

# Constitution

**Australasian Pork Research Institute Ltd**

ACN 113 703 174

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A company limited by guarantee

# Constitution of Australasian Pork Research Institute Ltd

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<b>Preliminary</b>	<b>4</b>
1. Defined terms and interpretation	4
<b>Objects</b>	<b>7</b>
2. Objects	7
<b>Membership</b>	<b>8</b>
3. Classes of Membership	8
4. Admission of Foundation Members and other Ordinary Members	8
5. Admission of Non-Voting Members	10
6. Application fee and annual subscription fee	11
7. Ceasing to be a Member	11
8. Powers of attorney	13
9. Representatives	13
<b>General meetings</b>	<b>14</b>
10. Calling general meetings	14
11. Notice of general meeting	14
<b>Proceedings at general meetings</b>	<b>15</b>
12. Presence of Ordinary Member	15
13. Quorum	15
14. Chairperson	16
15. Adjournment	16
16. Decision on questions	17
17. Taking a poll	17
<b>Votes of Members</b>	<b>18</b>
18. Voting rights	18
19. Objections	18
20. Votes by proxy	18
21. Document appointing proxy	19

22.	Lodgement of proxy	19
23.	Validity	20
<b>Appointment and removal of Directors</b>		<b>20</b>
24.	Number of Directors	20
25.	Nomination of Director and Chairperson	20
26.	Appointment of Directors	21
27.	Retirement	23
28.	Vacation of office	23
29.	Deputy Chairperson	23
30.	Observers	24
<b>Powers and duties of Directors</b>		<b>24</b>
31.	Directors to manage Company	24
<b>Remuneration of Directors</b>		<b>24</b>
32.	Remuneration of Non-Executive Directors	24
33.	Remuneration of Executive Directors	25
<b>Proceedings of Directors</b>		<b>25</b>
34.	Directors' meetings	25
35.	Decision on questions	26
36.	Directors' interests	26
37.	Remaining Directors	27
38.	Committees	27
39.	Delegation	28
40.	Written resolutions	28
41.	Validity of acts of Directors	29
42.	Minutes and Registers	29
<b>Management</b>		<b>29</b>
43.	Local management	29
44.	Appointment of attorneys and agents	30
<b>Chief Executive Officer</b>		<b>31</b>
45.	Chief Executive Officer	31

<b>Secretary</b>	<b>31</b>
46. Secretary	31
<b>Seals</b>	<b>31</b>
47. Common Seal	31
48. Duplicate Seal	32
<b>Audit and accounts</b>	<b>32</b>
49. Audit and accounts	32
<b>Inspection of records</b>	<b>32</b>
50. Inspection of records	32
<b>Notices</b>	<b>32</b>
51. Service of notices	32
52. Persons entitled to notice	33
<b>Winding up</b>	<b>33</b>
53. Winding up	33
<b>Indemnity</b>	<b>34</b>
54. Indemnity	34

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## Preliminary

### 1. Defined terms and interpretation

1.1 In this Constitution unless the contrary intention appears:

**Advisory Committees** has the meaning given in clause 38.1(b).

**APL** means Australian Pork Limited (ABN 83 092 783 278).

**Auditor** means the Company's auditor.

**Board** or **Directors** means all or some of the Directors acting as a board, as the context requires.

**Board Committees** has the meaning given in clause 38.1(a).

**CEO** means the person appointed as chief executive officer of the Company, pursuant to clause 45.1.

**Chairperson** means the person elected as chairperson of the Company, pursuant to clause 26.3(c).

**Change of Control** means, in relation to a Member that is a body corporate, a change in the person or entity that:

- (a) determines the composition of the Member's board of directors (or has the capacity to do so);
- (b) the Member's board of directors are accustomed to act in accordance with the instructions, directions or wishes of; or
- (c) holds the majority of issued shares (if any) in the Member or the ultimate holding company of the Member.

**Company** means the name of the company specified in item 1 of Schedule 1.

**Constitution** means the constitution of the Company.

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

**Deputy Chairperson** means the person elected as deputy chairperson of the Company, pursuant to clause 29.

**Director** means any person occupying the position of director of the Company, including the Chairperson.

**Executive Director** means a Director who is an employee of the Company.

**Financial Year** means a 12 month period ending on 30 June.

**Foundation Members** means the Members specified in item 6 of Schedule 1, upon satisfaction of the requirements set out in clause 4.1.

**GST** means any amount of goods and services tax required to be applied by the Company in accordance with *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**GST Amount** has the meaning given in clause 54.3.

**Indemnified Officer** has the meaning given in clause 54.3.

**Intellectual Property** or **IP** includes all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patents), plant varieties, trade marks (including service marks), designs, circuit layouts, all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields and any right to have Confidential Information kept confidential, but does not include Moral Rights or rights of performers.

**Members** means Ordinary Members and Non-Voting Members and **Membership** has a corresponding meaning as the context requires.

**Moral Rights** has the meaning given in the *Copyright Act 1968* (Cth).

**Non-Executive Director** means a Director who is not an Executive Director.

**Non-Voting Member** means any person admitted to non-voting membership in accordance with clause 5, who is, for the time being, entered as such in the Register, and **Non-Voting Membership** has a corresponding meaning.

**Office** means the Company's registered office.

**Officer** has the meaning given in clause 54.4.

**Ordinary Member** means:

- (a) Foundation Members; and
- (b) any person admitted to ordinary membership in accordance with clause 4,

who is, for the time being, entered as such in the Register and **Ordinary Membership** has a corresponding meaning.

**Project** means a discrete, time bounded research, training or utilisation activity or series of activities to be carried out under a research contract, research deed or like agreement.

**Project IP** means Intellectual Property developed in the course of carrying out a Project, as may be more particularly described in a project agreement or research agreement.

**Register** means the register of Members of the Company which shall include details of:

- (a) the full name and Registered Address of each Foundation Member, other Ordinary Member and Non-Voting Member;
- (b) the date upon which each Foundation Member, other Ordinary Member and Non-Voting Member became a Member;
- (c) whether the relevant Member is a Foundation Member, other Ordinary Member or Non-Voting Member;
- (d) the date upon which each former Foundation Member, other Ordinary Member and Non-Member ceased to be a Foundation Member, other Ordinary Member or Non-Member (as the case may be); and
- (e) such other information as may be required by the Corporations Act.

