

Constitution

Australian Forestry Standard Limited
trading as Responsible Wood

VERSION 2

August 2020

Constitution of Australian Forestry Standard Limited

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(i) Preliminary

1. Defined terms & interpretation

1.1 In this Constitution unless the contrary intention appears:

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

Auditor means the Company's auditor.

Australian Forestry Standard means Australian Standard AS4708 The Australian Forestry Standard and Australian Standard AS4707 a Chain-of-Custody Standard, or any other standard that applies to the Company's operations.

Company means Australian Forestry Standard Limited.

Constitution means the constitution of the Company as amended from time to time.

Director includes any person occupying the position of director of the Company and, where appropriate.

Directors means all or some of the Directors acting as a board.

Government Body means:

- (a) a body corporate that is incorporated for a public purpose by legislation of the Commonwealth, a State or Territory, or regulations under legislation of the Commonwealth, a State or Territory; or
- (b) a company incorporated or taken to be incorporated under the Act that is directly or indirectly controlled by the Commonwealth, a State or Territory. For this purpose, **control** has the same meaning as in the accounting standard that applies for the purpose of deciding whether a company has to prepare consolidated financial statements under the Act.

Member means a member under clause 5.

Objects means the objects specified in clause 2.

Office means the Company's registered office.

Register means the register of Members of the Company.

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

Representative means a person appointed as such under clause 9.

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

Secretary means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries.

Standards Development Organisation means an organisation accredited by Standards Australia to develop Australian Standards, or by any other recognised accreditation body.

1.2 In this Constitution, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders;

- (b) words importing natural persons include corporations and bodies politic;
 - (c) words and expressions defined in the Act have the same meaning in this Constitution;
 - (d) headings are for ease of reference only and do not affect the construction of this Constitution; and
 - (e) a reference to the Act is a reference to the Act as modified or amended from time to time.
- 1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in a provision of the Act that deals with the same matter as the clause.
- 1.4 To the extent permitted by law, the replaceable rules in the Act do not apply to the Company.
- 1.5 Severing invalid provisions
- (a) while the company is exempt from income tax under section 50-1 of the Income Tax Assessment Act 1997 the Income Tax Assessment Act 1997 overrides any clauses in this constitution which is inconsistent with the Company maintaining that tax exempt status under the act;
 - (b) the Corporations Act overrides any clause in this constitution which is inconsistent with that Act;
 - (c) if at any time any provision of this constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, it does not affect or impair;
 - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
 - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution

(ii) Objects

2. Objects

- 2.1 The company is established to protect and promote the Australian forest industry and its purpose is too;
- (a) promote sustainable forest management in Australian forests through an Australian Forestry Standard to be owned by the Company (**AFS**);
 - (b) support and maintain the development of the AFS, and other related or complementary standards;
 - (c) maintain accreditation as a Standards Development Organisation;
 - (d) support and facilitate the use of the AFS, and any related standards, for forestry certification within Australia;

- (e) seek and maintain mutual recognition for AFS internationally; and
- (f) support the forest industry internationally by providing the following ancillary services where they do not impact upon the Company's ability to provide the primary services in items (a) to (e) above:
 - (i) provide a non-exclusive licence to use the AFS in countries other than Australia;
 - (ii) administer forestry certification schemes in countries other than Australia, including the issuing of licences and collection of licence fees;
 - (iii) support and facilitate the use of forestry standards, and any related standards, for forestry certification in countries other than Australia.

2.2 The company will achieve the objects in clause 2.1 by;

- (a) the purchase, taking on lease or in exchange, and the hiring or otherwise acquiring of any real or personal property that may be deemed necessary or convenient for any of the objects of the Company;
- (b) the letting of real or personal property for rent to benefit any of the objects of the company
- (c) the buying, selling, and supplying of, and dealing in, goods of all kinds;
- (d) the construction, maintenance and alteration of buildings or works necessary for convenient for any of the objectives of the company;
- (e) the accepting of any gift, whether subject to a special trust or not, for any one or more of the objects of the company;
- (f) the taking of such steps from time to time as the directors or the members in general meeting may deem expedient for the purpose of procuring contributions to the funds of the company, whether by way of donations, subscriptions, or otherwise;
- (g) the printing and publishing of such newspapers, periodicals, books, leaflets, or other documents as the directors or the members in general meeting may think desirable for the promotion of the objects of the company;
- (h) the borrowing and raising of money in such a manner and on such terms as the directors may think fit or as may be approved or directed by resolution passed as a general meeting; and
- (i) the investment of any moneys of the company not immediately required for any of its objects or purposes in such manner as the directors may from time to time determine

