

Constitution

Australian Organics Recycling Association Limited



**Adopted at a Special General Meeting of the Company on 7 March 2019
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Australian Organics Recycling Association Limited ACN 158 519 736

Constitution

Part 1 – Preamble

The Australian Organics Recycling Association Limited was established as a result of the growth of the organics composting and recycling industry in Australia and the desire of processors to have independence from the resource industry.

The desire of the founding members, namely Paul Coffey, Patrick Soars, Tony Emery and Peter Wadewitz, was to create a leading industry organisation and an industry body for the organics recycling industry in Australia. The founding members also wished for the new entity to work on behalf of its members to raise awareness of the benefits of organics recycling, to act as an advocate for the wider organics resource recovery and beneficial reuse industries and to represent their views in a constructive dialogue with policy makers.

Part 2 – Preliminary

1. Definitions

In this constitution:

Associate Member means a member admitted as a “Associate Member” under Part 3;

Business Day means any day except a Saturday or Sunday or public holiday in South Australia;

Company means Australian Organics Recycling Association Limited;

Directors means the directors of the Company and may include an alternate director;

Individual Member means a member admitted as a “Individual Member” under Part 3;

Industry means the organics recycling industry of environmental resource management, including:

- (a) the recovery and composting of organic materials;
- (b) the collection, sorting and/or processing of organic recycling materials, suitable for reuse as products beneficial to the environment;
- (c) the management and operation of materials recovery, recycling, reprocessing and similar facilities and sites; and
- (d) all other activities incidental to the conduct of the organics recovery and recycling industry;

Life Member means a member admitted as a “Life Member” under Part 3;

Member means a person admitted as a member of the Company under Part 3;

National Annual Membership Fee means the national annual membership fee determined by the Directors in their absolute discretion from time to time which is payable by all Members (except Life Member) from each state or territory of Australia for the upcoming 12 month period of membership commencing on 1 July;

National Executive Officer means the national executive officer of the company appointed in accordance with clause 54;

Processing Member means a member admitted as a “Processing Member” under Part 3;

Representative means, in respect of a Member being a body corporate, a natural person who shall not be a Member appointed by the Member to represent it by a resolution of that Member’s board or other governing body;

Spouse of a person means:

- (a) that person’s husband, wife, widow or widower (whether or not remarried);
- (b) anyone else who, although not legally married to that person, in the Directors’ opinion, lives or lived with that person on a genuine domestic basis as the husband or wife of that person;

State Division Committee means a state or territory committee established under clause 52; and

Student Member means a member admitted as a “Student Member” under Part 3.

2. Name

The Company is **Australian Organics Recycling Association Limited**.

3. Nature of Company

The Company is a public company limited by guarantee.

4. Replaceable rules

The replaceable rules in the Corporations Act 2001 do not apply to the Company.

5. Vision

The Company’s vision is to establish as accepted management practice the recycling and reuse of organic material and by-products of human behaviour in Australia.

6. Objects

The objects of the Company are to:

- (a) protect, promote and advance the interests of the Industry in Australia;
- (b) promote and maintain good relations between the Members and government at all levels, firms, sole traders, the public, research institutes, educational institutions and any other association or body formed for the betterment of the Industry;
- (c) represent the commercial interests of Members and the Industry;
- (d) promote dialogue with local communities, government and regulatory authorities;
- (e) promote and encourage any form of education for the training and development of Members, employees of Members and end-users organic material, including by establishing and maintaining educational programs and conducting lectures, seminars, demonstrations, exhibitions and other activities designed to improve and extend the knowledge of Members, employees of Members and end-users organic material and to increase their efficiency in respect of the practices and procedures relating to the Industry;
- (f) encourage the recovery and beneficial reuse of organic resources;
- (g) assist Members achieve their objectives through the development and promotion of good practice and the facilitation of a workable and sustainable regulatory framework;
- (h) provide a forum for Members for the exchange of knowledge and experiences;
- (i) provide opportunities to Members to understand industry practice and to consult on policy development;
- (j) promote the interests of the Company and do all such other lawful things as the Directors may consider incidental or conducive to the attainment or advancement of the objects of the Company and in the interests of the Members or the Industry;
- (k) enter into any affiliation or alliance with, or promote or assist in the promotion of, any corporation, joint venture, association, government body, firm and any other entity having objects similar to, or that are beneficial to the Members of, the Company; and
- (l) do all things as are incidental, convenient or conducive to the attainment of all or any of the above objects.

7. No distribution to Members

7.1 The Company's income and assets must be used solely to promote the Company's objects.

7.2 The Company must not pay or distribute any profits, income or assets to the Members.

7.3 This does not prevent the Company paying in good faith:

- (a) reasonable remuneration to a Member or other person for services rendered to the Company;

- (b) for goods supplied to the Company in the ordinary course of business;
- (c) reasonable interest on money lent by a Member to the Company, or reasonable rent for premises let by a Member to the Company;
- (d) out-of-pocket expenses reasonably and properly incurred by a Member on behalf of the Company.

8. Limited liability

8.1 The liability of Members is limited.

8.2 If the Company is wound up, present Members and past Members, who were Members at any time during the 12 months immediately before commencement of the winding up, must contribute to the Company's property an amount sufficient:

- (a) to pay the Company's debts and liabilities and the costs, charges and expenses of the winding up; and
- (b) to adjust the rights of the contributories among themselves.

