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**SHEEP PRODUCERS AUSTRALIA LIMITED**

**ACN 621 947 206**

**CONSTITUTION**

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*Updated October 2019*

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## 1. Nature of Company

- 1.1 Sheep Producers Australia Limited is a public company limited by guarantee.
- 1.2 The liability of the Members is limited. Every Member undertakes to contribute \$10 to the assets of Sheep Producers Australia Limited if it is wound up while the person/organisation is a Member, or within one (1) year after the person/organisation ceases to be a Member.

## 2. Objects

- 2.1 The objects for which Sheep Producers Australia Limited is established are:
- (a) to represent and promote the interests of Australian sheep producers;
  - (b) to function as a specialist sheep industry organisation with concern for the livelihood of all sheep producers;
  - (c) to carry out activities necessary for the betterment of the sheep and live sheep export industries;
  - (d) to carry out activities for the advancement of Australia's sheep industries; to collect and disseminate information concerning the sheep and live sheep export industries;
  - (e) to co-operate with appropriate organisations at the State and Federal levels and bodies overseas;
  - (f) to maintain a high level of liaison and co-operation with Members, Government departments, authorities at Local, State and Federal levels, and other relevant industry organisations;
  - (g) to promote the development of the agricultural and pastoral industry and resources of Australia;
  - (h) to act as the Prescribed Body for the sheep industry in Australia within the Red Meat Industry MoU under the *Australian Meat and Live-stock Industry Act 1997* (Cth);
  - (i) to act as the Prescribed Body under any legislation, where the purposes support Australia's sheep industries;
  - (j) to consult with, partner with, become a member of, or enter into joint ventures with, other industry bodies whose purposes are to advance the interests of the sheep industry;
  - (k) to co-ordinate its work with that carried out by Members, and other commodity councils with the intention of avoiding unnecessary duplication of effort;
  - (l) to create subsidiaries and/or set up other related bodies that may be incidental or conducive to the above objects or any of them;
  - (m) to do all such other lawful things as may appear to be incidental or conducive to the above objects or any of them.

### **3. Not for profit**

#### ***No profits for Members***

- 3.1 Subject to clause 3.2, all of the assets and income of Sheep Producers Australia Limited must be applied only to fulfil the objects of Sheep Producers Australia Limited and no portion may be distributed directly or indirectly to any Member.
- 3.2 Payments may be made to Members in good faith, if calculated on commercial (arms-length) terms, in respect of:
- (a) remuneration payable to an employee of Sheep Producers Australia Limited who is also a Member, for services they provide to Sheep Producers Australia Limited; or
  - (b) goods or services actually supplied by a Member to Sheep Producers Australia Limited in the ordinary and usual course of the Member's business;
  - (c) interest on money borrowed from a Member (at a rate higher than the rate charged by Sheep Producers Australia Limited bankers for overdrawn accounts);
  - (d) rent for premises that a Company may rent from a Member;
  - (e) payment to a Member in their capacity as a Director (clauses 8.36 or 8.37); or
  - (f) other expenses as authorised by the Board from time to time

### **4. Members**

#### ***Membership on adoption of Constitution***

- 4.1 On adoption of this constitution, the following State Farming Organisations (as noted on the members register of Sheepmeat Council of Australia Inc immediately prior to the general meeting at which this Constitution was adopted), will become State Members:
- (a) New South Wales Farmers' Association;
  - (b) Agforce;
  - (c) Livestock South Australia;
  - (d) Tasmanian Farmers' and Graziers' Association;
  - (e) Victorian Farmer's Federation Livestock;
  - (f) Western Australian Farmers Federation Inc.; and
  - (g) Pastoralists & Graziers Association of WA.

#### ***Membership***

- 4.2 The Members of Sheep Producers Australia Limited include the State Members set out in clause 4.1, and such other persons/organisations as the Board admits to membership in accordance with this Constitution.
- 4.3 Membership of Sheep Producers Australia Limited shall be unlimited in number.
- 4.4 There are two classes of membership of Sheep Producers Australia Limited, comprised of voting and non-voting members.

- 4.5 Voting class members are comprised of the following categories:
- (a) State Members;
  - (b) Individual Members; and
  - (c) such other category of membership that the Board may determine from time to time.
- 4.6 Non-voting class members are comprised of the following categories:
- (a) Organisational members; and
  - (b) such other category of membership that the Board may determine from time to time.

### ***State Members***

- 4.7 A State Member means an organisation that is committed to Sheep Producers Australia Limited's objects and who has applied for and been granted membership of Sheep Producers Australia Limited in accordance with this Constitution.
- 4.8 A State Member must pay the annual membership fee to remain a member of Sheep Producers Australia Limited.
- 4.9 A State Member retains membership subject to the terms and conditions set out in this Constitution.
- 4.10 State Members may only vote to elect the number of persons equal to State Member director vacancies. Notwithstanding anything to the contrary in this Constitution, State Members may not vote to elect candidates put forward by Individual Members.

### ***State Member rights***

- 4.11 Subject to clause 4.12, a State Member has the right to:
- (a) nominate candidates for consideration by the Board Selection Committee;
  - (b) elect State Member candidates to the Board;
  - (c) appoint one (1) person to each Policy Committee (having regard to the skills requirements of the Policy Committees);
  - (d) receive notices of, attend and be heard at any general meeting;
  - (e) cast 200 votes in person or by proxy at any properly convened general meeting of Members.
- 4.12 Where there are two or more State Members in one State, the following entitlements will be shared amongst the State Members based on their relative contribution to the gross value of the sheep industry in that State, or any mutually agreeable division agreed by the State Members:
- (a) the membership fee contribution;
  - (b) the number of persons that represent the State Member on the Policy Committees; and
  - (c) the number of votes that may be cast at a general meeting.

- 4.13 Notwithstanding anything to the contrary in this Constitution, where there are two or more State Members in one State, nothing prevents each State Member from nominating persons for consideration by the Board Selection Committee.

### ***Individual Members***

- 4.14 An Individual Member means a person who is committed to Sheep Producers Australia Limited's objects and who has applied for and been granted membership of Sheep Producers Australia Limited in accordance with this Constitution.
- 4.15 An Individual Member must pay the annual membership fee to remain a member of Sheep Producers Australia Limited.
- 4.16 The Board may exercise its discretion to subsidise the annual membership fee of an Individual Member if that Individual Member holds membership of a State Member.
- 4.17 An Individual Member retains membership subject to the terms and conditions set out in this Constitution.
- 4.18 An Individual Member is entitled to cast one (1) vote in person or by proxy at any properly convened general meeting of Members.
- 4.19 Direct Individual Members may only vote to elect the number of persons equal to Individual Member director vacancies. Notwithstanding anything to the contrary in this Constitution, Individual Members may not vote to elect candidates put forward by State Members.

### ***Individual Member rights***

- 4.20 Once the total number of Individual Members is equal to or more than 200, Individual Members have the right to:
- (a) nominate persons for consideration by the Board Selection Committee (having regard to the skills requirements of the Board, and provided the candidate has received approval from five (5) Individual Members of their candidature);
  - (b) elect Individual Member candidates to the Board;
  - (c) appoint one (1) person from amongst their number to each of the Policy Committees (having regard to the skills requirements of Policy Committees provided each nominee has received approval from five (5) Individual Members of their appointment); and
  - (d) receive notices of, attend and be heard at any general meeting.

### ***Organisational Members***

- 4.21 An Organisational Member means an organisation that is committed to Sheep Producers Australia Limited's objects and who has applied for and been granted membership of Sheep Producers Australia Limited in accordance with this Constitution.
- 4.22 An Organisational Member must pay the annual membership fee to remain a member of Sheep Producers Australia Limited.
- 4.23 An Organisational Member retains membership subject to the terms and conditions set out in this Constitution.



- 4.24 An Organisational Member has the right to receive notices of, attend and be heard at any general meeting, but may not exercise a vote, nor nominate a candidate for election and/or appointment to the Board.

### ***Membership By-Laws***

- 4.25 In addition to the criteria set out above, the Board may make and adopt By-Laws setting out, for each class and category of membership:
- (a) any additional eligibility criteria for each class and category;
  - (b) any Entrance Fee and/or Membership Fee payable by Members in each class and category; and
  - (c) the rights, if any, of Members in each class and category,
- provided the By-Laws do not affect the rights and obligations of Members as set out in this Constitution.

