly appointed, the validity of:
- (a) the acts of that person as a director, and
 - (b) decisions of Board meetings in which that person has participated;
- is not affected.
See section 201M of the Corporations Act.

35. Notification to ACNC

If a person becomes or ceases to be a director, the company must notify the ACNC* in the approved form:

- (a) if the revenue of the company for the financial year is \$250,000 or more – within 28 days; or
- (b) if the revenue of the company for the financial year is less than \$250,000 – within 60 days.

See section 65-5 of the ACNC Act.

36. Duties

36.1 Each director is subject to, and must comply with, the following duties under the ACNC Regulation:

- (a) to exercise the director's powers and discharge the director's duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the company;
- (b) to act in good faith in the company's best interests, and to further the object of the company;
- (c) not to misuse the director's position;
- (d) not to misuse information obtained in the performance of their duties as a director of the company;
- (e) to disclose perceived or actual material conflicts of interest of the director – see clause 55.1;
- (f) to ensure that the company's financial affairs are managed in a responsible manner; and
- (g) not to allow the company to operate while insolvent.

See section 45.25 of the ACNC Regulation.

36.2 This constitution is an enforceable contract between the company and each director.

See section 140 of the Corporations Act.

37. Performance Review and Board Renewal

37.1 The Board must by regulation* prescribe policies for:

- (a) Board performance reviews, and
- (b) Board renewal.

- 37.2 The performance review policy must include procedures for assessing, at least annually:
- (a) the performance of the Board relative to its objectives, and
 - (b) the performance of individual directors.
- 37.3 The renewal policy must:
- (a) provide details of how the Board intends to renew itself in order to ensure it remains open to new ideas and independent thinking, while retaining adequate expertise; and
 - (b) give consideration to whether directors have served on the Board for a period that could, or could reasonably be perceived to, materially interfere with their ability to act in the best interests of the industry sectors in which the company operates.

38. Remuneration

- 38.1 Following consultation with both corporate members, and subject to clause 38.1 the Board may by regulation* set reasonable remuneration to be paid to directors (including reimbursement for expenses), subject to the Corporations Act.
- 38.2 Directors fees are not to exceed \$800 per day and an annual cap of \$9,600 and Chair fees are not to exceed \$1,000 per day and an annual cap of \$12,000.
- See section 211 of the Corporations Act.

39. Company Secretary

- 39.1 The Board must appoint a company secretary in accordance with the Corporations Act.
- See Part 2D.4 of the Corporations Act.
- 39.2 Unless the Board otherwise resolves, the Chief Executive Officer is to be appointed company secretary.

40. Indemnity

The company indemnifies its directors and company secretary against any liability incurred in that capacity (other than to the company or a related body corporate), unless the liability did not arise out of conduct in good faith.

See section 199A(2) of the Corporations Act.

PART 7 – OFFICE-BEARERS

41. Positions

- 41.1 The company has the following office-bearers:
- (a) Chair, and
 - (b) Deputy Chair.
- 41.2 The Chair must be an independent director.
- 41.3 The Board may by regulation* establish other office-bearer positions.

42. Election

- 42.1 At its first meeting each year the Board must elect the office-bearers from among the directors.
- 42.2 A director who has already been elected to a particular office-bearer position 3 times (including filling a vacancy) is not eligible to be elected again to that position, unless the Board unanimously resolves otherwise.

43. Term of Office

- 43.1 Office-bearers hold office from the time of their election until their successor is elected, subject to clauses 43.2–43.4.
- 43.2 Office-bearers may resign by writing* to the company secretary.
- 43.3 Office-bearers who cease to be directors, other than by the expiry of their term of office, cease to be office-bearers.
- 43.4 Office-bearers may be removed by resolution passed by an absolute majority* of the Board.
- 43.5 The Board must as soon as practicable fill vacancies in office-bearer positions for the remainder of the term.

PART 8 – THE BOARD

44. Membership

The members of the Board are the directors of the company.

45. Responsibility and Powers

- 45.1 The Board is responsible for both the governance and management of the company.

- 45.2 The Board must by regulation* delegate the management of the company to the Chief Executive Officer.
- 45.3 The Board may exercise all powers of the company on its behalf.
- 45.4 The Board may delegate its powers as it considers appropriate.
- 45.5 No delegation by the Board under this clause limits the duties and liability of each director.