However, no present Member or past Member need contribute more than \$10.

8.3 On a winding up, any surplus must be given to an institution:

- (a) which has objects similar to the Company's objects; and
- (b) which cannot distribute its income and assets to its Members.

The Members may decide the institution. If they do not do so, the Supreme Court of New South Wales may decide the institution.

8.4 If the previous subclause cannot be given effect, on a winding up, any surplus must be given to a public university or charitable public institution.

Part 3 – Membership

9. Categories

9.1 The Company has the following categories of membership:

- (a) Processing Members;
- (b) Associate Members;
- (c) Individual Members;
- (d) Student Members; and
- (e) Life Members.

9.2 The Directors may decide that applications are not open for a particular category of membership for any period the Directors decide.

- 9.3 The Directors may create additional categories and/or sub-categories of membership, and may decide the rights attached to those additional categories or sub-categories. Those rights must be consistent with this constitution.
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10. Eligibility for membership

- 10.1 The Directors may following receipt of an application admit a person as:
- (a) a Processing Member if that person is a body corporate engaged in the industry of processing organic materials recovered out of the waste stream into beneficial products, or a body corporate employing natural persons in that industry;
 - (b) an Associate Member if that person is a body corporate who supplies equipment and/or services to Members or who has a close connection with the Industry;
 - (c) an Individual Member if that person is a natural person who has an interest in the industry of processing organic resource materials into beneficial products; or
 - (d) a Student Member if that person is a natural person who attends an educational institution and has an interest in the industry of processing organic resource materials into beneficial products.
- 10.2 The Directors may appoint a natural person as a Life Member if that person has, in the Directors' opinion, provided outstanding service for a minimum of 10 years to the Industry and/or the Company.
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11. Applications for membership

- 11.1 Unless otherwise specified in this constitution, any body corporate or natural person may apply for membership.
- 11.2 The applicant must:
- (a) complete the application form provided by the Company and give it to the Company;
 - (b) state the category of membership for which the applicant applies;
 - (c) if the applicant is a body corporate, specify in the application the name and email address (and any other contact details requested in the application form from time to time) of:
 - (1) the Representative of the applicant; and
 - (2) each natural person being a director, officer, employee, servant, agent or contractor of the applicant (in addition to the Representative of the applicant referred to above in clause 11.2(c)(1)) who shall be included in the membership for the purposes of event notices and other relevant communications;
 - (d) agree to be bound by this constitution.
- 11.3 The Directors reserve the right to reject an application within a reasonable time after the application is made.
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- 11.4 The Company must, as soon as reasonable, notify the applicant whether the application is accepted or rejected.
- 11.5 The applicant becomes a Member of the Company if:
- (a) the Directors accept the application; and
 - (b) within 28 days after the Company notifies the applicant of acceptance, the applicant pays the National Annual Membership Fee (if any).
- 11.6 The company secretary must record the name of each successful applicant in the register of Members.
- 11.7 The Company may establish and maintain an automated process for the application for, and processing of, applications for membership.
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12. Rights of Processing Members

Processing Members shall have all rights granted to Members under this constitution, including by not limited to:

- (a) the right to receive notices of general meetings and all other documents sent to Members in respect of general meetings;
- (b) the right to attend and speak at general meetings;
- (c) the right to cast one vote at general meetings;
- (d) the right to nominate a natural person as a director of the Company; and
- (e) subject to the appointment procedure of the State Division Committee relevant to the Processing Member:
 - (1) the right to nominate a natural person to be a member of such State Division Committee; and
 - (2) the right to cast one vote for the election of the members of the State Division Committee.

For the avoidance of doubt, the nominee of a Processing Member shall be a Representative of that body corporate.

13. Rights of Associate Members

- 13.1 Associate Members have the following rights:
- (a) the right to receive notices of general meetings and all other documents sent to Members in respect of general meetings;
 - (b) the right to attend any general meeting;
 - (c) the right, by notice in writing to the Company, to nominate a natural person as its representative who may attend and be heard at any general meeting; and
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- (d) subject to the appointment procedure of the State Division Committee relevant to the Associate Member:
 - (1) the right to nominate a natural person to be a member of such State Division Committee; and
 - (2) the right to cast one vote for the election of the members of the State Division Committee.

For the avoidance of doubt, the nominee of an Associate Member shall be a Representative of that body corporate.

13.2 Associate Members have no right to vote.

14. Rights of Individual Members and Student Members

14.1 Individual Members and Student Members, respectively, shall have the following rights:

- (a) the right to receive notices of general meetings and all other documents sent to Members in respect of general meetings;
- (b) the right to attend any general meeting; and
- (c) subject to the appointment procedure of the State Division Committee relevant to the Individual Member or Student Member (as applicable):
 - (1) the right to nominate themselves to be a member of such State Division Committee; and
 - (2) the right to cast one vote for the election of the members of the State Division Committee.