**Registered Address** means the last known address of a Member as noted in the Register.

**Representative** means a person appointed as a representative of a Member pursuant to clause 9.

**Research Field** means the field of research specified in item 2 of Schedule 1.

**Seal** means the Company's common seal (if any).

**Secretary** means any person(s) appointed by the Directors to perform the duties of a secretary of the Company.

**Special Majority Issues** means the issues specified in item 4 of Schedule 1, as amended from time to time.

**Special Resolution** has the meaning given in the Corporations Act, and includes Special Majority Issues.

**Super Majority Issues** means the issues specified in item 5 of Schedule 1, as amended from time to time.

1.2 In this Constitution, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa;

- (b) words importing a gender include other genders;
  - (c) words importing natural persons include corporations;
  - (d) words and expressions defined in the Corporations Act have the same meaning in this Constitution;
  - (e) headings are for ease of reference only and do not affect the construction of this Constitution;
  - (f) words following the words *include* or *including* are not limited by anything preceding those words;
  - (g) references to clauses and items are references to clauses and items in this Constitution;
  - (h) references to any agreement or document (including this Constitution) are to the agreement or document as amended, varied or replaced from time to time, except to the extent prohibited by that agreement or document; and
  - (i) a reference to any legislation means that legislation as amended or replaced from time to time and includes subordinate legislation made under it.
- 1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as given in a provision of the Corporations Act dealing with the same subject.
- 1.4 To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

## Objects

### 2. Objects

- 2.1 The objects for which the Company is established are to be a non-profit scientific institution to:
- (a) fund research in the Research Field, with the capability of pursuing world class research and training relevant to the Research Field;
  - (b) increase the skills of persons already working in the Research Field and to train and equip new postgraduate and other students with skills and attributes to continue being productive in the Research Field;
  - (c) promote a managed and co-operative approach to research and education in the Research Field, so as to maximise the benefits from that research and education;
  - (d) carry out education activities in the Research Field for students and for the professional development of persons working in the Research Field;
  - (e) seek funds for research and development, training and commercialisation and other activities contributing to the advancement of the Research Field;
  - (f) engage in such other activities of a like nature as may be identified as contributing to activities within the Research Field;

- (g) encourage the discovery of, and investigate and make known the nature and merits of, inventions, improvements, processes, materials and designs which are used or may be capable of being used in the Research Field;
  - (h) commercialise Intellectual Property developed within the Research Field in such a manner as to maximise the benefit to Australian pig producers; and
  - (i) act as a trustee of Project IP.
- 2.2 The Company may only exercise the powers in section 124(1) of the Corporations Act to:
- (a) carry out the objects in this clause 2; and
  - (b) do all things ancillary, incidental or convenient in relation to the objects set out in clause 2.1.
- 2.3 The assets and income of the Company shall be applied solely in furtherance of its abovementioned objects and no portion shall be distributed directly or indirectly to any Member except as bona fide compensation for services or goods provided to, or expenses incurred on behalf of, the Company.

## Membership

### 3. Classes of Membership

- 3.1 The Company consists of the following classes of Members:
- (a) Foundation Members (being a sub-category of Ordinary Members);
  - (b) Non-Voting Members; and
  - (c) Ordinary Members.
- 3.2 Members shall be entitled to receive all the benefits of membership relevant to their membership class, as provided in this Constitution.
- 3.3 The rights and privileges of each Member are personal to it and are not transferable by the Member's own act or by operation of law.

### 4. Admission of Foundation Members and other Ordinary Members

- 4.1 The bodies corporate specified in item 6 of Schedule 1 shall become Foundation Members upon acceptance of their membership by the Board. Following such acceptance, the Secretary must enter such details of the Foundation Members in the Register as required by the Corporations Act.
- 4.2 Foundation Members are:
- (a) deemed to have satisfied the requirements for admission to Ordinary Membership of the Company, as set out in this clause 4;
  - (b) not required to pay any application fee to the Company;



- (c) those Members admitted to Membership of the Company on or before 31 October 2016 unless alternative arrangements have been agreed with the Board prior to 31 October 2016; and
  - (d) not required to pay any annual subscription fee until 1 July 2020.
- 4.3 Foundation Members shall have all of the rights, powers and privileges of a Member, as provided for in this Constitution and at general law.
- 4.4 The maximum number of Ordinary Members is specified in item 7 of Schedule 1.
- 4.5 Applications to become an Ordinary Member of the Company must be made in writing, signed by the applicant and contain an express:
  - (a) consent to become an Ordinary Member of the Company, if the application is accepted in accordance with this clause 4; and
  - (b) acknowledgement of, and agreement to be bound by, the terms and conditions of this Constitution.
- 4.6 Subject to clause 4.1, the Directors will ensure that the Company considers each application for Ordinary Membership at the next annual general meeting or special general meeting after the application is received.
- 4.7 Except in respect of Foundation Members (whose applications shall be dealt with pursuant to clause 4.1), an application for Ordinary Membership will only be accepted if at least 75% of the Ordinary Members entitled to vote at the general meeting vote in favour of the application in general meeting.
- 4.8 As soon as practicable following acceptance of an application for Ordinary Membership, the Secretary will send the applicant:
  - (a) written notice of the acceptance; and
  - (b) a request for payment of the:
    - (i) application fee (except in respect of Foundation Members); and
    - (ii) annual subscription fee for the first year of Ordinary Membership, provided that the annual subscription fee will be requested for payment from Foundation Members only from the period 1 July 2020 onwards,

as determined in accordance with clause 6.
- 4.9 Subject to clause 4.2, an applicant accepted for Ordinary Membership becomes an Ordinary Member upon payment to the Company of the application fee and the annual subscription fee for the first year of Ordinary Membership. The Secretary must enter such details of the Ordinary Member in the Register as required by the Corporations Act.
- 4.10 Subject to clause 4.2, if the applicant fails to pay the amounts set out in clause 4.9 within 3 months of the date of the notice issued in accordance with clause 4.8(a), then the acceptance of the application for Ordinary Membership shall lapse and the applicant will not be admitted as an Ordinary Member.
- 4.11 Ordinary Members that are not otherwise Foundation Members shall have all of the rights, powers and privileges of a Member, as provided for in this Constitution

and at general law, except for the rights, powers and privileges of a Foundation Member provided for in this Constitution.

## 5. Admission of Non-Voting Members

- 5.1 The maximum number of Non-Voting Members is specified in item 8 of Schedule 1.
- 5.2 The Directors may, in their absolute discretion, establish non-voting categories of membership, and determine the terms and conditions of Non-Voting Members, provided that in all such categories Non-Voting Members may not:
- (a) receive notice of, attend or vote at general meetings (whether in respect of Special Resolutions, Special Majority Issues, Super Majority Issues or any other ordinary business); or
  - (b) nominate or elect any Directors of the Company.
- 5.3 Applications to become a Non-Voting Member of the Company must be made in writing, signed by the applicant and contain an express:
- (a) consent to become a Non-Voting Member of the Company, if the application is accepted in accordance with this clause 5; and
  - (b) acknowledgement of, and agreement to be bound by, the terms and conditions of this Constitution.
- 5.4 The Directors will consider each application for Non-Voting Membership at the next Directors' meeting after the application is received.
- 5.5 In considering an application for Non-Voting Membership, the Directors may:
- (a) have regard to the objects of the Company; and
  - (b) reject the application in their absolute discretion without the provision of accompanying reasons.
- 5.6 As soon as practicable following acceptance of an application for Non-Voting Membership, the Secretary will send the applicant:
- (a) written notice of the acceptance; and
  - (b) a request for payment of the:
    - (i) application fee; and
    - (ii) annual subscription fee for the first year of Non-Voting Membership, if any, determined in accordance with clause 6.
- 5.7 An applicant accepted for membership becomes a Non-Voting Member upon payment of the application fee (if any) and the annual subscription fee for the first year of Non-Voting Membership (if any). The Secretary must enter such details of the Non-Voting Member in the Register, as required by the Corporations Act.
- 5.8 If the applicant fails to pay amounts set out in clause 5.7 within 3 months of the date of the notice issued in accordance with clause 5.6(a), then the acceptance of the application for Non-Voting Membership shall lapse and the applicant will not be admitted as a Non-Voting Member.