46. Committees

- 46.1 The Board may by regulation* establish an Audit and Risk Committee.
- 46.2 The Board may by regulation* establish other committees of the Board.
- 46.3 The regulation* establishing each committee must specify:
- (a) how the members of the committee are to be appointed; and
 - (b) the terms of reference of the committee.
- 46.4 The regulation* establishing the Audit and Risk Committee must provide that:
- (a) the members of the Audit and Risk Committee must be independent director; and
 - (b) the Chair of the Audit and Risk Committee must be an independent director.

47. Regulations

- 47.1 The Board may by resolution passed by an absolute majority* make regulations to give effect to this constitution.
- 47.2 Members and directors must at all times comply with the regulations as if they formed part of this constitution.

48. Public Statements

- 48.1 The Board may by regulation* or resolution authorise the Chair, Chief Executive Officer or any other person to make public statements on behalf of the company.
- 48.2 No person may make any public statement on behalf of the company unless authorised by the Board.

PART 9 – BOARD MEETINGS

49. Convening

- 49.1 The Chair, company secretary or any 5 directors may convene* a Board meeting.
- 49.2 Ordinary Board meetings must be held at least 4 times each year.
- 49.3 At its first meeting each year the Board must by resolution set the dates, times and places of ordinary meetings for the rest of the year.
- 49.4 The Board may by resolution subsequently change the dates, times and places of ordinary meetings.

50. Notice

- 50.1 Each director must be given at least 7 days notice in writing* of Board meetings, subject to clause 50.4.
- 50.2 Notice may be given of more than 1 Board meeting at the same time.
- 50.3 The notice must state the date, time and place (or places) of the meeting, but need not include the business to be considered.
- 50.4 In cases of urgency a meeting may be held without the notice required by clause 50.1, provided that:
- (a) as much notice as practicable is given to each director by the quickest practicable means; and
 - (b) resolutions may only be passed by an absolute majority*.

51. Use of Technology

- 51.1 Board meetings may be held using technology, provided the technology enables each director attending the meeting to communicate orally clearly and simultaneously with every other such director.
- Compare section 248D of the Corporations Act.
- 51.2 Without limiting clauses 50.4(a) and 51.1, Board meetings may be convened* and held by telephone and videoconference.
- Compare section 248D of the Corporations Act.
- 51.3 A director attending a Board meeting using technology is taken to be present in person at the meeting.
- 51.4 By becoming and remaining a director, all directors are taken to consent to this clause.

See section 248D of the Corporations Act.

52. Quorum

The quorum for Board meetings is the presence in person of at least 4 directors appointed by no less than 4 corporate members.

53. Chairing

- 53.1 The Chair is entitled to chair Board meetings.
- 53.2 If the Chair is not present, or does not wish to chair the meeting, the Deputy Chair is entitled to chair.
- 53.3 If neither the Chair nor the Deputy Chair is present, or if neither wishes to chair the meeting, the Board must elect another director to chair.
- 53.4 The chair of the meeting does not have a casting vote.

54. Voting

- 54.1 Each director present at a Board meeting has 1 vote.
- 54.2 There is no voting by proxy.
- 54.3 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

55. Conflict of Interest

- 55.1 Each director who has a perceived or actual material conflict of interest in a matter that relates to the affairs of the company must disclose the conflict:
- (a) to the other directors, or
 - (b) to both corporate members of the company.

See section 45.25 of the ACNC Regulation.

- 55.2 Each director who has a material personal interest in a matter that is being considered at a Board meeting:
- (a) must not be present while the matter is being considered; and
 - (b) must not vote on the matter;
- except as provided by the Corporations Act.
- See section 195 of the Corporations Act.

56. Leave of Absence

- 56.1 The Board may by resolution grant directors leave of absence from Board meetings for up to 3 months.
- 56.2 The Board may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the director concerned to seek leave of absence in advance.

57. Resolutions without Meeting

- 57.1 A resolution agreed to in writing* by all directors has the same effect as a resolution passed at a Board meeting.
- 57.2 In clause 57.1, “all directors” does not include those directors who:
- (a) would be prohibited by clause 55.2 from voting on the matter at a Board meeting; or
 - (b) have leave of absence from Board meetings under clause 56.