14.2 Individual Members and Student Members, respectively, have no right to vote.

15. Rights of Life Members

15.1 Life Members shall have the following rights:

- (a) the right to receive notices of general meetings and all other documents sent to Members in respect of general meetings;
- (b) the right to attend and speak at general meetings; and
- (c) subject to the appointment procedure of the State Division Committee relevant to the Life Member, the right to nominate themselves to be a member of such State Division Committee.

15.2 Life Members have no right to vote at any general meeting unless they are also a Financial Processing Member.

16. Resignation

- 16.1 A Member, who does not owe any money to the Company, may resign membership by giving notice of resignation to the Company.
- 16.2 The company secretary must record the resignation in the register of Members.

17. Termination

A Member's membership ceases if:

- (a) the Member's National Annual Membership Fee is three months in arrears;
- (b) the Member is a natural person and becomes an insolvent under administration;
- (c) the Member is a body corporate, and a resolution is passed to wind it up (other than for reconstruction or amalgamation) or it becomes an externally-administered body corporate;
- (d) the Directors expel the Member under the following clause; or
- (e) with respect to a Life Member, the Members pass a resolution to remove the Life Member.

18. Expulsion

- 18.1 If the Directors consider that a Member has not complied with this constitution, or has acted (or omitted to act) in a manner which is unbecoming to a Member or prejudicial to the interests of the Company, they may:
- (a) expel the Member; or
 - (b) suspend the Member for a specified period.
- 18.2 The Directors may do so only if:
- (a) at least 14 days before the Directors' meeting, the Company gives the Member:
 - (1) written particulars of the relevant act or omission;
 - (2) notice of the date, place and time of the Directors' meeting; and
 - (3) notice that the Member may attend and be heard at the Directors' meeting or make written submissions to the Directors; and
 - (b) the Directors hear the Member or consider the Member's written submissions at the Directors' meeting.
- 18.3 The company secretary must record the expulsion or suspension in the register of Members.

19. Fees

- 19.1 All Members (except Life Members) must pay to the Company the National Annual Membership Fee and other fees determined by the Directors in their absolute discretion from time to time. The Directors may fix different annual fees and other fees for different categories and sub-categories of Members.
- 19.2 The Directors may enter into service contracts or other arrangements with members for the payment of or provision for the Company's costs and expenses.
- 19.3 A Member must pay the National Annual Membership Fee on or before 1 July in each year or any other date the Directors determine in their absolute discretion from time to time.
- 19.4 Where payment of the National Annual Membership Fee is to be made by the Member between:
- (a) New Members will pay a pro-rata annual membership fee based on their day of joining (date the online membership application is submitted) calculated to the end of the current financial year (Change made to this clause in August 2024)
 - (b) New Members joining after 1 April each year will pay a pro-rata annual membership fee based on their day of joining (date the online membership application is submitted) calculated to the end of the current financial year plus a full twelve month membership for the following year. (Change made to this clause in August 2024)
- 19.5 A Member, who does not pay the National Annual Membership Fee within and/or any other fee determined by the Directors two months after the relevant due date, ceases to be a Member. The Directors may reinstate membership on any terms it decide.(Change made to this clause in August 2024)

Part 4 - Proceedings of Members

20. Annual general meeting

The Company must hold an annual general meeting at least once in each calendar year and within five months after the end of its financial year.

21. Who may call meetings of Members

- 21.1 A director may call a meeting of Members, when and where the director decides.
- 21.2 The Directors may call a meeting of Members, when and where the Directors decide.
- 21.3 The Directors must call a meeting of Members when requested by the Members specified in the Corporations Act 2001.
- 21.4 The Members specified in the Corporations Act 2001 may call a meeting of Members.

22. How to call meetings of Members

- 22.1 At least 21 days' notice must be given of a general meeting. However, unless prohibited by the Corporations Act 2001, the Company may call on shorter notice:
- (a) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree beforehand; and

- (b) any other general meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 22.2 Notice of a meeting must be given to Members, directors and the auditor.
- 22.3 A notice of a general meeting must:
 - (a) set out the place, date and time for the meeting;
 - (b) state the general nature of the meeting's business;
 - (c) if a special resolution is to be proposed at the meeting - set out an intention to propose the special resolution and state the resolution;
 - (d) contain a statement setting out the following information:
 - (1) that the Members entitled to vote have the right to appoint a proxy;
 - (2) that the proxy need not be a Member of the Company; and
 - (e) contain anything else required by the Corporations Act 2001.
- 22.4 The business of the annual general meeting may include any of the following, even if not referred to in the notice of meeting:
 - (a) the confirmation of the minutes of the last annual general meeting;
 - (b) the consideration of the annual financial report, Directors' report and auditor's report;
 - (c) the election of directors;
 - (d) the appointment of the auditor;
 - (e) the fixing of the auditor's remuneration.
- 22.5 Non-receipt of notice of a meeting, or failure to give proper notice of a meeting to a person entitled to receive it, does not invalidate anything done at the meeting if:
 - (a) the failure was accidental;
 - (b) the person gives notice to the Company that the person waives proper notice or agrees to the thing done at the meeting; or
 - (c) the person attends the meeting and:
 - (1) does not object at the start of the meeting to the holding of the meeting; or
 - (2) if the notice omitted an item of business, does not object to the consideration of the business when it is presented to the meeting.

23. Quorum

- 23.1 The quorum is four members entitled to vote. The quorum must be present at all times during the meeting.