## 6. Application fee and annual subscription fee

- 6.1 The application fee and annual subscription fee will be determined by the Directors from time to time for each category of Membership, provided that no increase in the annual subscription fee will take effect until approved by:
- (a) the Ordinary Members in general meeting; and
  - (b) a majority of the category of Members whose annual subscription fee is proposed to be increased (being Foundation Members, Ordinary Members or Non-Voting Members as the case may be).
- 6.2 Until a fee is otherwise determined in accordance with clause 6.1:
- (a) subject to clause 4.2(b), the application fee for Members will be \$100,000 plus GST; and
  - (b) subject to clause 4.2(d), the annual subscription fee for Members will be \$75,000 plus GST.
- 6.3 Subject to clause 4.2(d), annual subscription fees are payable in advance by 1 July each year.
- 6.4 A person admitted to membership after 1 July but before 30 June in a Financial Year must pay the annual subscription fee calculated as at the immediately preceding 1 July and will not be entitled to any refunds or discounts (whether pro-rata or otherwise) of the annual subscription fee for the Financial Year or part thereof in which they have become an Ordinary Member or Non-Voting Member (as the case may be).

## 7. Ceasing to be a Member

- 7.1 A Member's membership of the Company will cease:
- (a) if the Member gives the Secretary written notice of resignation:
    - (i) effective from 30 June in the second full Financial Year (if notice is provided on or before 30 June 2020) or from 30 June in the following full Financial Year (if notice is provided at any time after 30 June 2020), after the notice of resignation is given provided that the Member satisfies each of the following conditions:
      - (A) at the time of resignation, the Member is not presently in default of any of its obligations or covenants, for which the Company would be entitled to terminate their Membership;
      - (B) the Member has complied with their obligation pursuant to clause 7.2; and
      - (C) the notice of resignation specifies the Member's intent for their resignation to take effect from the date calculated in accordance with clause 7.1(a)(i); or
    - (ii) in any other case, from the date of receipt of that notice by the Secretary;
  - (b) if, in the case of a natural person, the Member dies;

- (c) if, in the case of a Member that is a body corporate, a liquidator is appointed in connection with the winding-up of the Member;
- (d) if, in the case of a Member that is a body corporate, an order is made by a Court for the winding-up or deregistration of the Member;
- (e) if, in the case of a Member that is a body corporate, there is a Change of Control which, in the reasonable opinion of the Board, is prejudicial or adverse to the interests of the Company; or
- (f) if the Board expels the Member due to:
  - (i) the breach of any provision of this Constitution which is binding on the Member; or
  - (ii) conduct engaged in by the Member which, in the reasonable opinion of the Board, is unbecoming of a Member or which is prejudicial or adverse to the interests of the Company in which case the Board must, if they propose to expel a Member:
    - (A) give the Member not less than 21 days written notice of their intention to expel the Member; and
    - (B) allow the Member to present submissions as to why the Member should not be expelled, by either providing written reasons not exceeding 1,000 words or by oral submissions to the Board, before expiry of the notice referred to in clause 7.1(f)(ii)(A); or
  - (iii) failure by the Member to pay an annual subscription fee for the second or any subsequent year of Non-Voting Membership or Ordinary Membership (as the case may be) within 3 months of the due date; or
  - (iv) in respect of an Ordinary Member, that Member fails to attend (either in person, by proxy, attorney or Representative) three consecutive general meetings. For the purposes of this clause, the holding of an adjourned general meeting will be counted as a separate general meeting.

7.2 Subject to clause 7.2(b), any Member ceasing to be a Member will remain liable for and will pay to the Company within 20 days of cessation of Membership:

- (a) any moneys that are outstanding or become due and payable to the Company, calculated as at the effective date of ceasing to be a Member; and
- (b) except for Non-Voting Members and any other Member whose Membership of the Company has ceased in the circumstances contemplated by clause 7.1(b), an amount calculated in accordance with item 9 of Schedule 1 (Fee payable on cessation of Ordinary Membership), provided that if a Member ceases their Membership in accordance with clause 7.1(a)(i), the payments set out in clauses 7.2(a) and 7.2(b) must be paid within 20 days of receipt of the notice of resignation by the Secretary.

- 7.3 Upon cessation of Membership of a Member, the Secretary shall remove the name of the Member from the Register.

## 8. Powers of attorney

- 8.1 If a Member executes or proposes to execute any document or do any act by or through an attorney in connection with the Company or their Membership of it, that Member must deliver the instrument appointing the attorney to the Company for noting.
- 8.2 If the Company asks the Member to provide a certified copy of the instrument appointing the attorney for the Company to retain, the Member will promptly comply with that request.
- 8.3 Notwithstanding clause 8.2, the Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

## 9. Representatives

- 9.1 Any Member that is a body corporate under the Corporations Act may by written notice to the Secretary:
- (a) appoint a natural person to act as its Representative in all matters connected with the Company, as permitted by the Corporations Act; and
  - (b) remove a Representative.
- 9.2 A Representative is entitled to:
- (a) if representing an Ordinary Member, exercise at a general meeting all the powers which the Ordinary Member that appointed him or her could exercise if it were a natural person; and
  - (b) subject to clause 9.6, stand for election as an office bearer or Director; and
  - (c) if representing an Ordinary Member, be counted towards a quorum on the basis that the Ordinary Member is to be considered personally present at a general meeting by its Representative.
- 9.3 A certificate executed in accordance with section 127 of the Corporations Act is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.
- 9.4 The chairperson of a general meeting may allow a Representative of an Ordinary Member to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.
- 9.5 The appointment of a Representative may set out restrictions on the Representative's powers.
- 9.6 No person may be appointed as both a Representative and a Director. Accordingly, a Representative's appointment is immediately terminated if and when that person is appointed as a Director.

# General meetings

## 10. Calling general meetings

- 10.1 The Directors may, at any time, call a general meeting.
- 10.2 An Ordinary Member may:
  - (a) only request the Directors to call a general meeting in accordance with section 249D of the Corporations Act; and
  - (b) not request or call and arrange to hold a general meeting except under section 249E or section 249F of the Corporations Act.
- 10.3 For the avoidance of doubt, a Non-Voting Member is not entitled to request the Directors to call a general meeting or to request or call and arrange to hold a general meeting, whether pursuant to the Corporations Act or otherwise.