### ***Members' obligations and rights***

- 4.26 The Members agree to be bound by the provisions of this Constitution.
- 4.27 For so long as a Member abides by the terms and conditions set out in this Constitution, the Member will enjoy the rights and privileges of membership.
- 4.28 A right, privilege or obligation a Member has is not capable of being transferred, or transmitted to another person and/or organisation. The rights and privileges held by a Member also terminate upon cessation of the membership.

### ***Application for membership***

- 4.29 Subject to the membership eligibility requirements, Membership is open to any person or organisation who:
- (a) if they are a person, they are 18 years of age or over;
  - (b) demonstrates to the satisfaction of the Board that they are supportive of or have a bona fide interest in the achievement of the objects of Sheep Producers Australia Limited;
  - (c) completes and lodges an application for membership in the form and manner, and providing such supporting information, as may be required by the Board;
  - (d) pays the entrance fee (if any) and annual membership fee (if any), when lodging the application for membership; and
  - (e) is accepted to membership by the Board.
- 4.30 In respect of each application for membership made in accordance with this Constitution:
- (a) the Board must consider the application promptly and, after considering it, determine in the Board's sole and absolute discretion whether to accept or reject the application;
  - (b) if the application is accepted, the applicant must be admitted immediately as a Member and the Secretary must:
    - (i) notify the applicant in writing of the admission to membership and the category, if any, of that membership; and
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- (ii) issue a receipt for the membership fee paid by the Member; and
  - (iii) enter the member's details in the Register;
- (c) if the application is rejected the Board is not required to give reasons for accepting or rejecting the application. The Secretary must then:
  - (i) notify the applicant in writing of the rejection;
  - (ii) notify the applicant that they may not apply for membership again within 6 months.
  - (iii) refund in full any entrance fee and membership fee paid with the application.

### ***Membership fees***

- 4.31 Any entrance fees and/or membership fees for Members, and the time and payment method is to be determined by the Board from time to time.
- 4.32 If a Member's membership fee or any part of it remains unpaid for thirty (30) days after it becomes payable, the Board may give the Member a notice of default:
- (a) requiring the Member to pay the unpaid membership fee within sixty (60) days from the date of the notice; and
  - (b) informing the Member that the rights attached to their membership (under this Constitution or otherwise) may be suspended and they may be removed from membership if the membership fee remains unpaid within the time specified in the notice.
- 4.33 If a Member's membership fee or any part of it remains unpaid after the time specified in a notice given to the Member under clause 4.32, the Board may, in its absolute discretion and without any further recourse to the Member, suspend the Member's rights as a Member (under this Constitution or otherwise) until such time as the Member has paid all arrears of membership fees.
- 4.34 A Member who resigns or is removed from Membership or otherwise ceases to be a Member is not entitled to any refund of any entrance fee or annual membership fees.

### ***Register of Members***

- 4.35 A Register of Members must be kept in accordance with the Act.
- 4.36 The following details must be entered and kept current in the Register in respect of each Member:
- (a) the Member's full name, residential address, postal address, telephone number and e-mail address;
  - (b) the date of admission to and cessation of membership;
  - (c) the category of membership; and
  - (d) such other information as the Board requires.
- 4.37 Members may inspect the Register in accordance with the Act.

- 4.38 Members must notify the Secretary in writing of any change in that Member's name, residential address, postal address, telephone number or e-mail address within 1 month after the change.

#### ***Resignation from membership by State Member***

- 4.39 A State Member may only resign in accordance with this Constitution.
- 4.40 A State Member who has paid all amounts due (including but not limited to membership fees), to Sheep Producers Australia Limited, may resign from membership by providing 12 months written notice to the Secretary. Should a State Member seek to resign from membership without giving 12 months written notice to the Secretary, the State Member will be liable for all amounts due (including but not limited to membership fees) that would have been payable had the State Member given 12 months written notice.
- 4.41 A State Member's resignation takes effect at the expiration of 12 months from the date of receipt of the notice by Sheep Producers Australia Limited or such later date as may be specified in the notice.
- 4.42 A State Member will not be entitled to any reimbursement of membership fees should they resign part way through a membership year.

#### ***Resignation from membership by other Members***

- 4.43 A Member (other than a State Member), who has paid all amounts due (including but not limited to membership fees), to Sheep Producers Australia Limited, may resign from membership by giving notice in writing to the secretary.
- 4.44 A Member's resignation (other than a State Member), takes effect from the date of receipt of the notice by Sheep Producers Australia Limited or such later date as may be specified in the notice.

#### ***Member's liability for fees***

- 4.45 A Member's liability for any fees, or other monies in arrears as at the date of a Member's resignation continues until payment is made.

#### ***Removal from membership***

- 4.46 Subject to clause 4.47, if a Member:
- (a) fails to comply with the terms and conditions set out in this Constitution; and/or
  - (b) conducts themselves in a manner considered to be injurious or prejudicial to the character or interests of Sheep Producers Australia Limited; and/or
  - (c) shows behaviour which is causing or has caused, or is likely to cause harm to Sheep Producers Australia Limited; and/or
  - (d) has membership fees in arrears following the giving of a notice to that Member under clause 4.32,
- the Member's membership may be suspended by the Board, until a determination is made regarding the removal of the Member from membership by ordinary resolution of Sheep Producers Australia Limited.

- 4.47 A Member that has been suspended by the Board pursuant to clause 4.46(a)-(c), may only have their membership terminated if:
- (a) the Board has first given at least 2 months' written notice to the Member which:
    - (i) states the intention to terminate the Member's membership;
    - (ii) sets out the grounds of the intended termination;
    - (iii) invites the Member to provide to the Board (within a specified timeframe) any written representations which the Member wishes to be put to the general meeting
  - (b) the Board has included in the notice of the meeting a copy of the Member's written representations (unless the written representations were not provided by the Member in the specified timeframe);
  - (c) whether or not the Member has provided written representations, the Member has been given a full and fair opportunity to address the meeting; and
  - (d) an ordinary resolution is passed by the membership at general meeting, confirming the removal of the Member's membership.
- 4.48 If the Members vote to terminate the Member's membership, that Member's liability for any fees, or other monies in arrears as at the date of the Member's termination will become immediately due and payable to Sheep Producers Australia Limited.
- 4.49 If the membership does not pass an ordinary resolution at general meeting to remove the Member's membership, that Member will have their membership reinstated and will enjoy all rights and privileges of membership of Sheep Producers Australia Limited. However, all fees and any other monies outstanding will become immediately due and payable to Sheep Producers Australia Limited.

### ***Other cessation of membership***

- 4.50 A Member otherwise ceases to be a Member if the Member:
- (a) dies;
  - (b) becomes bankrupt;
  - (c) becomes of unsound mind or a person whose property is liable to be dealt with under a law regarding mental health;
  - (d) is convicted of an indictable offence; or
  - (e) is an organisation and is placed into liquidation or is wound up;

## **5. Member Representatives**

- 5.1 State Members and Organisational Members may appoint one (1) person as a Representative to exercise all or any of the powers of the Member under this Constitution or the Act.
- 5.2 An application must be forwarded to the CEO notifying of the appointment of such Representative within one (1) month of the State Member and/or Organisational Member being admitted to membership.

- 5.3 Any Representative nominated shall be a director, member, or executive member of the organisation which they represent and the appointment of such Representative shall be approved by the Board before such Representative shall be entitled to exercise any rights or privileges as such Representative.
- 5.4 The Board shall have the sole discretion to determine whether a person is eligible to be a Representative of a Member.
- 5.5 The appointment of a Representative may be a standing one.
- 5.6 The appointment may set out restrictions on a Representative's powers.
- 5.7 Unless otherwise specified in the appointment, the Representative may exercise, on the Member's behalf, all of the powers that the Member could exercise at a meeting or in voting on a resolution.
- 5.8 The Board may cancel the appointment of a Representative if the Representative:
- (a) fails to comply with the terms and conditions set out in this Constitution; and/or
  - (b) conducts themselves in a manner considered to be injurious or prejudicial to the character or interests of Sheep Producers Australia Limited; and/or
  - (c) shows behaviour which is causing or has caused, or is likely to cause harm to Sheep Producers Australia Limited.