- 23.2 In determining whether a quorum is present, the chair must count Members, proxies, attorneys, body corporate representatives and any other persons entitled to vote. If an individual is attending both as a Member and as a proxy, attorney or body corporate representative, or in any other capacity, the chair must count the individual only once.
- 23.3 If a quorum is not present within 30 minutes after the time appointed for the meeting:
- (a) if the meeting was called on the request of Members or by Members, the meeting is dissolved;
 - (b) any other meeting is adjourned to 48 hours after the time appointed for the meeting at the same place.
- 23.4 If a quorum is not present within 30 minutes after the time appointed for a meeting resumed after an adjournment, the quorum for the adjourned meeting is:
- (a) if there are less than five Members entitled to vote on the register of Members, one Member entitled to vote; or
 - (b) if there are more than five Members entitled to vote on the register of Members, two Members entitled to vote.

24. Chair

- 24.1 The chair of Directors is entitled to chair all meetings of Members.
- 24.2 If there is no chair of Directors, or if the chair is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the vice chair of Directors may chair the meeting. If there is no vice chair, or if the vice chair is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting. If they do not do so, the Members present must elect a person to chair the meeting.

25. Regulation of meetings

The chair may regulate the meeting of Members in any way consistent with this constitution.

26. Adjournment

- 26.1 The chair may adjourn a meeting of Members to any day, time and place.
- 26.2 The chair must adjourn a meeting of Members if the Members present with a majority of votes at the meeting agree or direct the chair to do so. The chair may adjourn the meeting to any day, time and place.
- 26.3 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for more than a month.
- 26.4 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

27. How Members make decisions at meetings

- 27.1 A meeting of Members makes a decision by passing a resolution. A resolution is passed if more than 50% of the votes cast by the Members entitled to vote are in favour of the resolution (unless the law requires a special resolution).
- 27.2 A special resolution is passed if:
- (a) the notice of the meeting sets out an intention to propose the special resolution and states the resolution;
 - (b) it is passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

28. Circulating resolutions of Members

- 28.1 The Members may pass a resolution without a general meeting being held if all of the Members entitled to vote on the resolution or the relevant majority of Members entitled to vote on the resolution for it to be passed as either an ordinary or a special resolution (as applicable) sign a document containing a statement that they are in favour of the resolution set out in the document.
- 28.2 Separate copies of a document may be used for signing by Members, if the wording of the resolution and statement is identical in each copy.
- 28.3 Each Member entitled to vote must be given a copy of a document used for signing by Members.
- 28.4 The resolution is passed when the last Member who makes up the relevant majority applicable to the resolution signs.
- 28.5 Passage of the resolution must be recorded in the Company's minute book.

29. How voting is carried out

- 29.1 Unless a poll is properly requested, a resolution put to the vote at a meeting of Members may be decided on a show of hands or by such digital, online or other voting system determined by the Directors.
- 29.2 If a poll is properly requested, the result of the poll is the resolution of the meeting.
- 29.3 A declaration by the chair that a resolution is passed, or passed by a particular majority, or lost, and an entry to that effect in the minutes, are sufficient evidence of that fact, unless proved incorrect.

30. Polls

- 30.1 A poll may be requested on any resolution.
- 30.2 A poll may be requested by:
- (a) at least five Members entitled to vote on the resolution;

- (b) Members with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (c) the chair.
- 30.3 The poll may be requested:
- (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.
- 30.4 A request for a poll may be withdrawn.
- 30.5 A poll requested on a matter other than the election of a chair or the question of an adjournment must be taken when and how the chair directs.
- 30.6 A poll on the election of a chair or the question of an adjournment must be taken immediately.
- 30.7 A request for a poll does not prevent the meeting dealing with other business.
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31. How many votes a Member has

- 31.1 At a general meeting:
- (a) on a show of hands, each Processing Member entitled to vote that is present (in person, by proxy, attorney or representative) has one vote;
 - (b) on a poll, each Processing Member entitled to vote that is present (in person, by proxy, attorney or representative) has one vote.
- 31.2 Associate Members, Individual Members, Student Members and Life Members do not have a vote.
- 31.3 Notwithstanding clause 31.1, a Member is not entitled to vote if the Member owes any money to the Company.
- 31.4 The chair may have a personal deliberative vote if the chair is a proxy, attorney or representative for a Member entitled to vote but the chair does not have a second or casting vote.
- 31.5 The chair or other person may disregard any vote by a Member who is not entitled to vote.
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32. Challenging a right to vote

- 32.1 A challenge to a right to vote at a meeting of Members may only be made:
- (a) before the meeting, to the Directors; or
 - (b) at the meeting, to the chair of the meeting.
- 32.2 The challenge must be decided by the Directors or the chair (as the case may be). The Directors' decision or the chair's decision is final.
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33. Proxies, attorneys and representatives