PART 10 – FINANCIAL AND LEGAL

58. Chief Executive Officer

- 58.1 The Board must appoint a Chief Executive Officer of the company.
- 58.2 The Chief Executive Officer is responsible to the Board for the management of the company.
- 58.3 Under clause 39.2, unless the Board otherwise resolves, the Chief Executive Officer is to be appointed company secretary.
- 58.4 The Chief Executive Officer must attend all meetings of the Board, unless excused or requested not to by the Board.

59. Financial Year

The financial year of the company is from 1 July to 30 June, unless the Board otherwise determines under the Corporations Act.

See section 323D of the Corporations Act.

60. Financial and Other Records

- 60.1 The company must keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and

- (b) enable true and fair financial statements to be prepared and to be audited.

See section 55-5(1) of the ACNC Act.

- 60.2 The company must also keep written records that correctly record its operations.

See section 55-5(2) of the ACNC Act.

- 60.3 The company must retain the records for at least 7 years.

See section 55-5(4) of the ACNC Act.

- 60.4 The Board must provide for the safe keeping of the records of the company.

61. Auditor

- 61.1 The Board must appoint an auditor within 1 month of registration of the company.

See section 327A(1) of the Corporations Act.

- 61.2 The first annual general meeting must appoint an auditor.

See section 327B(1)(a) of the Corporations Act.

- 61.3 The Board must within 1 month fill a vacancy in the office of auditor until the next annual general meeting.

See section 327C(1) of the Corporations Act.

- 61.4 The annual general meeting must fill any vacancy in the office of auditor.

See section 327B(1)(b) of the Corporations Act.

62. Financial Reporting and Audit or Review

- 62.1 For each financial year, the company must prepare a financial report in accordance with the ACNC Act and the ACNC Regulation.

See section 60-15 of the ACNC Act and Division 60 of the ACNC Regulation.

- 62.2 If the revenue of the company for the financial year is \$1 million or more, the company must have the financial report audited in accordance with the ACNC Act, and obtain an auditor's report.

See section 60-25 of the ACNC Act.

- 62.3 If the revenue of the company for the financial year is \$250,000 or more and less than \$1 million:

- (a) the company may have the financial report reviewed in accordance with the Corporations Act, instead of audited; and

See section 60-20 of the ACNC Act.

- (b) references in this constitution to the auditor are taken to be to the reviewer.

See section 60-30(2) of the ACNC Act.

- 62.4 The Board must send corporate members copies of the financial report and auditor's report.

- 62.5 If the revenue of the company for the financial year is less than \$250,000:

- (a) the company is not required to prepare a financial report; and
- (b) clause 61 and the remainder of this clause do not apply.

See Subdivision 60-C of the ACNC Act.

63. Payments

- 63.1 All payments by the company must be specifically authorised in writing* by at least 2 persons who are:

- (a) either directors or employees of the company, and
- (b) nominated by the Board by regulation* or resolution.

- 63.2 The Board may nominate a list of individuals or positions for the purposes of clause 63.1.

- 63.3 This clause does not apply to credit card and petty cash payments where the amount is within limits set by the Board by regulation* or resolution.

64. Execution of Documents

- 64.1 The company may execute deeds and other documents by having the document signed by:

- (a) 2 directors, or
- (b) 1 director and the company secretary.

See section 127 of the Corporations Act.

- 64.2 A document may only be signed under clause 64.1 if authorised by resolution of the Board.

- 64.3 The company does not have a common seal.
See section 123(1) of the Corporations Act.

65. Minutes

- 65.1 The Board must ensure that:

- (a) minutes are taken and kept of all general meetings, Board meetings and resolutions without a meeting; and

- (b) in the case of minutes of meetings – the minutes are signed* within a reasonable time after the meeting by the chair of the meeting or the chair of the next meeting; or
- (c) in the case of minutes of resolutions without a meeting – the minutes are signed* by a director within a reasonable time after the resolution is passed.

For general meetings, as under, and for Board meetings, see, section 251A(1) of the Corporations Act.

65.2 Minutes may be kept in electronic form.

For general meetings, as under, and for Board meetings, see, 253S of the Corporations Act.

66. Access to Records

- 66.1 Corporate members may inspect the records of the company at any reasonable time, subject to clause 66.2.
- 66.2 Corporate members may not inspect the records of the company that relate to confidential personal, employment, commercial and legal matters, except as permitted by the Board.
- 66.3 Corporate members may only have copies of records of the company if permitted by the Board.
- 66.4 Stakeholder members are not entitled to inspect or have copies of the records of the company.
- 66.5 Copies of the constitution and regulations* must be freely available to members and applicants for membership.