## **6. General meetings**

### ***Calling of general meetings***

- 6.1 General meetings of Sheep Producers Australia Limited may be called and held at the times and places and in the manner determined by the Board.
- 6.2 Sheep Producers Australia Limited must provide reasonable means by which Members have an adequate opportunity to raise with the Board concerns about the governance of Sheep Producers Australia Limited.
- 6.3 Members may only call or requisition a general meeting in accordance with the Act.

### ***Notice of general meetings***

- 6.4 Notice of every general meeting must be given to every Member, Director and the auditor, if any, for the time being of Sheep Producers Australia Limited. No other person is entitled to receive notices of general meetings.
- 6.5 Notice of a general meeting:
- (a) must be given not less than 21 days prior to the meeting, unless the provisions of the Act permitting short notice are met;
  - (b) may be given by any form of communication permitted by the Act; and
  - (c) must specify:
    - (i) the place, the date and the time of the meeting;

- (ii) if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this;
- (iii) the general nature of the business to be transacted;
- (iv) if it is proposed to move a special resolution at the meeting, the intention to propose the special resolution and the resolution itself; and
- (v) any other matters required by the Act.

6.6 The accidental omission to give notice of any general meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting.

### ***Business at annual general meetings***

6.7 Except as permitted by the Act or with the approval of the Board, no person may move any business of which notice has not been given under clause 6.5, other than the following at an annual general meeting:

- (a) the receipt and consideration of the accounts and reports of the Board and the auditors;
- (b) the appointment of an auditor; and
- (c) the Chairman's report on Sheep Producers Australia Limited's activities during the preceding year.

### ***Adjournment of general meetings***

6.8 The chairman of any general meeting at which a quorum is present may, with the consent of the meeting, and must if so directed by the meeting, adjourn the meeting to another time and to another place.

6.9 The only business that may be transacted at any adjourned general meeting is the business left unfinished at the meeting from which the adjournment took place.

6.10 When a general meeting is adjourned under clause 6.8 for thirty (30) days or more notice of the adjourned meeting must be given in the same manner as in the case of an original meeting.

6.11 When a general meeting is adjourned under clause 6.8 for less than thirty (30) days, it is not necessary to give a further notice of the adjourned meeting.

### ***Cancellation of general meetings***

6.12 The Board may cancel or postpone any general meeting (other than a meeting which has been called or requisitioned by Members) at any time prior to the date on which it is to be held.

6.13 If a general meeting has been cancelled or postponed, notice of the cancellation or postponement must be given in the same manner as in the case of the original meeting.

### ***Attendance at general meetings***

6.14 A person, whether a Member or not, who is invited or requested by the Board to attend a general meeting is entitled to attend that general meeting. Any persons invited or requested to attend by the Board are not counted for the purpose of the quorum.

- 6.15 A person invited or requested by the Board to attend a general meeting may carry out the role of chairman at that general meeting.

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

- 6.16 No business may be transacted at a general meeting unless a quorum of Voting Members is present when the meeting proceeds to business.
- 6.17 A quorum for the purposes of a general meeting is the number of State Members less two (2).
- 6.18 For the purpose of calculation of a quorum, Voting Members must be regarded as present whether present personally or by proxy.
- 6.19 If a quorum is not present within thirty (30) minutes from the time appointed for the meeting or a longer period allowed by the chairman:
- (a) if the meeting was called or requisitioned by Voting Members, it must be dissolved; or
  - (b) in any other case, it must be adjourned to the same day in the next week at the same time and place, or to another day, time and place determined by the Board.
- 6.20 Notwithstanding any other provision of this Constitution, if a general meeting is adjourned under sub-clause 6.19(b):
- (a) not less than five (5) days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting;
  - (b) a quorum for the purpose of the adjourned meeting is the number of State Members less three (3); and
  - (c) if a quorum is not present within thirty (30) minutes after the time appointed for the adjourned meeting, the meeting must be dissolved.

### ***Chairman of general meetings***

- 6.21 The Chairman is entitled to chair every general meeting. However, if a majority of the Board agrees, the Board may appoint a person (who need not be a Member) to carry out the role of chairman at a general meeting.
- 6.22 The Directors present at a general meeting must elect one (1) of the Directors present to chair the meeting if any of the following apply:
- (a) the Chairman is not present within fifteen (15) minutes after the time appointed for the holding of the meeting, or the Chairman is not willing to act; or
  - (b) the person appointed by the Board to carry out the role of chairman is not present within fifteen (15) minutes after the time appointed for the holding of the meeting, or the person is not willing to act.
- 6.23 Except as provided by the Act, the general conduct of each general meeting and the procedures to be adopted at the meeting are as determined by the Chair.
- 6.24 The chairman of a general meeting may, in his or her discretion, refuse admission to, or expel from, the meeting any person:
- (a) using a recording device;
-

- (b) in possession of a placard or banner;
- (c) in possession of an object considered by the chairman to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner;
- (f) whose conduct, in the reasonable opinion of the chairman, is inappropriate; or
- (g) who is not a Member, Director or auditor of Sheep Producers Australia Limited.

## **7. Voting at general meetings**

- 7.1 At a general meeting, a resolution put to the vote of the meeting must be decided by a majority vote of the Voting Members present or represented and entitled to vote at the meeting. If the votes are equal, the question is decided in the negative.
- 7.2 The chairman of a general meeting is not entitled to a second or casting vote on any resolution, whether by show of hands or on a poll.
- 7.3 A Voting Member whose membership fees are more than two (2) months in arrears at the date of a general meeting is not entitled to vote at that meeting.

### **Show of hands**

- 7.4 At a general meeting, a resolution put to the vote of the meeting, must be decided on a show of hands unless a poll is demanded in accordance with clause 7.9.
- 7.5 Subject to this Constitution, on a show of hands, every State Member who is present in person and entitled to vote on the resolution has 200 votes.
- 7.6 Subject to this Constitution, on a show of hands, every Individual Member who is present in person and entitled to vote on the resolution has one (1) vote.
- 7.7 For the avoidance of doubt, on a show of hands a Voting Member may not vote by proxy.
- 7.8 If a poll is not duly demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of Sheep Producers Australia Limited, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **Poll**

- 7.9 A poll secret ballot may be demanded in respect of a resolution at a general meeting by:
- (a) at least three (3) Voting Members entitled to vote on the resolution;
  - (b) Voting Members with at least five per cent (5%) of the votes that may be cast on the resolution; or
  - (c) the chairman.
- 7.10 A poll secret ballot may be demanded in respect of a resolution at a general meeting:
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- (a) before the vote on that resolution is taken;
  - (b) before the voting result on a show of hands is declared; or
  - (c) immediately after the voting result on a show of hands is declared.
- 7.11 A poll cannot be demanded on the election of a chairman or on the adjournment of a meeting.
- 7.12 Subject to this constitution, every State Member present in person or by proxy has:
- (a) the right to join in the demand for a poll; and
  - (b) 200 votes in the poll.
- 7.13 Subject to this constitution, every Individual Member present in person or by proxy has:
- (a) the right to join in the demand for a poll; and
  - (b) one (1) vote in the poll.
- 7.14 The demand for a poll may be withdrawn.
- 7.15 If a poll is duly demanded, it:
- (a) must be secret;
  - (b) must be taken in the manner directed by the chairman, including either at once or after an interval or adjournment; and
  - (c) does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll is demanded.
- 7.16 In the case of any dispute as to the admission or rejection of a vote, the chairman's determination in respect of the dispute is final.
- 7.17 The result of the poll is the resolution taken at the meeting at which the poll is demanded.