- 33.1 A Member, who is entitled to vote at a meeting of Members, may vote on a show of hands (or other voting method determined by the Directors) and on a poll:
- (a) personally;
 - (b) by one proxy;
 - (c) by one attorney; or
 - (d) if a body corporate, by its representative, or by one proxy or one attorney.
- 33.2 A proxy, attorney or representative need not be a Member of the Company.
- 33.3 A Member who is entitled to vote may appoint a proxy, attorney or representative for all or for particular meetings of Members.
- 33.4 An appointment of an attorney or representative must be in a form approved by the Directors.
- 33.5 An appointment of a proxy is valid if it is signed by the Member making the appointment and it contains the following information:
- (a) the Member's name and address;
 - (b) the Company's name;
 - (c) the proxy's name or the name of the office held by the proxy;
 - (d) the meetings at which the appointment may be used.
- The Directors may decide to accept a proxy even if it contains only some of that information.
- 33.6 Unless otherwise specified in the appointment, the proxy, attorney or representative may:
- (a) agree to short notice for the meeting;
 - (b) even if the appointment directs how to vote on a particular resolution:
 - (1) vote on an amendment to the particular resolution, a motion not to put the particular resolution or any similar motion;
 - (2) vote on a procedural motion, including a motion to elect the chair, to vacate the chair or adjourn the meeting;
 - (c) speak at the meeting;
 - (d) vote (but only to the extent allowed by the appointment);
 - (e) request or join in a request for a poll.
- 33.7 If a person represents two or more Members, that person has only one vote on a show of hands.

- 33.8 A later appointment of a proxy or attorney revokes an earlier one if both appointments could not be validly exercised at the meeting.
- 33.9 An appointment may specify the way a proxy or attorney is to vote on a particular resolution. A proxy may vote only as directed.
- 33.10 An appointment of a proxy is effective only if the Company receives the appointment (and any authority under which the appointment was signed or certified copy of the authority) at least 48 hours before the meeting or resumed meeting, unless the Directors decide to reduce that time. The Company receives an appointment or authority when it is received at any of the following:
- (a) the Company's registered office;
 - (b) a place or electronic address specified for the purpose in the notice of meeting.
- These requirements also apply to an appointment of an attorney.
- 33.11 Unless the Company receives written notice of the matter before the start or resumption of a meeting, a vote by a proxy, attorney or representative is valid even if:
- (a) the Member is a natural person and dies, or becomes bankrupt or of unsound mind or a person whose property is liable to be dealt with under a law about mental health;
 - (b) the Member is a body corporate, and is deregistered or becomes an externally-administered body corporate;
 - (c) the appointment of the proxy, attorney or representative is revoked; or
 - (d) the Member revokes the authority under which the proxy was appointed by a third party.
- 33.12 A proxy or attorney may take part in a meeting of Members even if the appointor or representative is present. However, if the appointor or representative votes on a resolution, the proxy or attorney must not vote.

Part 5 - Directors

34. Number of directors

- 34.1 There must be at least four Directors and a maximum of nine Directors and no more than one third of the Directors shall be from the same state or territory of Australia and no more than one Director from any one organisation.
In the event of personnel changes resulting in more than one Director from one company sitting on the Board, notwithstanding normal Director rotation requirements, that Director with the longest service on the Board shall retire at the next AGM of the Company (unless the duplication can be resolved by mutual consent by the Directors themselves in consultation/agreement with the Board)(Change made to this clause in August 2024).
- 34.2 Regardless of the number of Directors at any time, a majority of the Directors shall be Representatives of Processing Members.
- 34.3 The Company in general meeting may increase or reduce the number of Directors.

35. Appointment of directors

- 35.1 Where the number of nominations by Processing Members for directors is:

- (a) equal to, or less than, the number of vacancies for directors, all nominees shall be appointed directors of the Company;
 - (b) greater than the number of vacancies for directors, all Members entitled to vote shall vote at a general meeting to elect directors of the Company from such nominated natural persons.
- 35.2 Details of all nominations by Processing Members must be given to the Company at least 28 days before the date of the general meeting at which directors will be appointed.
- 35.3 The Directors may from time to time appoint one or more director(s) who may, but need not be Members:
- (a) on such terms (including remuneration); and
 - (b) based on a skills matrix (including but not limited to skills in finance, legal, risk management, corporate governance, communications and consumer and/or community engagement skills),
- as the Directors may determine in their absolute discretion from time to time.
- 35.4 Each director appointment under this clause 35 shall be subject to the satisfaction of the requirements of the Corporations Act in relation to the consent and eligibility of directors.

36. Term of office

Each director shall:

- (a) hold office for a term of two years;
- (b) on completion of the term of office, be eligible for re-election;
- (c) subject to any contrary resolution of the Directors, not hold office for more than three consecutive terms.

37. Vacation of office

A director ceases to be a director if:

- (a) the Corporations Act 2001 so provides;
- (b) the director resigns by notice to the Company;
- (c) the director is absent, without the consent of the Directors, from all Directors' meetings over any six month period;
- (d) the director becomes mentally incapable and the director's estate or property has had a personal representative or trustee appointed to administer it; or
- (e) the director automatically retires under the previous clause.