## 11. Notice of general meeting

- 11.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to all Ordinary Members and other persons referred to in clause 52.1 of any general meeting.
- 11.2 A notice calling a general meeting:
  - (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
  - (b) must state the general nature of the business to be transacted at the meeting, including any Special Majority Issue or Super Majority Issue;
  - (c) must, if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the Special Resolution;
  - (d) must, in the case of an election of Directors, state the names of the candidates for election; and
  - (e) may specify a place, facsimile number or electronic address for the purposes of proxy appointment.
- 11.3 The business to be transacted at an annual general meeting may, regardless of whether stated in the notice, include:
  - (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
  - (b) the election of Directors;
  - (c) the consideration of increases in Members' application fees or annual subscription fees;
  - (d) the appointment and fixing of the remuneration of the Auditor;

- (e) the admission of new Ordinary Members; and
  - (f) the confirmation of any new Non-Voting Members admitted to Membership since the last annual general meeting.
- 11.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 10.2).
- 11.5 The Directors must give notice to all Ordinary Members and other persons referred to in clause 52.1 of the:
- (a) postponement or cancellation of a general meeting; and
  - (b) place, date and time of any new meeting.
- 11.6 The accidental omission to send a notice of general meeting (including a proxy appointment form) to any Ordinary Member or other person referred to in clause 52.1 or the non-receipt of a notice (or form) by any Ordinary Member or other person referred to in clause 52.1 does not, of itself, invalidate the proceedings, or any resolution passed, at the general meeting.

## Proceedings at general meetings

### 12. Presence of Ordinary Member

- 12.1 In clauses 13 (Quorum), 14 (Chairperson), 16 (Decision on questions) and 18 (Voting rights), **Ordinary Member** includes an Ordinary Member present in person or by proxy, attorney or Representative.

### 13. Quorum

- 13.1 Subject to clause 13.4, no business may be transacted at a general meeting unless a quorum of Ordinary Members is present when the meeting proceeds to business.
- 13.2 A quorum of Ordinary Members is:
- (a) for consideration of a, Super Majority Issue or Special Majority Issue, all Ordinary Members as specified in the Register and that are then presently entitled to vote; and
  - (b) for all other business, at least 50% of the Ordinary Members by number, as specified in the Register and that are then presently entitled to vote.
- 13.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Ordinary Members, it is automatically dissolved; or
  - (b) in any other case:
    - (i) it will stand adjourned to the same time and place 7 days after the meeting, or to another day, time and place determined by the Directors; and

- (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.
- 13.4 Where a quorum of Ordinary Members is present under clause 13.2(b) but with an insufficient quorum pursuant to clause 13.2(a) for the consideration of a Special Majority Issue or Super Majority Issue, then the meeting may consider and transact all business that is not a Special Majority Issue or a Super Majority Issue. For the avoidance of doubt, an insufficient quorum pursuant to clause 13.2(a) cannot be cured by the subsequent attendance of additional Ordinary Members at a later time during the relevant meeting.

## 14. Chairperson

- 14.1 Subject to clauses 14.2 and 14.3, the Chairperson, or in the Chairperson's absence the Deputy Chairperson, will be the chairperson at every general meeting.
- 14.2 The Directors present may elect a chairperson of a general meeting if:
  - (a) there is no Chairperson or Deputy Chairperson; or
  - (b) neither the Chairperson nor Deputy Chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
  - (c) neither the Chairperson nor Deputy Chairperson are willing to act as chairperson of the general meeting.
- 14.3 If no election is made under clause 14.2, then:
  - (a) the Members may elect one of the Directors present as chairperson of the general meeting; or
  - (b) if no Director is present or is willing to act as chairperson of the relevant meeting, the Members may elect one of the Members present as chairperson of the general meeting.

## 15. Adjournment

- 15.1 The chairperson of a general meeting at which a quorum is present:
  - (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
  - (b) must adjourn the general meeting if the meeting directs him or her to do so.
- 15.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 15.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 15.4 Notice of an adjourned general meeting need only be given in accordance with clause 11.1 if a general meeting has been, or is proposed to be, adjourned for more than 21 days.



## 16. Decision on questions

- 16.1 Subject to the Corporations Act in relation to Special Resolutions and clauses 16.2, 16.3 and 26.11, a resolution is carried at a general meeting if a majority of the votes cast on the resolution are in favour of the resolution.
- 16.2 In order to be successfully carried, resolutions as to Special Majority Issues require a 75% majority of votes cast in favour of the resolution, by Ordinary Members then presently entitled to vote.
- 16.3 In order to be successfully carried, resolutions as to Super Majority Issues require that 100% of votes be cast in favour of the resolution, by Ordinary Members then presently entitled to vote.
- 16.4 The chairperson of a general meeting does not have a casting vote at general meetings in addition to the chairperson's votes as an Ordinary Member, proxy, attorney or Representative. Subject to clause 26.11 in the case of an equality of votes on resolutions concerning ordinary business which are not Special Resolutions, Special Majority Issues or Super Majority Issues, the resolution shall not be carried.
- 16.5 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded by any Ordinary Member or the chairperson of the meeting.
- 16.6 A poll may be demanded before a vote is taken or before or after the voting results on a show of hands are declared.
- 16.7 Unless a poll is demanded:
  - (a) a declaration by the chairperson of the meeting that a resolution has been carried, carried by a specified majority, or lost; and
  - (b) an entry to that effect in the minutes of the meeting,are conclusive evidence of the fact without proof of the number or proportion of the votes cast in favour of or against the resolution.
- 16.8 The demand for a poll may be withdrawn before the poll is taken.
- 16.9 A decision of a general meeting may not be impeached or invalidated solely on the ground that an Ordinary Member voting at the general meeting was not entitled to do so.
- 16.10 If there is a dispute at a general meeting about a question of procedure, the chairperson of the general meeting may determine the question.

## 17. Taking a poll

- 17.1 Subject to clause 1.3(h) of Schedule 2, a poll will be taken when and in the manner that the chairperson of the general meeting directs.
- 17.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 17.3 The chairperson of a general meeting may determine any dispute about the admission or rejection of a vote on a poll.

- 17.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 17.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 17.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

## Votes of Members

### 18. Voting rights

- 18.1 An Ordinary Member entitled to vote has one vote on a show of hands.
- 18.2 Subject to clause 18.3, the number of votes to which each Ordinary Member will be entitled on a poll is:
  - (a) in the case of Pork CRC Ltd, the number of votes equal to 3 times the number of Ordinary Members specified in the Register; and
  - (b) in the case of all other Ordinary Members, 1 vote each.
- 18.3 For polls taken on or after 1 July 2019, all Ordinary Members, including Pork CRC Ltd, will have 1 vote each.
- 18.4 Notwithstanding any other clause of this Constitution, an Ordinary Member is not entitled to vote at a general meeting if:
  - (a) all amounts presently payable to the Company by that Ordinary Member have not been paid; or
  - (b) they are prohibited from voting by the Corporations Act or court order.
- 18.5 Non-Voting Members are not eligible to vote.

### 19. Objections

- 19.1 An objection to the entitlement of an Ordinary Member to vote at a general meeting or adjourned general meeting may only be raised at that meeting.
- 19.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.
- 19.3 A vote which the chairperson allows, notwithstanding an objection having been raised, is valid for all purposes.