### *Proxies*

- 7.18 A Voting Member entitled to vote at a general meeting may appoint one (1) Voting Member as their proxy, to attend and vote in their place at a general meeting.
- 7.19 A Voting Member may only be appointed to attend and vote at a general meeting as the proxy holder for one (1) Voting Member. That is, the maximum number of votes that:
- (a) a State Member may cast at a general meeting is 400 votes– (200 votes in their capacity as State Member and 200 votes in their capacity as proxy); and
  - (b) an Individual Member may cast at a general meeting is twenty-five (25) votes – (one (1) vote in their capacity as Individual Member and twenty-four (24) votes in their capacity as proxy).
- 7.20 The proxy must be appointed in writing, in the form from time to time required by the Board, and signed by the Member appointing the proxy.
- 7.21 A Voting Member attending a general meeting as proxy has all the rights and powers of the relevant Voting Member, except where expressly stated to the contrary in:
- (a) the document appointing the proxy;
  - (b) this Constitution; or
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- (c) the Act.
- 7.22 If the document appointing a proxy specifies the manner in which the proxy is to vote in respect of a particular resolution, the proxy is not entitled to vote on the resolution except in the manner specified in the document.
- 7.23 A document appointing a proxy may only appoint a proxy for the meeting or adjourned meeting at which the proxy is proposed to vote. A proxy cannot be a standing one.
- 7.24 A document appointing a proxy is valid only if the document appointing the proxy is received at Sheep Producers Australia Limited's registered office (or other address, facsimile number or electronic address specified for that purpose in the notice convening the meeting) at least forty-eight (48) hours (or lesser period specified in the notice convening the meeting) before the time for holding the meeting or adjourned meeting at which the proxy is proposed to vote.
- 7.25 A vote made under a proxy is valid despite any of the following facts, unless Sheep Producers Australia Limited receives written notice before the commencement of the meeting at which the vote is cast:
- (a) in the case of a State Member, the State Member has ceased to exist;
  - (b) in the case of an Individual Member, the death or unsoundness of mind of the Individual Member;
  - (c) the proxy or authority under which the proxy was signed has been revoked.
- 7.26 A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is to be used.

## **8. Board of Directors**

### ***Duties owed by Directors***

- 8.1 The Directors are subject to and must comply with duties owed at law, including but not limited to the duties prescribed by the Act.

### ***Number of Directors***

- 8.2 The number of Directors must be not less than four (4) and not more than nine (9).
- 8.3 No director may appoint an alternate to represent them in circumstances where they are unable to attend a meeting.
- 8.4 If the number of Directors is reduced below the minimum number prescribed by this Constitution, the continuing Directors may act only to:
- (a) appoint additional Directors to the minimum number prescribed by this Constitution; or
  - (b) convene a general meeting.
- 8.5 Sheep Producers Australia Limited may, by ordinary resolution, increase the maximum number of Directors and may determine in what rotation the Directors appointed as the result of any such alteration are to go out of office.
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## **Board Composition**

- 8.6 The Board shall comprise:
- (a) a minimum of four (4) and maximum of seven (7) Member Elected Directors; and
  - (b) up to 2 Board Appointed Directors.
- 8.7 The Board's composition requirements include:
- (a) there must be:
    - (i) a minimum of four (4) and maximum of seven (7) State Member elected Directors whilst the total number of Individual Members is less than 200; or
    - (ii) once the total number of Individual Members is equal to or more than 200, a minimum of four (4) and maximum of six (6), State Member elected Directors;
  - (b) once the total number of Individual Members is equal to or more than 200 votes, there must be a minimum of one (1) and maximum of three (3) Individual Member elected Directors;
  - (c) the election or appointment of a person must not result in:
    - (i) when there are more than five (5) or more State Members, more than two (2) State Member elected Directors being from the same State;
    - (ii) when there are four (4) or less State Members, more than one (1) State Member elected Director being from the same State;
  - (d) the requirements in clause 8.13 are satisfied;
  - (e) any other matters that must be satisfied under the Board Composition and Director Eligibility Policy.
- 8.8 Nothing in clause 8.7 prevents an Individual Member from being appointed as a Board Appointed Director.

## **Board Selection Committee**

- 8.9 A Board Selection Committee will be established pursuant to the Board Selection Committee Terms of Reference to review all Member Elected Director nominations.
- 8.10 The Board Selection Committee Terms of Reference will set out the role and responsibilities of the Board Selection Committee and will, at a minimum:
- (a) require the Board Selection Committee to have regard to the Sheep Producers Australia Limited's strategic direction, the Board Skills Matrix and a candidate bio (not exceeding 500 words) in determining the suitability of candidates;
  - (b) make recommendations as to the candidates that the Board Selection Committee considers ought to be elected to the Board;
  - (c) provide for the removal of Board Selection Committee members by a special resolution of the Voting Members;
  - (d) provide for a maximum tenure of Board Selection Committee members.

- 8.11 SPA Board Selection Committee would comprise five (5) members, structured as follows;
1. **MEMBER** – selected by SFO (State Farming Organisation)
  2. **MEMBER** - selected by SFO
  3. **MEMBER** - selected by SFO
  4. **MEMBER** - selected by SFO
  5. **INDEPENDENT** - selected by SPA board
    - Observer - SPA selected from within current SPA board
    - Observer – BSC discretion – Optional as per current arrangements
- 8.12 For the purposes of determining the First Board of Directors, none of the Transitional Board members will be eligible for appointment to the Board Selection Committee. Instead, the State Members must all nominate one person and the Chief Executive Officer will through the drawing of lots determine who shall sit on the Board Selection Committee instead of the current director.

### *Director Eligibility criteria*

- 8.13 In addition to any requirements set out in the Board Composition and Director Eligibility Policy, the following minimum director eligibility requirements apply to Member Elected Directors and Board Appointed Directors:
- (a) if a Member Elected Director, the person has not been appointed for three (3) terms as a Director;
  - (b) the person is of such character that their election/appointment will ensure Sheep Producers Australia Limited continues to be well governed, responsibly managed, and they are able to carry out the duties required to ensure Sheep Producers Australia Limited meets its obligations under the law;
  - (c) the person is not an employee of Sheep Producers Australia Limited or any related entity employing staff of Sheep Producers Australia Limited;
  - (d) the person is not a current member of State or Federal Parliament;
  - (e) the person has not been a director of a company that has been:
    - (i) involuntarily wound up; and/or
    - (ii) the subject of review by a regulator, where such review has resulted in their removal from the Board;
  - (f) the person is not considered to be someone who may pose a risk to Sheep Producers Australia Limited's financial position or the pursuit of its policy work;
  - (g) the person is not prohibited by law from being a director of a company; and
  - (h) so far as it relates to Member Elected Directors, the Board Selection Committee recommends the person be appointed a director.
- 8.14 A Director must notify the Board if any circumstances arise which have the potential to effect their eligibility to continue as a director.
- 8.15 For the purposes of clause 8.13(a), a Transitional Board Director is deemed to have served the following number of terms prior to that Director's re-election and/or re-appointment under this Constitution:
- (a) a Director who had then served for a consecutive period of 3 years or less is deemed to have served 1 term;

- (b) a Director who had then served for a consecutive period of more than 3 years and up to 6 years is deemed to have served 2 terms; and
- (c) a Director who had then served for a consecutive period of more than 6 years and up to 9 years is deemed to have served 3 terms.

For the purposes of calculating the time served by a Transitional Board Director on the Transitional Board, the date the person was appointed to serve as a Director on the Board of Sheepmeat Council of Australia Inc will be deemed the commencement date.

### ***Member Elected Directors***

8.16 A Member Elected Director is appointed at an annual general meeting as follows:

- a) the Board must call for nominations two (2) months before the annual general meeting;
  - b) State Members and, once eligible, Individual Members, may nominate persons to be elected as Member Elected Directors;
  - c) the nomination must be:
    - i. in the form prescribed by the Board;
    - ii. received by Sheep Producers Australia Limited at least one (1) month prior to the annual general meeting;
  - d) if the number of candidates who are eligible for appointment is less than or equal to the number of vacancies and the Director Eligibility Criteria set out in clause 8.13 is satisfied, the candidates are automatically appointed as a Member Elected Director from the close of the meeting;
  - e) if the number of candidates who are eligible for appointment is more than the number of vacancies:
    - (i) a Board Selection Committee will review the candidates who are eligible for appointment;
    - (ii) the Board Selection Committee will make recommendations to the Board as to the persons that they recommend be elected;
    - (iii) the Board must ensure a ballot paper is prepared setting out the nominees recommended by the Board Selection Committee for consideration by Voting Members at the annual general meeting;
    - (iv) a secret ballot will be held for the election of Member Elected Directors at the annual general meeting;
    - (v) subject to clauses (vi) and(vii), the method of voting and deciding the result of the ballot shall be a first past the post system. In the event of an equality of votes, the matter must be determined by the drawing of lots;
    - (vi) each State Member who is eligible to vote may only vote for the number of State Member vacancies. If a State Member casts more votes than the number of vacancies, the vote is invalid; and
    - (vii) each Individual Member who is eligible to vote may only vote for the number of Individual Member vacancies. If an Individual Member casts more votes than the number of vacancies, then the vote is invalid; and
    - (viii) at the meeting, the Secretary must announce which persons have been appointed as Member Elected Directors under this clause.
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### ***Tenure for Member Elected Directors***

- 8.17 Each Member Elected Director will serve for a term of approximately three (3) years commencing from the annual general meeting at which the Member Elected Director was appointed, but is eligible for re-election as a Director if not then disqualified by this Constitution or the Act from being re-elected.
- 8.18 Subject to clause 8.13, a Member Elected Director may serve a maximum of 3 + 3 + 3 years in office (that is approximately nine (9) years) and is not eligible for re-election as a Member Elected Director.