38. Alternate directors

- 38.1 A director may appoint an alternate for a specified period.
- 38.2 The appointor may terminate the alternate's appointment at any time.
- 38.3 An appointment or termination is effective only if:
- (a) it is in writing;
 - (b) the appointor signs it; and
 - (c) the Company is given notice of it.
- 38.4 The alternate must be a Member or director of the Company.
- 38.5 The alternate is entitled to notice of Directors' meetings.
- 38.6 If the appointor is not present, the alternate may:
- (a) attend the Directors' meeting, count in the quorum, speak, and vote in the place of the appointor;
 - (b) exercise any other powers (except the power to appoint an alternate) that the appointor may exercise.
- 38.7 A person may act as an alternate for more than one director.
- 38.8 If the appointor ceases to be a director, the alternate cannot exercise the appointor's powers.
- 38.9 Where:
- (a) an appointor ceases to be a director; and
 - (b) that appointor's alternate purports to do an act as a director,
- that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actually knowing that the appointor has ceased to be a director, as if the appointor had not ceased to be a director.
- 38.10 While acting as a director, an alternate is an officer of the Company and not the agent of the appointor.

39. Remuneration

- 39.1 Unless the Company in general meeting otherwise decides or the director is an employee of the Company, a director is not entitled to remuneration.
- 39.2 The Company must pay reasonable travelling and other expenses that a director properly incurs on the Company's business and which are in accordance with any expenses guidelines or other relevant policy determined by the Directors.

40. Director's interests

40.1 Subject to the Corporations Act 2001, a director may:

- (a) hold an office or place of profit (except as auditor) in the Company, on any terms the Directors decide;
- (b) hold an office or otherwise be interested in any related body corporate or other body corporate in which the Company is interested;
- (c) retain benefits for doing so.

40.2 Subject to the Corporations Act 2001:

- (a) a director who has a material personal interest in a matter that is being considered at a Directors' meeting:
 - (1) may be present while the matter is being considered at the meeting;
 - (2) may be counted in a quorum for a meeting considering the matter;
 - (3) may vote on the matter;
- (b) a director (or a Spouse, parent or child of a director, or any entity in which a director or a Spouse, parent or child of a director has an interest) may contract or make an arrangement with the Company (or a related body corporate or a body corporate in which the Company is interested) in any matter in any capacity;
- (c) a director may sign for the Company any document in respect of that contract or arrangement;
- (d) a director may retain benefits under that contract or arrangement;
- (e) the Company cannot avoid that contract or arrangement because of the director's interest.

Part 6 - Proceedings of Directors

41. Circulating resolutions

41.1 The Directors may pass a resolution without a Directors' meeting being held, if a majority of the directors entitled to vote on the resolution:

- (a) sign a document containing a statement that they are in favour of the resolution set out in the document; or
- (b) state by means of electronic communication (including by email), without the necessity of signing, that they are in favour of the resolution, or words of like effect.

An alternate appointed by a director may sign the document or state their assent by electronic means instead of that director.

- 41.2 Each director must be given a copy of a document used for signing by directors or notice of the proposed resolution.
- 41.3 Separate copies of a document may be used for signing by directors or for giving notice of a resolution, if the wording of the resolution and statement is identical in each copy.
- 41.4 The resolution is passed when the last director who makes up a majority signs or states their assent.
- 41.5 Passage of the resolution must be recorded in the Company's minute book.
-

42. Meetings

- 42.1 The Directors may meet, adjourn and otherwise regulate their meetings as they decide.
- 42.2 A Directors' meeting may be held using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw consent within a reasonable period before the meeting.
- 42.3 If a Directors' meeting is held by telephone link-up or other contemporaneous audio or audio visual communication, a director is taken to be present unless the director states to the chair that the director is disconnecting his or her telephone or communication device.
-

43. Calling meetings

- 43.1 Any director may call a Directors' meeting.
- 43.2 On the request of any director, the company secretary must call a Directors' meeting.
-

44. Notice

- 44.1 Notice of a Directors' meeting must be given to each director and each alternate.
- 44.2 The notice must:
- (a) specify the day, time and place of the meeting;
 - (b) state the business to be transacted; and
 - (c) be given at least 48 hours before the meeting, unless all directors otherwise agree.
- 44.3 Non-receipt of notice of a meeting, or failure to give notice of a meeting to a director or an alternate, does not invalidate anything done at the meeting if:
- (a) the failure was accidental;
 - (b) the director or alternate gives notice to the Company that he or she waives the notice or agrees to the thing done at the meeting; or
 - (c) the director or alternate attends the meeting.
-

45. Quorum

- 45.1 The quorum for a Directors' meeting is four Directors, unless the Directors otherwise decide.
- 45.2 In determining whether a quorum is present, the chair must count alternates. If a director is also an alternate, the chair must count the director as a director and separately as an alternate. If a person is an alternate for more than one director, the chair must count the person separately for each appointment.
- 45.3 The quorum must be present at all times during the meeting.
- 45.4 If a quorum is not present within 15 minutes after the time appointed for the meeting then the meeting is adjourned to 24 hours after the time appointed for the meeting at the same place. If a quorum is not present within 15 minutes after the time appointed for the resumed meeting after an adjournment, the quorum for the adjourned meeting is any two directors.
- 45.5 If there are not enough directors in office to form a quorum, the remaining directors may act only:
- (a) to increase the number of directors to a quorum;
 - (b) to call a general meeting of the Company; or
 - (c) in an emergency.