2.3 The Company may only exercise the powers in section 124(1) of the Act to:

- (a) carry out the Objects; and
- (b) do all things incidental or convenient in relation to the exercise of power under clause 2.1.

(iii) Income and Property of Company

3. Income and property of Company

The income and property of the Company will only be applied towards the promotion of the Objects.

4. No distribution to Members

- 4.1 Subject to clause 4.2, no income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
 - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.
- 4.2 If a Member has provided a grant to the Company, the Company may return unspent monies from that grant to the Member.

(iv) Membership

5. Admission

- 5.1 The number of Members with which the Company proposes to be registered is unlimited.
- 5.2 The initial Members of the Company will be:
- (a) the following organisations who consented to become Members in the Company's application for registration :
 - (i) Commonwealth of Australia represented by the Department of Agriculture, Fisheries and Forestry - Australia ABN 24 113 085 695;
 - (ii) Forestry Commission of NSW trading as State Forests of NSW ABN 43 141 857 613;
 - (iii) State of Victoria represented by Forests Service, Department of Sustainability and Environment ABN 90 719 052 204;
 - (iv) Forest Products Commission ABN 69 101 683 074;
 - (v) Forestry Tasmania ABN 91 628 769 359;
 - (vi) South Australian Forestry Corporation ABN 57 969 474 679;
 - (vii) National Association of Forest Industries Limited ABN 40 008 621 510;
 - (viii) Plantation Timber Association of Australia Limited ABN 87 069 959 511;
 - (ix) Australian Forest Growers ABN 39 000 694 904; and
 - (x) CFMEU Forestry, Furnishing, Building Products and Manufacturing Division, ABN 91 691 430 210 ; and

- 5.3 The Members of the Company, from time to time, shall be such persons whom or which the Directors admit to membership in accordance with this Constitution and whom remain eligible to be a Member under this constitution.
- 5.4 Applications for membership of the Company will be in writing, signed by the applicant, in a form approved by the Directors in their absolute discretion.
- 5.5 The Company has the following classes of membership with criteria listed below:
- (a) Forest Grower Members, being persons who are accepted by the Directors as being substantively engaged in the primary production of Forest Products.
 - (b) Primary Processors Members, being persons who are accepted by the Directors as being substantively engaged in the primary processing of forest primary produce.
 - (c) Supply Chain Members, being persons who are accepted by the Directors as being substantively engaged in the secondary processing of forest primary produce or in any subsequent part of the supply chain of wood and paper products.
 - (d) Employee Representative Organisation Members, being persons who are accepted by the Directors as being an employee representative organisation representing the interests of workers in the forestry and forest products industry; and
 - (e) Community, Social and Environment Members, being persons who are accepted by the Directors as representing the interests of the community at large with respect to forestry and the forest products industry.
- 5.6 Other than as provided in clause 5.13, a person may not be a Member in more than one class of membership.
- 5.7 At the next meeting of Directors after the receipt of an application for membership, the application will be considered by the Directors. The Directors will:
- (a) determine the admission or rejection of the applicant;
 - (b) if the applicant is to be admitted, specify the class of membership to which they are to be admitted; or
 - (c) if the applicant is not to be admitted, the Directors may (but shall not be obliged to) call on the applicant to supply any evidence of eligibility that they consider reasonably necessary.
- 5.8 If the Directors:
- (a) require further evidence under clause 5.7(c), determination of the application will be deferred until this evidence has been supplied;
 - (b) reject an application for membership, they will not be required to give reasons for the rejection.
- 5.9
- (a) As soon as practicable following acceptance of an application, the Secretary will send the applicant written notice of the acceptance and request payment of the applicant's first annual subscription.
 - (b) Subject to clause 5.10, an applicant will become a Member of the Company on payment of the amount due under clause 5.9.