### 20. Votes by proxy

- 20.1 If an Ordinary Member appoints a proxy or an attorney, the proxy or attorney may vote on a show of hands.
- 20.2 A proxy need not be a Member.
- 20.3 A proxy may demand or join in demanding a poll.
- 20.4 A proxy or attorney may vote on a poll.

- 20.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. The proxy will be deemed to have voted all directed proxies in the manner directed.

## 21. Document appointing proxy

- 21.1 An appointment of a proxy is valid if it is signed by the Ordinary Member making the appointment and contains the information required by section 250A(1) of the Corporations Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.
- 21.2 For the purposes of clause 21.1, an appointment received at an electronic address will be taken to be signed by the Ordinary Member if:
- (a) a personal identification code allocated by the Company to the Ordinary Member has been included with the appointment; or
  - (b) the appointment has been verified in another manner approved by the Directors.
- 21.3 A proxy's appointment is valid at an adjourned general meeting.
- 21.4 A proxy or attorney may be appointed for all general meetings, for a particular number of general meetings or for a particular purpose.
- 21.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:
- (a) to vote on:
    - (i) any amendment to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
    - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
  - (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.
- 21.6 If a proxy appointment is signed by the Ordinary Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name(s) of one or more Directors or the Secretary.

## 22. Lodgement of proxy

- 22.1 The written appointment of a proxy or attorney must be received by the Company at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the general meeting or adjourned general meeting at which the appointee is intended to vote; or

(b) the taking of a poll on which the appointee is intended to vote.

22.2 The Company receives an appointment of a proxy or attorney and any power of attorney or other authority under which the appointment was executed when they are received at:

(a) the Office; or

(b) a place, facsimile number or electronic address specified for that purpose in the notice of meeting, in accordance with the timing requirements of clause 51.

## 23. Validity

23.1 A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

(a) died;

(b) became mentally incapacitated; or

(c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

## Appointment and removal of Directors

### 24. Number of Directors

24.1 The maximum number of Directors is specified in item 3 of Schedule 1 and the Company must at all times have at least 3 appointed Directors in accordance with the requirements of section 201A(2) of the Corporations Act.

24.2 The Chairperson will be a Director by virtue of their appointment as Chairperson.

### 25. Nomination of Director and Chairperson

25.1 A written Notice referring to all Director vacancies to be filled in accordance with clause 26.3(b) (if any) and a nomination form (if there are Director vacancies), must be sent to all Ordinary Members at least 28 days before the notice of a general meeting issued in accordance with clause 11.

25.2 Each Ordinary Member is entitled to nominate one person to stand for election as a Director using the nomination form provided pursuant to clause 25.1, provided that:

(a) the nominee meets the requirements of clauses 26.1, 26.3 and 26.6; and

(b) the form is received by the Company within 21 days (or such prior date stated in the Notice) of the date of the Notice issued pursuant to clause 25.1.

- 25.3 Where a nomination is made by an Ordinary Member other than in accordance with clause 25.2(b), then the Directors will determine, in their absolute discretion, whether to accept the nomination.
- 25.4 The Directors must review all nominations for Director vacancies on a day that is:
- (a) after the date determined in accordance with clause 25.2(b); and
  - (b) no less than 22 days prior to the date of the relevant general meeting; and if:
    - (i) the number of valid nominations from Ordinary Members is less than the number of vacancies for Director; or
    - (ii) the requirements of clauses 26.1, 26.3 and 26.6 will not be satisfied by the election of the nominated persons;
- then the Directors may nominate such additional persons to stand for election as Director as is necessary to fill all of the remaining vacancies on the Board after taking account of valid Ordinary Member nominations.
- 25.5 The Chairperson will promptly, and in any event no less than 22 days prior to the date of the relevant general meeting, notify the Secretary of any nominations made by the Directors in accordance with:
- (a) clause 25.4; and
  - (b) clause 26.3(c).
- 25.6 Clauses 25.4 and 25.5(a) do not apply to a general meeting that is held as a result of the adjournment of a general meeting.
- 25.7 Where there are more nominations than Director vacancies for consideration at a general meeting, then the Directors will determine the sequential order that nominees will appear on a voting paper, provided that persons nominated by Ordinary Members will appear on a voting paper sequentially before persons nominated by Directors.

## 26. Appointment of Directors

- 26.1 A person other than a retiring Director or Chairperson is not eligible for election as a Director or Chairperson at a general meeting unless a written Notice has been left at the Office:
- (a) stating that the person consents to the nomination; and
  - (b) is signed by the nominated person.
- 26.2 A Notice given in accordance with clause 26.1 must be left at the Office within 21 days of the date of the Notice given under clause 25.1 (or such prior date stated in the Notice).
- 26.3 Directors must be appointed as follows:
- (a) provided that APL remains an Ordinary Member, APL will be entitled to appoint 2 Directors by Notice to the Secretary; and

- (b) an additional 4 Directors will be elected by the Ordinary Members in general meeting from candidates nominated in accordance with clause 25; and
  - (c) an additional independent Director and Chairperson will be elected by the Ordinary Members in general meeting from candidates nominated by the Board.
- 26.4 Subject to clause 26.5, the Ordinary Members must ensure that at least 1 Director and the Chairperson are independent of:
  - (a) the Members; and
  - (b) APL;
- 26.5 Notwithstanding clause 26.4, the Chairperson may also be the chairperson of Pork CRC Ltd.
- 26.6 Each Director must have experience and skills in one or more of the following areas:
  - (a) as a member of the Australian Institute of Company Directors or other appropriate qualifications or accreditations to be a director;
  - (b) pork production and processing;
  - (c) business management;
  - (d) finance and accounting and/or auditing;
  - (e) corporate governance;
  - (f) marketing and / or communications;
  - (g) administration and commercialisation of research and development;
  - (h) environment;
  - (i) animal science, health and welfare;
  - (j) education; and
  - (k) any other skills determined by the Directors from time to time,and the Board as a whole must at all times have experience and skills covering the areas described in clause 26.6(b) to 26.6(j) inclusive.
- 26.7 The CEO will be entitled to attend Directors' meetings and to concurrently occupy the position of a Director (although appointment as the CEO will not automatically entitle the CEO to be nominated or appointed as a Director).
- 26.8 An election must be conducted at each annual general meeting at which a Director is scheduled to retire, to elect a replacement in accordance with the procedure in clause 26.3.
- 26.9 In the case of a casual vacancy, the Board may appoint a replacement until the next general meeting following the vacancy arising or, if the Company would have insufficient time to comply with clause 25.1 for that meeting, at the next general meeting for which the Company is able to comply.

- 26.10 The election result must be declared by the Company at the general meeting and the appointment will take effect at the end of the meeting.
- 26.11 Subject to clause 26.13, each election will be decided on the basis of a preferential voting system in accordance with Schedule 2, by Ordinary Members then presently entitled to vote.
- 26.12 The Ordinary Members may resolve to postpone an election of Directors until a later general meeting and the Company may call for additional nominations prior to that later meeting.
- 26.13 Voting rights for Ordinary Members for election of Directors are the same as for any other resolutions at general meetings.
- 26.14 The Ordinary Members must ensure that the composition of the Directors at any time complies with any requirements in the Corporations Act.