46. Chair and vice chair

- 46.1 The Directors may elect a director who is a Representative of a Processing Member as chair for any period they decide.
- 46.2 The Directors may elect a director who is a Representative of a Processing Member as vice chair for any period they decide.
- 46.3 The Directors may remove the chair or vice chair.
- 46.4 The chair is entitled to chair each Directors' meeting.
- 46.5 If there is no chair, or if the chair is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the vice chair may chair the Directors' meeting. If there is no vice chair, or if the vice chair is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting.
- 46.6 If the chair is unable or unwilling to chair a part of the meeting, the vice chair may chair that part. If there is no vice chair, or the vice chair is unable or unwilling to act, the directors present must elect one of themselves to chair that part.

47. Decisions of Directors

- 47.1 Subject to the Corporations Act 2001, each director has one vote.

- 47.2 If a director is also an alternate, the director has one vote as a director and one vote as an alternate. If a person is an alternate for more than one director, the person has one vote for each appointment.
- 47.3 A resolution of the Directors is passed by a majority of votes cast.
- 47.4 The chair has a personal deliberative vote but does not have a second or casting vote.

Part 7 - Directors' powers

48. General powers

- 48.1 The business of the Company is managed by or under the direction of the Directors.
- 48.2 The Directors may exercise all the powers of the Company except any powers that the Corporations Act 2001 or this constitution requires the Company to exercise in general meeting.

49. Execution of documents

- 49.1 The Company may execute a document if the document is signed by:
- (a) two directors of the Company; or
 - (b) a director and a company secretary of the Company.
- 49.2 The Company may execute a document only if authorised by the Directors or by a committee of directors authorised by the Directors to do so.
- 49.3 The Directors may decide, generally or in a particular case, that a director or company secretary may sign certificates or communications of the Company by mechanical or other means.
- 49.4 This clause does not limit the ways in which the Company may execute a document (including a deed).

50. Negotiable instruments

The Directors may decide how negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed.

51. Committees and delegates

- 51.1 Subject to clause 51.2, the Directors may delegate any of their powers (including this power to delegate) to a committee of directors or directors and Members or to one director or to the National Executive Officer.
- 51.2 The Directors must not delegate any of their financial powers or responsibilities to any committee or delegate, which for the avoidance of any doubt includes any State Division Committee.
- 51.3 The Directors may revoke or vary that delegation.

- 51.4 A committee or delegate must exercise the powers delegated subject to any directions of the Directors. The effect of the committee or delegate exercising a power in this way is the same as if the Directors exercised it.
- 51.5 Part 6 applies with the necessary changes to meetings of a committee. However, a non-director does not have a vote.

52. State Division Committees

- 52.1 Without limiting clause 51, the Directors may establish a State Division Committee:
- (a) in each state or territory of Australia in which it conducts activities;
 - (b) in a state or territory of Australia in which it does not conduct activities; and/or
 - (c) to cover one or more state(s) or territories of Australia in which it conducts or does not conduct activities.
- 52.2 The role of a State Division Committee is:
- (a) to provide a forum for education, information and social matters for Members in that state or territory;
 - (b) to advise the Directors and National Executive Officer on issues of current and emerging interest with local impact;
 - (c) to promote, coordinate and conduct lectures, seminars, demonstrations, exhibitions and other activities for Members in that state or territory;
 - (d) to have input into policies, submissions, representations and recommendations; and
 - (e) to act as an information resource for the Company.
- 52.3 For the avoidance of any doubt, the State Division Committees are consultative committees of the Directors and shall have no direct part or power in the management of the Company.
- 52.4 Subject to clauses 52.5 and 52.6, each State Division Committees shall be made up of a maximum of six Members.
- 52.5 Regardless of the number of members of each State Division Committee at any time, at least one member shall be a Representative of a Processing Member.
- 52.6 Each State Division Committee shall include a Director who is appointed as a representative of that state or territory and may include other natural persons.
- 52.7 The Directors shall proscribe such terms of reference (and may amend, repeal or substitute such terms of reference from time to time) as they consider appropriate in relation to the State Division Committee including, but not limited to, functions of the State Division Committee, the geographical locations for which the committee is responsible, process for appointment of members, the tenure of members, and the conduct of meetings provided that they are not inconsistent with this constitution.

53. Attorney and agent

- 53.1 The Directors may appoint any person to be the attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Directors decide.
- 53.2 The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- 53.3 The Directors may revoke or vary:
- (a) the appointment; or
 - (b) any power delegated to the attorney or agent.

Part 8 - Executive officers

54. National Executive Officer

- 54.1 The Company shall have a National Executive Officer.
- 54.2 The National Executive Officer shall be appointed by the Directors from time to time on such terms (including remuneration) as the Directors may determine in their discretion.
- 54.3 The National Executive Officer may, but need not, be a Director.

55. Company secretary

- 55.1 The Directors may appoint one or more company secretaries, for any period and on any terms (including as to remuneration) the Directors decide.
- 55.2 Subject to any agreement between the Company and the company secretary, the Directors may remove or dismiss the company secretary at any time, with or without cause.
- 55.3 Unless the Directors otherwise decide, the company secretary is the public officer of the Company.
- 55.4 The secretary need not be a Member.