### ***Rotation of Member Elected Directors***

- 8.19 There will be a staggered rotational system of appointment of Member Elected Directors such that at each annual general meeting, approximately one-third of Member Elected Directors, each of whom has served a term of approximately three (3) years, must retire from office.
- 8.20 In order to transition to the staggered three (3) year rotational system:
- (a) the Directors who were on the Board following the first annual general meeting after adoption of this Constitution will hold office until they are required to retire under this rule;
  - (b) at least 2 months before the second annual general meeting following adoption of this Constitution:
    - (i) the Board must determine (by agreement having regard to the length of time already served by each Director, or if the Board cannot agree, by the drawing of lots) which two of the Member Elected Directors will be the "First Elected Directors";
    - (ii) the First Elected Directors must retire, but (if not otherwise disqualified by this Constitution or the Act) are eligible for re-election or re-appointment at or after that meeting; and
    - (iii) the remaining Directors will be the "Remaining Elected Directors";
  - (c) at least 2 months before the third annual general meeting following adoption of this Constitution:
    - (i) the Board must determine (by agreement having regard to the length of time already served by each Director, or if the Board cannot agree, by the drawing of lots), which two of the Remaining Elected Directors will be the "Second Elected Directors";
    - (ii) the Second Elected Directors must retire, but (if not otherwise disqualified by this Constitution or the Act) are eligible for re-election or re-appointment at or after that meeting; and
    - (iii) the remaining Directors, if any, will be the "Continuing Elected Directors";
  - (d) at the fourth annual general meeting following adoption of this Constitution, all of the Continuing Elected Directors must retire, but (if not otherwise disqualified by this Constitution or the Act) are eligible for re-election or re-appointment at or after that meeting.

### ***Board Appointed Directors***

- 8.21 The Board may appoint up to 2 Board Appointed Directors.
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- 8.22 The Board may only appoint a person as a Board Appointed Director if that person is eligible for appointment in accordance with the Director Eligibility Criteria set out in clause 8.13 and the person's skills and experience fill any gaps identified in the Board Skills Matrix. A Board Appointed Director need not be a Member and/or nominated by a Member.
- 8.23 Each Board Appointed Director will serve for a term of 3 years, or such lesser period as the Board may determine, but is eligible for re-appointment as a Director if not then disqualified by this Constitution or the Act from being re-appointed.

### ***Resignation from office***

- 8.24 A Director may resign from office by giving written notice to the Secretary.
- 8.25 A Director's resignation takes effect at the time the notice is given to the Secretary or such later date as may be specified in the notice.
- 8.26 A person is not eligible for re-election or re-appointment as a Director until twelve months has elapsed since the person's resignation.

### ***Removal from office***

- 8.27 A Director may be removed from office by ordinary resolution of the members.
- 8.28 At any general meeting at which it is proposed to remove a Director under clause 8.27, the Director must be given the opportunity to present his or her case, orally or in writing or by both of those means.
- 8.29 A Director who is removed under clause 8.27 retains office until the end or adjournment of the general meeting at which the Director is removed.
- 8.30 If a Director removed under clause 8.27 was a Member Elected Director, the members may, by ordinary resolution, appoint a person to take that Director's place.
- 8.31 The term of appointment of a Director appointed under clause 8.30 continues until the annual general meeting at which the person who was removed from office would have been required to retire pursuant to this Constitution if he or she had not been removed.

### ***Vacation of office***

- 8.32 The office of a Director becomes vacant if the Director:
- (a) becomes prohibited from being a director of a company because of the Act, any order made under the Act or otherwise at law;
  - (b) becomes bankrupt or makes any arrangement or composition with their creditors generally;
  - (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (d) becomes an employee of Sheep Producers Australia Limited or any related entity employing staff of Sheep Producers Australia Limited;
  - (e) fails to pay any debt outstanding to Sheep Producers Australia Limited and that debt remains due and owing to Sheep Producers Australia Limited for a period exceeding thirty (30) days and within that thirty (30) day period the Secretary has issued a further notice in writing to the Director advising that the debt is payable
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and if it has not been paid by the end of that thirty (30) day period then the Director's office will become vacant;

- (f) fails to attend three (3) consecutive meetings without leave of absence from the Board;
- (g) the director misses a total of three (3) meetings in any one year without adequate reason given in writing to the Board;
- (h) the Director is removed from office at a general meeting.

### ***Casual vacancies***

- 8.33 If a casual vacancy arises in relation to a Member Elected Director, the Board may appoint a person who is eligible for appointment to fill the casual vacancy until the next annual general meeting.
- 8.34 The appointment of Member Elected Directors for the next annual general meeting must include the appointment of a person to fill the vacancy (but such vacancy is not to be considered in determining the number of directors who must retire by rotation at the annual general meeting). Any person appointed under clause 8.33 is eligible as a candidate in that election if not then disqualified by this Constitution or the Act.
- 8.35 The term of appointment of a Director appointed under clause 8.34 continues until the annual general meeting at which the person who vacated office early would have been required to retire pursuant to this Constitution if he or she had not vacated office early.

### ***Directors' remuneration and expenses***

- 8.36 Directors shall be entitled to be remunerated for their role as Directors provided that such fees are approved annually in advance by the Board.
- 8.37 In addition to remuneration approved by the Board, Directors may at the discretion of the Board be entitled to be paid all reasonable travelling, accommodation and other expenses properly incurred by them in attending and returning from meetings of the Board or any of its committee or general meetings or otherwise in the execution of their duties as Directors provided that such expenses have first been approved by the Board.

## **9. Chairman**

### ***Role of the Chairman***

- 9.1 The Chairman is entitled to preside as chairman at every Board meeting, and must carry out their role in accordance with the Chairman Role Statement.

### ***Eligibility for appointment to Chairman***

- 9.2 The Chairman may be a Member Elected Director or a Board Appointed Director.
- 9.3 The Chairman may, but need not be the President.

### ***Election***

- 9.4 The election of the Chairman (if any) may be held by any means determined by the Board, but in the event of an equality of votes, the matter must be determined by the drawing of lots.



- 9.5 A Director elected by the Board as Chairman holds that office until:
- (a) the expiration of that Director's current term of office as Director;
  - (b) the Director ceases to be a Director in accordance with this Constitution;
  - (c) the Director resigns from the office of Chairman by written notice to the Secretary;  
or
  - (d) the Board, by ordinary resolution excluding the relevant Director, removes the Director from the office of Chair.
- 9.6 At the first Board meeting held after the vacation of office of the Chairman under clause 9.5, the Board must elect a Director as Chair.
- 9.7 A Director who is re-appointed or re-elected as a Director following expiration of the term during which the Director was elected as Chairman is eligible for re-election as Chair.
- 9.8 The Directors present at a Board meeting must elect one (1) of the Directors present to chair the meeting if any of the following apply:
- (a) there is not then a Chairman;
  - (b) the Chairman is not present within 15 minutes after the time appointed for the holding of the meeting; or
  - (c) the Chairman is not willing to act.

## **10. Powers of the Board**

- 10.1 The governance of Sheep Producers Australia Limited is the responsibility of the Board of Directors duly appointed under and in accordance with this Constitution.
- 10.2 The Board may exercise all the powers of Sheep Producers Australia Limited which are not, by the Act or by this Constitution, required to be exercised by the members in general meeting.