## 27. Retirement

- 27.1 A Director (including the Chairperson) appointed pursuant to clauses 26.3(b) or 26.3(c) must retire from office at the conclusion of the third annual general meeting after the Director was last appointed.
- 27.2 A retiring Director remains in office until the end of the relevant annual general meeting and will be eligible for re-appointment at that annual general meeting.

## 28. Vacation of office

- 28.1 The office of a Director immediately becomes vacant if the Director:
- (a) is prohibited by the Corporations Act or other legislation from holding office or continuing as a Director;
  - (b) is, by reason of mental or physical incapacity, incapable of carrying out their duties as a Director;
  - (c) is not present personally at meetings of the Directors for a continuous period of 9 months without leave of absence from the remaining Directors;
  - (d) resigns by notice in writing to the Company;
  - (e) is removed by a resolution of the Ordinary Members in general meeting;
  - (f) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act;
  - (g) was appointed by APL under clause 26.3(a), and that appointment is revoked by APL; or
  - (h) was appointed by APL and APL ceases to be an Ordinary Member.

## 29. Deputy Chairperson

- 29.1 The Directors may elect a Director as Deputy Chairperson to act as chairperson in the Chairperson's absence.

- 29.2 The Directors present may elect a chairperson of a Directors' meeting if:
- (a) there is no Chairperson or Deputy Chairperson; or
  - (b) neither the Chairperson nor Deputy Chairperson is present within 15 minutes after the time appointed for holding the Directors' meeting; or
  - (c) neither the Chairperson nor Deputy Chairperson are willing to act as chairperson of the Directors' meeting.

## 30. Observers

- 30.1 Observers may be invited to attend Directors' meetings at the discretion of the chairperson of the meeting.

## Powers and duties of Directors

### 31. Directors to manage Company

- 31.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Corporations Act do not require to be exercised by the Company in general meeting.
- 31.2 Every Director and other agent or officer of the Company must:
- (a) keep secret all aspects of all transactions of the Company, except:
    - (i) to the extent necessary to enable the person to perform his or her duties to the Company;
    - (ii) as required by law;
    - (iii) where authorised pursuant to clause 36.7; and
    - (iv) when requested by the Directors to disclose information to the Auditors or a general meeting of the Company; and
  - (b) if requested by the other Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Company.

## Remuneration of Directors

### 32. Remuneration of Non-Executive Directors

- 32.1 The Non-Executive Directors may be paid remuneration for their services as Directors, provided that the total remuneration amount collectively for all then Non-Executive Directors must not exceed \$120,000 per annum or any greater amount determined by the Ordinary Members in general meeting.
- 32.2 A Non-Executive Director may be paid for any service rendered to the Company in a professional or technical capacity, other than in the capacity as Director, where the provision of the service and the amount payable, has the prior approval of the Directors and is consistent with reasonable market rates for a comparable service.



- 32.3 Non-Executive Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any Board Committee, Advisory Committee, general meetings of the Company or otherwise in connection with the Company's business.
- 32.4 Subject to section 199B of the Corporations Act, the Company may pay, or agree to pay, for the provision of directors' and officers' liability insurance coverage for the Non-Executive Director against liability incurred in that capacity during the term of their appointment.

### 33. Remuneration of Executive Directors

- 33.1 The Directors may appoint a Director to any full-time or substantially full-time executive position in the Company, including as CEO, on such terms as they think fit.
- 33.2 The remuneration of an Executive Director from time to time will be fixed by the Directors.
- 33.3 The Company may reimburse an Executive Director for his or her expenses properly incurred as a Director or in the course of his or her office.
- 33.4 Subject to section 199B of the Corporations Act, the Company may pay, or agree to pay, for the provision of directors' and officers' liability insurance coverage for the Executive Director against liability incurred in that capacity during the term of their appointment.

## Proceedings of Directors

### 34. Directors' meetings

- 34.1 Subject to clause 34.2, a Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.
- 34.2 A Directors' meeting must be called on at least 48 hours' notice of a meeting to each Director.
- 34.3 Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means which enables them to simultaneously hear each other and to participate in discussion.
- 34.4 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 34.5 Subject to clause 36, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 34.6 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 34.7 A quorum is the greater of:
  - (a) 3 Directors then presently entitled to vote at the Directors' meeting; and
  - (b) two thirds of Directors for the time being entitled to vote at the Directors' meeting, rounded up to the nearest whole number.

- 34.8 Where a quorum cannot be established for the consideration of a particular matter at a Directors' meeting, the chairperson of the Directors' meeting may call a general meeting of Ordinary Members to deal with the matter.
- 34.9 Notice of a Directors' meeting may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

## 35. Decision on questions

- 35.1 Subject to this Constitution (including clause 16.2, clause 16.3 and clause 40), questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to clause 35.3 and clause 36, each Director has one vote.
- 35.2 If there is an equality of votes, the chairperson of a meeting of Directors will have a casting vote in addition to his or her deliberative vote.
- 35.3 If the voting rights of APL have been suspended under clause 18.4, each of its representative Directors' votes shall also be suspended for the purpose of the Directors' meetings.

## 36. Directors' interests

- 36.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 36.2 No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director of the Company or because of the fiduciary obligations arising out of that office.
- 36.3 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.
- 36.4 A Director or a body or entity in which a Director has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Company;
  - (b) hold any office or place of profit other than as Auditor; and
  - (c) act in a professional capacity other than as Auditor,
- and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits:
- (i) under any agreement or arrangement with the Company; or
  - (ii) from holding an office or place of profit in or acting in a professional capacity with the Company.

- 36.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not unless permitted by the Corporations Act to do so:
- (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter, in which case the Director may:
    - (i) be counted in determining whether or not a quorum is present at any meeting of Directors considering that matter;
    - (ii) sign or countersign any document relating to matter; and
    - (iii) vote in respect of, or in respect of any matter arising out of, any contract or arrangement or proposed contract or arrangement.
- 36.6 A Director may be or become a director or other officer of, or otherwise be interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- 36.7 Subject to clause 36.5, a Director who is an employee or board member of a Member may disclose to that Member any information (confidential or otherwise) about the affairs, finances and accounts of the Company that comes into the Director's possession from time to time, subject to requiring the Member to maintain the confidentiality of any confidential information. This right will not apply if:
- (a) the exercise of such a right is inconsistent with this Constitution or the Director's fiduciary or other legal duties to the Company (including any duties pursuant to the Corporations Act); or
  - (b) the Board has directed that such information not be disclosed to the relevant Member.

## 37. Remaining Directors

- 37.1 Subject to clause 24.1, the Directors may act even if there are vacancies on the Board.
- 37.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to call a general meeting.