- 5.10 If an amount due under clause 5.9 is not paid within 30 days after the date the applicant is notified of acceptance, the Directors may cancel their acceptance of the applicant for membership of the Company.
- 5.11 The rights and privileges of every Member will be personal to each Member and will not be transferable by the Member's own act or by operation of law.
- 5.12 Subject to this Constitution, all Members have the right to receive notices of general meetings and to attend and vote at any general meeting.
- 5.13 Notwithstanding the other provisions in this Constitution, the following transitional arrangements will take effect:
- (a) For the purposes of this Constitution, Transition Members are all those persons who are current Members of the Company as at the 2012 annual general meeting.
 - (b) Transition Members shall remain Members for the purposes of this Constitution;
 - (c) Following the 2012 annual general meeting;
 - (i) Transition Members of the Company shall be deemed to belong to the class of Membership which best describes the primary function of that Member in accordance with the definitions described at clause 5.5.

But if any Transition Member satisfies the requirements of more than one class of Membership, then that Member may elect their class of Membership from those classes so satisfied,

6. Subscriptions

- 6.1 The Directors may determine the annual subscription payable by each Member or each class of Member, in its absolute discretion in each case.
- 6.2
- (a) The annual subscription period will commence on 1 July of each year, and the annual subscription will be due in advance within 30 days of this date.
 - (b) The first subscription payable by persons who consented to become Members in the application for the Company's registration will be payable within 30 days of the date from which subscriptions are determined by the Directors.
- 6.3 If a Member does not pay a subscription within 30 days after it becomes due the Directors:
- (a) will give the Member notice of that fact; and
 - (b) if the subscription remains unpaid 21 days from the date of that notice, may declare that Member's membership forfeited.

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, from the date of receipt of that notice by the Secretary;
 - (b) if two-thirds of the Directors present and voting at a meeting of Directors by resolution terminate the membership of a Member:
 - (i) whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Company;

- (ii) only after the Member has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at and, if the Member wishes, provide a written explanation to, the meeting at which the resolution is proposed;
- (c) if membership is forfeited under clause 6.3(b);
- (d) where the Member is an individual, if the Member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (iii) is convicted of an indictable offence;
- (e) where the Member is not an individual, if:
 - (i) a liquidator is appointed in connection with the winding-up of the Member; or
 - (ii) an order is made by a Court for the winding-up or deregistration of the Member.

7.2 Any Member ceasing to be a Member:

- (a) will not be entitled to any refund (or part refund) of a subscription; and
- (b) will remain liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.

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 which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.
- 8.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 8.3 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 corporation or organisation which is a Member 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 Act; and
 - (b) remove a Representative.
- 9.2 A Representative is entitled to:
 - (a) exercise at a general meeting all the powers which the corporation or organisation which appointed him or her could exercise if it were a natural person;
 - (b) stand for election as an office bearer or Director; and
 - (c) be counted towards a quorum on the basis that the Member corporation or organisation 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 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 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.

(v) General Meetings

10. Calling general meeting

- 10.1 The chairperson appointed under clause 39.1 may at any time, and the Secretary must on the request of that chairperson or not less than three Directors, call a general meeting.
- 10.2 A Member may:
- (a) only request the Directors to call a general meeting in accordance with section 249D of the Act; and
 - (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the Act.

11. Notice of general meeting

- 11.1 Subject to the provisions of the 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 Members 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; and
 - (b) must state the general nature of the business to be transacted at the meeting; and
 - (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.
- 11.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:
- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
 - (b) the election of Directors; or
 - (c) the appointment and fixing of the remuneration of the Auditor, regardless of whether such business is to be transacted at the meeting.
- 11.4
- (a) 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).
 - (b) The Directors must give notice of the postponement or cancellation to all persons referred to in clause 52.1 entitled to receive notices from the Company.

- 11.5 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

(vi) Proceedings at General Meetings

12. Member

In clauses 13, 14, 16 and 20, **Member** includes a Member present in person or by proxy, attorney or Representative.