## **11. Transitional Board**

### ***Appointment and composition of Transitional Board***

- 11.1 The Transitional Board is comprised of the persons who sat on the Board of Sheepmeat Council of Australia Inc at the date of adoption of this Constitution, and who will be appointed on an interim basis to carry out the role of the Board until the election of the First Board of Directors.

### ***Transitional provisions for Transitional Board***

- 11.2 The persons on the Transitional Board will hold office until they are required to retire at the first annual general meeting following the adoption of this Constitution.
- 11.3 Notwithstanding anything to the contrary, for so long as a Transitional Board Director sits on the Transitional Board, that Transitional Board Director is deemed to be elected until they are required to resign and the Voting Members will not be required to vote those persons to the Transitional Board.

## **12. President**

### ***Role of President***

12.1 The President is entitled to speak and represent Sheep Producers Australia Limited with respect to sheep industry matters. However, at all times, the President must carry out their role in accordance with the President Role Statement.

### ***Eligibility for appointment to President***

12.2 The President may be a Member Elected Director or a Board Appointed Director.

12.3 The President may, but need not be the Chair.

### ***Election***

12.4 The election of the President must occur at the first meeting of the Board following the annual general meeting each year.

12.5 The election of the President may be held by any means determined by the Board, but in the event of an equality of votes, the matter must be determined by the drawing of lots.

12.6 A Director elected by the Board as President holds that office until:

- (a) the first meeting of the Board following the annual general meeting approximately one year after their appointment;
- (b) the Director ceases to be a Director in accordance with this Constitution;
- (c) the Director resigns from the office of President by written notice to the Secretary;  
or
- (d) the Board, by ordinary resolution excluding the relevant Director, removes the Director from the office of President.

12.7 At the first Board meeting held after the vacation of office of the President under clause 12.6, the Board must elect a Director as President.

12.8 A Director who was elected as President is eligible for re-election as President provided that their further appointment will not result in them having served more than a maximum of three (3) years in office.

## **13. Board meetings**

### ***Convening of Board meetings***

13.1 Subject to the provisions of the Act and this Constitution, the Board may meet for the dispatch of business and regulate its meetings as it thinks fit.

13.2 The Board must meet at least six (6) times in each financial year.

13.3 Any Director may request the Secretary to convene a Board meeting at any time and the Secretary must comply with such request.

### ***Notice of Board meetings***

- 13.4 Notice of each Board meeting must be given to each Director at least twenty-four (24) hours before the meeting or otherwise as determined by the Board, except all Directors may waive in writing the required period of notice for a particular meeting.
- 13.5 Notice of Board meetings may be given to a Director by mail, delivery, facsimile transmission or e-mail to any address, facsimile number or e-mail address given by the Director to the Secretary for that purpose (unless and until the Director informs the Secretary that he or she may not be contacted at that address, facsimile number or e-mail address).

### ***Mode of Board meetings***

- 13.6 A Board meeting may be called or held using any technology consented to by all Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable time before the meeting.

### ***Quorum at Board meetings***

- 13.7 A quorum for the purposes of a Board meeting is half the number of Directors then on the Board plus one (1), rounded up to the nearest whole number.
- 13.8 If a quorum is not present within thirty (30) minutes from the time appointed for a Board meeting or a longer period allowed by the chairman:
- (a) the meeting must be adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the chairman may determine; and
  - (b) if at the adjourned meeting a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the meeting lapses.

### ***Voting at Board meetings***

- 13.9 Questions arising at a Board meeting must be decided by a majority vote of Directors present and voting. If the votes are equal, the question is decided in the negative.
- 13.10 The chairman does not have a second or casting vote at Board meetings.

### ***Resolution in writing***

- 13.11 The Directors may pass a resolution in writing without holding a meeting if the following conditions are met:
- (a) all Directors who are entitled to vote on the resolution are provided with a copy of the resolution;
  - (b) reasonable attempts have been made to contact all Directors to obtain their response;
  - (c) at least eighty percent (80%) of all Directors (rounded up to the next whole number), but excluding Directors who have been given leave of absence, sign the document or documents or identical copies of it or them; and
  - (d) a copy of any resolution passed in writing is provided to those Directors who did not respond.

- 13.12 A resolution in writing may consist of several documents in like form, including facsimile and email copies, each signed by one or more Directors and the resolution takes effect on the latest date on which a Director signs one of the documents.
- 13.13 A resolution bearing an electronic copy of a signature is deemed to be signed for this clause.
- 13.14 The resolution will be valid and effectual as if it had been passed at a Board meeting duly convened and held.

### **Validity of acts**

- 13.15 All acts done by the Board, a Committee, Policy Committee, or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person as a Director or a member of a Committee, or Policy Committee or that they or any of them were disqualified or were not entitled to vote.

### **Conflicts of Interest**

- 13.16 The Board must agree from time to time a policy in writing as to how to manage conflicts of interest.
- 13.17 If there are not enough Directors to form a quorum as a result of one (1) or more Directors having an interest which disqualifies them from voting, then one (1) or more of the Directors (including those who have the disqualifying interest in the matter) may call a general meeting and Sheep Producers Australia Limited in general meeting may pass a resolution to deal with the matter.
- 13.18 At a minimum, the policy must provide that a Director may only be engaged to provide goods or services to or on behalf of Sheep Producers Australia Limited if:
- (a) that Director is for bona fide reasons considered by Board, agreed to be a suitable person to provide, such goods or services;
  - (b) bona fide attempts have been made to identify others who provide the goods or services and to compare rates and service levels of such others compared with the Director's rates and service levels;
  - (c) the goods or services are provided on arms-length terms;
  - (d) the provision of the goods and services is disclosed clearly and expressly to the Members in Sheep Producers Australia Limited's annual report; and
  - (e) the Board agrees, by ordinary resolution excluding the interested Director, to the provision of the goods or services by the Director.

## **14. Board Committees**

- 14.1 The Board may appoint one or more committees consisting of such Directors, Members or other persons as the Board thinks fit.
- 14.2 The Board may appoint the chairman of a Committee, but if it does not do so, the Committee members present must elect a chairman.
- 14.3 The Board may delegate any of its powers, except this power to delegate, to a Committee.
- 14.4 In the exercise of any powers delegated to it, a Committee must:
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- (a) conform to the directions of the Board;
- (b) only act within its delegated powers;
- (c) report to the Board; and
- (d) otherwise conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.

14.5 Unless otherwise determined, the quorum for committee meetings will be half the number of persons appointed to the Committee, plus one (1).

## **15. Policy Committees**

### ***Role of Policy Committees***

15.1 The Board shall establish and disband such Policy Committees as it considers necessary, following consultation and feedback received from Members.

15.2 The role of a Policy Committee is to consider sheep industry policy matters in detail and make recommendations to the Board as to the position that Sheep Producers Australia Limited ought to adopt with respect to those matters.

15.3 At the date of adoption of this Constitution, the following Policy Committees will be established:

- (a) Research and Development;
- (b) Marketing, Market Access and Trade;
- (c) Health and Welfare;
- (d) Product Integrity.

### ***Composition***

15.4 The composition of a Policy Committee must be considered having regard to the purpose for which the Policy Committee is established.

15.5 Each Policy Committee must be comprised of:

- (a) one (1) representative from each State Member (who may nominate one alternate authorised to attend in their place);
- (b) once the total number of votes held by Individual Members is equal to or more than 200 votes, one (1) person nominated by Individual Members from amongst their number;
- (c) one Director; and
- (d) up to one (1) co-opted person (who need not be a Member), to assist the Policy Committee in discharging its responsibilities.

15.6 For clarity, the same person need not be appointed by the State Member and/or Individual Members to each Policy Committee.

15.7 Notwithstanding anything to the contrary, the Board may remove a Policy Committee member pursuant to the Policy Committee terms of reference.

## **Terms of Reference**

- 15.8 The purpose of each Policy Committee will be set out in terms of reference approved by the Board, but at a minimum, the terms of reference should require the Policy Committee:
- (a) meet at least three (3) times per calendar year;
  - (b) provide an arena for ongoing review and involvement of stakeholders to address the key issues and challenges relating to the sheep industry matters for which the Policy Committee has been established;
  - (c) inform and provide feedback to the Board; and
  - (d) make recommendations as to the policy position that Sheep Producers Australia Limited should adopt.
- 15.9 The terms of reference should also include a mechanism for the Board to remove Policy Committee members at its sole discretion.