56. Indemnity

- 56.1 To the extent permitted by the Corporations Act 2001, the Company:
- (a) must indemnify each person who is or has been an Officer against any liability incurred as an Officer;
 - (b) may pay a premium for a contract insuring an Officer against that liability.
- 56.2 Subject to the Corporations Act 2001, the Company may enter into an agreement or deed with an Officer under which the Company must do all or any of the following:
- (a) keep a set of the Company's books (including minute books) and allow the Officer and the Officer's advisers access to the books for any period agreed;

- (b) indemnify the Officer against any liability incurred by the Officer as an Officer;
- (c) keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.

56.3 In this clause, **Officer** means an officer of the Company.

Part 9 – Records

57. Register

The Company must keep a register of Members in accordance with the Corporations Act 2001.

58. Inspection

The Company must allow inspection of any register of Members only as required by the Corporations Act 2001.

59. Evidence of register

Unless proved incorrect, the register of Members is sufficient evidence of the matters shown in the register.

60. Minute book

60.1 The Company must keep minute books in which it records within one month:

- (a) proceedings and resolutions of meetings of the Members;
- (b) proceedings and resolutions of Directors' meetings (including meetings of a committee of Directors);
- (c) resolutions passed by Members without a meeting;
- (d) resolutions passed by Directors without a meeting.

60.2 The Company must ensure that minutes of a meeting are approved within a reasonable time after the meeting and, at least at the next meeting, by one of the following:

- (a) the chair of the meeting;
- (b) the chair of the next meeting.

60.3 The Company must ensure that minutes of the passing of a resolution without a meeting are approved by a Director within a reasonable time after the resolution is passed.

61. Evidence of minutes

A minute that is so recorded and signed or marked approved, or a later minute indicates is approved is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

62. Financial records

62.1 The Company must keep the financial records required by the Corporations Act 2001.

62.2 The financial records must be audited as required by the Corporations Act 2001.

63. Inspection

Unless authorised by the Directors or the Company in general meeting or the Corporations Act 2001, a Member is not entitled to inspect the Company's books.

Part 10 - Notices and interpretation

64. In writing

Notice must be in writing (which for the avoidance of doubt includes the text of an electronic communication such as email) and in English, and may be given by an authorised representative of the sender.

65. Notice to Members

65.1 The Company may give notice to a Member:

- (a) personally;
- (b) by sending it by post to the address of the Member in the register of members or the alternative address (if any) nominated by the Member;
- (c) by sending it to the electronic address (if any) nominated by the Member.

65.2 A notice to a Member is sufficient, even if the Member (whether or not a joint Member) is dead, mentally incapacitated, an infant, bankrupt or an externally-administered body corporate, and the Company has notice of that event.

66. Notice to directors

The Company may give notice to a director or alternate director:

- (a) personally;
- (b) by sending it by post to the director's or alternate director's usual residential or business address or any other address nominated by them;

- (c) if a notice calling a meeting - by sending it to the electronic address (if any) nominated by the director or alternate, only if all the directors have consented to the use of that technology;
 - (d) if any other notice - by sending it to the electronic address (if any) nominated by the director or alternate.
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67. Notice to the Company

A person may give notice to the Company:

- (a) by leaving it at the Company's registered office;
 - (b) by sending it by post to the Company's registered office;
 - (c) by sending it to the electronic address of the Company's registered office.
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68. Addresses outside Australia

A notice sent by post to or from a place outside Australia must be sent by email.

69. Time of service

- 69.1 A notice sent by post within Australia is taken to be given three Business Days after posting.
 - 69.2 A notice sent by post to or from a place outside Australia is taken to be given seven Business Days after posting.
 - 69.3 A notice sent by email or other electronic means is taken to have been given when the sender's server indicates it has been sent or routed to the recipient's email server and it has not been rejected or returned.
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70. Transitional rules

When this constitution becomes the constitution of the Company:

- (a) the Directors will comprise the natural persons then holding office as Directors, being the persons elected or appointed under the previous constitution of the Company;
 - (b) the Directors referred to in clause 70(a) shall hold office until the annual general meeting held in the 2019 calendar year, at which time all offices of the directors will become vacant and new directors shall be appointed, unless such office is earlier vacated pursuant to clause 37 of this constitution;
 - (c) the new Directors appointed under clause 70(b) may be one or more of the director(s) referred to in clause 70(a) and in such case and at such time:
 - (1) any prior term of office of such director will be disregarded; and
 - (2) for the purposes of clause 36, the term of office of the director shall commence from the date of the new appointment of the director;
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- (d) despite the term of office stipulated in clause 36, with respect to the new Directors appointed under clause 70(b), half of the Directors (rounded down to the nearest whole number, where necessary) shall hold office for a term of one year and the specific directors to hold office for such shorter period shall, in absence of agreement, be determined by drawing lots, administered by the chair.
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71. Interpretation

In this constitution, unless the context otherwise requires:

- (a) subject to the next clause, a word or phrase has the same meaning as it has in the Corporations Act 2001;
- (b) singular includes plural and plural includes singular;
- (c) words of one gender include any other gender;
- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any statutory instruments issued under it and in force;
- (e) reference to a person includes a corporation, a firm and any other entity;
- (f) headings do not affect interpretation;
- (g) the Company must not exercise any power in contravention of the Corporations Act 2001.