13. Quorum

- 13.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 13.2 A quorum of Members is six Members, including not fewer than two Forest Grower Members, not fewer than two Primary Processors Members and not fewer than one Member from the combination of all other Members.
- 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 Members, it is automatically dissolved; or
 - (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven 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.

14. Chairperson

- 14.1 The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every meeting of Members.
- 14.2 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) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting,
- the Directors present may elect a chairperson of the general meeting of the Members from among the Directors present.
- 14.3 If no election is made under clause 14.2, then:
- (a) the Members may elect one of the Directors present as chairperson; or

- (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.

14.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

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 must only be given in accordance with clause 11.1 if a general meeting has been adjourned for more than 21 days.

16. Decision on questions

16.1 Subject to the additional requirements imposed by the Act in relation to special resolutions, a resolution is carried if on a show of hands a majority of the total number of votes cast on the resolution are cast in favour of the resolution

16.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Act.

16.3 Unless a poll is demanded:

- (a) a declaration by the chairperson 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 in favour of or against the resolution.

16.4 The demand for a poll may be withdrawn.

16.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

17. Taking a poll

17.1 A poll will be taken when and in the manner that the chairperson directs.

17.2 Subject to the additional requirements imposed by the Act in relation to special resolutions, if a poll is taken a resolution is carried if.

- (a) a majority of the total number of votes cast on the resolution are cast in favour of the resolution; and

- (b) in a majority of classes of Members, a majority of votes cast on the resolution in each class are cast in favour of the resolution.
- 17.3 For the purposes of clause 16.1, a reference to a class of Members is to a class of Members which has one or more Members voting on the resolution.
- 17.4 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 17.5 The chairperson may determine any dispute about the admission or rejection of a vote.
- 17.6 The chairperson's determination, if made in good faith, will be final and conclusive.
- 17.7 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 17.8 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.

18. Casting vote of chairperson

The chairperson does not have a casting vote in addition to the chairperson's votes as a Member, proxy, attorney or Representative.

19. Offensive material

A person may be refused admission to, or required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,

which the chairperson considers to be dangerous, offensive or liable to cause disruption.

(vii) Votes of Members

20. Entitlement to vote

- 20.1 A Member is not entitled to vote at a general meeting if the member's annual subscription is more than one month in arrears at the date of the meeting.
- 20.2 On a show of hands and on a poll, each Member entitled to vote is entitled to one vote.

21. Objections

- 21.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.
- 21.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.

- 21.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

22. Votes by proxy

- 22.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may not vote on a show of hands.
- 22.2 A proxy need not be a Member.
- 22.3 A proxy may demand or join in demanding a poll.
- 22.4 A proxy or attorney may vote on a poll.
- 22.5 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. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

23. Document appointing proxy

- 23.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by subsection 250A(1) of the 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 Act.
- 23.2 For the purposes of clause 23.1, an appointment received at an electronic address will be taken to be signed by the Member if:
- (a) a personal identification code allocated by the Company to the Member has been inputted into the appointment; or
 - (b) the appointment has been verified in another manner approved by the Directors.
- 23.3 A proxy's appointment is valid at an adjourned general meeting.
- 23.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 23.5 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 moved 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.
- 23.6 If a proxy appointment is signed by the 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 or names of one or more Directors.

24. Lodgement of proxy

- 24.1 The written appointment of a proxy or attorney must be received by the Company, (unless otherwise specified in the notice of meeting to which the proxy relates):
- (a) at least 48 hours before the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
 - (b) produced to the Chairperson on the day of the General Meeting before the proxy vote
- 24.2 The Company receives an appointment of a proxy under 24.1 (a) and any power of attorney or other authority under which it was executed when they are received at:
- (a) the Office;
 - (b) a facsimile number at the Office; or
 - (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

25. Validity

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

- (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.