## 38. Committees

- 38.1 The Directors may establish either or both of the following:
- (a) committees with powers delegated by the Directors (**Board Committees**); and
  - (b) advisory committees, with no delegated powers, to advise the Directors on specified matters (**Advisory Committees**).
- 38.2 Subject to clause 38.7, Board Committee members and Advisory Committee members will be appointed by the Directors.

- 38.3 At least 1 member of each Board Committee must be a Director.
- 38.4 Meetings of any Board Committee or Advisory Committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each Board Committee or Advisory Committee member was a Director.
- 38.5 Clause 40 regarding written resolutions applies to resolutions of Board Committees and Advisory Committees as if each Board Committee or Advisory Committee member was a Director.
- 38.6 Pursuant to clause 38.1(b), the Directors will establish a Research and Development Advisory Committee to oversee and advise on all matters relating to the establishment, conduct and monitoring of Projects undertaken by or on behalf of the Company. The Research and Development Advisory Committee may make recommendations to the Board on issues which include, but are not limited to:
- (a) proposals for Projects; and
  - (b) new concepts and ideas for Project generation.
- 38.7 Notwithstanding clause 38.2, each Ordinary Member may appoint one person to be a member of the Research and Development Advisory Committee by written Notice to the Secretary.

## 39. Delegation

- 39.1 The Directors may, upon any terms and conditions or restrictions as they see fit, delegate any of their powers, other than those which by law must be dealt with by the Directors as a Board, to:
- (a) a Board Committee or Advisory Committee;
  - (b) a single Director;
  - (c) an employee or other officer of the Company; or
  - (d) any other person.
- 39.2 A Board Committee to which, or person to whom, any powers have been delegated must exercise their powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 39.3 A Board Committee or Advisory Committee to which, or person to whom, any powers have been delegated may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 39.4 The Directors may at any time revoke any delegation of power.

## 40. Written resolutions

- 40.1 The Directors may pass a resolution without a Director's meeting being held if all the Directors entitled to vote on the resolution sign a document containing a

statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.

- 40.2 For the purposes of clause 40.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 40.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 40.4 The minutes of Directors' meetings must record that a written resolution was passed in accordance with this clause 40.

## 41. Validity of acts of Directors

- 41.1 If it is discovered that:
  - (a) there was a defect in the appointment of a person as a Director; or
  - (b) any of the circumstances specified in clause 28 applied to a person appointed as a Director,all acts of the Directors before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## 42. Minutes and Registers

- 42.1 The Directors must cause minutes to be made of:
  - (a) the names of the Directors present at all Directors' meetings, meetings of Board Committees and Advisory Committees;
  - (b) all proceedings and resolutions of general meetings, Directors' meetings, meetings of Board Committees and Advisory Committees;
  - (c) all resolutions passed by Directors in accordance with clause 40;
  - (d) all appointments of officers;
  - (e) all orders made by the Directors, Board Committees and Advisory Committees; and
  - (f) all disclosures of interests made under clause 36.
- 42.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 42.3 The Company must keep, and the Secretary must maintain, all registers required by this Constitution and the Corporations Act (including the Register).

# Management

## 43. Local management

- 43.1 Subject to the remainder of this Constitution and any matter which is the subject of a Special Majority Issue or Super Majority Issue, the Directors may provide for

the management and transaction of the affairs of the Company in any places and in such manner as they think fit.

- 43.2 Without limiting clause 43.1 the Directors may:
- (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and
  - (b) delegate to any person appointed under clause 43.2(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,
- on any terms and subject to any conditions determined by the Directors.
- 43.3 The Directors may at any time revoke or vary any delegation under this clause 43.

## 44. Appointment of attorneys and agents

- 44.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Company:
- (a) for the purposes;
  - (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution and at law);
  - (c) for the period; and
  - (d) subject to the conditions,
- determined by the Directors.
- 44.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) any member of any local board established under this Constitution;
  - (b) any company;
  - (c) the members, directors, nominees or managers of any company or firm; or
  - (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 44.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 44.4 The Directors may appoint attorneys or agents by facsimile transmission, or electronic communication to act for and on behalf of the Company.
- 44.5 An attorney or agent appointed under this clause 44 may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in it.

# Chief Executive Officer

## 45. Chief Executive Officer

- 45.1 The Directors may appoint any person, including a Director, to the position of CEO for the period and on the terms (including as to remuneration) that the Directors see fit.
- 45.2 The CEO will not be automatically entitled to a position as a Director, by virtue of their existing appointment as CEO.
- 45.3 Subject to section 199B of the Corporations Act, the Company may pay, or agree to pay, for the provision of directors' and officers' liability insurance coverage for the CEO against liability incurred in that capacity during the term of their appointment.

# Secretary

## 46. Secretary

- 46.1 There must be at least 1 Secretary of the Company, appointed by the Directors for a term, upon remuneration and such other conditions as determined by the Directors.
- 46.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 46.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.
- 46.4 If the CEO is appointed as Secretary, the CEO will not be entitled to any remuneration in addition to his or her remuneration as CEO.
- 46.5 Subject to section 199B of the Corporations Act, the Company may pay, or agree to pay, for the provision of directors' and officers' liability insurance coverage for the Secretary against liability incurred in that capacity during the term of their appointment.

# Seals

## 47. Common Seal

- 47.1 If the Company has a Seal:
  - (a) the Directors must provide for the safe custody of the Seal;
  - (b) the Seal must not be used without the authority of the Directors; and
  - (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

## 48. Duplicate Seal

- 48.1 If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal, each of which:
- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
  - (b) must not be used except with the authority of the Directors; and
  - (c) must be stored and affixed in the same manner as specified in clauses 48.1(a) and 48.1(c).

## Audit and accounts

### 49. Audit and accounts

- 49.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act.
- 49.2 The Directors must cause the financial records of the Company to be audited or reviewed in accordance with the requirements of the Corporations Act.

## Inspection of records

### 50. Inspection of records

- 50.1 Except as otherwise required by the Corporations Act the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- 50.2 Except as otherwise required by the Corporations Act a Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.
- 50.3 Notwithstanding any other clause of this Constitution, no Member shall exercise its rights as a Member to seek access to records and other commercially sensitive material of the Company connected with the Member's contracts or dealings with the Company.

## Notices

### 51. Service of notices

- 51.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution by:
- (a) serving it on the person; or



- (b) sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.

51.2 A notice sent by post is taken to be served:

- (a) by properly addressing, prepaying and posting a letter containing the notice; and
- (b) on the day which is 6 days after the day on which it was posted (if posted to an address in the same country) or 11 days after the day on which it was posted (if posted to an address in another country).

51.3 A notice sent by facsimile transmission or electronic notification is taken to be served:

- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
- (b) on the day after its despatch.

51.4 If a Member has no Registered Address a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Office.

51.5 A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this clause.

51.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.

51.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.

51.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

## 52. Persons entitled to notice

52.1 Notice of every general meeting must be given to the:

- (a) Ordinary Members;
- (b) Directors and each Secretary; and
- (c) Auditor.