## **Governance of Policy Committees**

- 15.10 Each Policy Committee must elect a chairman, but if it does not do so, the Board must elect a chairman.
- 15.11 In the exercise of any powers delegated to it, a Policy Committee must:
- (a) conform to the directions of the Board;
  - (b) not delegate any of its powers;
  - (c) only act within its delegated powers;
  - (d) report to the Board; and
  - (e) otherwise conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.
- 15.12 Unless otherwise determined, the quorum for a Policy Committee meeting will be half the number of persons appointed to the Policy Committee, plus one (1).

## **16. Secretary**

- 16.1 The Board must appoint a Secretary.
- 16.2 The Board may appoint an external independent person as Secretary to carry out all acts and deeds required by this Constitution or the Act.
- 16.3 The Board may set the terms and conditions of the Secretary's engagement, and terminate the appointment of the Secretary.

## **17. Chief Executive Officer**

- 17.1 The Board may appoint any person to the position of chief executive officer for the period and on the terms and conditions (including as to remuneration) the Board sees fit.
- 17.2 The CEO will report directly to the Chairman of the Board.
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- 17.3 The Board may, upon terms and conditions and with any restrictions it sees fit, confer on the CEO any of the powers that the Board can exercise.
- 17.4 The Board may at any time revoke or vary an appointment of, or any of the powers conferred on, the CEO.
- 17.5 If the CEO becomes incapable of acting in that capacity, the Directors may appoint any other person to act temporarily as CEO until the position can be filled permanently.

## **18. By-Laws**

- 18.1 The Board may make, adopt, amend and repeal By-Laws to give effect to any provision of this Constitution or generally for the purposes of carrying out the objects of Sheep Producers Australia Limited.
- 18.2 Any By-Laws adopted by the Board will be binding on the Members and will be enforceable under the terms of this Constitution.
- 18.3 To the extent of any inconsistency, this Constitution prevails over any By-Laws.
- 18.4 The Board has the authority to interpret this Constitution and the By-Laws, and the decision of the Board upon any interpretation and/or upon any matter affecting Sheep Producers Australia Limited not provided for in this Constitution or the By-Laws shall be final and binding on Members.

## **19. Confidential Information**

- 19.1 All Board related documents and materials and all matters discussed or business transacted at meetings of the Board is confidential information and must remain confidential unless otherwise resolved by the Board.
- 19.2 Confidential information may only be disclosed if:
- (a) reasonable notice is given to Sheep Producers Australia Limited to allow Sheep Producers Australia Limited to legally challenge the required disclosure; or
  - (b) it is required to comply with an applicable law or legally binding order of any court, government or semi-government authority, administrative or judicial body, or a requirement of a regulator, if only the minimum amount of confidential information is disclosed to satisfy the law; or
  - (c) it is information available in the public domain (which did not result from a breach of this clause or other obligation of confidence).

## **20. Political Neutrality**

- 20.1 Sheep Producers Australia Limited shall be non-party political and shall not make donations to party funds.

## **21. Indemnities and insurance**

### ***Officers' liabilities to third parties***

- 21.1 Every officer and past officer of Sheep Producers Australia Limited is indemnified against a liability incurred by that person as an officer, other than a liability:
- (a) to Sheep Producers Australia Limited or a related body corporate;
  - (b) for a pecuniary penalty under section 1317G of the Act or for compensation under section 1317H of the Act; or
  - (c) which arises from conduct that involves a lack of good faith.

### ***Officers' costs and expenses***

- 21.2 Every officer and past officer of Sheep Producers Australia Limited is indemnified by Sheep Producers Australia Limited against a liability for costs and expenses incurred by that person as an officer, other than legal costs incurred:
- (a) in defending or resisting proceedings in which the person is found to have a liability for which the person could not be indemnified under clause 21.1;
  - (b) in defending or resisting proceedings in which judgement is made against the person or the person is found guilty;
  - (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established (but this sub-clause does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order); or
  - (d) in connection with any application in relation to those proceedings in which the Court denies relief to the person.

### ***Insurance premiums***

- 21.3 Sheep Producers Australia Limited may pay the premium on a contract insuring a person who is or has been an officer of Sheep Producers Australia Limited against:
- (a) a liability for costs and expenses incurred by the person in defending proceedings arising out of the person's conduct as an officer, whether civil or criminal and whatever their outcome; and
  - (b) any other liability incurred by the person as an officer of Sheep Producers Australia Limited, except a liability which arises from conduct that involves a wilful breach of duty in relation to Sheep Producers Australia Limited or a contravention of sections 182, 183 or 184(2) or (3) of the Act.

## **22. Execution of documents**

- 22.1 Sheep Producers Australia Limited may execute a document, including a deed, if the document is signed by:
- (a) 2 Directors; or
  - (b) a Director and the Secretary.



- 22.2 Notwithstanding clause 22.1, any document, including a deed, may be executed by Sheep Producers Australia Limited in any other manner permitted by law.

## **23. Accounts, audit and records**

### *Financial year*

- 23.1 The financial year of Sheep Producers Australia Limited commences on the 1st day of July and ends on the thirtieth (30<sup>th</sup>) day of June in the following calendar year.

### *Banking of monies*

- 23.2 All monies of Sheep Producers Australia Limited must be banked in a bank account in the name of Sheep Producers Australia Limited at such bank as the Board may from time to time direct.

### *Accounts, records and reports*

- 23.3 The Board must cause proper accounting and other records to be kept in accordance with the Act and must comply with the requirements of the Act in respect of reporting and providing accounts to Members.
- 23.4 The Board must provide for the safe custody of the books, records, documents, instruments of title and securities of Sheep Producers Australia Limited.

### *Audit*

- 23.5 A registered company auditor must be appointed to Sheep Producers Australia Limited.
- 23.6 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.
- 23.7 The auditor or their representative is entitled to attend any general meeting and be heard on any part of the business of the meeting which concerns the auditor. The auditor or their representative, if present at the meeting, may be questioned by the Members about the audit.

### *Rights of inspection*

- 23.8 Subject to the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of Sheep Producers Australia Limited or any of them are open to the inspection of Members. A Member does not have the right to inspect any document of Sheep Producers Australia Limited except as provided by the Act or authorised by the Board.

## **24. Notices**

### *Persons authorised to give notices*

- 24.1 A notice given under this Constitution may be given:
- (a) on behalf of Sheep Producers Australia Limited by a solicitor for Sheep Producers Australia Limited, the Secretary or a Director; or
  - (b) on behalf of a Member by a solicitor, secretary or director of the Member.

24.2 The signature of a person on a notice given by Sheep Producers Australia Limited or a Member may be written, printed or stamped.

### ***Method of giving notices***

24.3 A notice by Sheep Producers Australia Limited or a Member may be given under this Constitution by any of the following means:

- (a) by delivering it to the street address of the addressee;
- (b) by sending it by prepaid ordinary post (or by airmail if outside Australia) to the street or postal address of the addressee; or
- (c) by sending it by facsimile or e-mail to the facsimile number or e-mail address of the addressee.

### ***Address for notices***

24.4 For the purposes of clause 24.3:

- (a) the street and postal address of Sheep Producers Australia Limited is the registered office of Sheep Producers Australia Limited, or such other address as was last formally notified by Sheep Producers Australia Limited to the Member;
- (b) the facsimile number and e-mail address of Sheep Producers Australia Limited are the details last formally notified by Sheep Producers Australia Limited to the Member;
- (c) the street and postal addresses, facsimile number and e-mail address of a Member are the details last formally notified by the Member to the Secretary.

### ***Time notice is given***

24.5 A notice given in accordance with this Constitution is deemed to be given, served and received at the following times:

- (a) if delivered to the street address of the addressee, at the time of delivery;
- (b) if sent by post to the street or postal address of the addressee, on the fifth (5<sup>th</sup>) business day after posting; or
- (c) if sent by facsimile or e-mail, at the time transmission is completed.

### ***Proof of giving notices***

24.6 The sending of a notice by facsimile or e-mail and the time of completion of transmission may be proved conclusively by production of:

- (a) a transmission report by the facsimile machine from which the notice was transmitted which indicates that a facsimile of the notice was sent in its entirety to the facsimile number of the addressee; or
- (b) a print out of an acknowledgement of receipt of the e-mail or equivalent proof that the email was successfully transmitted.