(viii) Appointment and Removal of Directors

26. Number of Directors

- 26.1 Subject to clause 26.3 there will not be less than six nor more than nine Directors.
- 26.2 The initial Directors of the Company are the persons who have consented to act as directors and are set out in the Company's application for registration as a Company. Those persons hold office subject to the Constitution.
- 26.3 Notwithstanding the other provisions in this Constitution, the following transitional arrangements will take effect:
- (a) During the period from the conclusion of the 2012 annual general meeting until the conclusion of the 2013 annual general meeting (**the Transition Period**), the Directors shall be those persons who would otherwise have been the directors of the Company if the previous constitution of the Company had not been replaced by this Constitution at the 2012 annual general meeting (**Transition Directors**);
 - (b) The term of appointment of all Transition Directors as Directors expires at the conclusion of the Transition Period;
 - (c) During the Transition Period;

- (i) Clause 27.3(a) of this Constitution shall not apply;
 - (ii) Clause 27.3(b) of this Constitution shall not apply;
 - (iii) Clause 30.3 of this Constitution shall not apply;
 - (iv) If a Transition Director resigns or vacates office for any reason (including removal from office pursuant to clause 27.1(b) or clause 27.3(a)) during the Transition Period, then the Board may choose in its discretion whether or not to appoint a person to fill the vacancy;
 - (v) The term of any appointment pursuant to clause 26.3(c)(iv), shall end at the conclusion of the Transition Period; and
 - (vi) The maximum number of Directors shall be eleven.
- (d) No later than 45 days prior to the conclusion of the Transition Period, the Company will call for nominations from each category of Membership for nominees to replace the Transition Directors;
- (e) At the 2013 annual general meeting;
- (i) the Company shall appoint six directors in accordance with the procedure described at clause 27.2 (a) - (e), election of those Directors shall take effect at the end of the meeting; and
 - (ii) the Board may appoint additional Directors in accordance with clause 28.1. (together the **New Directors**)
- (f) the term of appointment for each of the New Directors will be determined in accordance with clause 29.2(b).

27. Appointment and removal of Directors

- 27.1 The Company may, subject to the Act, by resolution passed in general meeting:
- (a) subject to clause 26.1 increase or reduce the number of Directors; and
 - (b) remove any Director before the end of the Director's period of office.
- 27.2 Each class of Membership may, by resolution of Members of that class passed in general meeting of the Company or the class, appoint Directors as follows:
- (a) Forest Grower Members, up to two Directors.
 - (b) Primary Processors Members, up to one Director
 - (c) Supply Chain Members, up to one Director
 - (d) Community, Social and Environment Members, up to one Director.
 - (e) Employee Representative Organisation Members, up to one Director.
- 27.3 Each class of Membership may, by resolution of Members of that class passed in general meeting of the Company or the class:
- (a) remove any Director appointed by that class and appoint another person in the Director's place; and

- (b) appoint another person in place of any Director appointed by the class that has been removed under clause 27.1(b).
- 27.4 A person appointed under clause 27.3 will hold office for the period for which the Director replaced would have held office if the Director had not been removed.
 - (a) If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, two-thirds of the Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
 - (b) Within 14 days of the suspension, the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office in accordance with clause 27.1(b) or annul the suspension and reinstate the Director.
- 27.5 A Director who has held office for a continuous period of nine years or more may only be re-appointed or re-elected where the Members have specifically determined to extend this period by the passing of a special resolution.

28. Additional Independent Directors

- 28.1 Subject to clause 26.1, the Directors may, by resolution passed by at least three-quarters of the Directors of the Company, appoint up to three persons as Independent Directors as additions to the existing Directors from time to time.
- 28.2 A Member is ineligible to be appointed as a Director under clause 28.1.

29. Retirement by rotation

- 29.1 At the close of each annual general meeting one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors, must retire.
- 29.2
 - (a) The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election.
 - (b) Directors elected on the same day may agree among themselves or determine by lot which of them must retire.
- 29.3 A Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected, even if his or her retirement results in more than one-third of all Directors retiring from office.
- 29.4 A retiring Director remains in office until the end of the meeting and will be eligible for re-election at the meeting.

30. Filling vacated Office

- 30.1 When a Director retires at a general meeting, the Company may by ordinary resolution passed pursuant to clause 27 elect a person to fill the vacated office.