67. Amendment

- 67.1 This constitution may only be amended by special resolution*.
See section 136(2) of the Corporations Act.
- 67.2 The company must notify the ACNC* of the amendment in the approved form:
 - (a) if the revenue of the company for the financial year is \$250,000 or more – within 28 days; or
 - (b) if the revenue of the company for the financial year is less than \$250,000 – within 60 days.

See section 65-5 of the ACNC Act.

68. Winding Up

- 68.1 If the company is wound up, its surplus assets must not be distributed to any member.
- 68.2 The surplus assets must be given to a charity that:
 - (a) has a similar object to the company; and
 - (b) also prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as the company.
- 68.3 If the company is wound up voluntarily, the charity to which its surplus assets are to be given must be decided by special resolution*.

69. Notices

- 69.1 Members and directors must give the company their address for notices, and any change in that address.
- 69.2 The address for notices may include an email address.
- 69.3 The company must enter any change in the address of a member in the register of members.
- 69.4 Notice may be given to a member or director by sending it to the address last given by the member or director.
- 69.5 In this constitution a period of notice of a meeting expressed in days:
 - (a) does not include the day on which notice is given; but
 - (b) includes the day on which the meeting is held.

See section 105 of the Corporations Act.

- 69.6 Notices sent by priority post are taken to have been given on the 5th day after posting that is not a Saturday, Sunday or public holiday at that address.
- 69.7 Notices sent by email are taken to have been given on the 1st day after sending that is not a Saturday, Sunday or public holiday at that address.

70. Replaceable Rules

- 70.1 The replaceable rules in the Corporations Act do not apply to the company, except those in sections 204F and 248G(1).

70.2 The replaceable rules in sections 249M, 249U(4), 249W(2), 250C(2) and 250J(2) of the Corporations Act are also taken to apply to the company.

Compare item 9 of section 111L(1) of the Corporations Act.

71. Interpretation

71.1 In this constitution, unless the contrary intention appears:

- (a) “absolute majority” means a majority of the votes of all directors entitled to vote at the time, whether or not those directors are present, and whether or not they vote;
- (b) “the ACNC” means the Australian Charities and Not-for-profits Commission;
- (c) “ACNC Act” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);
- (d) “ACNC Regulation” means the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth);
- (e) “the company” means the company named in clause 2;
- (f) “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;
- (g) “Corporations Act” means the *Corporations Act 2001* (Cth);
- (h) “Initial Corporate Member” has the meaning given at clause 7.2;
- (i) “member” has the extended meanings given in clauses 22.3 and 23.4;
- (j) “regulations” means regulations of the company made under clause 45.1, and “regulation” has a corresponding meaning;
- (k) “signed” includes agreed to in writing*;
- (l) “special resolution” means a resolution at a general meeting:
 - (i) of which notice has been given in accordance with clause 21.2(d); and
 - (ii) that is passed by at least 75% of the votes cast (in person, by representative or by proxy) by

those members entitled to vote on the resolution; and

See sections 9 and 249L(1)(c) of the Corporations Act.

- (m) “writing” includes emails and other written communications in electronic form.

71.2 The headings form part of this constitution.

71.3 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.

71.4 This constitution is to be interpreted on the same basis as the Corporations Act and the ACNC Act, except as otherwise provided in this clause.

71.5 The Board is responsible for the interpretation of the constitution and regulations*.

72. Transitional

Despite clauses 32–34, the first directors of the company are:

- (a) appointed by National Farmers’ Federation Limited for an initial term commencing on registration of the company and expiring on the third anniversary of registration of the company – Duncan Fraser;
- (b) appointed by National Farmers’ Federation Limited for an initial term commencing on registration of the company and expiring on the second anniversary of registration of the company – Les Gordon;
- (c) appointed by ForestWorks Ltd for an initial term commencing on registration of the company and expiring on the second anniversary of registration of the company – Todd Loydell; and
- (d) appointed by ForestWorks Ltd for an initial term commencing on registration of the company and expiring on the first anniversary of registration of the company – Lisa Marty;
- (e) appointed by the board as an independent director for an initial term commencing on the third anniversary of registration of the company – Yorick Piper

subject to each director giving the company a signed consent to act as a director of the company.

See section 201D of the Corporations Act.

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