## **25. Interpretation**

25.1 In this Constitution, unless the context requires otherwise:

- (a) a reference to any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation and a reference to a specific provision of such legislation is a reference to the equivalent provision in any later amended, re-enacted or replacement legislation;
- (b) a reference to this Constitution, where amended, means this Constitution as so amended;
- (c) a reference to a clause, sub-clause or schedule is a reference to a clause, sub-clause or schedule of this Constitution;
- (d) a word which denotes:
  - (i) the singular denotes the plural and vice versa;
  - (ii) any gender denotes the other genders; and
  - (iii) a person denotes an individual and an organisation (where appropriate);
- (e) where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (f) an expression used but not defined in this Constitution has the same meaning as given in the Act;
- (g) writing includes any mode of representing or reproducing words in a visible form; and
- (h) a reference to 'dollars' or '\$' means Australian dollars.

25.2 Headings and any table of contents must be ignored in the interpretation of this Constitution.

### ***Calculation of time***

25.3 In this Constitution, unless the context requires otherwise:

- (a) a reference to a time of day means that time of day in the Australian Capital Territory;
- (b) a reference to a business day means a day during which banks are open for general banking business in Canberra;
- (c) for the purposes of determining the length of a period (but not its commencement) a reference to:
  - (i) a day means a period of time commencing at midnight and ending twenty-four (24) hours later; and
  - (ii) a month means a calendar month which is a period commencing at the beginning of a day of one (1) of the twelve (12) months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of that next month;
- (d) where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event; and
- (e) a provision of this Constitution, except that specifying the time for deposit of proxies with Sheep Producers Australia Limited, which has the effect of requiring anything

to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

### **Replaceable rules**

- 25.4 Each of the provisions of the Act which would but for this clause apply to Sheep Producers Australia Limited as a replaceable rule within the meaning of the Act are displaced and do not apply to Sheep Producers Australia Limited.

## **26. Winding up**

- 26.1 Upon the winding up or dissolution of Sheep Producers Australia Limited, any remaining property after satisfaction of all debts and liabilities must not be paid to or distributed among the Members or former Members, but must be given or transferred to some other institution or organisation:
- (a) which has objects similar to the objects of Sheep Producers Australia Limited;
  - (b) whose constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of this clause; and
  - (c) as determined by the Members at or before the time of winding up or dissolution of Sheep Producers Australia Limited and, in default of any such determination, by the Supreme Court of the Australian Capital Territory.

## **27. Definitions**

- 27.1 In this Constitution, unless the context requires otherwise:
- (a) **Act** means the *Corporations Act 2001* 2001 (Cth);
  - (b) **AHA** means Animal Health Australia, a not-for-profit public company that facilitates innovative partnerships between governments, major livestock industries and other stakeholders to protect animal health and the sustainability of Australia's livestock industry;
  - (c) **Board** means the Board of Directors of Sheep Producers Australia Limited;
  - (d) **Board Appointed Director** means a person appointed to the Board in accordance with clause 8.21,;
  - (e) **Board Composition and Director Eligibility Policy** means the policy that the Board may adopt from time to time setting out the industry skills board composition requirements and any other criteria that must be satisfied before a person is eligible to be elected and/or appointed as a Director;
  - (f) **Board Selection Committee** means the committee established under clause 8.9 to review all Member Elected Director nominations
  - (g) **Board Selection Committee Terms of Reference** means the terms of reference that the Board may adopt from time to time setting out the role and function of the Board Selection Committee;
  - (h) **Board Skills Matrix** means the document prepared from time to time by the Board setting out the skills and experience of the Directors on the Board;
  - (i) **By-Laws** means by-laws made or adopted by the Board under clause 18;

- (j) **CEO** means the chief executive officer of Sheep Producers Australia Limited, appointed under clause 17.1;
  - (k) **Chairman** means the person entitled to preside as chairman at a particular:
    - (i) Board meeting, as determined under clauses 9.8 and 9.1;
    - (ii) Committee meeting, as determined under clause 14.2;
    - (iii) Policy Committee meeting, as determined under clause 15.10; or
    - (iv) general meeting, as determined under clauses 6.21 to 6.22(b);
  - (l) **Chairman Role Statement** means the document approved by the Board setting out the role and expectations of the role of the chair of the Board, elected from time to time under clause 9.4;
  - (m) **Committee** means a committee appointed by the Board under clause 14.1;
  - (n) **Director** means a Member Elected Director or Board Appointed Director elected or appointed in accordance with this Constitution to perform the duties of a director on the Board of Sheep Producers Australia Limited;
  - (o) **First Board of Directors** means the first Directors appointed to the Board at the first annual general meeting following the adoption of this Constitution;
  - (p) **Individual Member** means a person:
    - (i) who holds membership of a State Member; and/or
    - (ii) who has applied directly to Sheep Producers Australia Limited, and been accepted to membership with the rights set out under clause 4.20;
  - (q) **Member** means a person or organisation who, at the relevant time, is a Voting Member or Non-Voting Member of Sheep Producers Australia Limited in accordance with this Constitution (whether a State Member, Individual Member and/or Organisational Member, unless otherwise specified);
  - (r) **Member Elected Director** means a person nominated by a Voting Member, and subsequently elected to the Board in accordance with clause 8.16;
  - (s) **MLA** means Meat & Livestock Australia Ltd, a producer-owned, not-for-profit organisation that delivers research, development and marketing services to Australia's red meat industry;
  - (t) **Non-Voting Member** means those members admitted to membership under clause 4.6;
  - (u) **Organisation** means company, firm, partnership, incorporated body or unincorporated body;
  - (v) **Organisational Member** means an organisation that does not meet the requirements of a State Member or Individual Member and who has been accepted to membership with the rights set out under clause 4.21;
  - (w) **Policy Committee** means committees (individually or collectively as the context requires) established by the Board under clause 15 to consider sheep industry policy matters in detail and make recommendations to the Board as to the position that Sheep Producers Australia Limited ought to adopt with respect to those matters;
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- (x) **President** means the person elected from time to time by the Board under clause 12.4 to carry out the role of President in accordance with the President Role Statement;
- (y) **President Role Statement** means the document approved by the Board setting out the role and expectations of the President;
- (z) **Register** means the register of Members kept by Sheep Producers Australia Limited under the Act;
- (aa) **Representative** means a person appointed by a State Member or Organisational Member under clause 5 to exercise all or any of the powers of the Member under this Constitution or the Act;
- (bb) **RMAC** means Red Meat Advisory Council, a not-for-profit company limited by guarantee that is funded by the Red Meat Industry Fund under the arrangements in the Red Meat MOU;
- (cc) **Secretary** means the person appointed as secretary of Sheep Producers Australia Limited under clause 16.1; and
- (dd) **Sheepmeat Council of Australia Inc** means the incorporated association that has voluntarily transferred under the *Associations Incorporation Act 1991* (ACT) to become Sheep Producers Australia Limited, a public company limited by guarantee;
- (ee) **Sheep Producers Australia Limited** ACN 621 947 206 means the public company incorporated following the voluntary transfer of Sheepmeat Council of Australia Inc under the *Associations Incorporation Act 1991* (ACT);
- (ff) **State** means a State or Territory within Australia; **State Farming Organisations** means the organisations set out in clause 4.1 who were noted on the members register of Sheepmeat Council of Australia Inc immediately prior to the general meeting at which this Constitution was adopted;
- (gg) **State Member** includes:
  - (i) the State Farming Organisations noted in clause 4.1; and
  - (ii) such organisations that are accepted to membership under this Constitution who are established for the purpose of promoting the sheep industry in that State or part of that State, where the organisation represents at least 25% of sheep producers in the State and/or represent at least 25% of total sheep numbers in the State,  
and who have the rights set out under clauses 4.11 and 4.12;
- (hh) **Transitional Board** means the persons elected under clause 11 who will act as the interim Board of Sheep Producers Australia Limited until the First Board of Directors is elected at the first annual general meeting following the adoption of this Constitution;
- (ii) **Transitional Board Director** means a Director who sits on the Transitional Board; and
- (jj) **Voting Member** means those members admitted to membership under clause 4.5.