52.2 No other person is entitled to receive notice of a general meeting.

## Winding up

### 53. Winding up

53.1 If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year,

undertakes to contribute to the property of the Company for the:

- (i) payment of debts and liabilities of the Company (in relation to clause 53.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
- (ii) adjustment of the rights of such Members and former Members amongst themselves,

such amount as may be required, not exceeding \$10.

- 53.2 In the event of the Company being wound up, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes which is not carried on for the profit or gain of its individual members.

## Indemnity

### 54. Indemnity

- 54.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an Officer of the Company against any liability (other than for legal costs) incurred by that person as an Officer of the Company (including liabilities incurred as an Officer of a subsidiary of the Company where the Company requested the Officer to accept that appointment).
- 54.2 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an Officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person in their capacity as an Officer of the Company (including such legal costs incurred as an Officer of a subsidiary of the Company where the Company requested the Officer to accept that appointment).
- 54.3 The amount of any indemnity payable under clauses 54.1 or 54.2 will include an additional amount (**GST Amount**) equal to any GST payable by the Officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- 54.4 For the purposes of this clause 54, **Officer** means a:
- (a) Director;
  - (b) Secretary; or
  - (c) CEO.

# Schedule 1- Company details

Item	Issue	Clause Reference	Details
1.	Company Name	Clause 1.1	Australasian Pork Research Institute Ltd
2.	Research Field	Clause 1.1 and Clause 2.1	Pigs and the pork industry
3.	Number of Directors	Clause 24.1	The maximum number of Directors is eight (8), including the Chairperson
4.	Special Majority Issues	Clause 1.1 and Clause 16.2	<ul style="list-style-type: none"> <li>a. A substantial alteration in strategic direction</li> <li>b. Borrowing in excess of \$25,000</li> <li>c. Giving or entering into a guarantee, letter or comfort, performance bond or any other form of security over the Company assets or business</li> <li>d. Admission of new Ordinary Members pursuant to clause 4</li> <li>e. Any addition of, amendment to, or removal of, a Special Majority Issue</li> </ul>
5.	Super Majority Issues	Clause 1.1 and Clause 16.3	<ul style="list-style-type: none"> <li>a. Amendments to, replacements of, or deletions of clause 2.3 or clause 53.2 of this Constitution</li> <li>b. Any other change to the Constitution that may adversely impact on the Company's income and capital gains tax exemptions</li> <li>c. Changes to company type</li> <li>d. Any addition of, amendment to, or removal of, a Super Majority Issue</li> </ul>
6.	Foundation Members	Clause 1.1 and Clause 4.1	<p>Anatara Lifesciences Ltd</p> <p>Apiam Animal Health Ltd</p> <p>Australian Pork Limited</p> <p>CHM Alliance Pty Ltd</p> <p>Feedworks Pty Ltd</p> <p>Murdoch University</p> <p>New Zealand Pork Industry Board</p> <p>Ridley Agriproducts Pty Ltd</p> <p>Rivalea (Australia) Pty Ltd</p> <p>The Crown in right of the State of South Australia acting through the Department of Primary Industries and Regions (SARDI)</p>

			<p>The University of Adelaide</p> <p>The University of Melbourne</p> <p>The University of Queensland</p> <p>Westpork Pty Ltd</p> <p>Windridge Farms Pty Ltd and Blantyre Farms Pty Ltd as a joint member</p>
7.	Number of Ordinary Members	Clause 4.4	The maximum number of Ordinary Members is unlimited
8.	Number of Non-Voting Members	Clause 5.1	The maximum number of Non-Voting Members is unlimited
9.	Fee payable on cessation of Ordinary Membership	Clause 7.2	<p>a. an amount equal to two times the then annual subscription fee if a notice pursuant to clause 7.1(a)(i) is given, or Ordinary Membership ceases, on or before 30 June 2020; or</p> <p>b. an amount equal to the then annual subscription fee if a notice pursuant to clause 7.1(a)(i) is given, or Ordinary Membership ceases, after 30 June 2020.</p>

# Schedule 2- Voting Procedure

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Except where prohibited by the Corporations Act and subject to the calling of a poll as set out in clause 1.3(h):

- 1.1 If at a general meeting the number of candidates for Director positions is equal to or less than the number of vacancies, all candidates who receive a majority of votes cast by the Ordinary Members will be elected Directors. If all vacancies are not filled, clause 26.9 will apply and a new election will be held at the next general meeting to fill the remaining vacancies.
- 1.2 If at a general meeting the number of candidates for Director positions is greater than the number of vacancies the election shall be by ballot of the Ordinary Members conducted in the following manner:
  - (a) the ballot will be conducted at the general meeting;
  - (b) at the general meeting a returning officer and a scrutineer will be appointed by the Board to ensure the proper conduct of the ballot; and
  - (c) each Ordinary Member present at the meeting will be given a voting paper containing a statement of the number of vacancies to be filled at the election and the names of the nominated candidates with provision for a number to be placed against the name of each candidate.
- 1.3 The method of voting will be as follows:
  - (a) Each Ordinary Member must mark their voting paper by writing at least one whole number from 1 to the total number of vacancies opposite the names of each of their preferred candidates, with number 1 being the most preferred candidate. The voting papers will be collected by the returning officer.
  - (b) No number may appear twice on the voting paper. A voting paper not complying with this regulation will be informal and will not be counted in the ballot.
  - (c) The returning officer will allocate points for each vote to which an Ordinary Member is entitled to each candidate in accordance with the following rules:
    - (i) four points for each ballot paper where a candidate has "1" marked next to their name; and
    - (ii) three points for each ballot paper where a candidate has "2" marked next to their name (if any) and there is more than 1 vacancy; and
    - (iii) two points for each ballot paper where a candidate has "3" marked next to their name (if any) and there are more than 2 vacancies; and
    - (iv) one point for each ballot paper where a candidate has "4" marked next to their name (if any) and there are more than 3 vacancies; and
    - (v) zero points for each ballot paper where a candidate has "5" or a successive number thereafter marked next to their name (if any).
  - (d) Subject to satisfying any eligibility requirements the candidates with the most points will be elected in order of their point totals.

- (e) If two or more candidates have equal points totals, then the candidate scoring the most:
    - (i) “4” point ballots, and if still tied,
    - (ii) “3” point ballots, if there is more than one vacancy and if still tied,
    - (iii) “2” point ballots, if there are more than two vacancies and if still tied,
    - (iv) “1” point ballots if there are more than three vacancies,will prevail.
  - (f) If the procedures of clause (e) above do not determine a prevailing candidate for one or more vacancies, then a further ballot between the tied candidates will be performed.
  - (g) The chairperson of the general meeting will make a declaration as to the result of such election including the number of points received by each candidate.
  - (h) A poll may be called on any resolution to appoint a candidate as a Director, which poll may be called at any time prior to the results of the ballot for any candidate being declared. In that event, the number of votes to which each Ordinary Member is entitled on a poll is set out in clauses 18.2 and 18.3.
- 1.5 The Directors may publish rules and procedures concerning the voting system. The decision of the Directors as to the rules or procedures applicable is final and conclusive.