- 30.2 If the vacated office is not filled and the retiring Director has offered himself or herself for re-election, the retiring Director will be deemed to have been re-elected unless, at the meeting at which he or she retires:
- (a) it is resolved not to fill the vacated office; or
 - (b) the resolution for the re-election of the Director is put and lost.
- 30.3 When a Director resigns prior to a general meeting pursuant to clause 32, the Company may, by resolution of Members of the Director's class, passed in general meeting of the Company or the class, appoint a person to fill the vacated office.

31. Nomination of Director

- 31.1 A person is not eligible for election as a Director at a general meeting unless the person, or a Member who intends to propose the person, has left at the Office a written notice signed by him or her:
- (a) giving the person's consent to the nomination; and
 - (b) stating either that the person is a candidate for the office of Director or that the Member intends to propose the person for election.
- 31.2 A notice given in accordance with clause 31.1 must be left at the Office at least 30 days before the relevant general meeting.
- 31.3 A written notice referring to all Director vacancies and each candidate for election, must be sent to all Members with the notice of general meeting at which an election of a Director will take place, in accordance with Section 11.

32. Vacation of Office

The office of a Director immediately becomes vacant if the Director:

- (a) is prohibited by the Act from holding office or continuing as a Director;
- (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (c) resigns by notice in writing to the Company; or
- (d) is removed under clause 27.1(b) or clause 27.3(a);
- (e) 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 Act; or
- (f) is an employee of a Member that ceases to be a Member under clause 6.3 or clause 7.1.

(ix) Powers and Duties of Directors

33. Powers and duties of Directors

- 33.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Act do not require to be exercised by the Company in general meeting.
- 33.2 Without limiting the generality of clause 33.1, the Directors may exercise all the powers of the Company to:
- (a) borrow money;
 - (b) charge any property or business of the Company;
 - (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

(x) Proceedings of Directors

34. Directors' meetings

- 34.1 (a) The chairperson appointed under clause 39.1 may at any time, and the Secretary must on the request of that chairperson or not less than three Directors, call a Directors' meeting.
- (b) A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director.
- 34.2 It is not necessary to give notice of a meeting of the Directors to an Australian resident whom the Secretary, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.
- 34.3 (a) Subject to the Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (b) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (c) Subject to clause 37, 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.
- 34.4 Clause 34.3 applies to meetings of Directors' committees as if all committee members were Directors.
- 34.5 The Directors may conduct a meeting, adjourn and regulate their meetings as they think fit.
- 34.6 A quorum is a majority of Directors for the time being.
- 34.7 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting of Members to deal with the matter.

- 34.8 Notice of a meeting of Directors 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, 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 37, each Director has one vote.
- 35.2 The chairperson of a meeting has a casting vote in addition to his or her deliberative vote.

(xi) Payments to Directors

36. Payments to Directors

No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) subject to paragraph (c) of this clause 36, for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
- (c) to any Director appointed under clause 28.1, for any service rendered to the Company in his or her capacity as a Director, where the amount payable is approved by the Directors of the Company and giving the remuneration would be reasonable given the circumstances of the Company and the circumstances of the particular Director (including the responsibilities involved in the office);
- (d) of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
- (e) relating to an indemnity in favour of the Director and permitted by section 199A of the Act or a contract of insurance permitted by section 199B.

37. Directors' interests

- 37.1 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.
- 37.2 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 or because of the fiduciary obligations arising out of that office.
- 37.3 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.

37.4 Subject to clause 36, 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 in the Company; and
- (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

37.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted by the Act to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

37.6 A Director may be or become a director or other officer of, or otherwise 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.

38. Remaining Directors

38.1 The Directors may act even if there are vacancies on the board.

38.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:

- (a) appoint a Director as per Clause 28.1; or
- (b) call a general meeting.

39. Chairperson

39.1 Where the Directors have appointed a Director under clause 28.1, the Directors must elect the chairperson of Directors' meetings from among the Directors appointed under clause 28.1 and may determine the period for which the chairperson will hold office.

39.2 The Directors may elect a Director as deputy chairperson to act as chairperson of Directors' meetings in the chairperson's absence.

- 39.3 The chairperson, or in the chairperson's absence the deputy chairperson, will be the chairperson at every meeting of Directors.
- 39.4 If:
- (a) there is no Director appointed under clause 28.1 available or willing to act as chairperson; or
 - (b) there is no chairperson or deputy chairperson; or
 - (c) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the Directors' meeting; or
 - (d) the chairperson and deputy chairperson are unwilling to act as chairperson of the Directors' meeting,
- the Directors present may elect a chairperson of the meeting from among the Directors present.

40. Delegation

- 40.1 The Board may delegate any of its powers, other than those which by law must be dealt with by Directors as a board, to:
- (a) a committee of Directors;
 - (b) a Director;
 - (c) an employee of the Company; or
 - (d) any other person.
- 40.2 The exercise of a power delegated pursuant to clause 40.1 is to be treated as the exercise of that power by the Board.
- 40.3 The Directors may at any time revoke any delegation of power.

41. Committees

- 41.1 The Board may establish such Committees as it sees fit
- 41.2 Committee members will be appointed by the Board and will have a Committee Charter
- 41.3 A Committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Board
- 41.4 A Committee may be authorised by the Board to sub-delegate all or any of its delegations (if any)
- 41.5 At least one member of each Committee must be a Director.
- 41.6 Meetings of any 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 Committee member was a Director.

42. Written resolutions

- 42.1 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.
- 42.2 For the purposes of clause 42.1, 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.
- 42.3 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

43. Validity of acts of Directors

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director, or member of a Directors' committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

44. Minutes and Registers

- 44.1 The Directors must cause minutes to be made of:
- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
 - (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
 - (c) all resolutions passed by Directors in accordance with clause 42;
 - (d) all appointments of officers;
 - (e) all orders made by the Directors and Directors' committees; and
 - (f) all disclosures of interests made under clause 37.
- 44.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 44.3 The Company must keep all registers required by this Constitution and the Act.

(xii) Local Management

45. Local management

- 45.1 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.
- 45.2 Without limiting clause 45.1 the Directors may:

- (a) appoint local boards , agencies or employees 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 45.2(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.

45.3 The Directors may at any time revoke or vary any delegation under this clause 45.

46. Appointment of attorneys and agents

46.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the 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);
- (c) for the period; and
- (d) subject to the conditions,

determined by the Directors.

46.2 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, managers or employees of any company or firm; or
- (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.

46.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.

46.4 The Directors may appoint attorneys or agents to act for and on behalf of the Company.

46.5 An attorney or agent appointed under this clause 46 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.

(xiii) Secretary

47. Secretary

47.1 If required by the Act, there must be at least one Secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.

47.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.

- 47.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

(xiv) Seals

48. Common Seal

- 48.1 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 or a Directors' committee authorised to use the Seal;
 - (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.

49. Duplicate Seal

- 49.1 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.

(xv) Inspection of Records

50. Inspection of records

- 50.1 Except as otherwise required by the 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 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.

(xvi) 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:
- (a) by serving it on the person; or
 - (b) by 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) two days after the day on which it was posted.
- 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 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:
- (a) every Member;
 - (b) every Director; and
 - (c) any Auditor.
- 52.2 No other person is entitled to receive notice of a general meeting.

(xvii) Audit and Accounts

53. Audit and accounts

- 53.1 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 Act.
- 53.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the Act.

(xviii) Winding Up

54. Winding up

- 54.1 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:
- (c) payment of debts and liabilities of the Company (in relation to clause 54.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
- (d) adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding \$20.

54.2 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another corporation which, by its constitution, is:

- (a) established for the purpose of promoting sustainable forest management in Australia's forests;
- (b) required to apply its profits (if any) or other income in promoting its objects; and
- (c) prohibited from making any distribution to its members or paying fees to its directors, such corporation to be determined by the Members at or before the winding up and in default, by application to the Supreme Court for determination.

(xix) Indemnity

55. Indemnity

- 55.1 To the extent permitted by law and subject to the restrictions in section 199A of the 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 such an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 55.2 To the extent permitted by law and subject to the restrictions in section 199A of the 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 as such an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 55.3 The amount of any indemnity payable under clauses 55.1 or 55.2 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.
- 55.4 For the purposes of this clause 55, **officer** means:
- (a) a Director; or
 - (b) a Secretary.